

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

NO.: 3:75-CR-26-3  
NO.: 5:06-CV-24-F

UNITED STATES OF AMERICA .  
 .  
 v. .  
 . September 18, 2012  
 JEFFREY R. MACDONALD, . Wilmington, NC  
 Defendant/Movant .  
 . . . . .

**\*\*\* CORRECTED TRANSCRIPT \*\*\***

EVIDENTIARY HEARING  
BEFORE THE HONORABLE JAMES C. FOX  
SENIOR UNITED STATES DISTRICT COURT JUDGE

APPEARANCES:

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P R O C E E D I N G S

9:00 A.M.

(DEFENDANT PRESENT.)

THE COURT: GOOD MORNING, EVERYONE. PLEASE BE SEATED AND WE'LL CONTINUE.

MS. BRITT, YOU'RE STILL UNDER OATH. HOW ARE YOU THIS MORNING?

THE WITNESS: GOOD. THANK YOU.

THE COURT: ALL RIGHT. MR. WIDENHOUSE.

MR. WIDENHOUSE: THANK YOU, YOUR HONOR.

**MARY BRITT, DEFENSE WITNESS, PREVIOUSLY SWORN**

D I R E C T E X A M I N A T I O N C O N T I N U E D

9:00 A.M.

BY MR. WIDENHOUSE:

Q. GOOD MORNING, MS. BRITT.

A. GOOD MORNING.

Q. HOW ARE YOU FEELING TODAY?

A. OKAY.

Q. WE APPRECIATE YOU COMING BACK. I THINK RIGHT ABOUT THE TIME WE BROKE YESTERDAY YOU HAD TALKED TO US ABOUT HAVING SEEN THE TV MOVIE OR MINI-SERIES *FATAL VISION* AND TALKING TO MR. BRITT ABOUT THAT.

DO YOU REMEMBER WHEN YOU WATCHED THE MOVIE WHAT PART ABOUT HIM YOU SAW IN IT?

A. I REMEMBER THAT HE WAS STANDING IN THE HALLWAY. THAT WAS THING.

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1 Q. OKAY. AND --

2 A. OUT IN THE HALLWAY.

3 Q. OKAY. AND WHEN HE SAID -- WHAT WAS HIS RESPONSE WHEN YOU  
4 MENTIONED HAVING SEEN HIM IN THE MOVIE?

5 A. I JUST MENTIONED THAT I HAD SEEN THE MOVIE RECENTLY ON  
6 TELEVISION AND I ASKED HIM IF HE HAD SEEN IT AND HE DIDN'T SAY  
7 YES OR NO. HE SAID IT'S NOT ACCURATE, THEY HAVE ME STANDING  
8 IN THE HALLWAY.

9 Q. OKAY.

10 A. I WAS IN THAT ROOM THE ENTIRE TIME. I HEARD EVERY WORD.

11 Q. OKAY. AND DO YOU KNOW WHAT ROOM HE WAS TALKING ABOUT?

12 A. THE ROOM THAT HELENA STOECKLEY WAS IN WITH THE DISTRICT  
13 ATTORNEY.

14 Q. OKAY. AND THEN I THINK I HAD GOTTEN -- YOU WOULD HAD  
15 BEEN -- I HAD ASKED YOU IF YOU WERE AWARE THAT HE WAS GOING TO  
16 COME FORWARD IN 2005, CONTACT WADE SMITH, AND I THINK THAT'S  
17 WHERE WE LEFT OFF YESTERDAY.

18 COULD YOU TELL US AGAIN, DID YOU KNOW HE WAS GOING  
19 TO CONTACT WADE SMITH?

20 A. NO. TO THE BEST OF MY ABILITY OR MY MEMORY, NO, I DID  
21 NOT KNOW THAT.

22 Q. AND DO YOU RECALL HOW YOU CAME TO FIND OUT THAT HE HAD  
23 COME FORWARD?

24 A. THERE AGAIN, I'M NOT POSITIVE WHICH CAME FIRST, IF MR.  
25 WADE SMITH CALLED ME ON THE PHONE OR IF IT WAS WHEN THE TWO

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1 FBI AGENTS CAME TO MY DOOR.

2 Q. OKAY.

3 A. I DO NOT REMEMBER.

4 Q. ALL RIGHT. AND TELL US WHAT HAPPENED WHEN THE FBI AGENTS  
5 CAME TO YOUR HOUSE.

6 A. I WAS VERY SHOCKED AND UPSET. I LIVED WITH LAW  
7 ENFORCEMENT FOR MANY YEARS, BUT I HAD NEVER HAD OCCASION TO  
8 ENCOUNTER. AND I WAS -- I THINK THEY PROBABLY PICKED UP ON  
9 THE FACT THAT I WAS UPSET AND IT WAS THE FACT THAT IT WAS SUCH  
10 A SURPRISE AND SHOCK. AND I EXPRESSED THAT TO THEM. BUT, YOU  
11 KNOW, THEY WERE VERY, VERY NICE, VERY PROFESSIONAL AND VERY  
12 KIND. AND THEY TOLD ME WHY THEY WERE THERE AND I JUST ASKED  
13 THEM IF THEY WOULD, I WOULD APPRECIATE THEM CALLING AND  
14 LETTING ME KNOW IF THEY -- IF THEY WERE COMING.

15 Q. OKAY.

16 A. AND, YOU KNOW, WHEN I LOOK BACK, I UNDERSTAND THEIR JOB.  
17 I KNOW THAT AND I KNOW WHY THEY DO THINGS THE WAY THEY DO, BUT  
18 I WAS THINKING OF THINGS FROM MY PERSPECTIVE.

19 Q. I UNDERSTAND. AND DO YOU RECALL WHAT THE AGENTS TALKED  
20 TO YOU ABOUT WHEN THEY CAME TO YOUR HOUSE?

21 A. THEY ASKED ME TO TELL THEM -- AND I THINK IT'S PROBABLY  
22 BEEN SEVEN YEARS, BUT THEY ASKED ME TO TELL THEM WHAT I  
23 REMEMBERED ABOUT THE JEFFREY MACDONALD -- THE PERIOD OF THE  
24 TRIAL AND SO FORTH. AND I TOLD THEM THAT I WOULD DO THE VERY  
25 BEST I COULD FROM MY MEMORY TO TELL THEM THE TRUTH OF WHAT I

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1 REMEMBERED.

2 Q. AND DO YOU REMEMBER WHAT YOU TOLD THEM?

3 A. IT WAS A LOT. I TOLD THEM THAT I REMEMBERED WHEN IT  
4 HAPPENED, THAT WE WERE LIVING IN GARNER, NORTH CAROLINA. OUR  
5 TWO YOUNGEST CHILDREN WERE ABOUT THE SAME AGES -- CLOSE TO THE  
6 AGES OF THE MACDONALD CHILDREN AND THAT IT WAS A TREMENDOUS  
7 HORRIBLE SHOCK TO EVERYONE, THAT WE JUST DIDN'T HEAR OF THINGS  
8 THAT HORRIBLE HAPPENING AND IT WAS AWFUL.

9 I REALLY CAN'T TELL YOU EVERYTHING THAT I SAID TO  
10 THEM, BUT I DID TELL THEM I REMEMBERED, YOU KNOW, WHEN JIM WAS  
11 INVOLVED IN WORKING THE TRIAL AND THE THINGS THAT -- SOME OF  
12 WHAT I REPEATED YESTERDAY, THE PROBLEM THAT HE HAD WITH BEING  
13 IN THE COURTROOM WITH THE PICTURES. HE KEPT TALKING ABOUT --  
14 HE CALLED THEM THE BABIES AND THE HORROR OF THAT.

15 AND JIM WAS A VERY -- I PERCEIVED HIM BEING A VERY  
16 STRONG PERSON. HE WAS ALWAYS IN CONTROL AND THE ONE THAT  
17 STEPPED FORWARD AND TOOK CONTROL AND HELPED IN A SITUATION.  
18 AND THAT WAS -- THAT WAS -- THAT WAS NEW FOR HIM, FOR ME TO  
19 SEE HIM IN THAT LIGHT.

20 Q. DO YOU RECALL WHETHER THE AGENTS ASKED YOU OR WHETHER YOU  
21 TALKED TO THE AGENTS ABOUT MR. BRITT HAVING GONE TO SOUTH  
22 CAROLINA DURING THE TRIAL?

23 A. YES. YES, I DID BECAUSE THAT WAS -- THAT WAS VERY CLEAR  
24 TO ME THAT HE WAS GOING TO PICK UP A WITNESS AND THEN WHEN HE  
25 CAME IN THAT EVENING, HE REALLY FELT OR EXPRESSED TO ME -- HE

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1 EXPRESSED TO ME THAT THE PERSON THAT WAS IN THE CAR THAT HE  
2 HAD BROUGHT BACK KNEW INTIMATE DETAILS OF WHAT HAD HAPPENED TO  
3 THE MACDONALD FAMILY.

4           AND HE -- WHAT I PERCEIVED IN WHAT HE WAS SAYING TO  
5 ME IS THAT IT WAS A MAJOR BREAKTHROUGH AND HE WAS VERY ANXIOUS  
6 FOR HER TO TELL HER STORY.

7 Q.    AND IS THERE ANYTHING ELSE YOU REMEMBER TALKING TO THE  
8 AGENTS ABOUT SPECIFICALLY?

9 A.    I'M SURE THAT I TOLD THEM ABOUT WHEN HE CAME IN THAT  
10 NIGHT AFTER SHE HAD GIVEN HER TESTIMONY THAT HIS RESPONSE --  
11 WELL, I ASKED HIM AS SOON AS HE CAME THROUGH THE DOOR I SAID  
12 WHAT -- YOU KNOW, WHAT DID THEY SAY? HOW DID IT GO? AND HE  
13 SAID, WELL, THEY SAY THEY CAN'T USE HER TESTIMONY BECAUSE HER  
14 BRAIN IS FRIED FROM USING DRUGS FOR SO LONG, MANY YEARS OR  
15 WHATEVER.

16 Q.   DO YOU KNOW IF YOU RELATED TO THE AGENTS THE TESTIMONY  
17 YOU GAVE YESTERDAY ABOUT WHAT HAPPENED AT THE END OF THE TRIAL  
18 BETWEEN MR. BRITT AND MR. SALTER OR DID THAT COME UP?

19 A.    I'M PRETTY POSITIVE THAT I DID TELL THEM THAT, YES.

20 Q.    OKAY. AND DID YOU HAPPEN TO TALK TO THEM ABOUT HAVING  
21 SEEN THE MOVIE OR MINI-SERIES *FATAL VISION* AND THE ENCOUNTER  
22 YOU HAD WITH MR. BRITT AFTER SEEING THAT?

23 A.    YES, I FEEL CONFIDENT -- THERE AGAIN, IT'S BEEN SEVEN  
24 YEARS AND, YOU KNOW, WHEN THEY SHOWED UP AT MY DOOR THAT DAY,  
25 I WAS REALLY THINKING OFF THE TOP OF MY HEAD, BUT I FEEL

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1 PRETTY CONFIDENT THAT I DID.

2 Q. OKAY. DID YOU HAVE A CONVERSATION WITH MR. BRITT AFTER  
3 THE AGENTS CAME TO SEE YOU AND YOU REALIZED THAT HE HAD COME  
4 FORWARD?

5 A. YES.

6 Q. AND CAN YOU TELL US A LITTLE BIT ABOUT THAT CONVERSATION?

7 A. HE CALLED ME SEVERAL DAYS LATER, I DON'T KNOW EXACTLY  
8 WHEN, AND I ADMIT THAT I DID NOT HANDLE IT WELL. APPARENTLY  
9 ONE OR SEVERAL OF OUR CHILDREN HAD TOLD HIM THAT THE FBI  
10 AGENTS HAD BEEN TO MY HOUSE. MY CHILDREN WERE UPSET ABOUT  
11 THAT AND APPARENTLY THEY TOLD THEIR FATHER THAT THEY HAD BEEN  
12 AND THAT THE CHILDREN WERE UPSET.

13 AND HE CALLED AND ASKED ME, HE SAID WHAT DID THEY  
14 WANT? AND I SAID THEY ASKED ME TO TELL THEM WHAT I COULD  
15 REMEMBER ABOUT THE JEFFREY MACDONALD TRIAL AND THE YEARS THAT  
16 YOU WORKED WITH THAT CASE. AND MY NEXT THING WAS, JIM, WHY  
17 DID YOU WAIT SO LONG TO COME FORWARD WITH THIS INFORMATION?  
18 AND HIS RESPONSE WAS TYPICAL. HE SAID, WELL, WHY DIDN'T YOU?  
19 AND I HUNG UP THE PHONE.

20 Q. AND WHEN HE SAID WHY DIDN'T YOU, WHAT DID THAT MEAN TO  
21 YOU?

22 A. I DON'T KNOW. I DON'T KNOW IF HE THOUGHT THAT HE HAD  
23 TOLD ME MORE THAN HE HAD OR IF THAT WAS JUST A JIM RESPONSE TO  
24 REVERTING IT BACK, RATHER THAN ANSWERING THE QUESTION  
25 REVERTING IT BACK.

