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1 Riley Road.

2 MR. SEGAL: Excuse me, Your Honor,
3 could you have the witness perhaps, or the Government
4 perhaps, give us some compass directions? Then we could
5 understand further for the record better what we are
6 talking about.

7 THE COURT: Why don't we do that?
8 I would also suggest that the map be oriented so that
9 all of the jurors can see it. About half of them are
10 not able to see it in its present position. Well, now
11 you might put it back a little so the witness can see it
12 too.

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BY MR. BLACKBURN:

Q Mr. Tevere, I am going to place on this easel over here Government Exhibit 967 and ask if you can identify that, please.

(Government Exhibit No. 967 was marked for identification.)

A Yes, I can. That is a housing view of Corregidor Courts on Fort Bragg.

Q Now, if you will on the exhibit which I just pointed out to you--will you point out the north-south direction, if you would.

A This would be north, south, west, east (indicating).

Q And, if you could, correlate Government Exhibit 967--the one over here on the right--to the photograph right next to you.

A Okay. I was in this area on Riley Road and proceeded south to Honeycutt Road. I then made a left, came across Honeycutt Road, which would be in an easterly direction, came east on Honeycutt Road. I then made a left and proceeded south on North Lucas. I made a right on Spear Drive, headed east on Spear Drive up to Castle Drive, at which point I made another right and headed east to 544 Castle Drive, which is right here.



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1 Q During the trip from where you were called
2 to Castle Drive, how many moving vehicles did you see
3 as you went to there?

4 A I saw no civilian vehicles. I only saw
5 two military vehicles.

6 Q How many pedestrians or people walking
7 around did you see?

8 A I saw nobody.

9 Q When you arrived at Castle Drive, what did
10 you do?

11 A When I got to 544 Castle Drive, there was
12 a military police lieutenant and another military
13 policeman at the front door of Castle Drive. I went
14 up to the front door with them and spoke for five
15 seconds or so; and we found out we could not gain entry
16 into the house through the front door.

17 Q Why was that?

18 A The front door was locked; so I took a
19 flashlight from one of the other MP's and ran around
20 the back of 544 Castle Drive and entered the house
21 through a rear door, a screen door.

22 Q Was this the first or the second door that
23 you came to as you went around the back of the house?

24 A It was the first door I came to.

25 Q Was the screen door opened or closed?

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A The screen door was closed, but the wooden door inside the house was open.

Q Proceed. What did you do next?

A I walked through a utility room.

Q Was the light on or off in the utility room?

A It was off.

MR. SEGAL: I could not hear what he said.

THE COURT: Off.

THE WITNESS: Off. I walked through the utility room into the master bedroom.

MR. SEGAL: Will Your Honor indulge us for a minute? I think we might be able to expedite something.

(Counsel confer.)

BY MR. BLACKBURN:

Q Mr. Trevere, if you would come down from the witness box to what has been marked as Government Exhibit Number 1, and bring the marker with you.

(Government Exhibit No. 1 was marked for identification.)

BY MR. BLACKBURN:

Q And, if you would, sir, point out to the jury the door that you went into through the back way.

A I came around from the front of the house

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1 around the side and I entered through this door back
2 here.

3 Q That is where the screen door was?

4 A Yes.

5 Q The first room, I take it then, is the
6 utility room?

7 A Yes, this room right here.

8 Q What did you do after you went into the
9 utility room?

10 A I proceeded into the bedroom.

11 Q What did you see when you went into the
12 bedroom?

13 A I saw a male and a female lying on the
14 floor, and the female was covered with blood.

15 Q What else did you observe at that time in
16 that room, if anything?

17 A Nothing else.

18 Q Okay, who else, if anyone, was in the apart-
19 ment at that time with you?

20 A Nobody.

21 Q I am speaking of MP's.

22 A There was nobody else in the apartment other
23 than myself. I was alone.

24 Q What did you do after you saw the two bodies
25 in the bedroom?

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1 A I ran out of the back of the house.

2 Q What did you do after you ran outside the
3 back of the house?

4 A I ran out the same door I came in and went
5 over to the side of the house where I saw another MP.

6 Q Do you know who that was?

7 A That's Lieutenant Paulk.

8 Q What did you say, if anything?

9 A I told him to call Womack Army Hospital and
10 to call the CID and the PMI because I thought someone
11 had been severely hurt or stabbed.

12 Q Then what did you do?

13 A I turned around and proceeded
14 back into the house through the same door.

15 Q Were you the first or second one back in
16 the house?

17 A I was the first one back in.

18 Q After you came back into the house--you may
19 resume your seat--after you came back into the house the
20 second time, where did you go?

21 A Back into the master bedroom.

22 Q How long did you stay there?

23 A Maybe a minute or two.

24 Q What did you do while you were in the
25 master bedroom?

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A I observed Captain MacDonald, but I did not know at that time it was Captain MacDonald. I observed a male lying next to a female; and at that time Mr. MacDonald was lying on his side, laid back over on his back, and he said that intruders had come into his house.

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BY MR. BLACKBURN:

Q Okay, now, Mr. Tevere, at this point in the apartment what other M.P.'s, if any, were present?

A Spec 4 Mica came in behind me with Lieutenant Paulk and a third M.P. also. I think Spec 4 Morris-

MR. SEGAL: (Interposing) I am sorry. I beg your pardon. He is tending to drop his voice. Cannot get these names.

THE WITNESS: Specialist Morris.

BY MR. BLACKBURN:

Q Where were they located inside the house?

A They were behind me.

Q Were they all in the master bedroom?

A Mica, myself, and Lieutenant Paulk were. Morris, I think, was in the doorway or the utility room.

Q After you came into the master bedroom, where else, if anywhere, did you go in the house?

A Well, at that point I went down the hallway.

Q If you would come down and point at where you went.

A I proceeded through this doorway down the hall to see if there was anybody else in the apartment. I came down to the living room steps, looked around, and did not see anybody in the living room. Looked in

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1 the dining and kitchen area, and I proceeded back to
2 the master bedroom.

3 Q During this trip down the hallway, what
4 lights, if any, were on?

5 A There was a light on in the hall, and there
6 was a light on in the dining room.

7 Q As a result of that, I take it you were
8 able to see?

9 A Yes.

10 Q What, if anything, did you touch as you
11 walked down the hall?

12 A I touched nothing.

13 Q What, if anything, at that point had you
14 touched in the master bedroom?

15 A Nothing. I just touched the door at this
16 point.

17 Q Which door are you referring to?

18 A The screen door.

19 MR. BLACKBURN: You may resume your seat.

20 Q After you had gone down the hallway and come
21 back, did you go back to the master bedroom?

22 A Yes, I did.

23 Q When you got back there, what, if anything,
24 did you observe?

25 A Lieutenant Paulk was standing in the master

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1 bedroom. Specialist Mica was in the master bedroom,
2 and myself at that point. Captain MacDonald told us
3 that he had been stabbed and that he thought he may go
4 into shock and, if he went into shock, we should breathe
5 into his mouth.

6 Q What, if anything, did you observe Specialist
7 Mica do?

8 A At that point Specialist Mica started to
9 give Captain MacDonald mouth-to-mouth resuscitation.

10 Q What were you doing at this time?

11 A I just lifted Captain MacDonald's feet
12 slightly and loosened his pajama bottom to allow
13 him to breathe.

14 Q Why did you raise his feet?

15 A Well, we were taught that if someone is
16 going into shock, one of the things to do is to raise
17 his feet, loosening anything around their neck and waist
18 which would help a person to breathe more easily.

19 Q Did you hold his feet yourself or did you
20 put his feet on something?

21 A No, I just elevated them a few inches and
22 held them.

23 Q How long did you do that?

24 A Ten or 15 seconds.

25 Q After you did that, what did you do?

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1 A I then got up and picked up the phone in
2 the master bedroom.

3 Q If you would, come back to the model and
4 show us where that occurred?

5 A The phone in the master bedroom is right
6 here on the dresser, on the end of the dresser.

7 Q If you would, Mr. Tevere, would you unhook
8 the front of the model? Now, again, please, would you
9 tell the jury where you picked up the telephone, where
10 it was located?

11 A The telephone was located on the end of a
12 bureau which was in the master bedroom. The receiver
13 was lying at that time right next to the telephone--off
14 the hook.

15 Q How did you pick up the telephone?

16 A I picked it up with my thumb and two fingers,
17 like this (gesturing).

18 Q Did you put it to your ear?

19 A Yes.

20 Q What did you hear?

21 A Nothing. The phone was dead.

22 Q Why did you pick it up?

23 A I picked the phone up because the radio
24 operator told us when we got the initial call to make
25 sure that we got into the MacDonald house and call them



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1 from the phone inside the house because they believed
2 somebody had been stabbed inside the house.

3 Q After you discovered that the phone was
4 dead, what did you do with the phone?

5 A Put the phone back down on the dresser--the
6 receiver back down next to the telephone.

7 Q Did you ever touch the main part of the
8 phone--the main body of the phone?

9 A No, I did not.

10 MR. BLACKBURN: You may resume your seat.

11 Q Mr. Tevere, did you have an occasion to
12 observe the top of the dresser in the master bedroom?

13 A Yes, I did.

14 Q That the phone was resting on?

15 A Yes.

16 Q What was on the top of that dresser, if
17 you know?

18 A To the best of my knowledge, it was a glass
19 top with a lamp and, I think, a can of hair spray, and
20 a few other articles scattered about.

21 Q The glass top covered the whole of the top
22 of the dresser?

23 A Yes.

24 Q Now, during this time, how long did you
25 remain in the master bedroom?



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1 A Maybe about three minutes--four minutes.
2 Q During that time, what, if anything, did you
3 observe as to the condition of that master bedroom?

4 A I had noticed a wet spot on the bed--on the
5 sheet of the bed. I had noticed a knife with blood on
6 it next to the dresser which I pointed out to Specialist
7 Mica. I noticed that someone had written the word "Pig"
8 on the dashboard--on the headboard, rather--of the bed
9 and there was a pile of sheets and what-not just lying
10 against the wall at the foot of the bed.

11 Q How about coming down here, if you would,
12 Mr. Tevere? Mr. Tevere, if you would take those items
13 that I have put on the back of that model--one item
14 representing a pile of bedding, another one representing
15 Colette MacDonald, and another representing Jeffrey
16 MacDonald. If you would, sir, place them in the master
17 bedroom in the position that you saw them when you went
18 into the master bedroom.

19 (Witness complies.)

20 Q Mr. Tevere, what was the condition of the
21 bed in the master bedroom if you had occasion to observe
22 it?

23 A It just had a sheet on it which I said was
24 wet, and it had nothing else.

25 Q Was the sheet on or off the bed?

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A Partially on and off the bed.

Q What, if anything, did you observe on the walls of that room?

A I noticed the wall--on the wall over the bed where the headboard was were some reddish-brown stains.

Q What, if anything, did you observe with respect to the ceiling of the master bedroom?

A The same thing. There was stains on the ceiling also.

Q Do you mean reddish-brown stains?

A Reddish-brown stains, yes.

MR. BLACKBURN: You may resume your seat.

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BY MR. BLACKBURN:

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Q I believe you testified earlier that while you were in the master bedroom, you heard the Defendant indicate that he had been stabbed; is that correct?

A Yes.

Q While you were in that master bedroom, what else, if anything, did you hear the Defendant say?

A He told us that a bunch of hippies--a band of hippies--had come into the house. He described that there were four hippies. One was a blond with muddy boots, floppy hat, and carrying a candle.

Q Excuse me. Who did you say was carrying the candle?

A The blond was carrying a candle saying, "Acid is groovy; kill the pigs." He said there were two white males--Caucasian--and one Negro with an army field jacket with sergeant stripes.

Q What, if anything, did the Defendant say with respect to his children?

A He kept asking to check his children and he kept asking how the children were.

Q As a result of that question or statement by the Defendant, what, if anything, did you do?

A Well, at that point, I told him they were okay because I didn't want to alarm him, and I got up to

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see the condition of the children.

Q If you would come back down, sir. Okay, if you would proceed. You said that you went to see these children. Where did you go first?

A The first bedroom that I went into was the front bedroom right here (indicating).

Q Okay. If you would, Mr. Tevere, will you pick up one of those models and place it where you saw someone in that room?

(Witness complies.)

Q Where are you pointing to?

A The front bedroom where Kimberly MacDonald was.

Q You did not know her at that time to be Kimberly MacDonald?

A No.

Q She was in the bed?

A Yes, she was.

Q Now, how far did you go into that bedroom?

A About three or four steps.

Q What, if anything, did you touch as you walked into that bedroom?

A I didn't touch anything.

Q Was the light on or off?

A I don't remember. It was light in the room

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1 because I was able to see the child without any
2 problem.
3 Q Was there a light in the hall?
4 A Yes, there was.
5 Q I believe you testified earlier that the
6 hall light was on?
7 A Yes.
8 Q Now, what use, if any, did you make of your
9 flashlight during this time?
10 A I did not use it at all.
11 Q When you went in to observe the little girl
12 in the bed, after you observed that, where did you go?
13 A I came back out of the room and I went to
14 the door of the third bedroom--the north bedroom.
15 Q What did you observe in that bedroom?
16 A A child in the bed.
17 Q If you would, sir, put the other model where
18 you saw it?
19 (Witness complies.)
20 Q Now, what else did you observe in that
21 bedroom, if anything?
22 A I observed that the child seemed to have
23 been hurt very badly. There was a puddle of blood. I
24 could see that blood had dripped down the bed and there
25 was a puddle of blood right in front of the bed.



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Q On the floor?

A Yes.

Q What was the position of this child in the bed?

A She was lying on her left side facing the east side of the house--lying on her side. Her hand was over near the edge of the bed.

Q Were the bedcovers up or down?

A They were down.

Q Were they all the way down?

A I can't remember.

Q With respect to the other bedroom, when you saw the child in that bed, were the bedcovers up or down?

A They were up.

Q Do you recall whether the light was on or off in that other bedroom?

A I don't recall.

MR. BLACKBURN: You may resume the stand.

BY MR. BLACKBURN:

Q When you went into this back bedroom, what, if anything, did you touch when you went into it?

A I didn't touch a thing.

Q After you looked into those two bedrooms, what did you do then?

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1 A Went back to the master bedroom.

2 Q What did you do when you got there?

3 A I think Mica was giving Captain MacDonald

4 artificial respiration again. I stood there as Mica

5 gave him mouth to mouth. Again, Captain MacDonald asked

6 how his children were. I just told him, "It will be

7 okay. Don't worry."

8 Q When you observed the Defendant, how was he

9 dressed?

10 A With just a pajama bottom.

11 Q How was he dressed from the waist up?

12 A He had nothing on. He had a bare chest.

13 Q What, if anything, did you observe with

14 respect to his chest area?

15 A Nothing. I didn't see anything out of the

16 ordinary.

17 MR. SEGAL: I cannot hear your

18 answer.

19 THE WITNESS: I did not see anything out

20 of the ordinary.

21 BY MR. BLACKBURN:

22 Q What, if anything, did you observe with

23 respect to his pajama bottom?

24 A There was just a couple of specks of blood

25 on the bottom of them, I believe.

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MR. BLACKBURN: Excuse me for just one

moment, Your Honor.

(Pause.)

BY MR. BLACKBURN:

Q Mr. Tevere, as you were in the apartment, what wet or muddy spots, if any, did you observe?

A I didn't see any.

Q What blades of grass, if any, did you observe?

A I saw no grass.

Q What, if anything, did you say to the other MP's who were there with respect to observing the evidence at that particular house?

A I told the other MP's not to touch anything. I told them to watch where they walked and not to pick up anything, not to hit the walls, and not to disturb anything in the house.

Q What, if anything, did you see any of the other MP's touch?

A Nobody touched anything that I could see.

Q What, if anything, did you see those other MP's move?

A Nothing.

MR. SEGAL: Can we have some identification, Your Honor, of which military police

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officer this witness is being questioned about? The record indicates that there are many, many more than so far we have had identified.

THE COURT: All right.

MR. BLACKBURN: Your Honor, the question went to the MP's. He has already mentioned several.

THE COURT: Yes. He named them. If there were others encompassed by your question, identify them, too.

BY MR. BLACKBURN:

Q Mr. Tevere, up to this point, while you were in the house, would you identify those MP's that you know that were in that house?

A There was Lieutenant Paulk, Spec. 4 Mica, Spec. 4 D'Amore, Specialist Dickerson, Specialist Cellic, Sergeant Hagney, and Sergeant Caldwell.

Q Is that all that you recall?