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1 Q. SO, I TAKE IT THAT THE INCIDENT OF HIM COMING FORWARD  
2 CAUSED SOME CONFLICT WITHIN THE FAMILY, YOU AND YOUR CHILDREN  
3 AND HIS CHILDREN?

4 A. NOT WITHIN ME AND MY CHILDREN, NO.

5 Q. I GUESS, I MEAN, WITHIN EVERYBODY.

6 A. THEY WERE JUST CONCERNED THAT I WAS HAVING TO DEAL WITH  
7 THE STRESS AFTER SO MANY YEARS.

8 Q. I GUESS WHAT I'M ASKING IS DO YOU FEEL LIKE HIS COMING  
9 FORWARD HAD SORT OF AN EMOTIONALLY ADVERSE OR BAD IMPACT ON  
10 YOU? YOU SAID IT CAUSED YOU STRESS.

11 A. YEAH. WELL, THE THING THAT BOTHERED ME WAS THAT HE HAD  
12 WAITED SO MANY YEARS. I JUST -- I HAVE A REALLY HARD PROBLEM  
13 -- TIME WITH UNDERSTANDING THAT.

14 MR. WIDENHOUSE: YOUR HONOR, CAN I HAVE JUST A  
15 MOMENT, PLEASE?

16 THE COURT: I'M SORRY?

17 MR. WIDENHOUSE: CAN I HAVE A MOMENT?

18 THE COURT: CERTAINLY.

19 MR. WIDENHOUSE: THANK YOU.

20 (PAUSE.)

21 BY MR. WIDENHOUSE:

22 Q. YOU MENTIONED YESTERDAY ABOUT THE END OF THE TRIAL AND  
23 HIS HAVING REFUSED TO HONOR HUGH SALTER'S DIRECTIVE TO  
24 HANDCUFF DR. MACDONALD.

25 ARE YOU AWARE IN THE TIME THAT YOU WERE MARRIED TO

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1 MR. BRITT AND HIS WORK IN THE MARSHAL SERVICE IF THERE WAS  
2 EVER ANOTHER TIME WHERE HE REFUSED A DIRECT ORDER OF A  
3 SUPERIOR?

4 A. NOT TO MY KNOWLEDGE. NEVER.

5 Q. AND ARE YOU -- I KNOW YOU'RE NERVOUS AND YOU'VE BEEN  
6 GREAT, YOU KNOW, AND WE REALLY APPRECIATE YOU COMING. I JUST  
7 WANT TO MAKE SURE ARE YOU ABSOLUTELY CERTAIN AS YOU SIT HERE  
8 TODAY THAT DURING THE MACDONALD TRIAL HE TOLD YOU HE WAS GOING  
9 TO SOUTH CAROLINA TO PICK UP A WITNESS?

10 A. YES. YES.

11 Q. AND ARE YOU ABSOLUTELY CERTAIN THAT WHEN HE GOT BACK HE  
12 MADE THE COMMENT TO YOU ABOUT IT WAS A BREAKTHROUGH OR IT WAS  
13 IMPORTANT, THAT HE HAD LEARNED SOMETHING?

14 A. I DON'T KNOW THAT HE USED THE WORD BREAKTHROUGH, THAT WAS  
15 MY WORD, BUT I KNOW THAT WHEN HE CAME IN HE WAS EXCITED. HE  
16 REALLY FELT THAT THIS WAS JUST VERY -- SO VERY IMPORTANT THAT  
17 HE HAD HAD SOMEONE RIDING IN HIS CAR THAT DAY WHO HAD TALKED  
18 AT LENGTH ABOUT WHAT HAPPENED TO THE MACDONALD FAMILY. AND HE  
19 WENT INTO TALKING ABOUT -- HE SAID SHE DESCRIBED THAT  
20 APARTMENT TO A T. HE SAID SHE EVEN DESCRIBED A BROKEN HOBBY  
21 HORSE THAT WAS THERE.

22 Q. OKAY.

23 A. BUT, YES, I AM VERY POSITIVE THAT JIM BRITT CAME IN AND  
24 TOLD ME THAT THE DAY THAT HE WENT TO SOUTH CAROLINA.

25 MR. WIDENHOUSE: THANK YOU, MS. BRITT. THANK YOU,

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1 YOUR HONOR. NO FURTHER QUESTIONS.

2 THE COURT: MS. COOLEY.

3 MS. COOLEY: THANK YOU, YOUR HONOR.

4 C R O S S - E X A M I N A T I O N 9:14 A.M.

5 BY MS. COOLEY:

6 Q. GOOD MORNING, MS. BRITT.

7 A. GOOD MORNING.

8 Q. I WANT TO ASK YOU, YOU AND JIM WERE MARRIED IN 1957?

9 A. CORRECT.

10 Q. AND THEN YOU WERE MARRIED FOR 32 YEARS, IS THAT RIGHT?

11 A. ALMOST.

12 Q. DIVORCED IN 1970 -- 1989 RATHER?

13 A. CORRECT.

14 Q. AND YOU HAVE FOUR CHILDREN TOGETHER?

15 A. YES.

16 Q. AND THE MACDONALD TRIAL WAS IN 1979, AND YOU WERE MARRIED  
17 DURING THAT TIME?

18 A. CORRECT.

19 Q. AND THEN FOR ABOUT TEN YEARS AFTER THAT?

20 A. CORRECT.

21 Q. AND NOW YOU, YOURSELF, DIDN'T GO TO RALEIGH TO WATCH ANY  
22 OF THE TRIAL, IS THAT RIGHT?

23 A. NO. NO.

24 Q. AND SO EVERYTHING YOU LEARNED WAS JIM WOULD COME HOME AT  
25 NIGHT AFTER WORK AND TALK TO HIS WIFE ABOUT WHAT HAD HAPPENED

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1 AT WORK, IS THAT FAIR TO SAY?

2 A. CORRECT.

3 Q. AND SO THE THINGS THAT YOU HAVE TESTIFIED ABOUT ARE  
4 THINGS THAT HE TOLD YOU ABOUT WHAT HAPPENED AT WORK?

5 A. CORRECT.

6 Q. NOT THINGS THAT YOU HAVE ANY PERSONAL KNOWLEDGE ABOUT?

7 A. CORRECT.

8 Q. AND HE TOLD YOU THAT HE WENT TO GET THIS WITNESS FROM  
9 SOUTH CAROLINA?

10 A. YES.

11 Q. AND HE TOLD YOU ABOUT THAT AFTER WORK ONE DAY, THE DAY  
12 THAT HE SUPPOSEDLY WENT TO GET THE WITNESS, IS THAT RIGHT?

13 A. YES.

14 Q. AND --

15 A. HE TOLD ME THE DAY BEFORE, THE NIGHT BEFORE, THAT HE WAS  
16 GOING TO SOUTH CAROLINA.

17 Q. AND THEN HE TALKED ABOUT IT WHEN HE GOT HOME THE DAY THAT  
18 HE SUPPOSEDLY WENT TO GET THE WITNESS?

19 A. YES.

20 Q. AND THAT'S WHEN HE TOLD YOU THAT SHE HAD MADE THESE  
21 STATEMENTS DURING THE TRIP BACK, IS THAT RIGHT?

22 A. RIGHT.

23 Q. THE STATEMENTS ABOUT BEING IN THE HOUSE AND DESCRIBING  
24 THE HOUSE?

25 A. YES.

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1 Q. AND ABOUT THE BROKEN HOBBY HORSE?

2 A. YES.

3 Q. AND HE ALSO TOLD YOU, MAYBE IT WAS THE NEXT DAY, THAT  
4 THEY CAN'T USE HER TESTIMONY BECAUSE HER BRAIN IS FRIED?

5 A. YES. THE DAY THAT HE CAME IN, THAT EVENING, YES.

6 Q. AND WHEN HE WAS -- AND WHEN HE SAID THEY, HE WAS  
7 REFERRING TO THE PROSECUTORS, IS THAT RIGHT?

8 A. YES.

9 Q. AND NOT TO THE DEFENSE NOT BEING ABLE TO USE HER  
10 TESTIMONY?

11 A. RIGHT.

12 Q. AND THEN AT THE END OF THE TRIAL YOU TALKED ABOUT HE  
13 REFUSED TO LOCK JEFFREY MACDONALD UP AGAINST THE WISHES OF  
14 MARSHAL SALTER, IS THAT RIGHT?

15 A. YES.

16 Q. AND YOU SAID HE CAME HOME EARLY BECAUSE HE HAD LEFT WORK  
17 AFTER REFUSING TO DO THAT?

18 A. YES.

19 Q. AND THEN SOMETIME LATER, AND THIS WAS I GUESS AFTER THE  
20 TWO OF YOU HAD DIVORCED, HE STOPPED BY TO TALK ABOUT SOMETHING  
21 REGARDING THE KIDS OR GRANDKIDS AND YOU HAD A CONVERSATION  
22 ABOUT *FATAL VISION*?

23 A. YEAH. HE JUST OCCASIONALLY STOPPED BY, NOT OFTEN, BUT  
24 SOMETIMES. AND A LOT OF TIMES IT WOULD BE WHEN HE KNEW ONE OF  
25 THE -- ONE OR MORE OF THE GRANDCHILDREN WERE THERE VISITING.

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1 Q. AND THE CONVERSATION YOU HAD WITH HIM ABOUT *FATAL VISION*,  
2 THIS WAS -- THE TIME FRAME WAS THE LATE '90S, WAS THAT --

3 A. I DO NOT KNOW. I CANNOT TELL YOU WHEN.

4 Q. AND HE SAID THE MOVIE WASN'T ACCURATE AND THAT HE WAS IN  
5 THE ROOM DURING THE INTERVIEW AND ACTUALLY HAD HEARD EVERY  
6 WORD OF THAT CONVERSATION, IS THAT PRETTY MUCH WHAT HE TOLD  
7 YOU?

8 A. THAT IS WHAT HE SAID.

9 Q. NOW, I WANT TO GO BACK. ON THE RIDE THAT HE TOLD YOU  
10 ABOUT FROM SOUTH CAROLINA WITH THIS WITNESS, HE TOLD YOU SOME  
11 OF THE THINGS THE WITNESS HAD SAID ABOUT DESCRIBING THE  
12 MACDONALD HOUSE AND THE HOBBY HORSE, IS THAT RIGHT?

13 A. CORRECT.

14 Q. BUT HE NEVER MENTIONED TO YOU THAT THIS WITNESS'S  
15 BOYFRIEND WAS RIDING IN THE CAR WITH THEM, IS THAT RIGHT?

16 A. I DO NOT REMEMBER THAT. I DO NOT REMEMBER IF HE  
17 MENTIONED A BOYFRIEND.

18 Q. BUT YOU REMEMBER THE THINGS ABOUT THE HOBBY HORSE AND THE  
19 DESCRIPTION --

20 A. YES. YES.

21 Q. BUT YOU DON'T RECALL HIM EVER SAYING ANYTHING ABOUT THE  
22 BOYFRIEND BEING IN THE CAR WITH THEM, IS THAT RIGHT?

23 A. I DO NOT. I CANNOT HONESTLY SAY THAT HE TALKED ABOUT THE  
24 BOYFRIEND.

25 Q. AND HE ALSO -- DIDN'T HE TELL YOU AT SOME POINT THAT HE

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1 WENT TO PICK UP HELENA STOECKLEY AT HER HOTEL?

2 A. NO. I DON'T KNOW WHERE HE PICKED HER UP.

3 Q. AND THIS WOULD HAVE BEEN --

4 A. THE ONLY -- THE ONLY THING I REMEMBER IS SOUTH CAROLINA.

5 I DO NOT REMEMBER WHERE IN SOUTH CAROLINA.

6 Q. NOW, WHILE SHE WAS IN RALEIGH, WHILE HELENA STOECKLEY WAS  
7 IN RALEIGH, JIM WAS STILL WORKING ON THE MACDONALD TRIAL, IS  
8 THAT RIGHT?

9 A. CORRECT.

10 Q. AFTER HE HAD PICKED HER UP SHE WAS STILL IN RALEIGH FOR A  
11 PERIOD OF TIME AND HE WAS STILL WORKING ON THE TRIAL?

12 A. CORRECT.

13 Q. AND DURING THAT PERIOD OF TIME SHE, AT SOME POINT, WAS  
14 STAYING AT A HOTEL IN RALEIGH, WERE YOU AWARE OF THAT?

15 A. YES.

16 Q. AND THEN HE TOLD YOU DURING THAT PERIOD OF TIME, MAYBE  
17 NOT DURING THE TIME HE WENT TO SOUTH CAROLINA, BUT HE TOLD YOU  
18 THAT HE HAD AT SOME POINT HAD GONE TO HER HOTEL IN RALEIGH, IS  
19 THAT RIGHT?