A Yes.

Q With respect to those MP's, who among those did you observe touch or move anything?

A None of the MP's touched anything or moved anything that I was able to see.

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BY MR. BLACKBURN

Q Mr. Tevere, at this point how long, if you know, had you been in the house?

A Five minutes, maybe eight minutes.

Q Do you recall approximately what time you arrived at the house?

A Approximately 3:50 or 3:55 a.m.

Q After you were in the master bedroom at this time, did you have occasion to go back to the front part of the house?

A Yes, I did.

Q For what purpose did you do that?

A I went to the front of the house to see where Lieutenant Paulk was, and to check and see why the ambulances had not arrived as yet.

Q Where did you talk to Lieutenant Paulk?

A I spoke to Lieutenant Paulk in the living room or first I spoke to Lieutenant Paulk in the master bedroom because he was taking notes and taking down a description of what Captain MacDonald--of the people Captain MacDonald said were in the house.

Q If you would, sir, if you would come around here and point out to the Jury where you were talking to Lieutenant Paulk.

A Lieutenant Paulk was standing right here, and



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I was standing in the doorway.

Q Would you repeat the answer.

A Lieutenant Paulk was standing right here, and I was standing in the doorway right here. (Indicating).

Q And what did you say to him, if you recall?

A Lieutenant Paulk got a description of the intruders that Captain MacDonald gave us. He said he was going to go outside and radio the Provost Marshal's office, or try to use a phone next door if he could get somebody to answer the door to call the descriptions in and also he would also check on the ambulance.

Q I believe that you have testified that you subsequently came back to the living room area, is that correct?

A Yes.

Q Why did you do that?

A Because Lieutenant Paulk went down the hall and into the living room.

Q Where did you talk with him in the living room?

A I spoke with Lieutenant Paulk here in the living room.

Q Did you have occasion to observe the



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1 physical condition of the living room?

2 A Yes.

3 Q Would you describe what you saw?

4 A When I went into the living room there was
5 a light on, and the coffee table was lying on its side;
6 and I saw some magazines under the coffee table on one
7 side of it.

8 Q What else, if anything, did you observe?

9 A I saw a little clothing, I think, in this
10 area here, and a flower pot on the floor.

11 Q Was the flower pot standing up or on its
12 side?

13 A It was lying on its side.

14 MR. BLACKBURN: You may resume your seat.

15 Q Did you see anything else in the living
16 room overturned besides the coffee table and the
17 flower pot?

18 A No, that was it. I saw nothing else.

19 Q Did you have an occasion to look into the
20 dining room area?

21 A Yes, I did.

22 Q What if anything did you observe there
23 with respect to the condition of the furniture?

24 A Nothing. I didn't observe anything out of
25 the ordinary.

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1 Q By that I take it you mean everything was
2 upright?

A Yes.

4 Q Did you have an occasion to observe the
5 kitchen area?

A Yes. I looked into the kitchen area.

7 Q Was the light in the kitchen on or off?

8 A The light was on in the kitchen.

9 Q What, if anything, did you observe in the
10 kitchen?

11 A I noticed little specks--reddish brown
12 specks--on the floor that seemed to be blood. Then I
13 noticed the telephone dangling--the telephone cord with
14 the receiver hanging straight down to the floor.

15 Q If you, sir, would come over to this model
16 and point out the location of the telephone.

17 A Right here on the wall. (Indicating).

18 Q And also the approximate area where you
19 stated what appeared to be reddish brown stains.

20 A Right here. (Indicating).

21 Q Would you say for the record the relationship
22 of those reddish-brown stains to the kitchen sink, for
23 example?

24 A It was three feet in front of the kitchen
25 sink.

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1 Q Mr. Tevere, when you first went into the
 2 master bedroom and saw the male and female on the floor,
 3 were you able to see all of the female, or was the male
 4 laying next to her?

5 A The male was lying on his right side covering
 6 part of the female's left side.

7 Q Was the female dressed or not dressed?

8 A She had pajamas on.

9 Q Top and bottom?

10 A Yes.

11 Q What else, if anything, did you observe on
 12 the top of the female?

13 A Well, it looked like part of her chest was
 14 exposed, and I saw what appeared to be several wounds
 15 on her chest and her head and a bath mat near her feet
 16 or a white towel near the bottom part of her.

17 Q What else, if anything, did you see on her
 18 chest area?

19 A At that point, nothing else.

20 MR. BLACKBURN: Just a moment.

(Pause.)

21 Q If you would come down here to the model,
 22 Mr. Tevere, to the master bedroom area and point out
 23 where you saw what you stated to be a bathmat on
 24 Colette.
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A Right here in this area.

MR. SEGAL: (Interposing).

Excuse me Your Honor. I'm sorry, I do not want to interfere with the Jury here, but at the same time, it is impossible to conduct this case when none of us sitting over here, Mr. Smith or myself, can see what is going on or what this witness is indicating. We need to have a better and fairer procedure for doing this.

THE COURT: Do you have any suggestions?

MR. SEGAL: Your Honor, I think perhaps we ought to talk with the COURT about how this trial can be conducted so that the DEFENSE can know what is going on over here.

THE COURT: If it is a matter of audibility and the witness is not talking loud enough I will tell him to raise his voice. If it is a matter of accessibility to the exhibit, I will just have to ask you to take a place over where you can see. That is customary in this courtroom.

MR. SEGAL: I think we need some rearrangement, Your Honor, to allow us to do that.

THE COURT: Just go right ahead. I am open to suggestions about it. Certainly everybody's got a right to see what is going on.

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MR. SEGAL: Indulge us for a moment,
Your Honor, and let us talk with Counsel for the
Government.

THE COURT: Very well.

(Counsel confer).

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MR. MURTAGH: I wonder if you would inquire of the Jury if they can still see the model at this angle.

THE COURT: Can all the jurors see the Exhibit from where you are now? I think that to the extent that it is possible to do so--it might be helpful if when pointing out something with the pointer you stand to the rear of the Exhibit so as not to come between the Jury and what he is pointing to--if you can see over it.

MR. SEGAL: If your Honor pleases, if the members of the Jury will not be offended, we will have to probably stand back toward the wall here next to the Jury box.

THE COURT: It won't bother them in the slightest.

MR. BLACKBURN: Could you read back--I've forgotten where we were--the last question.

Q Mr. Tevere, point out -- with respect to the master bedroom--the location of the bath mat on Colette where you saw her?

A Right here (indicating).

Q Mr. Tevere, stay there for just a moment. Did have an occasion to be at the apartment when the ambulance from Womack Army Hospital arrived?

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1 A Yes, I was.

2 Q Approximately, if you know, how long was
3 that after you did, in fact, get to Castle Drive, that
4 the ambulance came?

5 A Approximately 10 minutes.

6 Q And who did they take out, if you know?

7 A They took Captain MacDonald out.

8 Q Were you in the master bedroom when that
9 occurred?

10 A Yes, I was.

11 Q What, if anything, did you do when they
12 took him out?

13 A I assisted Mica and I believe one of the
14 ambulance attendants in putting Captain MacDonald onto
15 the stretcher.

16 Q How many people put him onto the stretcher?

17 A To the best of my knowledge, I think three.

18 Q What kind of stretcher was it, if you know?
19 Was it one that rolls or one that you carry?

20 A It was one that rolled; yes.

21 Q After you all put Doctor MacDonald on the
22 stretcher, what did you do?

23 A We began to wheel the stretcher toward the
24 front of the house, down this hallway.

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1 Q As you went down the hallway, what if
anything unusual occurred?
3 A I was at the foot of the stretcher leading
4 it and when we got near the front bedroom--the south
5 bedroom--Mr. MacDonald--Captain MacDonald--grabbed the
6 door jamb and proceeded to try to get off the stretcher.
7 Q Did he get all the way off the stretcher?
8 A No, about half way.
9 Q What, if anything, did you do?
10 A We tried to restrain him to put him back
11 onto the stretcher.
12 Q What, if anything, did you touch at that
13 point?
14 A The door jamb or the wall, I guess. That
15 was it.
16 Q After you helped restrain the Defendant
17 and put him back on the stretcher, where did you go?
18 A We wheeled the stretcher down the hallway
19 and into the living room.
20 Q I notice on the model there is at least one
21 step. Did you pick the stretcher up and place it down
22 on the living room floor?
23 A Yes, we lifted the stretcher at this point
24 where the steps are so it would not bang us as we went
25 down the stairs.

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Q And if you would, sir, with the pointer
2 follow through the living room the direction that you
3 took him out Castle Drive.

4 A We came down the stairs right here and out
5 the front door which was right here.

6 Q Did you go out to the ambulance?

7 A No sir, I did not.

8 Q How far did you go?

9 A The front door.

10 Q After Doctor MacDonald left the apartment,
11 where did you go and what did you do?

12 A I came back into the house--I came back into
13 the living room and I again instructed everybody not to
14 touch anything and I proceeded back into the master
15 bedroom.

16 Q Approximately how long, if you know, did it
17 take you all to get the Defendant out of the master
18 bedroom onto the stretcher and out of the house?

19 A Maybe 2 minutes.

20 Q After you went back to the master bedroom
21 what did you do?

22 A I believe the CID men came--CID Agent Ivory
23 came in then Colonel Kriwanek came in.

24 Q You may resume your seat.

25 A Colonel Kriwanek came in and a photographer



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1 also came into the house.

2 Q How long after these people came was it before
3 you left Castle Drive?

4 A 3 or 4 minutes.

5 Q During this 3 or 4 minutes, what did you do?

6 A Colonel Kriwanek asked us what we had done —
7 asked us for a description of the people that we were
8 given.

9 Q By "us"--to whom are you referring?

10 A Myself, Specialist Mica, and Lieutenant Paulk.
11 He then instructed us to leave there and go back to the
12 Provost Marshal's Office and write a complete statement.

13 Q And what did you do?

14 A I went to the Provost Marshal's Office.

15 Q After you went back to the Provost Marshal's
16 Office, did you have an occasion to ever return to this
17 apartment during this time?

18 A I don't think so--I don't remember.

19 MR. BLACKBURN: Your Honor, may I have
20 just one moment?

21 (Pause.)

22 THE WITNESS: I think I may have gone
23 back once because I remember there being a seal on the
24 front door at 544 Castle Drive and I remember one of
25 the Agents removing the seal and replacing it.



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BY MR. BLACKBURN;

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Q Mr. Tevere, do you recall in your testimony when you looked into the back bedroom where one of the little girls was--and I believe you testified that she was on her side?

A Yes.

Q Do you recall seeing anything else near her?

A I think there was a bottle in the bed with her.

Q Do you recall what kind of bottle it was?

A I don't.

Q You did not go to the bed?

A No, I didn't. I did not step into that room. Whatever I observed, I observed from the doorway.

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BY MR. BLACKBURN:

Q If you know, were you the first MP to see the children?

A Yes.

MR. BLACKBURN: You may cross-examine.

CROSS - EXAMINATION 12:25 p.m.

BY MR. SEGAL:

Q Mr. Tevere, these events that you have been describing took place, I think, nine years, five months, and two days ago; isn't that right?

A That is correct.

Q You have described for us the position of some piles of clothing that you say were in the house; is that right?

A Yes.

Q And some other details of this premise; is that right?

A That is correct.

Q By any chance, have you looked at any pictures depicting the way that house looked on the night that you were there in 1970, in any recent days?

A No.

Q All that you're telling us now is from your memory; is that correct?

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1 observations or comments about it? Try, if you will,
2 in a sense, be Dr. MacDonald for a few seconds.

3 A He gave us a description of the people he
4 said were in the house. He told us that he was a
5 doctor and that he thought that he was going into
6 shock and that if he went into shock, to breathe into
7 his mouth and to make sure that he didn't swallow his
8 tongue. Then, he asked about his children. He repeated
9 about his children several times.

10 Q But what were his words?

11 MR. MURTAGH: OBJECTION, Your Honor.

12 MR. SEGAL: No, Your Honor. The
13 witness is trying to help, but he is characterizing
14 rather than telling us if he can the words that the
15 Defendant spoke.

16 MR. ANDERSON: OBJECTION to the comment
17 of counsel.

18 THE COURT: All right. Do you remember
19 Dr. MacDonald's exact words? If so, you may quote them.

20 THE WITNESS: Dr. MacDonald said that a
21 band of hippies entered his house. He gave us a
22 description. He said that there was a male--a female
23 blond with a floppy hat and muddy boots carrying a
24 candle. She said, "Acid is groovy; kill the pigs."
25 He told us that there were two white male Caucasians.



MR. MURTAGH: Okay. I think we will--

at this time, we would ask that Government Exhibit Number One, the model which has been stipulated to--do you want to do that in open Court?

THE COURT: Yes, okay.

(Bench Conference terminated.)

MR. BLACKBURN: Your Honor, at this time, the Government would move that Exhibit Number One, which is the model, and the two photographs over there on the easel, Government Exhibits, I believe, 967 and 968, into evidence.

THE COURT: Very well.

(Government Exhibits 1, 967, and 968 were received into evidence.)

MR. BLACKBURN: Also, at this time, we would call Kenneth Mica.

THE COURT: All right.

(Whereupon,

KENNETH C. MICA

was called as a witness, duly sworn, and testified as follows:)

DIRECT EXAMINATION 4:03 p.m.

BY MR. BLACKBURN:

Q Please state your name?

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1 that state "Military Police." It has a red light
2 mounted on the fender. It had a round plaque on the back
3 that also said "Military Police."

4 Q Was the light on or off--the red light?

5 A I would believe it would have been on.

6 Q Did you have an occasion to observe this
7 entire intersection?

8 A Yes, sir.

9 Q Would you describe to the jury what is
10 located there or what was located there in 1970?

11 A Yes, sir. On the corner where I saw this
12 girl, there is a gas station. Directly across the
13 street is a small shopping center, a PX-type, and then
14 on the opposite side is the Corregidor Courts Housing
15 Area.

16 Q Approximately at what time, if you recall,
17 did you arrive at 544 Castle Drive?

18 A I don't think it was any more than five
19 minutes after we received the initial call.

20 Q When you got there, what did you do?

21 A When we got there, there were already
22 several Military Police patrols ahead of us. Everybody
23 seemed to be standing at the front door. We got out and
24 we went up and asked what was going on.

25 Q Did you know any of those Military Police

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1 Q How long did you stay in the master
2 bedroom at that point?

3 A At that point, I stood in the doorway. I
4 can't give you the exact time. It seemed forever, but
5 I would imagine it was a matter of seconds.

6 Q What was the position of Colette MacDonald?

7 A Colette MacDonald was lying on her back.
8 She had her left arm raised over her. She was pretty
9 well covered with blood.

10 Q Do you recall where her right arm was?

11 A Her right arm, I believe, was down by her
12 side someplace.

13 Q Where was the Defendant, Jeffrey MacDonald?

14 A Jeffrey MacDonald was lying off to her side.
15 It would have been her left side.

16 Q Was he on his back, or some other portion of
17 his body?

18 A I believe he was on his stomach, with his
19 head turned away from me.

20 Q I'm sorry?

21 A Turned away from me. I could not see his
22 face.

23 Q Were you able to see all of the front of
24 Colette?

25 A Yes.

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1 BY MR. BLACKBURN:

2 Q Now, during this time that you gave the

3 Defendant mouth-to-mouth resuscitation, what, if

4 anything, did he say or do?

5 A I asked him--I said, you know, "What

6 happened?" And he began to tell me, "Why did they do

7 this to me? Look at my wife. I tried to find her

8 pulse. I heard my children scream."

9 I was asking him what happened and he was

10 asking me how his wife and children were.

11 Q What, if anything, did he say with respect

12 to any medical assistance that you could give him?

13 A He stated he was having difficulty

14 breathing and he needed a chest tube.

15 Q What description, if any, did the

16 Defendant give to you concerning the people he said had

17 done this to him?

18 A He told me there were four people: three

19 males and a female. One of the males was black. He

20 was wearing a fatigue jacket, and I believe he said

21 it had Army stripes--Sergeant stripes.

22 He also said that he thought he may have

23 hit the black Sergeant in the struggle. There were two

24 male whites and a female white. The female white he

25 described as having blond hair, muddy white boots, short



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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
FAYETTEVILLE DIVISION

UNITED STATES OF AMERICA,)
)
v.) NO. 75-26-CR-3
)
JEFFREY R. MacDONALD,)
)
Defendant.)