20 A. CORRECT.

21 Q. AND HE SAID THAT AT THAT HOTEL THAT HE ARRIVED ONLY TO  
22 FIND THAT HER BOYFRIEND HAD BEATEN HER TO A PULP, IS THAT  
23 RIGHT?

24 A. RIGHT, AND THEY WERE HIS WORDS.

25 Q. THOSE WERE HIS WORDS?

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1 A. THAT THE BOYFRIEND HAD BEATEN HER TO A PULP.

2 Q. AND HE TOLD YOU THAT HE'S THE ONE THAT WENT TO THE HOTEL  
3 TO FIND HER THAT WAY, IS THAT RIGHT?

4 A. I'M ASSUMING HE WAS THE ONE BECAUSE HE TOLD THAT HE WAS  
5 -- I REMEMBER THAT HE WAS ANGRY ABOUT THE BOYFRIEND BEATING  
6 HER. AND I THINK SHE WAS TAKEN TO THE HOSPITAL FOR TREATMENT  
7 AND I SAW -- I KNOW THAT I SAW THAT SHE HAD A CAST ON HER ARM.

8 Q. ON TV YOU SAW THAT SHE HAD A CAST ON HER ARM?

9 A. UH-HUH, OR NEWSPAPER OR SOMEWHERE.

10 Q. AND HE, IN FACT, TOLD YOU THAT HE HAD AN ALTERCATION WITH  
11 THIS BOYFRIEND AT SOME POINT ABOUT THE FACT THAT HE HAD BEATEN  
12 HELENA UP, IS THAT RIGHT?

13 A. IN THE STAIR -- WELL, I DON'T KNOW THAT IT WAS ABOUT  
14 THAT. HE TOLD ME HE HAD AN ALTERCATION IN THE STAIRWELL WITH  
15 THE BOYFRIEND. I DON'T KNOW WHAT IT WAS ABOUT.

16 Q. AND THAT HE TOLD HIM TO STAY AWAY FROM HELENA STOECKLEY,  
17 IS THAT RIGHT?

18 THE COURT: I'M SORRY, WHAT WAS YOUR QUESTION AGAIN?

19 BY MS. COOLEY:

20 Q. AND THAT HE TOLD THE BOYFRIEND TO STAY AWAY FROM HELENA  
21 STOECKLEY, IS THAT RIGHT? DO YOU RECALL HIM TELLING YOU THAT?

22 A. YES, I THINK THAT WAS PART OF THE -- YES, I THINK IT WAS  
23 PART OF IT.

24 Q. AND JIM ALSO MENTIONED TO YOU THE INCIDENT ABOUT THE  
25 CAKE. DO YOU RECALL THAT INCIDENT, HIM MENTIONING THE CAKE TO

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1 YOU?

2 A. I REMEMBER WHEN THAT HAPPENED HE MENTIONED WHEN HE CAME  
3 IN FROM WORK HE WAS UPSET ABOUT JURORS BRINGING CAKES IN FOR  
4 THE JUDGE AND THAT HE JUST DIDN'T THINK THAT WAS SOMETHING  
5 THAT THEY SHOULD DO. AND I REMEMBER THINKING TO MYSELF,  
6 BECAUSE I KNEW NOTHING ABOUT THE COURT SYSTEM, THINKING, WELL,  
7 YOU KNOW, WHAT'S THE BIG DEAL? THAT WAS KIND OF MY REACTION  
8 TO THAT. BUT, YES, HE DID MORE THAN ONE TIME MENTION THE  
9 CAKES.

10 Q. AND SO TO HIM IT WAS A BIG DEAL?

11 A. YEAH.

12 Q. AND HE TALKED TO YOU SOME ABOUT JEFFREY MACDONALD'S  
13 Demeanor DURING THE TRIAL, IS THAT FAIR TO SAY?

14 A. YES, HE DID.

15 Q. AND HE TALKED TO YOU ABOUT THE FACT THAT HE SHOWED NO  
16 EMOTION WHEN THE VERDICT WAS READ, IS THAT RIGHT?

17 A. YES.

18 Q. AND HE ALSO MAYBE OPINED TO YOU THAT IF JEFFREY MACDONALD  
19 HAD DONE THIS THAT HE COULD HAVE BEEN ON DRUGS WHEN HE DID  
20 THIS, IS THAT FAIR TO SAY?

21 A. NO. WHAT HE SAID WAS, AND THIS WAS A VERY NEW THING TO  
22 ME AND I THINK WOULD HAVE BEEN TO MOST PEOPLE, AND I WILL TELL  
23 YOU WHAT HE SAID. HE SAID IF HE DID IT, HE DOESN'T REMEMBER  
24 ANYTHING ABOUT IT AND HE HAD TO HAVE BEEN ON SOME DRUGS OR  
25 SOMETHING WAS HIS --

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1 Q. AND THOSE WERE HIS WORDS?

2 A. AND THAT WAS HIS OPINION, I'M SURE, BUT, YES, HE DID SAY  
3 THAT.

4 Q. AND HE WAS JUST GIVING YOU HIS OPINION?

5 A. UH-HUH.

6 Q. NOW, WHEN HE CAME HOME AFTER THE DAY THAT HELENA  
7 STOECKLEY WAS INTERVIEWED DURING THE TRIAL AND YOU KNEW THAT  
8 THIS INTERVIEW WAS SUPPOSED TO HAVE HAPPENED THAT DAY AND SO  
9 YOU WERE WAITING TO HEAR FROM HIM ABOUT WHAT HAD HAPPENED AT  
10 WORK, IS THAT FAIR TO SAY?

11 A. YES. UH-HUH.

12 Q. AND HE CAME HOME AND HE TOLD YOU ABOUT IT, ABOUT WHAT  
13 HAPPENED DURING THE INTERVIEW, IS THAT RIGHT?

14 A. (WITNESS NODS HEAD.)

15 Q. BUT AT NO TIME DID HE EVER MENTION THAT JIM BLACKBURN HAD  
16 EVER THREATENED HELENA STOECKLEY?

17 A. NO, HE DID NOT. HE DID NOT.

18 Q. AND THEN SIMILARLY WHEN YOU HAD THE CONVERSATION ABOUT  
19 THE *FATAL VISION* MOVIE AND YOU TALKED TO HIM AGAIN ABOUT HIS  
20 INVOLVEMENT IN THAT STRING OF EVENTS WHERE SHE WAS  
21 INTERVIEWED, AT NO TIME DURING THAT CONVERSATION DID HE EVER  
22 MENTION TO YOU THAT JIM BLACKBURN HAD THREATENED HELENA  
23 STOECKLEY, IS THAT ALSO FAIR TO SAY?

24 A. YES, THAT'S FAIR TO SAY. HE DID NOT.

25 Q. SO, AT NO TIME DURING THE CONVERSATION THAT YOU HAD WAS

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1 THERE EVER A MENTION ABOUT A THREAT, IS THAT RIGHT?

2 A. NO, THERE WAS NOT.

3 Q. AND, MS. BRITT, WERE YOU AWARE THAT IN THE *FATAL VISION*  
4 MINI-SERIES -- YOU SAID THAT YOU WATCHED IT, IS THAT RIGHT?

5 A. YES.

6 Q. AND WERE YOU AWARE THAT THE INTERVIEW THAT WAS DEPICTED  
7 IN THAT MINI-SERIES WAS ACTUALLY THE INTERVIEW WITH THE  
8 DEFENSE AND THAT THE INTERVIEW WITH THE PROSECUTION WAS NOT  
9 DEPICTED IN THE MOVIE?

10 A. NO, I --

11 Q. IT'S PROBABLY BEEN A WHILE.

12 A. AND, THERE AGAIN, IT'S BEEN MANY YEARS SINCE I WATCHED  
13 IT.

14 Q. IT'S PROBABLY BEEN A WHILE. NOW, YOU MENTIONED THAT  
15 SOMETIME AFTER YOU HAD THE CONVERSATION WITH JIM ABOUT THE  
16 *FATAL VISION* MOVIE THAT HE CALLED YOU OR IT WAS AFTER HIS  
17 ALLEGATIONS CAME OUT, IS THAT RIGHT?

18 A. YES, AFTER THE FBI AGENTS CAME TO VISIT.

19 Q. DO YOU REMEMBER AROUND ABOUT WHEN THAT WAS?

20 A. IF THEY COULD TELL ME THE DATES THAT THEY CAME, I COULD  
21 TELL YOU IT WAS IN A FEW DAYS.

22 Q. OR THE YEAR EVEN?

23 A. I THINK IT'S MAYBE SEVEN -- ABOUT SIX OR SEVEN YEARS AGO.

24 Q. AND NOW I WANT TO TALK WITH YOU -- YOU TALKED ABOUT SOME  
25 OF THE THINGS THAT YOU TOLD THE FBI DURING THAT INTERVIEW AND

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1 I WANT TO TALK WITH YOU ABOUT A COUPLE OF OTHER THINGS THAT  
2 YOU MENTIONED.

3           YOU MENTIONED THAT JIM TOLD YOU HE HAD SPENT TIME  
4 WITH JEFFREY MACDONALD AT FORT BRAGG, IS THAT RIGHT?

5 A.    YES.   UH-HUH.

6 Q.    AND JIM HAD TOLD YOU THAT?

7 A.    YES, HE DID.

8 Q.    YOU WEREN'T AT FORT BRAGG AT ANY TIME WITH THE TWO OF  
9 THEM?

10 A.    NO.

11 Q.    NOW, HE WAS IN THE ARMY, IS THAT RIGHT?

12 A.    WHO?   JIM?

13 Q.    JIM.

14 A.    YES, BUT THAT WAS MANY YEARS BEFORE.

15 Q.    CAN I HAVE GOVERNMENT EXHIBIT 2125, PLEASE?  AND IF YOU  
16 COULD MAKE THE TOP PART A LITTLE BIT LARGER.

17           MS. BRITT, CAN YOU SEE THAT I'M SHOWING YOU HERE  
18 THIS IS JIM'S APPLICATION FOR RETIREMENT FROM CIVIL SERVICE?  
19 CAN YOU SEE THAT ON THE SCREEN?

20 A.    (WITNESS NODS HEAD.)

21                           (GOVERNMENT EXHIBIT NUMBER 2125

22                           WAS IDENTIFIED FOR THE RECORD.)

23 Q.    IT APPEARS TO HAVE HIS NAME AND TELEPHONE NUMBER AND  
24 ADDRESS?

25 A.    (WITNESS NODS HEAD.)

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1 Q. MAY I HAVE PAGE TWO, PLEASE?

2 THE COURT: I CAN'T UNDERSTAND YOU. WHAT DID YOU  
3 SAY?

4 MS. COOLEY: I'M SORRY. I ASKED FOR PAGE TWO, YOUR  
5 HONOR.

6 THE COURT: THANK YOU.

7 BY MS. COOLEY:

8 Q. AND THIS DETAILS HIS TIME IN THE ARMY THAT HE WOULD HAVE  
9 HAD TO FILL OUT FOR HIS FEDERAL RETIREMENT, IS THAT RIGHT?

10 A. (WITNESS NODS HEAD.)

11 Q. AND SO DO THOSE DATES SEEM ACCURATE TO YOU THAT HE WAS IN  
12 THE ARMY FROM '57 TO '59?

13 A. THEY ARE ACCURATE.

14 Q. THANK YOU. AND HE DIDN'T START WORKING AT THE MARSHAL'S  
15 OFFICE UNTIL '68, IS THAT RIGHT?

16 A. CORRECT.

17 Q. AND HE RETIRED THERE AROUND ABOUT NOVEMBER OF '90?

18 A. I CAN'T HELP YOU WITH THAT DATE. I'M SORRY.

19 Q. CAN I HAVE THE BOTTOM OF THIS -- OF PAGE TWO OF THE  
20 RETIREMENT, PLEASE? AND NOW THIS IS -- DO YOU RECOGNIZE HIS  
21 SIGNATURE ON THIS DOCUMENT?

22 A. YES, I DO.

23 Q. AND THE DATE THAT HE HAS SIGNED THIS RETIREMENT DOCUMENT,  
24 THAT'S NOVEMBER 1ST OF 1990?

25 A. CORRECT.

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1 Q. AND YOU'VE TALKED TO US A FAIR BIT ABOUT HOW JIM WAS  
2 FAIRLY EMOTIONALLY INVESTED IN THE MACDONALD TRIAL, IS THAT A  
3 FAIR STATEMENT?

4 A. YES, HE WAS.

5 Q. AND BOTH DURING THE TRIAL AND THEN FOR SOME YEARS  
6 AFTERWARD, IS THAT A FAIR STATEMENT TOO?

7 A. DURING THE TRIAL HE WAS, YES, AND PROBABLY SOMETIME AFTER  
8 AS WELL.

9 Q. AND DURING THE TIME THAT YOU -- THAT *FATAL VISION* WAS ON  
10 TV AND YOU HAD THESE CONVERSATIONS WITH HIM HE WAS PRETTY MUCH  
11 EMOTIONAL ABOUT THAT, IS THAT RIGHT?

12 A. YES, HE WAS.

13 Q. AND DURING THE TIME OF THE TRIAL HE EMPHASIZED TO YOU  
14 THAT HE BELIEVED JEFFREY MACDONALD WAS A BRILLIANT MAN WHO  
15 RELATED WELL TO INDIVIDUALS FROM ALL WALKS OF LIFE, IS THAT AN  
16 ACCURATE STATEMENT?

17 A. YES. YES.

18 Q. AND THAT HE DIDN'T WANT TO LOCK HIM UP WHEN HE WAS FOUND  
19 GUILTY?

20 A. HE DID NOT EVER TELL ME HE DID NOT WANT TO LOCK HIM UP OR  
21 WHY. HE TOLD ME WHAT HAPPENED IN THE COURTROOM, BUT HE NEVER  
22 TOLD ME WHY.

23 Q. BUT HE SAID HE -- SO, WHAT HE TOLD YOU WAS THAT HE  
24 REFUSED TO LOCK HIM UP WHEN MARSHAL SALTER TOLD HIM TO?

25 A. YES.

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1 Q. AND THAT HE HAD MADE AN EFFORT TO DEAL WITH THE TRIAL  
2 PHOTOS DURING THE TRIAL?

3 A. YES.

4 Q. AND YOU TALKED ABOUT THAT WITH HIM?

5 A. (WITNESS NODS HEAD.)

6 Q. AND ALSO TO HIM -- YOU SAID THAT IT WAS YOUR WORD THAT IT  
7 WAS A MAJOR BREAKTHROUGH, BUT TO HIM IT APPEARED TO BE  
8 EQUIVALENT TO A MAJOR BREAKTHROUGH TO HAVE THIS INFORMATION  
9 ABOUT HELENA STOECKLEY COME FORWARD, IS THAT RIGHT?

10 A. YES, THAT SHE HAD INFORMATION TO SHARE THAT WAS VERY  
11 IMPORTANT.

12 Q. AND YOU SAID THAT HE SEEMED EXCITED ABOUT THE FACT SHE  
13 HAD THAT INFORMATION?

14 A. YES.

15 Q. NOW, I WANT TO FAST FORWARD A LITTLE BIT AND TALK ABOUT  
16 YOUR RELATIONSHIP WITH JIM SOME.

17 A. OKAY.

18 Q. AND HE FILED FOR DIVORCE IN 1988, IS THAT RIGHT?

19 A. YES.

20 Q. AND THEN YOU FILED A COUNTERCLAIM TO THAT, TO THE  
21 DIVORCE, TO PUT YOUR SIDE OF THE STORY, IS THAT FAIR TO SAY?

22 A. YES, I GUESS.

23 Q. MAY I HAVE GOVERNMENT EXHIBIT 2127, PLEASE? AND, MS.  
24 BRITT, I'LL JUST ASK YOU TO TAKE A LOOK AT THIS PAGE AND THEN  
25 WE'LL LET YOU LOOK AT THE OTHER PAGES OF THE DOCUMENT AND I

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1 WANT TO ASK IF YOU RECOGNIZE IT.

2 A. YES.

3 Q. AND CAN I HAVE THE LAST PAGE, PLEASE? AND THAT'S DATED  
4 FEBRUARY 1ST, 1989, IS THAT RIGHT?

5 A. YES.

6 Q. PAGE SEVEN. AND IS THAT YOUR SIGNATURE THERE ON PAGE  
7 SEVEN OF THAT DOCUMENT?

8 A. YES, IT IS.

9 Q. NOW, I WOULD LIKE TO GO BACK TO PAGE TWO, PLEASE. AND IF  
10 YOU COULD READ DOWN AT THE BOTTOM, PARAGRAPH 5C, THE CLAIM,  
11 THAT YOU ANSWERED HIS DIVORCE CLAIM.

12 A. THAT PLAINTIFF HAS COMMITTED ADULTERY AND CONTINUES TO  
13 COMMIT ADULTERY.

14 (GOVERNMENT EXHIBIT NUMBER 2127  
15 WAS IDENTIFIED FOR THE RECORD.)

16 Q. AND THAT WAS THE BEGINNING OF YOUR DIVORCE PROCEEDINGS  
17 WITH MR. BRITT, CORRECT?

18 A. I DON'T QUITE UNDERSTAND WHAT YOU MEAN BY THE BEGINNING.

19 Q. WHEN HE FIRST FILED FOR DIVORCE AND YOU ANSWERED HIM.

20 A. UH-HUH.

21 Q. OKAY. AND THEN DURING -- IT TAKES A LITTLE BIT OF TIME  
22 FOR THE DIVORCE TO BECOME FINAL, IS THAT FAIR TO SAY?

23 A. CORRECT. A YEAR.

24 Q. DURING THAT TIME THERE WERE SEVERAL OTHER FILINGS AND  
25 COURT APPEARANCES THAT YOU HAD TO GO TO AS A PART OF THAT, IS

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1 THAT RIGHT?

2 A. YES.

3 Q. AND ALSO DURING THIS TIME YOU WERE SEEKING ALIMONY FROM  
4 HIM BECAUSE YOU STILL HAD TO SUPPORT YOUR FOUR CHILDREN, IS  
5 THAT FAIR TO SAY?

6 A. NO. NO. I WAS NOT SEEKING ALIMONY AND MY CHILDREN WERE  
7 ALL OF ADULT AGE. THE YOUNGEST HAD TURNED 18. I WAS SEEKING  
8 EQUITABLE DISTRIBUTION OF OUR PROPERTY.

9 Q. AND THAT EQUITABLE DISTRIBUTION WOULD HAVE INCLUDED HIS  
10 RETIREMENT AND PENSION?

11 A. YES, THAT WAS WHAT I HAD HOPED.

12 Q. BECAUSE YOU HAD BEEN RAISING THE CHILDREN WHILE HE WAS  
13 WORKING?

14 A. YES, I WAS A STAY AT HOME MOTHER FOR TEN YEARS. AND THEN  
15 WHEN OUR OLDEST CHILDREN BEGAN COLLEGE OR A COUPLE OF YEARS  
16 BEFORE THEY BEGAN COLLEGE I WENT BACK TO WORK TO HELP GET THEM  
17 THROUGH SCHOOL.

18 Q. AND SO EQUITABLY SPEAKING, YOU'RE ENTITLED TO PART OF  
19 THAT RETIREMENT?

20 A. I FELT LIKE I WAS.

21 Q. AND IF I COULD HAVE GOVERNMENT EXHIBIT 2128, PLEASE.  
22 NOW, THIS DOCUMENT IS THE JUDGMENT FROM YOUR DIVORCE DECREE,  
23 IS THAT RIGHT?

24 A. I ASSUME THAT IT IS.

25 Q. AND IF I COULD HAVE PAGE THREE, PLEASE. AND IT BECAME

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1 FINAL ON FEBRUARY 8TH OF 1989?

2 A. CORRECT.

3 (GOVERNMENT EXHIBIT NUMBER 2128  
4 WAS IDENTIFIED FOR THE RECORD.)

5 Q. AND IF I COULD HAVE GOVERNMENT EXHIBIT 2130. AND THIS  
6 LETTER IS A LETTER THAT YOU WROTE DATED NOVEMBER 26TH OF 1990,  
7 IS THAT RIGHT?

8 A. CORRECT.

9 (GOVERNMENT EXHIBIT NUMBER 2130  
10 WAS IDENTIFIED FOR THE RECORD.)

11 Q. AND AT THAT POINT IN TIME THE EQUITABLE DISTRIBUTION WAS  
12 STILL ONGOING. EVEN THOUGH THE DIVORCE DECREE WAS FINAL, THE  
13 EQUITABLE DISTRIBUTION WAS STILL ONGOING?

14 A. CORRECT.

15 Q. AND YOU HAD NOT BEEN GIVEN THE CONTENTS OR THE AMOUNT OF  
16 HIS RETIREMENT AND PENSION?

17 A. CORRECT.

18 Q. AND YOU WERE TRYING TO FIGURE THAT OUT SO YOU COULD GET  
19 THE FINAL EQUITABLE DISTRIBUTION?

20 A. CORRECT.

21 Q. AND SO YOU WROTE THIS LETTER TO THE OFFICE OF PERSONNEL  
22 MANAGEMENT TO TRY AND GET THAT INFORMATION?

23 A. CORRECT.

24 Q. AND THEN IF I CAN HAVE GOVERNMENT EXHIBIT 2133. AND YOUR  
25 LAWYER ALSO WROTE TO TRY AND GET THE INFORMATION ON DECEMBER

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1 20TH OF 1990, IS THAT CORRECT?

2 A. CORRECT.

3 (GOVERNMENT EXHIBIT NUMBER 2133  
4 WAS IDENTIFIED FOR THE RECORD.)

5 Q. AND GOVERNMENT EXHIBIT 2131. AND YOU ALSO APPEALED TO  
6 SENATOR HELMS. AND THIS IS A LETTER FROM 1988?

7 A. CORRECT.

8 (GOVERNMENT EXHIBIT NUMBER 2131  
9 WAS IDENTIFIED FOR THE RECORD.)

10 Q. AND THEN 2132, PLEASE. AND THE LETTER IN 1988, YOU SENT  
11 WITH THIS LETTER IN 1990, BASICALLY LETTING HIM KNOW THAT YOU  
12 STILL HADN'T BEEN ABLE TO DETERMINE THE AMOUNT FOR THE  
13 EQUITABLE DISTRIBUTION, IS THAT RIGHT?

14 A. CORRECT.

15 (GOVERNMENT EXHIBIT NUMBER 2132  
16 WAS IDENTIFIED FOR THE RECORD.)

17 Q. AND 2134, PLEASE. NOW, IN 1991, AUGUST 22ND, THE COURT  
18 ORDERED THAT JIM GET THAT INFORMATION AND GET IT TO THE COURT  
19 AND GET IT TO YOU SO THAT YOU COULD HAVE YOUR FINAL EQUITABLE  
20 DISTRIBUTION, IS THAT RIGHT?

21 A. CORRECT.

22 (GOVERNMENT EXHIBIT NUMBER 2134  
23 WAS IDENTIFIED FOR THE RECORD.)

24 Q. AND 2136, PLEASE. AND IN THIS ORDER THAT'S DATED -- IF I  
25 CAN GET THE LAST PAGE, PLEASE. THIS ORDER IS DATED SEPTEMBER

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1 25TH OF 1991, IS THAT RIGHT?

2 A. YES.

3 (GOVERNMENT EXHIBIT NUMBER 2136  
4 WAS IDENTIFIED FOR THE RECORD.)

5 Q. AND IF I COULD HAVE THE FIRST PAGE, PLEASE, AND THE  
6 BOTTOM PARAGRAPH. AND ESSENTIALLY THIS HAS BEEN GOING ON  
7 SINCE THE FINAL DIVORCE DECREE IN 1989, AND NOW WE'RE IN 1991,  
8 AND THE JUDGE IS ORDERING THAT JIM APPEAR AND SHOW CAUSE WHY  
9 HE SHOULDN'T BE HELD IN CONTEMPT FOR NOT PROVIDING THIS  
10 INFORMATION TO THE COURT AND TO YOU SO THAT THE EQUITABLE  
11 DISTRIBUTION CAN BE FINAL, IS THAT RIGHT?

12 A. CORRECT.

13 Q. AND 2125, PLEASE. AND WE LOOKED AT THIS EARLIER AND YOU  
14 SAID THAT YOU RECOGNIZED THE SIGNATURE ON THIS DOCUMENT AND  
15 THIS WAS THE RETIREMENT DOCUMENT THAT HE FILED. AND IF I MAY  
16 HAVE PAGE TWO. AND HE FILED IT, WE SAID EARLIER, ON NOVEMBER  
17 1ST OF 1990, IS THAT RIGHT?

18 A. CORRECT.

19 Q. AND THEN IF I COULD HAVE 2126. AND NOW THIS IS THE  
20 STATEMENT REGARDING FORMER SPOUSES THAT HE ALSO SIGNED. IF  
21 YOU CAN SEE THAT THERE, DOES THAT APPEAR TO BE HIS SIGNATURE  
22 THAT YOU RECOGNIZE FOR NOVEMBER 1ST OF 1990, ON THIS DOCUMENT?

23 A. THAT IS HIS SIGNATURE.

24 Q. AND THIS DOCUMENT -- IF I COULD HAVE THE FULL TOP OF THE  
25 DOCUMENT -- IS THE STATEMENT REGARDING FORMER SPOUSES THAT HE

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1 HAD FILED WITH HIS RETIREMENT?

2 A. YES.

3 (GOVERNMENT EXHIBIT NUMBER 2126  
4 WAS IDENTIFIED FOR THE RECORD.)