TRIAL BEFORE
THE HONORABLE FRANKLIN T. DUPREE, JR.
UNITED STATES CHIEF DISTRICT JUDGE
AND A JURY

AT RALEIGH: FRIDAY, JULY 20, 1979

PAGES 1434-1665 TRIAL DAY 2

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1 THE COURT: All right. Members of
 2 the jury, with respect to the model that has been intro-
 3 duced into evidence here without objection, I am now told
 4 by Counsel for the Defendant that the Defendant does not
 5 agree that the placement of the furniture and other mov-
 6 able articles within this model, as shown to you, are
 7 correct. Therefore, I will instruct you that you will
 8 have to weigh the evidence of each witness who undertakes
 9 to place some object in this model with the same care and
 10 against the same standards as you judge or assess his
 11 testimony in all other respects.

12 Now, let's go on with the trial of this case.
 13 I believe you had a witness who had just been turned over
 14 for cross-examination, did you not?

15 (Whereupon,

16 KENNETH C. MICA

17 the witness on the stand at the time of recess, resumed
 18 the stand and testified further as follows:)

19 THE COURT: All right; proceed.

20 MR. SEGAL: Thank you, Your Honor.

21 C R O S S - E X A M I N A T I O N 9:10 a.m.

22
23 BY MR. SEGAL:

24 Q Officer Mica, have you been able to orient
 25 yourself by the use of those two charts up there as to

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1 A Yes, sir.

2 Q What did you believe was the nature of the
3 emergency that you were responding to at that time?

4 A That was given over as a domestic disturb-
5 ance.

6 Q You had no idea at that time that you were
7 headed to what turned out to be a triple murder and a
8 possible assault on a fourth person?

9 A No, sir.

10 Q But at the same time I assume it is fair
11 to say that you and Morris were going there as
12 expeditiously as possible?

13 A Yes, sir.

14 Q Domestic disturbances are obviously a matter
15 that have to be dealt with promptly?

16 A Generally, yes, sir.

17 Q Now, when you arrived at the intersection of
18 Honeycutt and North Lucas Road, you told us yesterday
19 that you saw a female standing at that corner?

20 A Yes, sir.

21 Q Now considering the time in the morning--a
22 little before four--and the weather--was this not
23 unusual to have seen a person standing there---

24 MR. BLACKBURN: OBJECTION.

25 MR. MURTAGH: OBJECTION.

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THE COURT: Let him say whether or not he customarily saw people like this at that time in the morning. OVERRULED.

THE WITNESS: It was unusual--it was not uncommon.

BY MR. SEGAL:

Q There is no bus stop at that corner, is there?

A Not that I recall.

Q There is a commissary that is right close by the intersection, is there not?

A Yes, sir.

Q A commissary is in fact a supermarket for the families of military personnel?

A Yes, sir.

Q The commissary was not open at that time, was it?

A No, sir.

Q There is also a gasoline station located at one of the other parts of the intersection?

A Yes, sir.

Q Was that gasoline station open at that time of the morning?

A No, sir.

Q And across the street from where this woman

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1 was, was the beginning of the Corregidor Courts
2 residential area, was it not?

3 A Yes, sir.

4 Q Considering all those things--the time,
5 the weather, the places that were there--if you had not
6 been responding to what you believed was an emergency call,
7 would it have not been a usual practice to have probably
8 checked out in some fashion the presence of this
9 particular person?

10 A Yes, sir.

11 Q But in this instance because you had been
12 advised by dispatchers of an emergency, you and Morris
13 felt the necessity to go on and answer that call?

14 A Yes, sir.

15 Q I would gather from your testimony yesterday
16 that the observations you were able to make of this
17 woman were relatively brief?

18 A Yes, sir.

19 Q She was, I understood, a young person?

20 A I don't believe I mentioned her age.

21 Q Then let me rephrase that--did you have the
22 impression that she was a young person--somewhere between
23 the ages of 18 and 25 or so?

24 MR. MURTAGH: OBJECTION.

25 THE COURT: OVERRULED.

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1 BY MR. SEGAL:

2 Q You may answer.

3 A I was under the general impression that she
4 was in the 20's to 30-year age.

5 Q And you also observed a hat that she was
6 wearing at that time, did you not?

7 A Yes, sir.

8 Q And yesterday you characterized it as a
9 rain-type hat.

10 A Yes, sir.

11 Q I don't mean to say that that isn't correct,
12 but can I add to it and ask whether you agree that it
13 was also a "floppy" hat.

14 A I believe I described it as a "wide-brimmed"
15 hat. It was fairly large.

16 Q Would a full description of that hat on that
17 lady you saw at that time be that you thought that it
18 was a rain hat with a wide brim and that it was "floppy"?

19 A I would say it was wide-brimmed
20 and it was full-sized--it appeared to be somewhat
21 "floppy"--yes, sir.

22 Q You were also able to, I think, observe
23 something of the hairdo on this woman?

24 A Yes, sir.

25 Q And that hair was shoulder-length, the best



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1 you could observe?

2 A As best as I could observe, I believe that
3 it was.

4 Q Now, after you made these observations at
5 that corner--by the way--would you be able to come to a
6 stop at that corner?

7 A I don't recall if we actually stopped--I
8 know we slowed down pretty close to a stop--to check the
9 intersection before we proceeded through.

10 Q Just simply because it was a large inter-
11 section and it was a cautious way to proceed through.

12 A Yes, sir, and I believe we had a red light
13 facing in our direction.

14 Q I think you told us yesterday what the
15 distance was from that intersection--where this young
16 woman was standing--to the MacDonald house and it was
17 something about 1/2 mile---

18 A That's right, I believe I said it was some-
19 thing in excess of a half mile.

20 Q If I were to convert that into blocks,
21 would I be correct in saying that that was about five
22 blocks from that corner where the young woman was to the
23 MacDonald House at 544 Castle Drive?

24 A City blocks?

25 MR. MURTAGH: OBJECTION.



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1 Q You may resume your seat. Mr. Mica, did
2 there come a time when the Defendant, Jeffrey MacDonald,
3 appeared to be alive to you?

4 A Yes, sir.

5 Q Would you describe that please?

6 A He began to move slightly, and he started
7 to moan, at which time, I went over to him.

8 Q Did you say anything to him?

9 A He was moaning something about, "Check my
10 kids"; "How are my kids?"

11 Q What, if anything, did you say to him?

12 A At that point, I don't recall saying any-
13 thing.

14 Q As a result of what he said, what, if any-
15 thing, did you do?

16 A At that time, I believe myself and
17 Sergeant Tevere started down the hallway of the house.

18 Q Okay now, Mr. Mica, let me ask you, if you
19 would, to come behind the model once again. And if you
20 would, sir, using the pointer, point out where you first
21 went when you left the master bedroom?

22 A I started down through the archway here,
23 down the center hall of the house. I approached the
24 front bedroom of the house.

25 Q Now you said you and Sergeant Tevere went

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BY MR. SEGAL:

Q I think we left the set of events at your description of Sergeant Tevere being in front of you, Officer Mica, and you standing directly behind him?

A Yes, sir.

Q Having seen this scene, what is the next thing that you or Tevere did?

A At that point I just stood there. There was no reason for me to do anything else.

Q And how about Tevere?

A I believe he just stood right in front of me.

Q Finally, one of you did something, didn't you?

A Yes, sir.

Q What was that and who did it?

A Dr. MacDonald started to move slightly and he started to moan something.

Q Up to that moment, when you heard Dr. MacDonald moan and move slightly, did you believe that he was dead?

A Yes, sir.

Q And at that moment and prior to that moment, you believed that Colette MacDonald was dead?

A Yes, sir.

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1 that corner, by the doorway into the master bedroom
2 from the utility room.

3 Q Just standing and looking?

4 A Yes, sir.

5 Q Were they excited?

6 A I think they were more shocked than excited.

7 Q Was anybody shouting or talking at that
8 time?

9 A I don't recall.

10 Q Your impression was they were standing there,
11 shocked?

12 A I believe so, yes.

13 Q Another question. All right, was there
14 anything else that you can recall Dr. MacDonald said?
15 I think you mentioned there were some other subjects
16 other than the three you have mentioned so far. You
17 mentioned he asked for his children; asked for his wife;
18 asked to take her pulse, or said he couldn't find a
19 pulse. You mentioned a chest tube?

20 A Right.

21 Q What is it you recall him saying about that?

22 A Well, he indicated he was having difficulty
23 breathing, and that he might need a chest tube.

24 Q He might need a chest tube?

25 A He might need a chest tube; yes, sir.

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1 Q Did you know what he was referring to at
2 that point?

3 A I had a general idea.

4 Q Did you say anything, or do anything in
5 response to those statements?

6 A No, sir. At that time he was still
7 conscious.

8 Q While he was making the statements to you,
9 and you were giving whatever responses you could possibly
10 give to reassure him, what else did you do in regard to
11 Dr. MacDonald?

12 A Again, I asked him what had happened.

13 Q When was the first time you had asked him
14 what happened?

15 A I believe as soon as I had come back from
16 the living room area.

17 Q I see. The second time you came to attend
18 Dr. MacDonald?

19 A Yes, sir.

20 Q You asked him what happened?

21 A Yes, sir.

22 Q His response was "Look at my kids; look at
23 my wife." Is that right?

24 A Yes, sir.

25 Q Asked about the pulse and then asked, or

1 said, there might be a problem with the chest and
2 needed a chest tube and breathing; is that right?

3 A Yes, sir.

4 Q You then asked him what happened?

5 A Yes, sir.

6 Q Tell us what Dr. MacDonald told you at that
7 time.

8 A Well again, sir, there were alot of
9 unconnected statements, about "Check my kids; look at
10 my kids." Finally, what came down, he asked, "Why did
11 they do this to me?"

12 Q Did you know who, or what, he was referring
13 to when he said, "Why did they do this to me?"

14 A No, sir.

15 Q At that point, did it make any sense to you?

16 A At that point, I asked him, "Who did this
17 to you?"

18 Q What did he say?

19 A Again, everything was more or less dis-
20 connected. He was asking me about his children, asking
21 me about his wife, and I was trying to ask him who and
22 why and what and how it happened, and everything else.
23 I finally got him to say--I believe his first words in
24 connection to that were--"There were four of them."

25 Q Did you know what he meant when he said that?

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1 A No, sir.
2 Q Did you ask him to explain or tell you more?
3 A Well again, I asked him, to the best of my
4 recollection, I asked him, "Four who," you know? At
5 that point, he started to mention about three guys and
6 a girl.

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7 Q That was the first time you had heard
8 anything about that there were three men and a woman?

9 A Yes, sir.

10 Q Go on and tell us the rest of the discussion
11 between you and your attempts to question Dr. MacDonald,
12 and what he said about the persons?

13 A Well again, I was trying to get--I still
14 didn't understand what had happened and I was trying to
15 find out the best that he could recall. I asked him,
16 "Who did this? What did they look like?" Again,
17 everything was sort of unrelated at the time. They were
18 short statements that were unconnectible.

19 Q Try and give us as much of the sense of what
20 he was saying. I realize that it may not come out very
21 connected, but then that is the way you heard it?

22 A Okay. There was a point in there too before
23 I got into that where I had to give Dr. MacDonald mouth-
24 to-mouth. He seemed to pass out. He was having a
25 little bit of difficulty breathing.



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1 Q Was that before he gave you any information
2 about the people whom he said attacked his family and
3 attacked him?

4 A Again, I can't be certain which. I got
5 pieces in the beginning, at the middle, and right at the
6 end. I don't recall exactly what was told to me at the
7 beginning.

8 Q That is understandable. Let's then concen-
9 trate, if we will, on the information and whatever
10 sequence it came out at the time, in which Dr. MacDonald
11 tried to give you information about the people he said
12 who murdered his family and attacked him.

13 A Yes, sir. He stated that there were four of
14 them. And I asked him, I said, "Four who?" You know?
15 He said, "There were three men and a girl." He said,
16 "A black male." He said, "I think I hit him." I asked
17 him about the black male. He said he was wearing--I
18 believe--a fatigue jacket, an Army field jacket, and
19 that he had sergeant stripes.

20 Two other white males. He got to the girl, and I
21 was interested in the girl. He said that she was a
22 blond girl and she kept mumbling, "Acid is groovy."
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BY MR. SEGAL:

Q "Acid is groovy"?

A Yes, sir.

Q What did that mean to you, if anything?

A Well, I knew it was a drug-related term. It meant nothing to me, though.

Q What I meant is--what did you understand those words to mean?

A Well, generally I would say that it was a type of term that somebody that's familiar with the use of acid might possibly use.

Q And acid is sort of a street name for the drug known as LSD?

A Yes, sir.

Q Go on and tell us what else he told you about the girl who was there.

A She kept saying, "Hit them again" and "Acid is groovy," and "Kill the pigs." I tried to get as best a description from Captain MacDonald as I could about the girl. He was mumbling something about her muddy white boots. He remembered muddy boots. And also I believe there was some type of a light on her face. I believe he said possibly a candle.

Q I'm sorry. You said Dr. MacDonald told you that the girl had some type of a light on her face?

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PITTSBORO 542-3374

1 A Yes, sir.

2 Q You understood him to say that he believed
3 that it was a candle?

4 A I believe that is what he said. Yes, sir.

5 Q Do you recall any other information that
6 Dr. MacDonald gave you at that time, Officer Mica, about
7 the description of these people?

8 A I believe he also described the girl as
9 having a floppy hat, having long, blond hair, and I
10 believe also a short skirt. Again, whether that was
11 at that particular instant or two or three minutes later,
12 I don't know.

13 Q You are not describing some coherent
14 witness sitting down in a chair in an office giving you
15 a connected set of descriptions, are you?

16 A No, sir.

17 MR. BLACKBURN: OBJECTION.

18 THE COURT: OVERRULED.

19 Q You are piecing together the various
20 pieces of information to give us today a coherent
21 description. Is that right?

22 A Yes, sir.

23 Q Will you search your memory, then, for
24 any other information now that you recall Dr.
25 MacDonald giving you at that time about the description

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1 of the persons he said attacked his family and himself?

2 A I think that was basically what I recall.

3 Q Now, you mentioned something just a little
4 while ago that you started to give or did give mouth-
5 to-mouth resuscitation to Dr. MacDonald?

6 A Yes, sir.

7 Q Can you tell me what caused you to do that?

8 A He seemed to lose consciousness while I
9 was trying to talk to him.

10 Q Did you notice anything else about his
11 condition besides the loss of consciousness or the
12 possible loss of consciousness?

13 A He was cold.

14 Q How could you tell that?

15 A He was bare-chested and just by the feel
16 of his skin.

17 Q The feel of his skin?

18 A Yes, sir. His teeth were chattering also.

19 Q I'm sorry?

20 A His teeth were also chattering.

21 Q His teeth were chattering?

22 A Yes, sir.

23 Q You were actually able to touch his skin?

24 A Yes.

25 Q You had no doubt that the skin was cold?

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1 you stated that the CID never asked you about that; is
2 that correct?

3 A Yes, sir.

4 Q When was the first time that you ever
5 mentioned to anyone about that girl?

6 A I believe when I went home that morning, I
7 mentioned it to my wife. The first time that I mentioned
8 it was to my partner.

9 Q Who was that?

10 A Specialist Morris--as we were responding to
11 the call.

12 Q After you responded to the call and got to
13 Castle Drive, at any time, who, if anyone, at Castle
14 Drive, did you mention that girl to?

15 A As I was attending to Dr. MacDonald, when he
16 had mentioned that there was possibly a girl involved, I
17 turned my head over my shoulder--I knew that Lieutenant
18 Paulk was behind me, and I believe Tevere was still behind
19 me--I told him that I had seen a girl back on the corner
20 of South Lucas and Honeycutt Road.

21 Q I believe, Mr. Mica, that you have testified,
22 I think, both on Direct and Cross-Examination, that the
23 Defendant Jeffrey MacDonald said that the girl whom he
24 saw had on muddy boots; is that correct?

25 A Yes.

1 MacDonald house when you were inside it that evening
2 or that morning?

3 A Again, it would be an assumption that
4 the heat would have been on.

5 Q You don't remember the inside of the house
6 being cold?

7 A Not that I recall. I was dressed for
8 outside--outdoors, mainly. I was warm.

9 Q One last matter. When you turned to
10 Lieutenant Paulk and Sergeant Tevere after having heard
11 from Dr. MacDonald about the woman and making the
12 connection in your mind, you said to them what?

13 A I believe that I said that I had seen a
14 girl on the corner of South Lucas and Honeycutt Road
15 and to send a patrol to see if they could locate her.