5 Q. AND IN THIS DO YOU SEE WHERE IT SAYS DO YOU HAVE A LIVING  
6 FORMER SPOUSE WITH WHOM YOU WERE DIVORCED AFTER MAY 6TH, 1985,  
7 AND TO WHOM A COURT ORDER GIVES A SURVIVOR ANNUITY AND HE'S  
8 ANSWERED NO?

9 A. YES, I HAVE SEEN THIS RECENTLY, BUT I HAVE NOT BEEN GIVEN  
10 AN ANNUITY.

11 Q. THAT'S RIGHT. THAT'S RIGHT. AND AT THIS POINT IN TIME,  
12 THIS DOCUMENT, NOVEMBER 1ST OF 1990, THIS WAS IN THE MIDDLE OF  
13 WHEN YOU WERE TRYING TO WRITE THE LETTERS TO THE OFFICE OF  
14 PERSONNEL MANAGEMENT AND SO WAS YOUR ATTORNEY AND BEFORE THE  
15 COURT WAS ABLE TO MAKE ANY DISTRIBUTION EQUITABLE OR  
16 OTHERWISE, IS THAT RIGHT?

17 A. RIGHT.

18 Q. AND YOU MENTIONED EARLIER THAT EVEN AFTER YOU AND JIM  
19 WERE DIVORCED YOU HAD SOME ONGOING CONTACT. I MEAN, YOU HAD  
20 FOUR CHILDREN TOGETHER.

21 A. CORRECT.

22 Q. AND I ASSUME GRANDCHILDREN?

23 A. YES.

24 Q. I MEAN, SO, YOU SAID YOU WOULD SEE HIM FROM TIME TO TIME?

25 A. YES.

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1 Q. AND HE EVENTUALLY REMARRIED, IS THAT RIGHT?

2 A. CORRECT.

3 Q. TO A WOMAN NAMED NANCY WILLIAMS?

4 A. CORRECT.

5 Q. AND THEY LIVED TOGETHER AT 616 WIMBERLY ROAD IN APEX?

6 A. I CAN'T VERIFY THAT.

7 Q. THEY WERE LIVING TOGETHER AFTER THEY GOT MARRIED, IS THAT  
8 FAIR TO SAY?

9 A. YES, I'M SURE.

10 Q. AND THEY WERE TOGETHER UNTIL JIM PASSED AWAY, IS THAT  
11 RIGHT?

12 A. CORRECT. THAT IS MY UNDERSTANDING.

13 Q. AND THAT WAS IN 2008?

14 A. UH-HUH.

15 Q. AND DID YOU EVER KNOW HIM TO MOVE TO LAS VEGAS?

16 A. NO, BUT I CANNOT SPEAK TO JIM AFTER WE DIVORCED OTHER  
17 THAN THE FEW TIMES THAT I SAW HIM AT CHILDREN'S WEDDINGS OR  
18 THE FEW TIMES HE STOPPED AT MY HOUSE.

19 Q. AND DID YOU KNOW THAT JIM AND NANCY EVENTUALLY --

20 COURT REPORTER: I'M SORRY, CAN YOU REPEAT -- I'M  
21 SORRY, CAN YOU REPEAT THE QUESTION?

22 BY MS. COOLEY:

23 Q. DID YOU KNOW THAT JIM AND NANCY ALSO EVENTUALLY GOT  
24 DIVORCED?

25 A. YES, I WAS TOLD THAT.

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1 Q. IF I CAN HAVE GOVERNMENT 2017, AND IF I CAN HAVE PAGE  
2 TWO. NOW, MS. BRITT, DO YOU RECOGNIZE THE SIGNATURE ON THIS  
3 DOCUMENT AS WELL TO BE THAT OF YOUR EX-HUSBAND?

4 A. IT RESEMBLES HIS SIGNATURE, BUT IT'S NOT WHAT I WOULD  
5 NORMALLY RECOGNIZE AS HIS SIGNATURE. IT'S NOT AS CONCISE  
6 AS --

7 Q. IT'S NOT AS NEAT AS --

8 A. AS CONCISE AS NORMAL. BUT, YES, IT DOES RESEMBLE HIS  
9 SIGNATURE.

10 Q. AND CAN WE GO BACK TO PAGE ONE, PLEASE. AND THIS IS AN  
11 AFFIDAVIT FILED IN LAS VEGAS, NEVADA, IN THE MATTER OF JIMMY  
12 BRITT VERSUS NANCY BRITT. AND HE SAYS I, JIMMY B. BRITT, DO  
13 SOLEMNLY SWEAR AND TESTIFY HEREIN TO THE TRUTH, THE WHOLE  
14 TRUTH AND NOTHING BUT THE TRUTH, THAT I AM THE PLAINTIFF, THAT  
15 I RESIDE AT BUDGET SUITES IN LAS VEGAS, NEVADA.

16 NEXT PAGE, PLEASE.

17 THAT I HAVE BEEN A RESIDENT OF LAS VEGAS, CLARK  
18 COUNTY, IN EXCESS OF SIX WEEKS, IT'S MY INTENTION TO REMAIN  
19 FOR THE FORESEEABLE FUTURE, AND I AM THE COMPLAINANT.

20 THE DEFENDANT AND I, MEANING NANCY, ARE COMPATIBLE  
21 IN MARRIAGE -- ARE INCOMPATIBLE, EXCUSE ME, IN MARRIAGE. THAT  
22 IS, OUR LIKES, DISLIKES, TASTES AND PERSONALITIES ARE SO  
23 DIVERGENT THAT WE NO LONGER CAN LIVE TOGETHER AS HUSBAND AND  
24 WIFE. THAT THERE IS NO POSSIBILITY THAT WE WILL RECONCILE.

25 AND THEN IF WE CAN GO DOWN TO THE BOTTOM.

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1 HE'S SWORN TO THIS BEFORE A NOTARY ON MARCH 13TH OF  
2 2000, IS THAT -- DO YOU SEE THAT DATE THERE, MARCH 13TH OF  
3 2000?

4 A. (WITNESS NODS HEAD.)

5 (GOVERNMENT EXHIBIT NUMBER 2017  
6 WAS IDENTIFIED FOR THE RECORD.)

7 Q. NOW, YOU KNEW HIM TO LIVE WITH NANCY, IN FACT, UNTIL HE  
8 DIED IN 2008, IS THAT RIGHT?

9 A. THAT'S WHAT I WAS TOLD. I NEVER SEEN -- BEEN TO THAT  
10 ADDRESS.

11 Q. SURE. YOU DIDN'T GO VISIT WITH THEM?

12 A. NO.

13 Q. NOW, AT SOME POINT ALSO AFTER YOUR DIVORCE, JIM TRIED TO  
14 OPEN UP A BAR AND RESTAURANT THERE IN SMITHFIELD FOR ONE OF  
15 YOUR SONS TO OPERATE OR TO RUN, IS THAT RIGHT?

16 A. WITH HIM.

17 Q. TOGETHER, RIGHT.

18 A. YES.

19 Q. BUT THAT WASN'T ABLE TO GET OFF THE GROUND DUE TO THE  
20 FINANCING OF THE RESTAURANT AND THE --

21 A. I'M GOING TO BE VERY HONEST WITH YOU ABOUT THIS, I KNOW  
22 ABSOLUTELY NOTHING ABOUT THAT. IT WAS NOT SHARED WITH ME. I  
23 WAS NOT INVOLVED IN ANY WAY WITH THAT.

24 Q. BUT FAIR TO SAY THAT IT NEVER ACTUALLY ENDED UP COMING TO  
25 FRUITION AND HAPPENING, IS THAT RIGHT?

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1 A. THAT IS TRUE.

2 Q. AND SO YOU'RE UNAWARE THAT IT EVENTUALLY WAS FORECLOSED  
3 UPON, IS THAT --

4 A. I AM TOTALLY UNAWARE. I DID NOT -- DID NOT KNOW THAT.

5 Q. MAY I HAVE GOVERNMENT EXHIBIT 2123? NOW, I'M SHOWING YOU  
6 HERE, YOU MAY NOT HAVE SEEN THIS DOCUMENT BEFORE, THIS IS THE  
7 PETITION IN BANKRUPTCY COURT FOR THE EASTERN DISTRICT OF NORTH  
8 CAROLINA, AND YOU SEE JIMMY'S NAME THERE AND HIS ADDRESS IN  
9 APEX. IF WE COULD GO TO THE LAST PAGE, PLEASE. AND CAN YOU  
10 SEE THE DATE ON THE LAST PAGE HERE, IT'S APRIL 27TH OF 2005?

11 A. YES, I SEE THAT DATE.

12 Q. AND IF WE COULD GO TO PAGE FOUR. NOW, HERE ON PAGE FOUR  
13 IT ASKS FOR HIM TO LIST HIS REAL PROPERTY AND HE LISTS A HOUSE  
14 AND LOT IN APEX.

15 A. PARDON?

16 Q. CAN YOU SEE THAT THE HOUSE AND LOT IN APEX IS A HALF  
17 INTEREST WITH NON-FILING WIFE? CAN YOU SEE THAT THERE?

18 A. YES, I SEE THAT.

19 Q. AND ON PAGE 24, THIS LISTS THE CO-DEBTORS THAT HE HAS ON  
20 THAT PROPERTY, A NAME AND ADDRESS, AND THIS SAYS NANCY BRITT  
21 ALSO IN APEX. DO YOU SEE THAT THERE ALSO?

22 A. I DO, BUT I DON'T UNDERSTAND WHY YOU'RE ASKING ME ABOUT  
23 THIS BECAUSE PLEASE UNDERSTAND I KNOW NOTHING, DID NOT WANT TO  
24 KNOW ANYTHING. ONCE I DIVORCED JIM OR WE DIVORCED, I REALLY  
25 TRIED TO NOT BE INVOLVED. SO, I KNOW NOTHING ABOUT THIS.

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1 Q. SO, YOU'RE UNAWARE THAT HE FILED FOR BANKRUPTCY IN 2005?

2 A. YEAH. I HAD NO REASON TO KNOW THAT.

3 Q. AT THAT POINT ALL OF YOUR ASSETS HAD ALREADY BEEN  
4 DISTRIBUTED BETWEEN THE TWO OF YOU?

5 A. YES.

6 Q. NOW, IS IT FAIR TO SAY, MS. BRITT, THAT LATER ON IN  
7 JIMMY'S LIFE HE FELL ONTO HARD TIMES A LITTLE BIT AND STARTED  
8 TO HAVE A PROBLEM WITH ALCOHOL?

9 A. THERE AGAIN, I CANNOT ANSWER THAT BECAUSE HONESTLY I WAS  
10 NOT INVOLVED. I MEAN, ANYTHING I WOULD TELL YOU WOULD NOT BE  
11 FROM MY PERSONAL KNOWLEDGE OR EXPERIENCE.

12 Q. AND SO YOU WEREN'T AWARE THAT HE WAS IN AND OUT OF REHAB  
13 IN RALEIGH AND --

14 MR. WIDENHOUSE: YOUR HONOR, I'M GOING TO OBJECT.  
15 THE WITNESS HAS SAID SHE DOESN'T HAVE ANY KNOWLEDGE OF THIS  
16 AND IT SEEMS TO ME IF THEY WANT TO GET THIS STUFF IN IT SHOULD  
17 BE THROUGH SOMEBODY ELSE.

18 THE COURT: WELL, I THINK YOU'RE CORRECT, MR.  
19 WIDENHOUSE. SUSTAINED.

20 MS. COOLEY: THANK YOU, YOUR HONOR. I HAVE NO  
21 FURTHER QUESTIONS.

22 THE COURT: MR. WIDENHOUSE.

23 MR. WIDENHOUSE: WOULD YOU GIVE ME JUST A MOMENT,  
24 YOUR HONOR?

25 THE COURT: SURELY.

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1 (PAUSE.)

2 MR. WIDENHOUSE: THANK YOU, YOUR HONOR.

3 R E D I R E C T E X A M I N A T I O N 9:44 A.M.

4 BY MR. WIDENHOUSE:

5 Q. JUST A COUPLE OF FINAL QUESTIONS, MS. BRITT. DID YOU  
6 HAVE THE SENSE THAT AFTER THE MACDONALD TRIAL WAS OVER JIM  
7 CONTINUED TO BE OBSESSED WITH IT? DID HE TALK ABOUT THE  
8 MACDONALD TRIAL A LOT WITH YOU ONCE IT WAS OVER?

9 A. HE WAS CONCERNED ABOUT IT. THERE WAS NEVER -- JIM TALKED  
10 A LOT ABOUT DIFFERENT CASES THAT HE WORKED OVER THE YEARS,  
11 THINGS THAT HE WAS INVOLVED IN. SOMETIMES HE DID. SOMETIMES  
12 HE DIDN'T. BUT THERE WAS NEVER ANYTHING IN HIS CAREER THAT I  
13 WAS AWARE OF THAT IMPACTED HIM THE WAY THE MACDONALD TRIAL  
14 DID. THE MACDONALD -- NOT ONLY THE TRIAL, BUT THE ENTIRE  
15 PROCESS, YES.