16 Q You suggested that they send a patrol to do
17 that?

18 A I believe I did say something for someone
19 to go down.

20 Q Someone should go down?

21 A Yes, sir.

22 Q Did you hear Sergeant Tevere issue any order
23 to any of the MP's that were there or anyone else
24 suggesting that they should go down and check out this
25 possibility?

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
FAYETTEVILLE DIVISION

UNITED STATES OF AMERICA,)
)
v.)
) NO. 75-26-CR-3
JEFFREY R. MacDONALD,)
)
Defendant.)

TRIAL BEFORE
THE HONORABLE FRANKLIN T. DUPREE, JR.
UNITED STATES CHIEF DISTRICT JUDGE
AND A JURY

AT RALEIGH: FRIDAY, JULY 27, 1979

PAGES 2641-2902 TRIAL DAY SEVEN



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FURTHER PROCEEDINGS 9:00 a.m.

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3 THIS CAUSE came on for further

4 trial before The Honorable Franklin

5 T. Dupree, Jr., United States Chief

6 District Judge, and a jury, on

7 Friday, July 27, 1979, at Raleigh,

8 North Carolina.

9

10 (The following proceedings were held in the

11 presence of the jury and alternates.)

12 THE COURT: Good morning, ladies and

13 gentlemen. Any further evidence for the Government in

14 this case?

15 MR. BLACKBURN: Yes, sir.

16 THE COURT: Call your witness.

17 MR. BLACKBURN: Your Honor, we call Michael

18 Newman.

19 (Whereupon,

20 MICHAEL DOUGLAS NEWMAN

21 was called as a witness, duly sworn, and testified as

22 follows:)

23 DIRECT EXAMINATION 9:01 a.m.

24

25 BY MR. BLACKBURN:

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BY MR. SMITH:

Q What parts of his face, if you recall?

A If I recall correctly, it was on his forehead and I believe there was some smeared on the cheeks.

Q On both cheeks?

A Sir, I really don't recall about the cheeks. I think there was some smeared on the cheeks. It appeared the blood had been smeared with his hands. His hands were also bloody.

Q Mr. Newman, unfortunately, the pajama bottoms were thrown away; weren't they?

A Yes, sir; they were.

Q I know that you regret that. Would you describe the pajama bottoms as you last remember seeing them?

A Sir, as I recall, there was blood on the pajama bottoms. The inseam of the pajama bottoms was ripped out from about mid-thigh all the way across. I was the one who went ahead and threw them away, and when we started cleaning up, the CID had been there and everybody else had been around, and no one had picked them up.

They were left in the crash room, and I picked them up and threw them away.



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1 Q You assumed, I take it, that if anyone
2 had wanted them at that point, something would have been
3 done to preserve them or store them.

4 A Yes, sir.

5 Q Were they just tossed in the trash basket or
6 what happened to them?

7 A Yes, sir; they were thrown into the garbage
8 can.

9 Q Do you know whether any effort was made to
10 retrieve them?

11 A Sir, I really don't know.

12 Q Do you know whether any sample was taken or
13 any cutting was taken from the pajamas of any blood on
14 the pajama bottoms?

15 A I really don't believe there was because
16 they were thrown on the floor there in the crash room
17 and I don't think anyone bothered them until they were
18 picked up and thrown out.

19 Q Do you know how long Dr. MacDonald was in
20 the hospital recuperating?

21 A No, sir; I really don't know exactly.

22 Q How many times did you take his blood
23 pressure or his temperature?

24 A I really don't recall whether I took his
25 blood pressure or not. I had two corpsmen working with

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
FAYETTEVILLE DIVISION

UNITED STATES OF AMERICA,)
)
v.) NO. 75-26-CR-3
)
JEFFREY R. MacDONALD,)
)
Defendant.)

TRIAL BEFORE
THE HONORABLE FRANKLIN T. DUPREE, JR.
UNITED STATES CHIEF DISTRICT JUDGE
AND A JURY

AT RALEIGH: FRIDAY, JULY 20, 1979

PAGES 1434-1665 TRIAL DAY 2

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MR. BLACKBURN: Your Honor, we call William Ivory.

Your Honor, while we are awaiting Counsel, and I believe the Defense has agreed in stipulating Government Exhibit Number 652, which is a drawing of the model to scale with the particular measurements in it. We will then move that it be introduced in evidence at this time as Government Exhibit 652.

THE COURT: Without objection, it will be admitted.

MR. SEGAL: Without objection, your Honor.

(Government Exhibit No. 652 was marked for identification and received in evidence.)

(Whereupon,

WILLIAM F. IVORY was called as a witness, duly sworn, and testified as follows:)

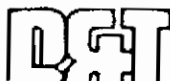
DIRECT EXAMINATION 12:24 p.m.

BY MR. BLACKBURN:

Q Please state your name.

A William F. Ivory.

Q Mr. Ivory, where do you currently live?



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1 side--or north side rather--which was Kristen's bed-
2 room, using the ballpoint pen I flipped up the light
3 switch and illuminated the room.

4 Q When you left Kimberly's room that first
5 time, was the light on or off?

6 A When I left the room?

7 Q Yes.

8 A I think perhaps I shut the light off again.
9 I'm not sure.

10 Q How long did you remain in Kristen's room?

11 A No longer than I had remained in the other
12 rooms, perhaps a minute.

13 Q What did you observe that first time you
14 went into Kristen's room, besides what you've already
15 testified to?

16 A In addition to the body, there was blood on
17 the floor just to the side of the bed, blood along the
18 side edges of the bed, flecks of blood along the wall
19 behind the bed or along the side of the bed; and I
20 observed two bloody footprints leading out of the room--
21 from the room to the hallway.

22 Q After you left that room, sir, where did you
23 go?

24 A I went from that room back to the living
25 room, had a few more words with Lieutenant Paulk.



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1 stripped down from it and all that was on it was the
2 bottom sheet. There was a pillow there also, but the
3 bottom sheet, and on the headboard--right here, if you
4 can see where I am pointing--was the word "Pig" with
5 the letters "P-i-g" written in this manner--not so you
6 could read it looking straight at it, but you had to
7 turn. It was written like this (indicating) in what
8 appeared to be blood. There were blood splatters along
9 the walls, along the baseboard of the wall, along this
10 side. Between this bed and the wall--this, perhaps
11 gives you an illusion of space. It is an illusion.
12 It is a lot tighter in here than perhaps you would
13 think.

14 There were items of military apparel. I
15 think a pair of fatigues was lying down there and there
16 were some throw pillows such as the type that you would
17 put up on a bed and lean into while you were sitting up
18 reading. This dresser was back here towards this wall
19 where the cabinets were. Of course, these are sliding
20 door cabinets. The door on this side or the side
21 closest to the doorway leading back out to the hallway
22 was open--not entirely open but maybe halfway sort of
23 opened.

24 Right here where this piece of paper says
25 "pile of bedding," there was a pile of bedding consisting

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
FAYETTEVILLE DIVISION

UNITED STATES OF AMERICA,)
)
v.) NO. 75-26-CR-3
)
JEFFREY R. MacDONALD,)
)
Defendant.)

TRIAL BEFORE
THE HONORABLE FRANKLIN T. DUPREE, JR.
UNITED STATES CHIEF DISTRICT JUDGE
AND A JURY

AT RALEIGH: THURSDAY, AUGUST 23, 1979

PAGES 6494-6746 TRIAL DAY TWENTY-FIVE

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FURTHER PROCEEDINGS 10:00 a.m.

(The following proceedings were held in the presence of the jury and alternates.)

THE COURT: Good morning, ladies and gentlemen. We have been in session since about 9:15 and finished about five minutes to 10:00. Now, we are ready to hear some more testimony.

Let me say this, that we are continuing by these hearings and rulings made outside of your presence and hearing to move the case along, so you haven't lost any time today.

THE COURT: Any further evidence for the Defendant in this case?

MR. SEGAL: Yes, Your Honor. The Defense calls Dr. Jeffrey R. MacDonald.

THE COURT: Very well.

(Whereupon,

DR. JEFFREY ROBERT MACDONALD was called as a witness, duly sworn, and testified as follows:)

DIRECT EXAMINATION 10:01 a.m.

BY MR. SEGAL:

Q Dr. MacDonald, where do you reside, please?

1 nearb, .

2 A There was a light on in the kitchen. It
3 was left on every night.

4 Q Tell us about--in your own words now, go
5 ahead. Describe to us the events as best that you
6 recall them that took place. That is, you started to
7 get up in response to the cries of Kimmie and Colette?

8 A I saw some people at the foot of the couch.

9 Q Could you tell, at that first instance when
10 you saw the people, how many were there?

11 A I could not. I eventually saw three males
12 and one female.

13 Q What was your reaction? What did you say,
14 what did you do, when you saw people there and you
15 heard the voices of your family?

16 A I either thought or said, "What the hell is
17 going on here?"

18 Q Go on and tell us what happened?

19 A I also either thought or said, "What's
20 going on here? What are you assholes doing in my
21 house?"

22 Q Go ahead?

23 A At the same time that I was sitting up,
24 there was a black male to the left of the three people
right in front of me. He started to swing something



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1 at me

2 Q Could you see what it was?

3 A I could not.

4 Q Go on and tell us in your own words what

5 happened at that point?

6 A I raised my left arm.

7 Q Show us?

8 A I raised my left arm, and I got hit, I

9 believe partially on the arm and my head at the same

10 time; then I was knocked back down on the couch.

11 Q Could you feel the impact of the blow on

12 your head?

13 A I could.

14 Q Do you recall what you felt when you

15 received that blow?

16 A You can't really explain it unless you've

17 been hit in the head. You see stars. That's exactly

18 what you see; and you can't--there is a pain and there's

19 light--it is a light burst; and it is not clear then

20 what happens.

21 Q What is the next thing you remember doing

22 or was happening there in that room?

23 A Trying to get back up.

24 Q You say you went back after that blow.

25 Were you fully back on the sofa at that point?

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1 .. I think so. I think was back flat on
2 my back.

3 Q What happened then?

4 A I tried to get up again.

5 Q Go on and tell us the events?

6 A It is hard to take one thing and say it
7 was next, because there were several things happening
8 at once.

9 Q All right, we understand that. Tell us
10 in whatever sequence it seems easiest to explain.
11 Let us share with you at this time all that you can
12 remember of the events in that living room?

13 A At some point--I think it was before I was
14 first hit--but it may have been after I was first hit--
15 I heard the words, "Acid is groovy; kill the pigs."

16 Q Do you know who was saying those things?

17 A It was a female monotone voice.

18 Q What else do you recall happening?

19 A After I was hit the first time and started
20 to get up, my thought was that I better not get hit
21 in the head again or I won't be able to get up.

22 And so I attempted first to fend off the
23 next flow, and at the same time to grab the arm of the
24 person who was using the club, which I did do at some
25 time in the struggle.

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I at one point had a hold of an arm on which there were E-6 stripes.

Q By E-6 stripes, you mean military stripes indicating a Specialist rank in the Army?

A Sergeant rank. It is three stripes at the top and one rocker on the bottom.

Q Go on and tell us the other things you can remember of that struggle, what happened, what you did, what you heard?

A I think I heard--and it's still not clear--the words "Acid and rain."

Q Does that mean anything to you?

A It does not.

Q "Acid and rain" or "acid rain"?

A It does not mean anything to me, except that I think that is what I heard. I was getting punched--what I thought were punches. They did not appear to be very effective; and I remember sliding down the arm that I was holding on to the club.

Q I am not sure that is clear to me. The arm with the club--the person who had this--a sleeve which had the sergeant's stripes, is that right?

A That is correct.

Q Could you tell at that time, or were you able to tell at any time what kind of clothing the

1 BY MR. SEGAL:

2 Q All right, go ahead.

3 A So, I kept thinking, "If I let go of his
4 arm, he is going to be able to hit me with the club
5 again." At some point in this struggle, my arms were
6 bound up in my pajama top.

7 Q Now, can you describe for us in any more
8 detail perhaps how the pajama top and your arms became
9 entwined?

10 A I had a pain in my head. I was hit at least
11 once in the head, possibly twice by now. I was holding
12 onto someone's arm. Two other people were punching me.
13 I was trying to think, "What the fuck is going on here?"
14 I could hear Colette, and I couldn't make any sense
15 out of what was happening. At some point, my hands were
16 bound up in the pajama top. I do not know how it
17 happened. I have tried to figure out how it happened.
18 I did not hear a ripping sound. I thought that it was
19 either--it had to have either been pulled over my head
20 or ripped from around my back. I do not know which. I
21 have never known which, and I have never made any
22 statements about which.

23 Q As far as the logic of the situation, you
24 have tried to figure it out, though? Now, in hindsight,
25 you have tried to figure it out?

1 I meant that he now h. the club free.
2 I felt that I would probably be hit again very shortly.
3 I, at one point, had a hold of someone's hand in which
4 I saw a blade.

5 Q Did you feel anything else or see anything
6 else at that time?

7 A I thought to myself, "That probably wasn't
8 a punch. It was probably a stab." I thought to
9 myself that there was a distinct possibility that I was
10 going to be killed.

11 Q Were you frightened?

12 A I was not thinking fright, but I am sure I
13 was.

14 Q What else do you remember was going on at
15 that time?

16 A It was somewhere in here I saw a person that
17 I perceived to be a girl and still think it was a girl.

18 Q What did you see about that person?

19 A I saw a white, floppy hat, blond hair. She
20 did not appear heavy. She appeared to be 115 or 120
21 pounds. She did not appear very tall, but I say that
22 relative to the men that were in front of me. She was
23 shorter than the men that were in front of me. I saw
24 her for a period of a second or two between, I believe,
25 the two white men that were at the end of the couch.



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1 The only other vision at I had of her
2 at all was of a knee and the top of a boot.

3 Q How did you get that vision?

4 A I remember the floor coming up and me going
5 down, and I saw in an instant--literally, an instant--I
6 saw a bare knee and the top of a boot.

7 Q What else do you recall of the fight--
8 struggle--of your own activities--your own observations
9 at that time?

10 A I remember receiving what I thought were
11 multiple--what I thought to be not very effectual--
12 punches to the abdomen and to the chest, some of which
13 later turned out to be puncture wounds or stab wounds.

14 Q Did you know at that time that that was
15 what was happening?

16 A I did not.

17 Q What else did you see about the appearance
18 of these people? Did you get any other sight of what
19 they were wearing?

20 A The white male in the middle had something
21 behind his neck which I took to be a hooded sweatshirt.
22 The male on the right-hand side, he was taller than the
23 male in the middle and had on what appeared to be a
24 lightweight nylon jacket waist-length style--lightweight
25 windbreaker-style jacket.



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1 with the floppy hat?

2 A I never saw her hands. I saw a light on
3 her face.

4 Q Where was that light coming from as far as
5 you could tell?

6 A It appeared to be coming from in front of her--
7 from her hands, but I never saw her hands. There is a
8 difference. I saw what appeared to be a light coming
9 up from in front of her.

10 Q Can you tell us anything about the light--
11 the kind of light? How did it appear to you?

12 A It appeared wavering or flickering. I
13 just remember distinctly remembering in that brief instant
14 that it seemed like it was a light from a candle, but I
15 did not see a candle.

16 Q Do you have any other recollection at this
17 moment--at this time--about what went on in that
18 episode other than what you have told us? If not, then
19 tell us how did this episode end for you?

20 A The next thing I knew, I was lying on the
21 floor and the house was very quiet. My next recollec-
22 tions-- (pause)---

23 THE COURT: All right, we will take
24 our morning recess and come back today at 11:50, members
25 of the jury. Don't talk about the case among yourselves

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1 the first thing that occurred to me?

2 A My teeth were chattering and I thought that
3 I was going into shock.

4 Q Tell us what you did and what you experienced
5 at that point.

6 A Then the sounds of my wife and Kim came
7 sort of like flooding back and so I realized the house
8 was quiet and I didn't hear Colette so I got up to go
9 to see Colette.

10 Q Were you in the living room at that point--
11 on the floor of the living room?

12 A Probably halfway in the living room and on
13 the steps, and my best recollection was my chest was on
14 the end of the hallway above the steps.

15 Q Was that the first or second riser up?

16 A Right.

17 Q Was there any sound at all that you could
18 hear at that time?

19 A I heard no sounds.

20 Q You decided to go see whether Colette was
21 all right or not. What did you do?

22 A I got up and walked into our bedroom.

23 Q Down the hallway?

24 A That's right.

25 Q What did you see when you got there?

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1 .. Colette was on the floor.