16 Q. ALL RIGHT. AND I TAKE IT FROM THE DIVORCE EQUITABLE  
17 DISTRIBUTION DOCUMENTS THAT THE GOVERNMENT SHOWED YOU ON  
18 CROSS-EXAMINATION OF YOUR SITUATION THAT YOUR SEPARATION AND  
19 DIVORCE FROM MR. BRITT WAS AN EMOTIONAL TIME FOR YOU?

20 A. IT WAS VERY PAINFUL FOR ME. I WILL SAY I'VE EXPERIENCED  
21 THE DEATH OF LOVED ONES. IT WAS THE MOST PAINFUL THING I'VE  
22 EVER ENCOUNTERED. AND NOT -- IT'S JUST A BREAK UP OF FAMILY.  
23 SO, YES, IT WAS A VERY, VERY PAINFUL TIME.

24 Q. BUT YOU'RE STILL CERTAIN THAT YOU HAD THE CONVERSATIONS  
25 WITH HIM DURING THE MACDONALD TRIAL THAT YOU'VE TESTIFIED

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1 ABOUT TODAY?

2 A. ABSOLUTELY. YES.

3 MR. WIDENHOUSE: THANK YOU, MS. BRITT. THAT'S ALL I  
4 HAVE, YOUR HONOR.

5 THE COURT: RE CROSS.

6 MS. COOLEY: NO, YOUR HONOR. THANK YOU.

7 THE COURT: YOU MAY STEP DOWN. CALL YOUR NEXT  
8 WITNESS.

9 MR. WIDENHOUSE: WE CALL GENE STOECKLEY. AND, YOUR  
10 HONOR, COULD MS. BRITT BE EXCUSED?

11 THE COURT: YES, MA'AM. DO YOU HAVE ANY OBJECTION,  
12 MS. COOLEY?

13 MS. COOLEY: NO OBJECTION, YOUR HONOR.

14 THE COURT: THANK YOU.

15 (PAUSE.)

16 **EUGENE B. STOECKLEY, DEFENSE WITNESS, SWORN**

17

18 D I R E C T E X A M I N A T I O N 9:51 A.M.

19 BY MR. WIDENHOUSE:

20 Q. GOOD MORNING, MR. STOECKLEY. COULD YOU STATE YOUR NAME  
21 FOR THE RECORD AND JUST TELL US THE TOWN WHERE YOU LIVE?

22 A. EUGENE BERNARD STOECKLEY. I LIVE IN FUQUAY-VARINA, NORTH  
23 CAROLINA.

24 Q. ALL RIGHT. AND --

25 MADAM CLERK: I'M SORRY. THE RAIN.

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1 BY MR. WIDENHOUSE:

2 Q. CAN YOU TELL US WHERE YOU GREW UP?

3 A. I SPENT THE MAJORITY OF MY LIFE GROWING UP IN  
4 FAYETTEVILLE, NORTH CAROLINA.

5 Q. OKAY. AND WHO WERE YOUR PARENTS?

6 A. CLARENCE AND HELENA STOECKLEY.

7 Q. AND WHAT DID YOUR FATHER DO?

8 A. HE WAS A SALES REPRESENTATIVE FOR HIGHLAND PRESS.

9 Q. AND --

10 MADAM CLERK: I'M SORRY. I THINK THAT'S THE RAIN  
11 OUTSIDE.

12 BY MR. WIDENHOUSE:

13 Q. WHAT DID HE DO BEFORE THAT?

14 A. HE WAS MILITARY. HE RETIRED FROM THE SERVICE AFTER 20  
15 YEARS.

16 Q. AND DO YOU HAVE ANY BROTHERS AND SISTERS?

17 A. YES. I CURRENTLY HAVE AN OLDER SISTER LIVING AND MY  
18 OLDER BROTHER, CLARENCE JUNIOR.

19 Q. AND DO YOU HAVE A SISTER THAT IS NO LONGER LIVING?

20 A. THAT'S CORRECT, HELENA JUNIOR.

21 Q. OKAY. I TAKE IT BY SAYING HELENA JUNIOR, THAT MUST MEAN  
22 YOUR MOTHER WAS HELENA AS WELL?

23 A. CORRECT.

24 Q. CAN YOU TELL US A LITTLE BIT ABOUT GROWING UP IN

25 FAYETTEVILLE, ESPECIALLY AS IT RELATES TO YOUR SISTER'S

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1 HELENA'S --

2 MR. WIDENHOUSE: SORRY.

3 MADAM CLERK: LET'S SEE IF THIS IS A LITTLE BIT  
4 BETTER.

5 BY MR. WIDENHOUSE:

6 Q. CAN YOU TELL US A LITTLE BIT ABOUT GROWING UP WITH YOUR  
7 SISTER HAVING BEEN ASSOCIATED WITH THE MACDONALD  
8 INVESTIGATION?

9 A. WELL, AT THE TIME THAT THIS TOOK PLACE I WAS TEN YEARS  
10 OLD AND, OF COURSE, IT WAS A BIG THING IN FAYETTEVILLE  
11 OBVIOUSLY.

12 MY SISTER, ALTHOUGH NOT LIVING IN THE HOME AT THE  
13 TIME, BUT LIVING THERE IN FAYETTEVILLE, WE SAW EACH OTHER  
14 FREQUENTLY.

15 FEBRUARY 16TH WAS MY BIRTHDAY AND SHE HAD STOPPED BY  
16 THE HOUSE. I REMEMBER SHE ALWAYS WOULD COME BY BECAUSE I WAS  
17 HER LITTLE BROTHER AND SHE ALWAYS, YOU KNOW, HAD TO COME BY  
18 AND GIVE ME A BIRTHDAY CARD OR A LITTLE GIFT OR SOMETHING.

19 I JUST REMEMBER THE NEXT MORNING MY PARENTS KIND OF  
20 FOCUSED ON THE NEWS, BUT THERE WASN'T ANY SPECIFIC DISCUSSION.  
21 I DREW NO CONCLUSION THAT THERE WAS ANY KIND OF TIE-IN TO WHAT  
22 HAPPENED THAT NIGHT IN OUR FAMILY, NOT AT THAT TIME.

23 Q. DID THERE COME A TIME WHEN YOU BECAME AWARE OF THAT  
24 POSSIBILITY?

25 A. IT STARTED COMING OUT ESPECIALLY WHEN MY PARENTS STARTED

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1 RECEIVING CALLS, REPORTERS COMING BY WISHING TO SPEAK TO THEM,  
2 AND IT SORT OF EVOLVED. I COULDN'T TELL YOU EXACTLY WHAT THE  
3 TIME FRAME WAS, IT JUST SORT OF STARTED EVOLVING. AND, OF  
4 COURSE, AS A YOUNGSTER I WASN'T REALLY -- YOU KNOW, MY FOCUS  
5 WASN'T ON THE NEWS OR THINGS LIKE THAT.

6 Q. DID IT HAVE ANY IMPACT ON SORT OF YOUR FAMILY LIFE THAT  
7 YOU CAN RECALL?

8 A. OH, ABSOLUTELY IT HAD AN IMPACT, ESPECIALLY AS I BECAME  
9 MORE AWARE OF THE RELATIONSHIP MY SISTER HAD WITH THE CASE.  
10 IT WAS -- I WOULD GET HARASSED AT SCHOOL. THERE WERE OTHER --  
11 I GUESS MY SCHOOL PEERS, SAME GRADE, THAT THEIR PARENTS WERE  
12 IN THE SAME CIRCLE AS MY PARENTS. THEY KNEW MY PARENTS WELL.  
13 AND I WOULD GET THINGS, YOU KNOW, JUST TALKING ABOUT YOUR  
14 SISTER'S A MURDERER, YOUR SISTER'S A MURDERER, AND THINGS LIKE  
15 THAT.

16 Q. AND DO YOU REMEMBER ABOUT WHAT AGE YOU WERE WHEN THOSE  
17 KINDS OF THINGS WERE HAPPENING?

18 A. PROBABLY AROUND FIFTH GRADE.

19 Q. AND DID THAT GO ON FOR A WHILE?

20 A. WELL, I DEVELOPED JUST MY OWN WAY OF DEALING WITH IT AS I  
21 GREW OLDER. I AVOIDED MOST SOCIAL SITUATIONS WHERE PEOPLE  
22 WOULD DRAW THE CONCLUSION THAT I WAS RELATED TO HELENA  
23 STOECKLEY AND INEVITABLY SOMEBODY WOULD ASK ME, YOU KNOW, ARE  
24 YOU RELATED TO THAT STOECKLEY WOMAN WHO WAS INVOLVED WITH THE  
25 CASE AND I WOULD DENY IT.

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1           IT TOOK ME QUITE A WHILE INTO MY, I'D SAY, ADULT  
2 LIFE, INTO MY 30S, BEFORE I WAS ABLE TO JUST RECONCILE IT AND  
3 JUST CONVINCED MYSELF THAT I WAS NOT RESPONSIBLE FOR WHAT SHE  
4 DID OR MAY HAVE BEEN INVOLVED WITH. AND IT JUST TOOK SOME  
5 TIME TO JUST COME TO THAT REALIZATION AND ACCEPT THE HISTORY  
6 THAT WAS THERE AND QUIT TRYING TO HIDE FROM IT.

7 Q.   DID THE EXPERIENCES YOU HAD GROWING UP AS A RESULT OF  
8 THIS INFORMATION, DID IT HAVE AN IMPACT ON YOUR RELATIONSHIP  
9 WITH YOUR SISTER HELENA?

10 A.   AS I REACHED MY ADOLESCENT YEARS, I GUESS INTO JUNIOR  
11 HIGH AND THOSE YEARS, I HELD HER ACCOUNTABLE. I FOSTERED A  
12 BIT OF ILL WILL TOWARDS HER BECAUSE I SAW WHAT IT DID TO MY  
13 PARENTS. I SAW THE HARASSMENT. YOU KNOW, A NUMBER OF TIMES  
14 THEY HAD TO CHANGE PHONE NUMBERS, GET UNLISTED NUMBERS, JUST  
15 THINGS LIKE THAT. AND I WAS VERY -- HAD GROWN TO BE  
16 PROTECTIVE OF THEM AND ESPECIALLY IN THIS SITUATION.

17           BUT I USED TO RESENT MY SISTER BECAUSE OF WHAT I  
18 FELT SHE HAD BROUGHT UPON MY PARENTS AND NOT SO MUCH MYSELF,  
19 BUT MY PARENTS. AND THERE WAS A PERIOD WHERE I JUST REALLY  
20 DIDN'T HAVE MUCH TO DO WITH HER.

21 Q.   DID THERE COME A TIME WHEN YOU CONFRONTED HER ABOUT IT?

22 A.   IT CAME TO A HEAD AT ONE POINT. I DON'T KNOW IF SHE WAS  
23 LIVING IN SOUTH CAROLINA AT THE TIME, BUT I JUST REMEMBER  
24 THERE AT THE HOUSE IN FAYETTEVILLE THAT IT JUST SORT OF CAME  
25 TO A BOIL AND I JUST TOLD HER, YOU KNOW, THAT I WAS FED UP

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1 WITH WHAT WE HAD GONE THROUGH BECAUSE OF HER NONSENSE AND WE  
2 JUST HAD A HEATED ARGUMENT.

3 Q. AND DID SHE SAY ANYTHING TO YOU SORT OF IN THAT ARGUMENT  
4 THAT STICKS IN YOUR MIND?

5 A. SHE DID. IT WAS -- SHE TOLD ME TO BE CAREFUL BECAUSE SHE  
6 HAD CERTAIN FRIENDS AND SHE TOLD ME SHE ALSO HAD AN ICE PICK.

7 Q. AND DO YOU REMEMBER ABOUT HOW OLD YOU WERE OR SORT OF IN  
8 WHAT GRADE IN SCHOOL WHEN YOU HAD THAT CONVERSATION -- THAT  
9 CONFRONTATION?

10 A. I WOULD HAVE TO SAY, AND THIS IS JUST MY BEST  
11 RECOLLECTION, THAT I WAS IN HIGH SCHOOL, MAYBE EARLY HIGH  
12 SCHOOL.

13 Q. OKAY. AND I KNOW YOU TOLD US YOU HAD THREE BROTHERS AND  
14 SISTERS AND I SHOULD HAVE ASKED YOU THEN, WHAT WERE THE AGE  
15 RANGES OF THE SIBLINGS IN YOUR FAMILY? WHO WAS THE OLDEST?

16 A. THE OLDEST WAS MY SISTER, DOLLY SCHEHERAZADE, CURRENTLY  
17 LIVING AND SHE'S IN VIRGINIA. AND NEXT WAS MY BROTHER,  
18 CLARENCE JUNIOR.