2 Q Was there any light in the room at that
3 time?

4 A I don't know.

5 Q Do you know whether you turned lights on or
6 off?

7 A I have no idea.

8 Q Let me show you some pictures and ask whether
9 you recognize the scenes. Let me show you, Dr. MacDonald,
10 a series of photographs that have been marked previously
11 in evidence as G-39, 40, and 41, 42, 43, 44 and ask you
12 to look at the first picture, please, Dr. MacDonald, and
13 tell us what the scene shows as far as you know.

14 A It shows Colette on the floor.

15 Q Is that where she was when you first saw her?

16 A No.

17 Q All right, we'll come back to that. Would
18 you look at the next picture, please, and tell us whether
19 you recognize that photo?

20 A That's Colette on the floor.

21 Q Is that how you saw her? I don't mean the
22 position now but is that the way she appeared to you the
23 first time you saw her?

24 A All I remember is a lot of blood. I don't
25 remember her arm positions. She was leaning against the



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1 green chair, and she is not in the picture.

2 Q All right, would you look at the next
3 picture, please, and tell us whether you recall that
4 scene at any time?

5 A Yes.

6 Q Is that another picture of Colette also on
7 the floor?

8 A Yes.

9 Q Now, in this picture that's marked G-41, is
10 that the green chair you are talking about here?

11 A Yes, it is.

12 Q The picture doesn't show how you saw her at
13 first, though; is that right?

14 A No, it does not.

15 Q Can you tell us perhaps a little bit about
16 how her position was when you--to the best you can recall--
17 when you first saw her there?

18 A Her right shoulder was up against the green
19 chair. She was leaning more on her left side.

20 Q Now, did you come close to Colette at that
21 point?

22 A Yes, I did.

23 Q Did you see anything about her injuries at
24 that time, Dr. MacDonald?

25 A All I could see was a lot of blood.

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1 Let me show you G-44 d ask if this
2 perhaps depicts how your wife appeared to you at that
3 time?

4 A That's how she appeared.

5 Q Look at G-43, please, if you will, and tell
6 us if that also reflects the blood as you saw it at that
7 time? Please look at it.

8 A She looked bloodier than that to me.

9 Q What did you do when you saw your wife there?

10 A I took the pajama top off my wrists and I
11 took a knife out of her chest.

12 Q Would you show us, please, on your own body--
13 just point if you would--where this knife was?

14 A It was somewhere in the central chest. I
15 don't specifically remember. Roughly in the middle of
16 the sternum.

17 Q What did you do with the knife?

18 A Threw it away.

19 Q When you say you "threw it away," you mean
20 in the room some place?

21 A I really don't recall. I just remember
22 taking it out and throwing it.

23 Q Were you down on your hands and knees at
24 that time?

25 A Either right then or immediately thereafter.

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1 All right, you descri I coming into the
2 room and finding your wife and taking out the knife.
3 Tell us whatever else you recall doing at that time in
4 the bedroom.

5 A I gave her mouth-to-mouth resuscitation but
6 the air was coming out of her chest.

7 Q You mean out of the stab wounds in her chest?

8 A That's right.

9 Q Please go on and tell us what you did then.

10 A I checked her pulse.

11 Q Were you trying to see whether there were
12 any signs of life left in her?

13 A That's right.

14 Q Did you detect any sign of life in your
15 wife's body?

16 A I did not.

17 Q Go on and tell us what happened then.

18 A I remembered I heard Kimmie so I went to see
19 Kimmie.

20 Q Where was your pajama top at that time?

21 A I have no idea.

22 Q You walked out of the bedroom into the
23 other bedroom in the house where you heard Kimberly.
24 What did you see there?

25 A Kimmie.

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1 All right, you descri^d coming into the
 2 room and finding your wife and taking out the knife.
 3 Tell us whatever else you recall doing at that time in
 4 the bedroom.

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5 A I gave her mouth-to-mouth resuscitation but
 6 the air was coming out of her chest.

7 Q You mean out of the stab wounds in her chest?

8 A That's right.

9 Q Please go on and tell us what you did then.

10 A I checked her pulse.

11 Q Were you trying to see whether there were
 12 any signs of life left in her?

13 A That's right.

14 Q Did you detect any sign of life in your
 15 wife's body?

16 A I did not.

17 Q Go on and tell us what happened then.

18 A I remembered I heard Kimmie so I went to see
 19 Kimmie.

20 Q Where was your pajama top at that time?

21 A I have no idea.

22 Q You walked out of the bedroom into the
 23 other bedroom in the house where you heard Kimberly.
 24 What did you see there?

25 A Kimmie.

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Was the light on or c in her room?

A I don't recall but I think it was off. I
couldn't see her well but I could see her.

Q Was she in her bed?

A She was in her bed.

Q Did you move toward her bed?

A I went to the right side of her bed.

Q What did you see?

A She had a lot of blood on her.

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BY MR. SEGAL:

Q I would like you to look at three other photographs, Dr. MacDonald. These have been marked Government Exhibits 56, 57, and 58 in this case. Would you look at Government 56, please. Do you recognize the scene there?

A That is Kimmie, but that is not how I remember seeing her.

Q Would you look at Government 57, Dr. MacDonald, perhaps, does that reflect any of the things you saw at that time?

A Yes.

Q Would you say she was bloody?

A She was covered with blood.

Q I ask you to look at Government 58, please. I must ask you to look and tell us whether that looks like the way you saw your daughter?

A Yes.

Q Do you remember anything else that you did in Kimberly's room going in there and observing her condition? Did you try any life-saving--were you able to try any life-saving procedures with her?

A At some point, I gave her mouth-to-mouth. I don't know if it was now or later. I also checked her for pulses.



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1 Q I am sorry?

2 A I also checked Kim for pulses.

3 Q And you say you are not sure whether it

4 was at that time or some later time that you tried to

5 give her mouth-to-mouth resuscitation; is that right?

6 A That is correct.

7 Q Well, whatever time it was, what was the

8 effect? What did you learn? What did you find out?

9 A The air was coming out of her upper chest.

10 Q Was there any sign of life at all when you

11 checked her pulse?

12 A No.

13 Q What did you do at that point?

14 A I went to see Kristie.

15 Q You went out and across the hall?

16 A That is right.

17 Q Did you go into her bedroom at that point?

18 A Yes.

19 Q Do you remember whether the light was off

20 or on in that room?

21 A I do not recall.

22 Q What could you first see when you went into

23 Kristen's room?

24 A I could see her lying in bed.

25 Q Could you see whether any blood was on her at



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1 that t. e?

2 A When I got closer.

3 Q How close did you come to Kristen?

4 A I gave her mouth-to-mouth.

5 Q Let me show you again some photographs

6 marked Governments 59, 61, and 70. I ask you, please,

7 to take a look at G-59 and tell us whether that looks

8 like the scene as you first saw it when you entered

9 her room?

10 A It is close.

11 Q What, if anything, do you think is different

12 in this photograph than what you first saw besides the

13 fact that there is light on here?

14 A I remember her as being more on her back.

15 Q More on her back. Please look at G-61.

16 Is that the way you first saw her?

17 A No.

18 Q Again, was she more on her back?

19 A I remember her as being more on her back.

20 Q Finally, look at G-70, and if you would,

21 examine this. Do you recall seeing the bottle in the

22 position--the baby bottle--as shown in the position in

23 this photograph?

24 A No. I do not remember seeing the baby bottle.

25 Q Do you remember giving her the bottle, though?

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1 After I went to Colette the second time, I believe,
2 I picked up the phone in the master bedroom and called
3 for help.

4 Q Before you tell us this, can you describe
5 what went on when you went to see your wife, Colette,
6 the second time?

7 A I don't know if I gave her mouth-to-mouth
8 again. I was down next to her, and I believe I, at some
9 point, covered her with my pajama top and something else,
10 and I don't remember what the something else was.

11 Q Do you know where it came from--this other
12 item that you covered her?

13 A Probably from the green chair. I recall
14 reaching across her and pulling something off the green
15 chair towards her. I do not know what it was.

16 Q Could you tell us why you were covering
17 her at that time?

18 A I didn't--I didn't---

19 Q (Interposing) Well, let me---

20 A (Interposing) I didn't know what else to
21 do. I don't know.

22 Q You, in fact, in reality, I suppose if that
23 word applies, knew she was dead then?

24 A Probably.

25 Q Did you have any other idea of what you could

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do for her?

A Start an IV.

Q None around?

A I had some medical supplies. I don't know if I looked for them or not.

Q But you had found no signs of life in her; had you?

A No signs of life.

Q What happened when you went to the bathroom? Do you know why you went there--how you came to be there?

A I went there mainly to check my head.

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BY MR. SEGAL:

Q Were you becoming aware of your head at some point--aware of some feelings in it?

A My head was hurting all through this, and I knew that I wasn't thinking very clearly, and I couldn't figure out what had happened.

And I looked in the mirror in the bathroom to see if there was any massive or major appearing head wound to account for that pain in my head and the inability to think.

Q Is it fair to say--what was your mental state? What word or adjective would you apply to yourself?

A Confused.

Q Now, when you looked in the mirror, do you recall what you saw about yourself at that time?

A I saw a bruise on my forehead. There was some blood on my forehead, and there was blood around my mouth. That is all I remember.

Q Do you recall looking at your torso and your chest or any part of your body above your waist?

A I looked at my chest at some time. I don't remember if it was in the bathroom or in the hallway or in the master bedroom; and I saw that I had what appeared to be a small wound in the right chest that

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was bubbling. I don't know when I was when I did that.

Q Did you do anything else in the bathroom that you now recall?

A I think I rinsed my hands off.

Q Do you know why you did that?

A I have no idea.

Q As a doctor were you in the habit of washing your hands?

A Yeah.

Q Did anything else take place that you can now recall while you were in the bathroom?

A No.

Q What is the next thing that you recall doing, Dr. MacDonald?

A Talking on the telephone.

Q Now, there were more than one phone in your house at that time, were there not?

A That's right.

Q Which phone do you recall going to at that time?

A The phone in the master bedroom.

Q Tell us about what you did when you went in there and about the phone conversation that you had?

A I picked up the phone and I dialed "0" and

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DIRECT EXAMINATION 2:33 p.m.
(resumed)

BY MR. SEGAL:

Q Dr. MacDonald, you described right before lunch some of the events after your release from the hospital, your return to active duty with your unit, and up until the fact that you were formally charged on May 1st, 1970. Let me ask you, did you give any thoughts from the time when you were in the hospital on February 17th--thereafter, all the way through the time you were charged--did you give any thoughts to why this had happened to you or who had done these acts to you and your family?

A Certainly.

Q Would you share with us, please, what you concluded for yourself about how and why this had happened to you and your family?

A Well, that is a big topic. I spent a lot of time trying to figure out what happened to me and what happened to my family and why. The only logical conclusion that I could come to would be that someone either had a grudge against me or it was by chance--one of the two--a chance occurrence.

Q Let me ask you in that regard: we have heard some testimony here in regard to some responsibilities

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1 you had toward treating soldiers () had problems
2 with drug abuse or drug addiction. When did you first
3 become involved with that area?

4 A As soon as I joined the unit.

5 Q You mean joined the Sixth Special Forces
6 Unit?

7 A Well, also with the Third when I first
8 came to Fort Bragg in September of 1969. It was a
9 problem on Post. I also had problems with drug
10 patients in Cape Fear Valley Emergency Department.

11 Q Let me talk to you a bit, please, about
12 your dealings with any soldiers who may have had
13 problems with drug abuse or drug addiction whether
14 they were with the Third Special Forces or when you
15 were with the Sixth Special Forces. How frequently did
16 you have contact with men who were having drug
17 problems?

18 A Most of my contact was in the Sixth Special
19 Forces.

20 Q All right, tell us about that, please.

21 A And I joined the Sixth Special Forces just
22 shortly after December 1st, 1969. The Third was
23 disbanded, and I had become the Preventive Medicine
24 Officer and was, in fact, the counselor not only for
25 drugs but for other problems as well, and I saw all the

1 A Well, my impression has always been
2 that the Special Forces were outstanding troops. They
3 have a higher motivation, they were all volunteers,
4 they were better educated for the most part, and they
5 did not seem to have the same incidence of drug abuse
6 as say for instance the 82nd Airborne, and more speci-
7 fically the PSYOPS Battalion that was attached to us.

8 Q Now, what did you do with men who came to
9 you with drug abuse problems? What was the nature of
10 your work with them; how did you handle this problem?

11 A Well, it was a difficult line to tread in
12 the Army at that time, because basically I was a
13 civilian-trained physician, and our responsibility in
14 the civilian world was to the patient.

15 In the military world you have two masters.
16 You have the patient, but you also command responsibil-
17 ity.

18 In other words, I wouldn't consider
19 sending--and you are not supposed to send a soldier
20 out for duty, the bottom line being a battle situation,
21 who is unfit for duty.

22 Drug abuse certainly means that, so we
23 had two decisions always to make. There were no clear
24 guidelines in 1969-70, yet; and we were essentially
25 plumbing new waters, so to speak, as to how to handle

1 the rising drug abuse problem.

2 We had to decide whether to tell their
3 commanding officer or not tell their commanding officer.
4 I suppose there were even physicians who were at that
5 time calling the CID, although I was unaware of that.

6 Q May I interrupt you and ask you, you say
7 you had a choice as to whether to tell the commanding
8 officer or not--what do you mean by that--what would
9 you tell the commanding officer?

10 A Well, I can tell you what I did. I made a
11 decision based on my interview and feeling about the
12 patient as to whether he was truly a drug abuser of
13 some proportion that would reflect on (a) his health;
14 and (b) his performance in the field, and if it did
15 meet those requirements--that is, it would injure his
16 health and/or it would affect his performance in the
17 field--I would tell him--but then I would notify his
18 commanding officer--I would tell him I was going to
19 notify his commanding officer and I would.

20 Many times there were what I would charac-
21 terize as casual drug use that did not appear to affect
22 either his health or his performance in the field, did
23 not think the person had a major problem, and counseled
24 him and attempted to get him to not use drugs.

25 Q Now, did you have occasion to do any

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MR. SEGAL: The persons who were referring--making those remarks. This is not offered for the truth or falsity of those remarks. It is a belief they shared, and they shared that belief with the Defendant.

MR. MURTAGH: Your Honor, we would OBJECT. We think it is being offered for the truth or falsity of the statement.

THE COURT: I'll OVERRULE. Let it go.

BY MR. SEGAL:

Q Would you please tell us the discussions you were having with Captain Heestan (phonetic), Major Williams and the others?

A That the doctors, myself included, and specifically as the person doing the counseling, were suspected of being finks.

Q Is that the term that was used--"finks"?

A That's right.

Q And what did you understand that to imply or mean at the time?

A Turning troops in to either commanding officers or the CID for drug abuse.

Q In fact, was that true? Had you turned anyone in to at least the CID or the MP's on the basis of having received some information in your relationship

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1 Q Do you know where it was ripped?
2 A No.
3 Q Did you rip it?
4 A I may have.
5 Q Did you ever hear any ripping sounds?
6 A No; I do not recall ever hearing a ripping
7 sound.
8 Q Either from the intruders or from you?
9 A That is right.
10 Q How did these holes get in this pajama top?
11 A From the assailants.
12 Q Where was it when it got holes in it from
13 the assailants?
14 A My recollection is that it had to have
15 been around my wrists.
16 Q What were you doing with it?
17 A I was fending off blows--trying to get my
18 hands out.
19 Q You don't know whether it was torn at that
20 time?
21 A I have no idea.
22 Q You don't know whether it was pulled over
23 your head?
24 A I do not.
25 Q Well, I take it, it was either ripped or it

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A I was fending off blows that were coming straight at me, and I was pushing out against them. I see no reason why the fabric should be torn and not have circular holes.

It was not at all like the demonstration that you showed the jury.



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BY MR. BLACKBURN:

Q Well, that being the case, assume for a moment that this is around your wrists, and assume for the moment that I am an intruder. Was I overhanded or was I underhanded or was I sideways--or what was I doing?

A I would have to say that the blows were coming at me straight and I was almost in a sitting position, so I would have to--my assumption has always been that they were waist-high, just like you are doing now.

Q Like that (indicating)?

A That's right.

Q And I would have done like that (indicating)?

A That is what I remember--fending off blows like that, which I initially thought were punches.

Q Well, did you ever, if you can recall, during this time, move the pajama top to the right or the left?

A Did I ever during the struggle?

Q Yes?

A I'm sure I did. I had hold of a shirt one time. I had hold of a hand. There was movement during the struggle. I am sure it had moved. I did not hold this stationary.

Q That is what I am getting at. In other words, the whole time you had the pajama top around your wrists and somebody was stabbing at you, it was not just



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1 straight on.

2 A No; but my recollection is that the majority
3 of my movement was out against that.

4 Q Was all of your movement out against it?

5 A I do not recall.

6 Q I take it, Dr. MacDonald, that when this was
7 taking place and this was between your hands as you have
8 just testified, was it next to your chest or was that
9 away from your chest?

10 A I think for the most part it was away from my
11 chest.

12 Q Like so (indicating)?

13 A Yeah; I was using it more or less as a
14 shield, and trying to pull my hands out and push away at
15 the same time.

16 Q Am I correct in saying, then, that during
17 part of the struggle with the intruders--when they were
18 striking at you and you had this around your wrists--that
19 it was not at all times supported by your body or some
20 body weight?

21 A That is correct.

22 Q Now, when the two white males were at the end
23 of the sofa, do you know whether both of them had weapons
24 or just one of them?

25 A I do not know.

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
FAYETTEVILLE DIVISION

UNITED STATES OF AMERICA,)
)
v.) NO. 75-26-CR-3
)
JEFFREY R. MacDONALD,)
)
Defendant.)

TRIAL BEFORE
THE HONORABLE FRANKLIN T. DUPREE, JR.
UNITED STATES CHIEF DISTRICT JUDGE
AND A JURY

AT RALEIGH: FRIDAY, AUGUST 24, 1979

PAGES 6747-6903 TRIAL DAY TWENTY-SIX

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FURTHER PROCEEDINGS 9:30 a.m.

THIS CAUSE came on for further trial before The Honorable Franklin T. Dupree, Jr., United States Chief District Judge, and a jury, on Friday, August 24, 1979, at Raleigh, North Carolina.

(The following proceedings were held in the presence of the jury and alternates.)

THE COURT: Good morning, ladies and gentlemen. All right; I believe you had a witness on the stand. Let him come back, please.

(Whereupon,

DR. JEFFREY R. MacDONALD the witness on the stand at the time of recess, resumed the stand and testified further as follows:)

THE COURT: You may cross-examine. Proceed.

CROSS - EXAMINATION 9:31 a.m.

BY MR. BLACKBURN:

Q Dr. MacDonald, late yesterday afternoon, right as we were getting ready to adjourn, Defense



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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
FAYETTEVILLE DIVISION

1979-1979

UNITED STATES OF AMERICA,

U. S. COURT OF APPEALS
FOURTH CIRCUIT

v.

NO. 75-26-CR-3

JEFFREY R. MacDONALD,

OCT 1979

Defendant
J. RICHARD LEONARD, CLERK
U. S. DISTRICT COURT
FAYETTEVILLE, N.C.

TRIAL BEFORE

THE HONORABLE FRANKLIN T. DUPREE, JR.

UNITED STATES CHIEF DISTRICT JUDGE

AND A JURY

AT RALEIGH: MONDAY, AUGUST 27, 1979

PAGES 6904-7049

TRIAL DAY TWENTY-SEVEN

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FURTHER PROCEEDINGS 10:00 a.m.

THIS CAUSE came on for further trial before The Honorable Franklin T. Dupree, Jr., United States Chief District Judge, and a jury, on Monday, August 27, 1979, at Raleigh, North Carolina.

(The following proceedings were held in the presence of the jury and alternates.)

THE COURT: Good morning, ladies and gentlemen. Any further evidence for the Defendant in this case?

MR. SMITH: Yes, sir, Your Honor.

THE COURT: Call your witness.

MR. SMITH: The Defendant calls Dr. William Neal to the witness stand.

THE COURT: Let him come up.

(Whereupon,

WILLIAM PAUL NEAL

was called as a witness, duly sworn, and testified as follows:)

DIRECT EXAMINATION 10:01 a.m.

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1 A Just a few inches off the floor, sir.

2 Q Now, what did you do next with Colette's
3 body.

4 A After determining that there were no
5 visible signs of life, I tried to determine as best as
6 possible, clinically, what the causes of death might
7 have been.

8 Q And how did you do that?

9 A Observed wounds on the body, in addition to
10 rolling the body and checking for wounds on the backside
11 of the body.

12 Q How did you observe the wounds on her chest,
13 do you remember -- that is, what physically you did to
14 anything over her chest in order to enable you to see
15 wounds?

16 A Yes, sir; we just removed what clothing
17 there was over there, lifting it and then replacing it,
18 and then later rolling the body towards me, which would
19 have been touching the right shoulder and rolling the
20 body and checking over the back side.

21 Q All right, sir. Dr. Neal, I take it, then,
22 what you are saying is that you picked up the blue
23 pajama top and moved it; would that be correct?

24 A Yes, sir; that is correct.

25 Q Do you recall what you did with it when

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
FAYETTEVILLE DIVISION

UNITED STATES OF AMERICA,)
)
v.) NO. 75-26-CR-3
)
JEFFREY R. MacDONALD,)
)
Defendant.)

TRIAL BEFORE
THE HONORABLE FRANKLIN T. DUPREE, JR.
UNITED STATES CHIEF DISTRICT JUDGE
AND A JURY

AT RALEIGH: THURSDAY, JULY 26, 1979

PAGES 2403-2640 TRIAL DAY SIX

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1 THE COURT: Very well; let him come
2 back.

3 (Whereupon,

4 ROBERT B. SHAW
5 the witness on the stand at the time of recess, resumed
6 the stand and testified further as follows:)

7 C R O S S - E X A M I N A T I O N 9:31 a.m.
8

9 BY MR. SEGAL:

10 Q May I ask you, prior to taking the witness
11 stand yesterday after luncheon break, had you spoken to
12 anyone during the luncheon break about this case or about
13 your testimony?

14 A Yes; I was interviewed by Government Counsel.

15 Q Was that between 1:00 and 2:30 yesterday af-
16 ternoon?

17 A Yes, sir; I believe so.

18 Q Was that about your proposed testimony here
19 in Court yesterday and today?

20 A Well, it was the fact that I would testify.
21 We talked about that.

22 Q How long did you talk with Government Counsel
23 at the lunch break yesterday?

24 A About this case?

25 Q Yes; about this case.

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1 Q In the course of that work, did you ever
2 find anyone who said that they had knowledge or had heard
3 that Jeffrey MacDonald had ever beaten, struck or as-
4 saulted his wife, Colette MacDonald, at any time?

5 A No, sir.

6 Q During the course of that investigation
7 period from February 17 and to the beginning of the mili-
8 tary proceedings, did you ever find any witness who told
9 you that Jeffrey MacDonald had ever struck or beaten
10 either Kristen or Kimberly MacDonald?

11 A No, sir.

12 MR. SEGAL: I have no further questions
13 of this witness, Your Honor.

14 THE COURT: Any redirect?

15 MR. BLACKBURN: Yes, sir.

16 THE COURT: All right.

17 R E D I R E C T E X A M I N A T I O N 11:06 a.m.

18
19 BY MR. BLACKBURN:

20 Q Mr. Shaw, when you spoke earlier this morning
21 with respect to the fibers or threads that you found in
22 the hallway near the living room---

23 A (Interposing) Yes, sir.

24 Q Do you recall approximately how many you saw?

25 A I remember seeing a tangled bunch or ball of

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1 A Or fibers; I am not certain which.

2 Q Well, perhaps if you would just first take a
3 look at the model--I think we have a pointer up there.
4 Could you indicate to us where is this particular loca-
5 tion that you saw fibers or threads? Let me just move
6 this, Mr. Shaw, and if you would like to come around be-
7 hind it so the members of the jury can see?

8 A At the end of the hallway. I testified yes-
9 terday that there were some pieces of clothing and a
10 doll's head and some bobby pins, as I remember, and right
11 here at the end of the hallway.

12 Q All right; that would be, if we could de-
13 scribe it, right in or about the doorway that connects
14 the hallway into the living room; is that correct?

15 A Yes, sir.

16 Q That would be on the south side of the door-
17 way, as opposed to the north side?

18 A Correct.

19 Q How about the fibers and threads? Were there
20 any in that vicinity?

21 A That is the third place that I saw fibers or
22 threads.

23 Q You are telling us, I think, two different
24 things: one, that you saw some clothing which--although
25 I know you did not describe it--was it red and



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1 red-patterned clothing in or about that area?

2 A Yes.

3 Q All right, then. In addition to that, you
4 saw fibers and threads in and about the same area?

5 A Correct.

6 Q Can you be any more precise?

7 A Here in this area (indicating).

8 Q All right; you are indicating---

9 A (Interposing) The south side of the hallway
10 at the entrance to the living room.

11 MR. SEGAL: All right; would you go
12 back, Mr. Shaw?

13 BY MR. SEGAL:

14 Q Now, did you personally collect those fibers
15 and threads that were near the entrance to the living
16 room?

17 A I don't think so, Mr. Segal. I don't remem-
18 ber.

19 Q I am sorry; I couldn't hear you.

20 A I don't remember.

21 Q Do you have any idea who else, if anyone,
22 collected the fibers and threads that were located near
23 the entrance to the living room?

24 A It could have been Mr. Ivory, or one of the
25 members of the laboratory team.

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
FAYETTEVILLE DIVISION

UNITED STATES OF AMERICA,)
)
v.) NO. 75-26-CR-3
)
JEFFREY R. MacDONALD,)
)
Defendant.)

TRIAL BEFORE
THE HONORABLE FRANKLIN T. DUPREE, JR.
UNITED STATES CHIEF DISTRICT JUDGE
AND A JURY

AT RALEIGH: MONDAY, AUGUST 6, 1979

PAGES 3749-3943 TRIAL DAY TWELVE



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1 MR. BLACKBURN: Ye, sir, Your Honor.
2 THE COURT: All right; call your wit-
3 ness.

4 MR. MURTAGH: Your Honor, the Government
5 calls Mr. Dillard Browning.

6 (Whereupon,
7 DILLARD ORSON BROWNING
8 was called as a witness, duly sworn, and testified as
9 follows:)

10 DIRECT EXAMINATION 10:02 a.m.

11
12 BY MR. MURTAGH:

13 Q Please state your name, sir?

14 A Dillard O. Browning; D-i-l-l-a-r-d O.
15 B-r-o-w-n-i-n-g.

16 Q Mr. Browning, sir, what is your occupation?

17 A I am a forensic chemist.

18 Q And where are you employed as a forensic
19 chemist?

20 A At the Army's Criminal Investigation Labora-
21 tory, Fort Gordon, Georgia.

22 Q And how long have you been employed by the
23 Army as a forensic chemist?

24 A Approximately 14 years.

25 Q Okay; do you hold a college degree?

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1 Now, Mr. Browning, let me ask you--have you
2 ever seen another pajama top which is identical in all
3 characteristics to that pajama top?
4 A No, sir; I have not.
5 Q Mr. Browning, with respect to Government
6 Exhibit 306--what has been described as the club--and
7 Government Exhibit 307--which has been described as the
8 fibers removed from the club--let me ask you if you have
9 conducted an examination of the items in that vial with
10 respect to the pajama top?
11 A Yes; I have.
12 Q And would you tell us, please, sir, the
13 results of that examination?
14 A Yes; I found in this vial two purple cotton
15 fibers that were identical in all aspects to the purple
16 cotton threads used to sew the pajama jacket.
17 Q Okay; and based on that--or based on those
18 findings, sir--what opinion, if any, do you have satis-
19 factory to yourself as to whether the items found--the
20 fibers found--on the club could have originated from the
21 pajama top?
22 A Yes; that would be my opinion--that the
23 fibers found in this exhibit could have originated from
24 the pajama top.
25 MR. MURTAGH: Your Honor, indulge me for



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1 BY MR. SEGAL:
2 Q Mr. Browning, again, you were asked--were
3 you not--to make some comparisons of other matters other
4 than the threads and fibers, wood and paint back in
5 1970; is that right?
6 A Yes; I was.
7 Q And you enumerated several of them
8 including wax, I think you said.
9 A Yes.
10 Q Did you receive a briefing from anyone as to
11 the general circumstances of the crime or general
12 facts of the crime that the lab team was operating with
13 when they brought the evidence back?
14 A I'm not quite sure I understand what you
15 mean by "general facts." I understood the same things
16 that I've heard in this courtroom--that Dr. MacDonald
17 was attacked by hippies and this evidence was collected--
18 and I was looking for certain things that would prove or
19 disprove that.
20 Q Did anybody tell you why they were
21 interested in seeing whether or not the wax that was
22 found in the house could be traced to any other wax
23 that belonged to the MacDonald family?
24 A No; I don't remember being asked that at the
25 time. I was requested to examine the wax found on, I

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1 belic , three locations and see f it matched six
2 candles, I think it was, sent to me from the MacDonald
3 house.

4 Q All right, now, first of all, if you could
5 tell us please, where in the MacDonald house were these
6 three unidentified wax samples taken from; do you have
7 anything in your records, sir, that would indicate to
8 us where they came from?

9 A Yes; I do. Let me check. I have listed
10 D-123, purple bedspread, Kimberly's bedroom; G-131,
11 chair, Kimberly's bedroom; and G-201, coffee table,
12 living room.

13 Q So you were given, I understand, wax that
14 was scraped or lifted from them by Mr. Chamberlain; is
15 that right?

16 A Yes; Mr. Chamberlain.

17 Q And what did Mr. Chamberlain do with the
18 unidentified wax found in the house? Did he put in a
19 vial of some sort?

20 A No; it was cut out on the--I remember the
21 chair--I received a piece of the leather upholstery or
22 the plastic upholstery from the chair with the stain
23 attached and the bedspread still had the wax on it when
24 received in the laboratory. As I remember, Mr. Laber
25 removed that and gave it to me.

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1 Q And the wax from the coffee table--how
2 did you obtain that unidentified wax?

3 A Let me check this again. That was received
4 in a vial.

5 Q Received in a vial; and did it have
6 collected by whom?

7 A It doesn't say. Let's see if there is
8 anything else on that. I'm sorry the number I was
9 looking at is 211.

10 Q Now, 211 is the identifying number for which
11 one of these three samples of wax?

12 A It's 201 is the identifying sample of the
13 wax. From my notes here I just referred to, it was not
14 201; it was 211. I don't---

15 Q (Interposing) Pardon me. Just so we have
16 the record clear. Which of these unidentified samples
17 of wax should be referred to as 211?

18 A Neither; 201 is the sample of wax which
19 occurred on the table in the living room.

20 Q That's the coffee table in the living room?

21 A The coffee table in the living room; in my
22 records of examination here I don't have any record of
23 201 being examined in this group so, obviously, I got
24 it at a later date. I have it listed here again as
25 "wax substance Exhibit G-201, wax substance taken from

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1 coffee table in living room."

2 Q Does that later note indicate to you who
3 collected the wax substance from the living room?

4 A No, sir; it doesn't. In most cases I
5 received evidence with one or two exceptions from
6 Mr. Chamberlain--the one or two exceptions being one
7 exhibit from Mr. Laber and one or two exhibits from
8 Mr. Ivory.

9 Q Based upon those general circumstances,
10 would you conclude that it was Mr. Chamberlain who
11 collected this unidentified wax off the coffee table in
12 the living room?

13 A Well, as I said earlier, I really don't
14 know, but this would be a possibility.

15 Q Now, you were given, as I understand, a
16 number of wax candles and wax samples that were found
17 in the MacDonald house; were you not?

18 A Yes; originally I received six candles.

19 Q Now, could you tell us when you received
20 those six candles and who provided those to you?

21 A Well, I received those from Mr. Chamberlain.
22 They were obviously picked up during the initial
23 working at the house.

24 Q And those were household candles?

25 A Yes; in most cases, household candles.

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1 Shor y later thereafter, I received two candles, I
2 believe, in wine bottles, to make a total of eight at
3 that time.

4 Q When you say two candles in wine bottles,
5 you mean that somewhere someone had sort of fastened
6 the candle, pushed it into the top of the wine bottle
7 and let it melt down around it a little bit?

8 A Yes; it is one of these wine bottles where
9 the material had run down the side and it formed a
10 pattern.

11 Q So that, ultimately, you had, I gather,
12 eight different candles taken from the MacDonald house
13 to make a comparison against these three unidentified
14 candles; is that right?

15 A At the time of the initial examination; yes.

16 Q And as a result of the comparision that you
17 made, were you able to establish that, first of all, the
18 wax that was found on the chair in Kimberly's room, was
19 that wax the same as or similar to the wax that was
20 found elsewhere in the MacDonald house?

21 A No; it was not.

22 Q It was not. What about the wax that was
23 found on the bedspread in Kimberly's room? Was that the
24 same as the known samples of wax taken from the
25 MacDonald house?