19 Q. WHAT'S THE AGE DIFFERENCE BETWEEN DOLLY AND CLARENCE  
20 JUNIOR?

21 A. LET'S SEE. DOLLY JUST TURNED, WHAT, 65. THERE'S  
22 PROBABLY FIVE YEARS AGE DIFFERENCE.

23 Q. OKAY. SO, YOU HAD DOLLY AND CLARENCE ABOUT FIVE YEARS  
24 APART AND THEN WHO CAME AFTER CLARENCE JUNIOR?

25 A. HELENA JUNIOR.

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1 Q. AND WHAT WAS THE AGE DIFFERENCE BETWEEN CLARENCE JUNIOR  
2 AND HELENA?

3 A. IT WAS JUST A COUPLE OF YEARS. THEY WERE THE CLOSEST IN  
4 AGE.

5 Q. OKAY. AND THEN DOES THAT MAKE YOU THE BABY OF THE  
6 FAMILY?

7 A. I WAS THE BABY.

8 Q. OKAY. AND HOW MUCH YOUNGER -- WHAT'S THE AGE DIFFERENCE  
9 BETWEEN YOU AND HELENA JUNIOR?

10 A. I WOULD SAY ABOUT SIX YEARS. SIX, SEVEN YEARS.

11 Q. OKAY. SO, WHEN YOU WERE IN JUNIOR HIGH, AT THAT AGE  
12 RANGE, WAS SHE -- HAD SHE MOVED OUT OF THE HOUSE AT THAT  
13 POINT?

14 A. YES.

15 Q. AND SO YOU WERE THE ONLY CHILD LEFT IN THE HOUSE WITH  
16 YOUR MOM AND DAD?

17 A. CORRECT. CORRECT.

18 Q. OKAY. DO YOU RECALL THE TIME OF THE MACDONALD TRIAL IN  
19 1979?

20 A. YES, I WAS LIVING IN WILMINGTON.

21 Q. OKAY. AND DO YOU REMEMBER HOW OLD YOU WERE ROUGHLY?

22 A. I WAS IN MY EARLY 20S. I WAS ATTENDING SCHOOL.

23 Q. OKAY. AND DID YOUR MOTHER AND FATHER HAVE ANY CONNECTION  
24 WITH THE TRIAL?

25 A. I KNOW THEY WERE IN RALEIGH FOR THE TRIAL. I DON'T KNOW

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1 IF IT WAS JUST WHETHER THEY HAD BEEN SUBPOENAED TO ACT -- TO  
2 GIVE TESTIMONY OR NOT. I DON'T KNOW.

3 Q. OKAY. DID THEY TALK TO YOU ABOUT THAT?

4 A. NEGATIVE. NO.

5 Q. OKAY. WELL, WHEN YOU WERE GROWING UP AT HOME WITH THIS  
6 INFORMATION OUT IN THE COMMUNITY WAS THERE TALK AT HOME ABOUT  
7 HELENA'S POSSIBLE INVOLVEMENT WITH THE MACDONALD KILLINGS OR  
8 ANYTHING LIKE THAT?

9 A. NO, IT WASN'T BROUGHT UP.

10 Q. WAS IT A SUBJECT THAT JUST IT WAS UNDERSTOOD WE DON'T  
11 TALK ABOUT IT AT HOME?

12 A. RIGHT. AND ESPECIALLY MY FATHER, HE NEVER BROUGHT IT UP.  
13 AND MY MOTHER, I NEVER DISCUSSED IT WITH HER, NOT AT THAT  
14 TIME.

15 Q. OKAY. SO, IT WAS SORT OF TABOO AT THE TIME?

16 A. THAT WOULD BE A GOOD DESCRIPTION.

17 Q. AND DO YOU RECALL WHERE HELENA JUNIOR LIVED AFTER THE  
18 MACDONALD TRIAL IN 1979?

19 A. I THINK AT THE TIME SHE WAS STILL LIVING IN SOUTH  
20 CAROLINA. SENECA OR SOMEWHERE DOWN IN SOUTH CAROLINA. SHE  
21 MOVED AROUND A FEW TIMES. AND LIKE I SAID, I DIDN'T KEEP UP  
22 WITH HER.

23 AT THAT POINT, I HAD PRETTY MUCH JUST PUT THE  
24 DISTANCE BETWEEN US AND I WAS TRYING TO GET ON WITH MY FUTURE  
25 AND TRYING TO MAP OUT MY COURSE.

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1 Q. OKAY. I THINK YOU SAID YOU HAD GONE TO -- YOU WERE IN  
2 WILMINGTON DURING THE MACDONALD TRIAL, YOU WERE GOING TO  
3 SCHOOL?

4 A. YES, SIR.

5 Q. AND WHEN YOU FINISHED SCHOOL IN WILMINGTON, DID YOU MOVE  
6 BACK TO FAYETTEVILLE? DID YOU STAY IN WILMINGTON? WHAT  
7 HAPPENED AT THAT POINT?

8 A. I DID. I MOVED BACK TO FAYETTEVILLE SHORTLY AFTER MY  
9 SISTER PASSED AWAY. I THINK IT WAS THAT SUMMER. SHE PASSED  
10 AWAY IN JANUARY OF '83, AND I MOVED BACK TO FAYETTEVILLE.

11 Q. OKAY. AND DO YOU REMEMBER ABOUT WHEN YOU FINISHED THE  
12 SCHOOLING IN WILMINGTON?

13 A. I NEVER FINISHED THAT PROGRAM. I WAS -- IT HAD JUST KIND  
14 OF DISTRACTED ME. HER PASSING ACTUALLY HAD MORE EFFECT ON ME  
15 THAN I WOULD HAVE ANTICIPATED.

16 Q. OKAY. BETWEEN THE END OF -- I REALIZE I'M JUMPING AROUND  
17 SO IF YOU'LL JUST KIND OF BEAR WITH ME. BETWEEN THE END OF  
18 THE MACDONALD TRIAL IN 1979, AND YOUR SISTER'S DEATH I BELIEVE  
19 YOU SAID IN 1983, DID YOU HAVE A LOT OF CONTACT WITH HELENA  
20 JUNIOR DURING THAT --

21 A. NO, I DID NOT.

22 Q. -- THREE OR FOUR YEAR PERIOD?

23 A. DID NOT.

24 Q. OKAY. DO YOU RECALL A TIME WHEN YOUR SISTER CAME HOME  
25 TO FAYETTEVILLE AT SOME POINT IN THAT STRETCH OF TIME?

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1 A. THE LAST TIME I SAW MY SISTER ALIVE WAS THE FALL OF 1982,  
2 AFTER THE BIRTH OF HER SON, DAVID. AND I HAD COME TO  
3 FAYETTEVILLE TO VISIT MY PARENTS AND HELENA WAS THERE WITH  
4 DAVID. AND I THINK HE COULD HAVE BEEN NO MORE THAN FIVE OR  
5 SIX MONTHS OLD PERHAPS.

6 Q. AND I BELIEVE YOU SAID THAT WAS IN THE FALL OF 1982.

7 A. RIGHT.

8 Q. AND WHERE WERE YOU LIVING AT THE TIME?

9 A. (NO RESPONSE.)

10 Q. WHERE WERE YOU LIVING AT THE TIME?

11 A. AT THAT TIME I WAS STILL IN WILMINGTON.

12 Q. AND DID YOU HAVE MUCH INTERACTION WITH YOUR SISTER  
13 DURING THAT VISIT?

14 A. I DON'T RECALL A WHOLE LOT OF INTERACTION. NO, NOT AT  
15 THAT TIME. SHE WAS BUSY WITH THE BABY AND MY MOTHER WAS  
16 ENJOYING HER GRANDSON. I PRETTY MUCH JUST STAYED OUT OF IT.  
17 I HAD SOME FRIENDS LIVING IN THE AREA AND I WOULD VISIT THEM  
18 AND WE'D GET TOGETHER.

19 Q. AND HOW WAS YOUR SISTER'S HEALTH AT THAT POINT, IF YOU  
20 KNOW?

21 A. FROM OUTWARD APPEARANCES, SHE HAD JUST SEEMED WHERE SHE  
22 HAD GAINED SOME WEIGHT, BUT SHE DID APPEAR TO BE JAUNDICED.  
23 OTHER THAN THAT, SHE DIDN'T APPEAR TO BE SICKLY OR OVERLY SO.

24 Q. OKAY. DID YOU HAVE A SENSE OF WHY HELENA CAME HOME TO  
25 VISIT IN THE FALL OF '82?

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1 A. I EXPECTED JUST FOR THE FACT TO BRING DAVID UP TO MEET MY  
2 MOM AND DAD SO THEY COULD SEE THEIR GRANDSON.

3 Q. OKAY. AND YOUR FATHER WAS STILL ALIVE AT THAT POINT?

4 A. CORRECT.

5 Q. AND WHEN DID -- IS HE STILL LIVING?

6 A. NO, MY FATHER PASSED AWAY IN FEBRUARY OF 2002.

7 Q. AND AFTER YOUR SISTER CAME TO VISIT IN OCTOBER OF 1982,  
8 HOW MUCH LONGER DID SHE LIVE?

9 A. JUST A MATTER OF MONTHS. YOU KNOW, WE'RE TALKING TWO AND  
10 A HALF, THREE MONTHS, BEFORE SHE PASSED AWAY.

11 Q. OKAY. AFTER YOUR FATHER PASSED AWAY IN FEBRUARY OF 2002,  
12 WHERE DID YOUR MOTHER LIVE?

13 A. SHE REMAINED AT THE HOUSE IN FAYETTEVILLE.

14 Q. AND DID SHE STAY THERE CONTINUALLY OR --

15 A. SHE STAYED THERE APPROXIMATELY A YEAR AFTER HIS PASSING.  
16 I WAS TRYING TO RELOCATE AND ESTABLISH A NEW JOB IN THIS AREA  
17 SO I COULD BE CLOSE BY. AND AT THAT TIME I WAS LIVING IN  
18 SAVANNAH, GEORGIA.

19 SO, WE -- I WAS ABLE TO FIND A NEW JOB UP IN DURHAM,  
20 AND MY WIFE AND I RELOCATED. AND I ACTUALLY LIVED AT THE  
21 HOUSE WITH HER FOR, I WOULD SAY, FIVE MONTHS WHILE WE WERE  
22 HOUSE HUNTING AND TRYING TO GET RE-ESTABLISHED. SO, I LIVED  
23 THERE WITH HER ABOUT FIVE MONTHS.

24 Q. AND DO YOU KNOW ABOUT WHEN THAT WAS?

25 A. WELL, THAT WOULD HAVE BEEN AROUND APRIL OF 2002 UNTIL

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1 PROBABLY AUGUST, SEPTEMBER. I BELIEVE THE END OF SEPTEMBER WE  
2 BEGAN THE PROCESS OF BUYING A HOME UP IN FUQUAY. SO, IT WAS  
3 PROBABLY ABOUT FIVE MONTHS.

4 Q. OKAY. AND DID THERE -- HOW WAS YOUR MOTHER'S HEALTH AT  
5 THAT POINT IN TIME?

6 A. SHE WAS DOING PRETTY WELL. HER EYESIGHT WAS THE BIGGEST  
7 DETRIMENT THAT I SAW TO HER LOSING HER INDEPENDENCE. SHE HAD  
8 MACULAR DEGENERATION AND SHE HAD, I BELIEVE AT THAT POINT,  
9 BEEN DECLARED LEGALLY BLIND. AND OTHER THAN THAT -- SHE WAS  
10 ON OXYGEN THERAPY, BUT OTHER THAN THAT SHE WAS -- SHE WANTED  
11 TO HOLD ON TO HER INDEPENDENCE. SHE WAS PRETTY FIERCE ABOUT  
12 THAT. VERY STRONG WILLED.

13 Q. AND DID THERE COME A TIME WHEN SHE WAS NO LONGER ABLE TO  
14 LIVE ON HER OWN?

15 A. SHE HAD -- SHE SUFFERED A FALL. WE HAD ALREADY -- WE HAD  
16 MOVED INTO OUR HOME THAT OCTOBER AND I DON'T -- I CAN'T  
17 REMEMBER HOW LONG WE HAD BEEN THERE AND WE GOT A PHONE CALL  
18 AND IT WAS MY MOTHER. AND I HAD ACTUALLY GONE TO BED THAT  
19 EVENING. SHE CALLED AND MY WIFE CAME IN AND WOKE ME AND SAID  
20 MY MOTHER HAD CALLED AND SAID SHE HAD FALLEN AND SAID SHE  
21 COULD NOT GET UP AND WALK AND SUSPECTED SHE HAD FRACTURED  
22 EITHER HER LEG OR HER HIP.

23 SO, I GOT DRESSED AND TOLD HER I'D BE ON THE WAY,  
24 BUT SHE TOLD MY WIFE TO NOT WORRY ABOUT IT. AND MY WIFE HAD  
25 ORIGINALLY -- I MEAN, THIS MUST HAVE BEEN ON A THURSDAY

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1 BECAUSE I BELIEVE MY WIFE WAS PLANNING TO GO VISIT HER PARENTS  
2 THE NEXT DAY FOR THE WEEKEND AND SHE ASKED MY WIFE TO JUST  
3 COME BY AND CHECK ON HER WHEN SHE GOT INTO TOWN THE NEXT DAY  
4 EVEN THOUGH SHE COULDN'T GET OFF THE FLOOR.