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1 . No; it was not.

2 Q What about the wax that was found in the
3 living room? Was that the same as the known samples of
4 wax in the MacDonald house?

5 A No; all three samples differed.

6 Q Now, were the three samples--the three
7 unknowns--were they identical to each other; that is,
8 did they come from the same single source, a single
9 candle, or some single paraffin source?

10 A No; they did not.

11 Q How many different types of wax were there
12 in these three different unknowns?

13 A Well, wax itself is pretty much the same.
14 It's very difficult to distinguish, but there were
15 three different types of wax. One of the unknowns was
16 a multicolored type of wax that physically matched
17 beautifully with the candle in the bottle.

18 However, on analysis, I received some
19 fluorescence under ultraviolet light in the unknown
20 that I did not receive in the known, so I eliminated it
21 and said it did not have a common source. The other two
22 as I remember, I believe one was a pale green color.
23 I just don't remember the color of the other.

24 Q The conclusion was, Mr. Browning, was that
25 the three unknowns were, first of all, unlike the eight

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1 know. wax samples in the MacDona house; is that
2 right, first of all?

3 A Yes.

4 Q And that the three unknowns were not
5 similar to each other; is that also true?

6 A This is correct.

7 Q Now, later on, after this initial
8 examination of wax, were you not asked to make some
9 further comparisons of these three unknowns with other
10 samples that may have been taken in the MacDonald house?

11 A Yes; I received six more candles. If I
12 remember correctly, three of those were unburned
13 candles or unused candles. The other three had been
14 used.

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1 BY MR. SEGAL:
2 Q And when did you receive the six additional
3 candles?
4 A This came the latter part of 1970, I think,
5 or the first of 1971.
6 Q And do you know who sent those to you?
7 A Yes, they were sent by the CID at Fort Bragg.
8 Q And again you were asked to determine whether
9 the three unidentified samples found in the MacDonald
10 house were similar to or the same as the six additional
11 samples the CID sent you?
12 A Yes, I was.
13 Q Did you make the comparison between the
14 three identified and the six additional candles?
15 A Yes, I did.
16 Q And what did you conclude?
17 A They did not match.
18 Q So then as I understand your testimony, you
19 compared 14 different waxes, candles, or other similar
20 paraffin materials, known to come from the MacDonald
21 house, with the three unidentified waxes found
22 in the MacDonald house?
23 A Yes.
24 Q And that none of these 14 known waxes,
25 candles, or paraffin from the MacDonald house were the

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A Yes, I remember.

Q What search did you make to find whether there were other pajama tops which were similar or identical to that?

A Well, no specific search. I have not seen any in my observation of pajama tops, but I have never made a scientific study of that.

Q Well, in other words, then, your answer was, no, you had never seen one identical to it, but you really had not made a systematic or a scientific search to find any others, is that right?

A Yes, I think this would be right.

MR. SEGAL: I have nothing further, thank you, Mr. Browning.

THE COURT: Redirect?

MR. MURTAGH: Yes, Your Honor, a few questions.

R E D I R E C T E X A M I N A T I O N (2:44 p.m.)

BY MR. MURTAGH:

Q Now, Mr. Browning, with respect to wax, which you were asked about on cross-examination, if you know, sir, was any wax collected from the area of the steps leading to the living room submitted to you for examination?

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1 No, it was not.

2 Q Okay, with respect to the wax that was
3 submitted, that is, from the coffee table and the arm of
4 the chair in Kimberly's room, and I believe one of the
5 bedspreads in Kimberly's room, could you tell us, sir,
6 if you have an opinion satisfactory to yourself, whether
7 this was new wax or old wax or what?

8 A Well, the wax present was more or less
9 brittle and flaky. I haven't made a study of this
10 either; however---

11 MR. SEGAL: (Interposing) I OBJECT,
12 Your Honor. We have no scientific basis for that. If
13 he does, we would be glad to hear him.

14 THE COURT: Well, you are assuming
15 that he doesn't have any scientific basis for it. Let's
16 let him finish the answer.

17 MR. SEGAL: Your Honor, I thought I
18 heard him say he has not made a study, but I only
19 wanted to find out whether Mr. Murtagh wants to establish
20 whether he has a basis; otherwise I don't know whether
21 it helps or not.

22 THE COURT: Were you going to comment?

23 THE WITNESS: Yes, sir.

24 THE COURT: Well, say it.

25 THE WITNESS: I continued to work with



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1 the wax submitted, and the wax melted fresh remained
 2 soft and pliable for several weeks. This seemed to be
 3 brittle and dry, which would indicate to me that it was
 4 at least several weeks old when I received it.

5 BY MR. MURTAGH:

6 Q Mr. Browning, let me ask you a question. You
 7 have testified, I believe, on cross-examination that
 8 some 14 candles were submitted to you for comparison
 9 purposes, is that correct?

10 A What conclusion, if any, would you draw
 11 from the fact that 14 candles were found in the
 12 MacDonald household?

13 MR. SMITH: OBJECTION.

14 MR. MURTAGH: I will withdraw the
 15 question, Your Honor.

16 BY MR. MURTAGH:

17 Q Now, Mr. Browning, I believe you testified
 18 about the hair comparisons that you did, is that correct,
 19 sir?

20 A Yes.

21 Q And is it correct that you personally never
 22 compared known head--or any hair exemplars from the
 23 Defendant?

24 A No, I did not--well, not in relation to other
 25 hairs. I actually examined the hairs from the Defendant,

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Mr. Browning, could you tell us on what date you did the examination on the wax?

A The initial examination of the first batch received was probably around the 6th of March.

Q That's about three weeks after the murders in this case; is that right?

A Yes.

MR. SEGAL: I have nothing further of this witness.

THE COURT: Call your next one.

MR. BLACKBURN: Your Honor, may we approach the bench on another matter?

THE COURT: All right.

B E N C H C O N F E R E N C E

MR. BLACKBURN: Your Honor, I wish to take up something we said on our last conference on not playing a tape. We have talked among ourselves in the last few minutes, and we do think probably this afternoon we will seek to play a tape-recording. Mr. Segal, of course, asked me if he could hear it prior to it being heard. I gave him an updated version of the transcript, although he has had the other one a long time. The updated version is some clarification, different paragraphs, and sentence structure. He has not heard

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2 IN THE UNITED STATES DISTRICT COURT

3 FOR THE EASTERN DISTRICT OF NORTH CAROLINA

4 FAYETTEVILLE DIVISION

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7 UNITED STATES OF AMERICA,)

8 v.) NO. 75-26-CR-3

9 JEFFREY R. MacDONALD,)

10 Defendant.)

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12 TRIAL BEFORE

13 THE HONORABLE FRANKLIN T. DUPREE, JR.

14 UNITED STATES CHIEF DISTRICT JUDGE

15 AND A JURY

16

17 AT RALEIGH: MONDAY, JULY 30, 1979

18

19

20 PAGES 2903-3124 TRIAL DAY EIGHT



(Witness excused.)

MR. BLACKBURN: Your Honor, we call Mr. Hilyard Medlin.

(Whereupon,

HILYARD ORVIS MEDLIN

was called as a witness, duly sworn, and testified as follows:)

DIRECT EXAMINATION 4:07 p.m.

BY MR. BLACKBURN:

Q State your name, sir?

A Hilyard Orvis Medlin--O-r-v-i-s.

Q Mr. Medlin, where do you currently reside?

A 2310 Young Drive; Augusta, Georgia.

Q How are you employed at the present time?

A At the present time, I am a Field Agent with the Department of Revenue for the State of Georgia.

Q How long have you been so-employed, sir?

A Just a few months.

Q I believe at one time, you worked for the CID; is that correct?

A Yes, sir; I did.

Q What are the dates that you worked for them?

A From 1963, I was in the CID Laboratory until 1971, when I retired in June.



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BY MR. BLACKBURN:

Q Did you ever have an occasion to search the carpet area of the living room for anything?

A In what respect did you mean, sir?

Q Did you ever check the nap of the carpet in the living room area for any debris or anything of that nature?

A Yes, sir. Actually we were looking for-- in processing the coffee table, we did not want to contaminate any blood which might be in the area. Therefore we searched the area for blood before we did much of anything else with our black powder, sir.

Q Now during the entire time that you were at the MacDonald apartment, how many prints--finger, palm, and footprints, sir--did you seek to obtain?

A At the particular time that we were there, on the final debriefing, I gave a report of 44 latent fingerprints, 29 latent palmprints, and 2 footprints. Later, it was found that two latent fingerprints were actually the left foot of Mrs. Colette MacDonald.

Q Where were they located?

A On the edge of the coffee table, sir.

Q Now of these prints that were taken, how many did you initially identify as belonging to someone, if you can recall?

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
FAYETTEVILLE DIVISION

UNITED STATES OF AMERICA,)
)
v.) NO. 75-26-CR-3
)
JEFFREY R. MacDONALD,)
)
Defendant.)

TRIAL BEFORE
THE HONORABLE FRANKLIN T. DUPREE, JR.
UNITED STATES CHIEF DISTRICT JUDGE
AND A JURY

AT RALEIGH: TUESDAY, JULY 31, 1979

Pages 3125-3246 TRIAL DAY NINE

FURTHER PROCEEDINGS 9:30 a.m.

1

2

3 THIS CAUSE came on for further

4 trial before The Honorable Franklin

5 T. Dupree, Jr., United States Chief

6 District Judge, and a jury, on

7 Tuesday, July 31, 1979, at Raleigh,

8 North Carolina.

9

10 (The following proceedings were held in the

11 presence of the jury and alternates.)

12 THE COURT: Good morning, ladies and

13 gentlemen. Any further evidence for the Government in

14 this case?

15 MR. BLACKBURN: Yes, sir, Your Honor.

16 THE COURT: I believe you had a witness

17 with whom you had not quite finished.

18 MR. BLACKBURN: That is correct--Mr. Medlin.

19 THE COURT: All right; let him come

20 back.

21 (Whereupon,

22 HILYARD O. MEDLIN

23 the witness on the stand at the time of recess, resumed

24 the stand and testified further as follows:)

25 (Go to the next page.)



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1 There was no impressions whatsoever to even
2 indicate a print. There were merely a couple of what
3 appeared to be lines or ridges, and that is all, on one
4 of the knife handles.

5 Q Now, you spoke yesterday afternoon about
6 placing tape--transparent tape--over these prints. Do
7 you recall that?

8 A Yes, sir.

9 Q With respect to the back screen door, sir--
10 was any tape ever placed on that door?

11 A After the photographer attempted to photo-
12 graph it, or did photograph the prints with a Polaroid
13 and it did not show any, I placed tape on the prints to
14 protect it, because I could see that there were two la-
15 tent prints. But they were not identifiable at that par-
16 ticular time. I could not make a direct comparison, be-
17 cause of the paint chips and the way that the door was
18 constructed.

19 Q With respect to the living room, sir, besides
20 what you have already testified to, what other items, if
21 any, did you dust for prints on in the living room that
22 were found in the living room?

23 A There was a drinking glass that was located
24 on the table directly at the head of the sofa which I
25 dusted for fingerprints or prints, and developed one



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1 latent print on. There was a pair of eyeglasses laying
2 against the wall, which when I first noticed had what
3 appeared to be a red speck or so on the lens. I picked
4 them up by the earpiece and offered them to the chemist
5 for him to remove the specks in the event they were blood.

6 Q What identification, if any, were you able
7 to make on the drinking glass?

8 A I did not identify the latent fingerprint on
9 the drinking glass.

10 Q Well, with respect to other items in the
11 living room, were there any other items that you dusted
12 for that you can recall, sir?

13 A We dusted the ledges, the back of the coffee
14 table--the edge of it at that particular time, because it
15 was laying on its side. We dusted in the area where we
16 felt that adults would grasp the door facing as they
17 struggled down the hallway, and in that general vicinity.

18 Q What about the kitchen, sir?

19 A We dusted the different items in the drain--
20 the saucers we developed latent prints on identified as
21 belonging to--predominantly, but not all of them--belong-
22 ing to Captain MacDonald. We dusted other items--coffee
23 cups--returned these items to the laboratory for further
24 analysis, and developed some fingerprints on them.

25 Q When you say that you took these to the



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1 BY MR. BLACKBURN:

2 Q Mr. Medlin, with respect to the time that
3 you finally left the Army, of the prints that you dusted
4 or tested at the MacDonald apartment, if you would tell
5 us, sir, how many fingerprints and palmprints you were
6 able to identify as belonging to some named individual?

7 A May I refer to my notes here? And this
8 time these are the correct notes, sir.

9 Of the latent prints that we developed and
10 processed in the apartment, we identified 26 fingerprints
11 and 11 palmprints. Not identified were 17 fingerprints
12 and 14 palmprints. Of the 17 prints and 14 prints not
13 identified were those that were partial prints from the
14 venetian blinds and other places in the apartment.

15 Q How many prints that you tested for in the
16 MacDonald apartment were deemed by you to be unidenti-
17 fiable, as opposed to identified or not identified?

18 A You mean insufficient?

19 Q Insufficient, yes, sir?

20 A Twenty-four fingerprints and seven palmprints
21 were insufficient.

22 MR. BLACKBURN: Your Honor, that concludes
23 our direct examination of Mr. Medlin. The Defense may
24 cross-examine.

25 THE COURT: All right.

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
FAYETTEVILLE DIVISION

UNITED STATES OF AMERICA,)
)
v.) NO. 75-26-CR-3
)
JEFFREY R. MacDONALD,)
)
Defendant.)

TRIAL BEFORE
THE HONORABLE FRANKLIN T. DUPREE, JR.
UNITED STATES CHIEF DISTRICT JUDGE
AND A JURY

AT RALEIGH: WEDNESDAY, AUGUST 15, 1979

PAGES 5244-5493 TRIAL DAY NINETEEN



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1 witness. Your Honor. We have sent for him, and I think
2 he will be here in just a minute.

3 (Pause.)

4 (Whereupon,

5 DR. GEORGE PODGORNYY

6 was called as a witness, duly sworn, and testified as
7 follows:)

8 DIRECT EXAMINATION 11:46 a.m.

9
10 BY MR. SMITH:

11 Q State your name, please, sir?

12 A I am George Podgorny, M.D.

13 Q Where do you live, Dr. Podgorny?

14 A I live in Winston-Salem, North Carolina.

15 Q How long have you lived there?

16 A Since 1958.

17 Q Dr. Podgorny, what is your profession?

18 A I am a physician.

19 Q How long have you been a physician?

20 A Since 1962.

21 Q Where did you get your training as a physi-
22 cian, sir?

23 A Bowman Gray School of Medicine at Wake Forest
24 University.

25 Q Prior to that, what education did you acquire?

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underneath the right diaphragm and a little portion goes on the left. This is the portion that protrudes higher than the left. Here is the level of the scar (indicating).

Q Now, for the record, Dr. Podgorny, would it be correct to say that you have located the wound in Dr. MacDonald's body on the grid as block I-5?

A Yes.

MR. SMITH: All right, you may return to the witness stand. Thank you, sir.

BY MR. SMITH:

Q Dr. Podgorny, assuming that the jury should find from the evidence and beyond a reasonable doubt that the Defendant suffered a penetrating stab wound in his right chest area at the seventh intercostal space, mid-clavicular, which produced a 40 percent pneumothorax and required insertion at separate times of number 36 and number 34 Argyle chest tubes, do you have an opinion based upon reasonable medical certainty as to whether such injury could or might be life-threatening?

A Yes, I do.

Q What is your opinion, sir?

A That under the circumstances that you have just enumerated, such an injury could be life-threatening.



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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
FAYETTEVILLE DIVISION

UNITED STATES OF AMERICA,)
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v.) NO. 75-26-CR-3
)
JEFFREY R. MacDONALD,)
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TRIAL BEFORE
THE HONORABLE FRANKLIN T. DUPREE, JR.
UNITED STATES CHIEF DISTRICT JUDGE
AND A JURY

AT RALEIGH: WEDNESDAY, AUGUST 15, 1979

PAGES 5244-5493 TRIAL DAY NINETEEN

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(The following proceedings were held in the presence of the jury and alternates.)

MR. SMITH: Your Honor, the Defendant calls James Milne to the witness stand, please?

(Whereupon,

JAMES W. MILNE, JR.

was called as a witness, duly sworn, and testified as follows:)

DIRECT EXAMINATION 4:01 p.m.

BY MR. SMITH:

Q Mr. Milne, if you will during your testimony speak up good and loud so the jury and we can all hear you. Would you state your full name, please, sir?

A James Whitten Milne, Jr.

Q And Milne is a little bit of an unusual name in North Carolina. How do you spell Milne?

A M-i-l-n-e.

Q Mr. Milne, where do you live?

A I live in Roanoke, Virginia.

Q And how long have you lived in Roanoke, Virginia?

A I have lived in Roanoke, Virginia since July,



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'74. Prior to that period of time I was attending school at VPI in Blacksburg.

Q Mr. Milne, would you state whether or not you have ever resided in Fayetteville, North Carolina, or at Fort Bragg, North Carolina?

A Yes, sir, from the period of time March, 1969, until April of 1970, I was stationed at Fort Bragg.

Q And how long were you actually in the military, if you were, sir?

A I beg your pardon?

Q From what years?

A From what years?

Q Yes, sir.

A I was initially--entered the service in September of '66, and my service was terminated in April of '70.

Q Would it be correct to say that in February of 1970, you were near the termination of your military service?

A Yes, sir, that is correct.

Q Had you served in the military outside the United States prior to that time?

A Yes, sir.

Q Where did you serve?

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A I was in Vietnam.

Q Where did you live when you lived in Fort Bragg, Mr. Milne?

A I lived in Corregidor Courts.

Q And would you state whether or not you now know that you lived in the same neighborhood in which the Defendant, Jeffrey MacDonald, lived, sir?

A Yes, sir, I did.

Q Did you know the MacDonalds?

A No, sir, I did not.

Q They were not even casual acquaintances of yours?

A No, sir.

Q Had you ever seen Dr. MacDonald as far as you know on the 17th of February, 1970?

A No, sir.

Q And did you know Mrs. MacDonald to see her?

A No, sir, I did not.

Q What, again, was your address in Corregidor Courts?

A I lived at 232 North Dougherty.

Q And would you state whether or not that is near Castle Drive?

A Yes, sir; the Dougherty and Castle Drive perpendicular intersection is right in front of the courtyard



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1 in which I lived at the Corregidor Courts address.

2 Q Mr. Milne, there is on the easel over at
3 your left a photograph--an aerial photograph--of
4 Corregidor Courts, and I wonder if you would be kind
5 enough to come down from the witness stand over to the
6 easel.

7 There is a pointer--pointer stick on the--
8 would you point out to the ladies and gentlemen of the
9 jury Bragg Boulevard if you recognize it on that
10 photograph?

11 A Yes, sir, this is Bragg Boulevard (indi-
12 cating).

13 Q All right. Now, I believe, for the record,
14 that the exhibit Mr. Milne is now pointing toward is
15 Government Exhibit 968.

16 Mr. Milne, if you will then please, sir,
17 show the ladies and gentlemen of the jury on that
18 aerial photograph Dougherty Street, or the street on
19 which you lived?

20 A Yes, sir; Dougherty Street runs right in
21 this area here (indicating).

22 Q All right, let's, with the Court's permis-
23 sion, move that easel out. Your Honor, I believe some
24 of the jurors are having a little bit of difficulty
25 seeing it.

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All right, Mr. Milne, if you will again

show the ladies and gentlemen here Bragg Boulevard?

A Bragg Boulevard running in this area here--
Dougherty Street is along this street here. The
courtyard in which I lived in was this rectangular
courtyard here.

Q Where did the MacDonalds live?

A Castle Drive is this street here. The
MacDonalds lived right in this house right here
(indicating).

Q All right, now, Mr. Milne, what separated
your house from the MacDonald house? What was the
terrain in front of your house toward the MacDonald
house?

A Basically there are a few trees within this
area. The shadow is overcast somewhat on this photo-
graph. The duplex in which I and my family lived is
this top duplex on here. The lower half as shown on
the picture is the 232 address, or is the address in
which my family lived.

The line of sight from here across the
courtyard to the address that MacDonald lived is
virtually unobstructed, and it is separated by
Dougherty Street.

Q You then could see the MacDonald house from

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1 your nouse?

2 A Yes, sir.

3 Q All right, about how far would you say your
4 front door was from the MacDonald front door?

5 A I estimate the distance between these two
6 be 120 yards--100 yards, 120 yards.

7 Q You may return to the witness stand. Thank
8 you very much.

9 Mr. Milne, did you have any hobbies on the
10 17th of February, 1970?

11 A Yes, sir; at the time of my tenure at Fort
12 Braag in the service, I was a member of a model airplane
13 club. I constructed radio-controlled aircraft as well
14 as radio-controlled boats.

15 Q Had you been a flier or were you a flier in
16 the military in Vietnam?

17 A Yes, sir, I was a pilot.

18 Q Would you state whether or not your hobby
19 sometimes kept you up late at night?

20 A Yes, sir; due to the number of activities
21 I was involved with, both on the job as well as personal,
22 that often occasions arose where I could not actually
23 get in and pursue my hobby until late evening.

24 Q Mr. Milne, do you recall hearing about the
25 deaths of Colette MacDonald and the two children, Kris,

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1 and King

2 A Yes, sir, I recall that instance.

3 Q Where were you when you learned about it?

4 A I was in the company area. I was the
5 buildings and grounds officer as additional duty, and I
6 was in charge of a number of individuals maintaining the
7 company area.

8 The next morning, the discussion--when
9 I arrived at the unit--was about the incident that
10 happened, and---

11 Q (Interposing) Mr. Milne, was the discussion
12 about the incident having occurred the previous night?

13 A Yes, sir.

14 Q Now, Mr. Milne, would you state whether or
15 not that discussion caused you to remember any kind of
16 event which you observed on that night?

17 A Yes, sir; the discussions involved the death
18 of three people. At that particular point in time,
19 somebody within the group of individuals I was in charge
20 of mentioned the fact that somebody had entered the rear
21 door.

22 And whether it was through the news media,
23 that he had heard this, or whatnot, I don't recall; but
24 at that particular time that he said three individuals
25 had entered the rear door, an impact on me was

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1 tremendous, from the standpoint that I had previously
2 seen three individuals the night before.

3 Q All right, now, would you go back to that
4 night before, Mr. Milne, and describe to the ladies and
5 gentlemen of the jury what you were doing and what time
6 it was, and in your words as best you recall, describe
7 what you saw?

8 A Yes, sir. The night before I was working
9 in my workshop--which I had used an unused bedroom
10 in the front half of the duplex, set up to work on my
11 models and construct and build and so forth.

12 I didn't get started on this until late,
13 around 11:00 o'clock, the same time my wife started
14 going to bed. She, of course, would take anywhere from
15 15 minutes to a half hour showering, taking make-up off
16 and so forth.

17 So I do recall getting into the aspect of
18 the construction portion of the model that I had at that
19 particular time, around 11:30.

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1 THE WITNESS: (Continuing) Now, I
2 don't recall specifically any time sequence until I
3 went to bed. I think it was 12:30 or shortly
4 thereafter--within five minutes. About the best I
5 can estimate is that it was somewhere between a quarter
6 till midnight and 15 minutes past midnight based on the
7 number of pieces that I had to get set up and to per-
8 manently affix with epoxies and so forth.

9 The time that I was piecing these items
10 together, as I said, was around quarter till 12:00.
11 All of a sudden, I just heard voices.

12 BY MR. SMITH:

13 Q May I interrupt your story for just a
14 moment just to ask you this question, Mr. Milne. It
15 might help with your story. Would you state whether or
16 not there was anything related to the development of
17 model structures which might require ventilation in
18 your home?

19 A Yes, sir. The sequence involved a set-up
20 because the epoxies that I use are time-cured, self-
21 hardening epoxies which do have a hardening effect after
22 a given length of time based on the type of epoxy you
23 use. Once initiated, then you either have a hardened
24 mass or you have your structure completely affixed.
25 The obnoxious odors is what I call them. They are not



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1 toxic from that standpoint but just nasty to smell
2 are one which I did not care to smell nor did my wife
3 who is really the commandant of that outfit. She did
4 not like that either. I had to cross-ventilate.

5 My window in the bedroom was open and the
6 rear door was open. The bedroom door to her bedroom
7 was closed at that time. The cross-ventilation I would
8 get would take the fumes right on out the window and
9 the reverse would go right on out the back door, so the
10 reasoning of the interjection here is that the back door
11 was open. At this particular point in time is when I
12 heard voices. They did not come up from a distance.
13 They just initiated.

14 Prior experience, particularly in Viet Nam
15 and so forth, an instinct--an alarm system went off
16 within me. I immediately rushed to the rear door. I
17 didn't know what it was. It was unusual to have anybody
18 at that late an hour in the rear of the house. I
19 arrived at the door two or three seconds later and
20 cracked it somewhat. It was approximately a foot open
21 at the time. I pulled open and looked out and three
22 people are standing ten or 15 feet from me going up the
23 walk--up the chart away from me but out far enough so
24 I could kind of see abreast of them.

25 These three individuals were wearing white



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1 sheets, and I specifically saw the center individual
2 to be a girl and two males on either side and they were
3 all carrying candles. The girl, I specifically saw
4 holding a candle. She was holding it in her right hand
5 and cupping it from the movement of walking up the
6 walk with her left.

7 These three individuals continued to talk,
8 and I distinctively respond to that visual effect when
9 I opened that door what I saw. Looking to the left,
10 "Gee, where is the parade?" I looked back to the left,
11 "No, not a parade, choir practice." I thought and it
12 didn't fit, so I continued to watch them. They walked
13 up the walk and turned left at the end of the building
14 which is the other end of the duplex and proceeded past
15 my line of sight.

16 From that point, I returned back to my
17 hobby room and saw these people emerge and continued
18 walking out from the end of that building in the same
19 direction they had initiated when they left my line of
20 sight. At that particular point, I did not pay too much
21 attention to what they were doing except walking. I
22 sat back down and glanced up again. They continued to
23 walk.

24 I started back working again. I recall the
25 last instance I glanced again to see what had happened



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1 and they were near the end of the courtyard on the
2 walkway approaching Dougherty Street. That is the last
3 that I ever saw of these individuals.

4 Q Now, Mr. Milne, would you state whether or
5 not the last time you saw the three individuals they
6 were closer to the MacDonald house than they were when
7 you first observed them?

8 A What I understand you to say is the observa-
9 tion that I made initially of being roughly ten to 15
10 feet was closer than the distance at which I last saw
11 them. Is that what you are saying?

12 Q Let me re-phrase my question. I think I
13 can make it a little better. Were they walking in the
14 direction of the MacDonald house when you last saw them?

15 A Yes, sir. The walkway which they were
16 proceeding down virtually almost would extend into the
17 side bedroom of the MacDonald home.

18 Q How far would they have been, in your
19 opinion, from the MacDonald home when you last observed
20 them?

21 A I would estimate about 40 yards from the
22 MacDonald home.

23 Q All right, how long was the woman's hair, if
24 you can give us a better description?

25 A Yes, sir. The woman's hair that I recall was



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1 slightly below shoulder-blade length in the middle of
2 the back, straight, very light--light blond--brown,
3 excuse me--light brown--almost to a blondish color down
4 the middle of her back.

5 Q Now, if I could ask you to please go to the
6 easel one more time and show the ladies and gentlemen
7 of the jury, if you can, where you first observed these
8 people and where they were when you last observed them?
9 Let's move it back over.

10 A The duplex in which we lived is this
11 duplex here (indicating). The three individuals
12 from slightly north or slightly above the back steps
13 were proceeding in a direction up the walk and then left
14 at the end of that building, straight down the walkway
15 here (indicating) which runs into Dougherty. This
16 walkway is a straight--almost virtually a straight
17 line towards the MacDonald house. The walkway runs
18 in front of these buildings (indicating). This is the
19 front of these buildings (indicating). The front faces
20 this courtyard (indicating), and the walkway runs
21 straight down toward the MacDonald house.

22 Q Mr. Milne, what things were behind your
23 house at the time you lived there?

24 A The only structure other than a few plants,
25 bushes, trees, telephone poles--the only structure was a

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
FAYETTEVILLE DIVISION

UNITED STATES OF AMERICA,)
)
v.) NO. 75-26-CR-3
)
JEFFREY R. MacDONALD,)
)
Defendant.)

TRIAL BEFORE
THE HONORABLE FRANKLIN T. DUPREE, JR.
UNITED STATES CHIEF DISTRICT JUDGE
AND A JURY

AT RALEIGH: TUESDAY, AUGUST 28, 1979

PAGES 7050-7313 TRIAL DAY TWENTY-EIGHT

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(The following proceedings were held in the presence of the jury and alternates.)

THE COURT: Does this conclude the Opening Argument for the Government?

MR. BLACKBURN: No, sir.

THE COURT: No; you have more?

MR. BLACKBURN: Yes, sir.

THE COURT: All right; proceed.

O P E N I N G A R G U M E N T
(continued)

MR. BLACKBURN: Ladies and gentlemen, you might recall about 15 minutes ago just before the break, we were talking about the Defendant's story of the intruders. When you take all seven weeks that you all have been here and all these charts and all this testimony and all the Bench Conferences and you pour them all out the window, you are left with two things, and it is those two things on which I suggest that you have got to make a decision.

You don't make your decision on who has the best charts or which expert's got the most degrees and who has published the most in the field. We will concede that. We have not published in the field very



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1 here, how come he bled a lot more over here? You know,
2 he said that he lay unconscious for how long he did
3 not know right there. How much blood of Type B was
4 found on his pajama top which he said was under his
5 wrists? Very little. How much Type B blood, if any,
6 was found here?

7 Ladies and gentlemen, I suggest to you that
8 the reason and the explanation why there is no Type B
9 blood in the living room, why there are no splinters
10 in the living room, why there are no threads and
11 yarns is really a very easy answer there I suggest
12 to you. You can infer from the evidence. What you
13 can infer from the evidence is: one, the pajama top
14 wasn't torn then; two, a club did not splinter there;
15 three, nobody bled there; and, four, you can infer
16 from the evidence that no struggle took place there.

17 Now, I am not about to suggest in what I
18 am getting ready to say in the next few minutes that
19 the burden of proof ever shifts to the Defendant because
20 it doesn't. It stays with us. You recall on Friday
21 that we asked a lot of questions that if the jury
22 should find this and that, did he have an explanation of
23 that. You recall essentially his testimony: "It
24 would be pure conjecture," or "No," or "I can't recall."
25 Perhaps, he does not have to explain, but think for a



1 contend, inflicted all of his injuries--not by any
2 stretch. You know the contusion on his head--remember
3 the hair brush in the master bedroom. I think you
4 can infer from the evidence, ladies and gentlemen,
5 that this Defendant with his medical knowledge--
6 with his medical ability--knowing that MP's would soon
7 be on the way--very likely inflicted one--not all,
8 but one--injury in the bathroom, and that is where the
9 B type blood came from and that was close to the end
10 and that is why B type blood was not found in the
11 kitchen until number 13.

12 Perhaps the most telling thing of all,
13 ladies and gentlemen, you come back to two pieces--
14 you could throw the whole shooting match away except
15 for two pieces of evidence. Brian will disagree with
16 me, but I think you could just hold onto two--these
17 two (holding up the club and pajama top). Why are
18 they so important?

19 Well, you remember, he said that he hadn't
20 seen this until April 6th, and he didn't think this
21 was the club that he was hit with. The club, the
22 knives, and the ice pick were outside the door. He
23 didn't go outside the door, but he went to it. They
24 had A and AB blood on it and some threads which matched--
25 or some yarns which matched the throw rug in the master

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1 bedroom. They had two little purple threads on
2 them matching identically in composition with these
3 (indicating). This sounds sort of minor, really,
4 until you think about something. How did they get
5 there? If he never touched them, if he never saw
6 them, if the pajama top was not taken off of his body
7 in the hall or the living room until this club was
8 out the door, how in the name of all that is reasonable
9 did they walk out the door and get on the club and
10 stick to it? I suggest from the evidence that there
11 is an explanation and that is that this club was not
12 outside the back door until after--not before--that
13 pajama top dropped threads and yarns and blood to the
14 floor, and as it fell on the floor, it picked up the
15 threads and picked up the yarns with the blood and it
16 was thrown out the door. I suggest that you can infer
17 from the evidence as to how it got there.

18 Of course, the Defendant made a lot about
19 his pajama bottoms which he said were torn. Well, of
20 course, we don't know what the known was for the
21 pajama bottoms. If they were torn, how did they get
22 torn? There is no indication that the intruders hit him
23 below the waist, that they were torn below the waist by
24 the intruders. And if they were, why didn't they drop some
25 threads in the living room? Why didn't they drop some