5 Q. OKAY. AND AFTER THAT FALL, DID THERE COME A TIME WHEN  
6 YOUR MOM HAD TO LIVE SOMEWHERE WHERE SOMEONE COULD HELP TAKE  
7 CARE OF HER?

8 A. AS WE WENT THROUGH THE DECISION PROCESS OF TRYING TO SORT  
9 OUT WHAT SHE WAS ABLE TO DO AND NOT DO, I TRIED TO PUT  
10 EVERYTHING INTO HER HANDS AS TO THE MAJOR DECISION-MAKING AND  
11 I WOULD DO WHATEVER I WAS IN CHARGE OF LOOKING OVER HER  
12 AFFAIRS. AND I WOULD JUST -- I WOULDN'T FORCE HER, I'D JUST  
13 EXPLAIN WHATEVER OPTIONS, WHATEVER THE MEDICAL DIRECTIVES FROM  
14 THE DOCTORS CARING FOR HER, WHATEVER THEY SUGGESTED.

15 SO, IT CAME TO THE POINT WHERE WE DECIDED TO GO  
16 AHEAD AND PUT HER HOUSE UP FOR SALE. AND SHE -- WE WERE ABLE  
17 TO SELL THE HOUSE IN FAIRLY SHORT ORDER AND THEN SHE CAME TO  
18 FUQUAY AND LIVED WITH US MAYBE SIX MONTHS.

19 Q. AND THEN WHERE DID SHE LIVE AFTER THAT?

20 A. MY SISTER IN VIRGINIA NOTIFIED US AND TOLD US THERE WAS A  
21 DUPLEX CLOSE BY TO THEIR HOUSE AND SHE THOUGHT IT WOULD BE  
22 IDEAL FOR MY MOM. IT WAS A SMALL APARTMENT AND THOUGHT THAT  
23 SHE COULD GET AROUND FAIRLY EASILY ONCE SHE GOT THE LAYOUT.  
24 AND IT WAS CLOSE ENOUGH WHERE THEY COULD WALK OVER AND CHECK  
25 ON HER. SO, WE AGREED TO LET HER MOVE IN THERE AND SHE LIVED

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1 THERE FOR A COUPLE -- WELL, ABOUT FOUR YEARS I THINK.

2 Q. AND WHERE DID SHE -- DID THERE COME A POINT WHERE SHE  
3 COULDN'T LIVE IN THE DUPLEX NEAR YOUR SISTER?

4 A. SHE HAD HAD SOME MEDICAL ISSUES. THEY WERE CONCERNED  
5 ABOUT HER HEART RHYTHM. SO, SHE WAS TAKEN TO THE DOCTOR AND  
6 AFTER AN EVALUATION AND A BRIEF STAY IN THE HOSPITAL THERE IN  
7 BEDFORD, THE DOCTOR MET WITH DOLLY AND MYSELF AND SAID THAT  
8 SHE HAD HAD A HEART ATTACK AT SOME POINT, BUT IT WASN'T  
9 EVALUATED. IT MUST HAVE HAPPENED SOMETIME PREVIOUS TO HER  
10 MOVING UP THERE. AND ALSO THAT THERE WAS INDICATION THAT  
11 THERE WAS MUSCLE DAMAGE TO THE HEART. THERE WAS ALSO A VALVE  
12 PROBLEM THAT HE, IN HIS EXPERTISE, SUGGESTED IT CAME WHEN SHE  
13 HAD RHEUMATIC FEVER AS A YOUNG CHILD. MY MOTHER NEVER  
14 MENTIONED HAVING HEART PROBLEMS. SO, THIS WAS ALL NEW  
15 INFORMATION TO US. BUT WE DID KNOW SHE HAD EMPHYSEMA, COPD  
16 FROM SMOKING. SO, THAT WAS -- THE HEART ISSUE WAS -- THAT WAS  
17 WHEN WE WERE FIRST MADE AWARE OF IT.

18 Q. AND WHERE DID SHE GO TO LIVE AT THAT POINT?

19 A. BASED ON THE MEDICAL INFORMATION WE WERE GIVEN AND THAT  
20 THE DOCTOR SUGGESTING -- HE RECOMMENDED SHE NOT LIVE BY  
21 HERSELF FROM THAT POINT FORWARD. THERE WAS NO ADEQUATE  
22 SKILLED ASSISTED LIVING FACILITY THERE.

23 SO, AFTER DISCUSSING IT WITH MOTHER AND DOLLY, I HAD  
24 HER FLOWN TO FAYETTEVILLE BECAUSE WE FOUND ASSISTED LIVING  
25 THERE THAT MET OUR CRITERIA AND WE FELT WOULD BE A GOOD FIT.

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1 AND I THINK SHE FELT A SENSE OF COMFORT BEING BACK IN HER HOME  
2 WHERE SHE HAD SPENT SO MANY YEARS, BACK TO HER HOMETOWN. SHE  
3 STILL HAD CONTACTS THERE, SOME OLD FRIENDS THAT WOULD COME SEE  
4 HER.

5 Q. AND AT THAT POINT YOU WERE LIVING IN FUQUAY-VARINA?

6 A. YES.

7 Q. AND IS THAT FAIRLY CLOSE TO FAYETTEVILLE?

8 A. IT'S ABOUT A 45 MINUTE DRIVE.

9 Q. AND WHERE WAS -- AND I KNOW YOUR SISTER WAS IN VIRGINIA.  
10 WHERE WAS CLARENCE JUNIOR LIVING?

11 A. HE LIVES IN FAYETTEVILLE ALSO.

12 Q. OKAY. SO, THERE WAS SOME FAMILY CLOSE BY?

13 A. YES. HE WAS WITHIN WALKING DISTANCE OF THAT FACILITY.

14 Q. ONCE YOUR MOM MOVED INTO THIS ASSISTED LIVING FACILITY,  
15 DID YOU VISIT HER WITH ANY REGULARITY?

16 A. I WOULD MAKE IT A POINT TO SEE HER AT LEAST ONCE A WEEK  
17 UNLESS NEEDED IF SHE HAD PROBLEMS. AS I SAID, I WAS GIVEN THE  
18 TASK OF OVERSEEING HER -- BOTH HER FINANCIAL AND HER MEDICAL  
19 NEEDS.

20 SO, SHE HAD BEEN ADMITTED TO CAPE FEAR HOSPITAL ON  
21 SEVERAL OCCASIONS WHILE SHE WAS THERE FOR PNEUMONIA AND OTHER  
22 THINGS. I THINK THE UTI AND THE PNEUMONIA ARE THE TWO THAT I  
23 RECALL.

24 Q. SO, YOU WERE THE CHILD WHO WAS PRIMARILY IN CHARGE OF  
25 YOUR MOM'S CARE AND WELFARE AT THAT POINT?

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1 A. YES.

2 Q. OKAY. AND IN THESE VISITS WITH YOUR MOTHER WHAT KINDS OF  
3 THINGS DID YOU TALK ABOUT?

4 A. OH, WE TALKED ABOUT OUR TRIPS TO THE BEACH, THE MEMORIES  
5 OF THE VACATIONS AT THE COAST. JUST THINGS LIKE THAT. THEN  
6 AFTER SHE WAS ADMITTED TO THE HOSPITAL WITH BILATERAL  
7 PNEUMONIA I SPENT THREE DAYS THERE WITH HER IN HER ROOM AND --

8 Q. DO YOU NEED TO TAKE A MOMENT TO GET A SIP OF WATER?

9 A. NO, I'LL BE ALL RIGHT. AND SHE WAS ON A RESPIRATOR. IT  
10 DIDN'T LOOK VERY GOOD, HER PROGNOSIS. SO, I HAD OCCASION TO  
11 SPEAK WITH HER ATTENDING PHYSICIAN ALONE AND HE SAID THAT IN  
12 ALL LIKELIHOOD SHE WOULD NOT LEAVE THERE. SHE WASN'T GOING TO  
13 SURVIVE. SO, I WENT AHEAD AND STARTED MAKING FUNERAL  
14 ARRANGEMENTS AND THINGS LIKE THAT.

15 Q. BUT SHE DID SURVIVE?

16 A. SHE DID AND IT WAS QUITE AMAZING, YOU KNOW, THAT SHE  
17 PULLED THROUGH.

18 Q. OKAY. AND AFTER SHE PULLED THROUGH, DID SHE MOVE BACK TO  
19 THE ASSISTED LIVING FACILITY?

20 A. YES.

21 Q. OKAY. AND CAN YOU TELL US SORT OF WHEN IN TIME THE  
22 HOSPITAL STAY WAS, MAYBE ROUGHLY A MONTH AND A YEAR?

23 A. I CAN'T REALLY --

24 Q. WELL, LET ME ASK IT THIS WAY --

25 A. I'D SAY IT WAS WITHIN SIX MONTHS OF HER BEING THERE. I

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1 THINK IT WAS BEFORE -- I KNOW IT WAS BEFORE THE HOLIDAY PERIOD  
2 OF THANKSGIVING, CHRISTMAS, THAT SHE WAS ADMITTED. I THINK IT  
3 WAS IN AUGUST OF 2006, PERHAPS. BUT I BASICALLY REMEMBER I  
4 KNEW IT WAS AROUND THE END OF THE SUMMER WHEN SHE WENT THROUGH  
5 THAT EPISODE.

6 Q. OKAY. AND THEN SHE MOVED BACK TO THE ASSISTED LIVING  
7 FACILITY?

8 A. YES.

9 Q. AND I TAKE IT YOUR MOTHER IS NO LONGER LIVING --

10 A. CORRECT.

11 Q. -- IS THAT CORRECT? OKAY. AND HOW MUCH LONGER DID SHE  
12 LIVE ONCE SHE LEFT THE HOSPITAL AND MOVED BACK TO THE ASSISTED  
13 LIVING FACILITY?

14 A. AFTER SHE WAS BROUGHT BACK TO THE ASSISTED LIVING SHE  
15 LIVED THERE APPROXIMATELY ANOTHER YEAR. I THINK THE FOLLOWING  
16 NOVEMBER WE ARRANGED TO MOVE HER TO AN ASSISTED LIVING CLOSE  
17 TO FUQUAY IN ANGIER, NORTH CAROLINA, WHICH IS NOT FAR FROM  
18 FUQUAY.

19 Q. OKAY. AND IN THE MONTHS BETWEEN GOING TO THE HOSPITAL  
20 AND THEN GOING BACK TO ASSISTED LIVING AND EVENTUALLY MOVING  
21 TO ASSISTED LIVING IN FUQUAY, YOU CONTINUED TO VISIT HER IN  
22 THE FACILITY IN FAYETTEVILLE?

23 A. CORRECT.

24 Q. OKAY. AND DID THERE COME A TIME DURING ONE OF THOSE  
25 VISITS WHERE YOU TALKED TO HER ABOUT THE MACDONALD MATTER?

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1 A. WELL, GIVEN I UNDERSTOOD THEN THAT HER TIME WAS DRAWING  
2 SHORT, ESPECIALLY AFTER THE LAST HOSPITAL VISIT WITH THE  
3 PNEUMONIA, WE JUST WOULD HAVE SOME INTIMATE DISCUSSIONS ABOUT  
4 OUR FAMILY.

5 AND I WOULD QUESTION HER -- I STARTED QUESTIONING  
6 HER ABOUT MY SISTER'S INVOLVEMENT BECAUSE I KNEW SHE WAS ONE  
7 OF THE REMAINING SOURCES OF WHAT I FELT WAS TRUE ABOUT WHAT  
8 HAD HAPPENED AND THAT'S WHEN WE STARTED DISCUSSING IT.

9 Q. OKAY. AND WHAT DID YOUR MOM TELL YOU WHEN YOU WERE --  
10 AND I TAKE IT ASKING HER ABOUT THIS WAS SOMETHING SOMEWHAT  
11 UNUSUAL BECAUSE, AS YOU'VE SAID, IT WAS A SUBJECT THAT JUST  
12 WASN'T DISCUSSED IN THE HOUSE.

13 A. RIGHT.

14 Q. AND AT THAT POINT YOUR FATHER WAS NO LONGER LIVING?

15 A. THAT'S CORRECT.

16 Q. AND WHAT DID SHE TELL YOU ABOUT -- IN ANSWER TO YOUR  
17 QUESTIONS WHEN YOU ASKED HER ABOUT THE MACDONALD ISSUE?

18 A. WELL, I JUST WANTED TO KNOW ABOUT MY SISTER'S INVOLVEMENT  
19 SO I WOULD KNOW THE TRUTH AND SHE SAID THAT HELENA WAS THERE  
20 THAT NIGHT.

21 Q. AND WHY DID SHE BELIEVE THAT TO BE THE CASE?

22 A. BECAUSE HELENA HAD CONFIDED IN HER DURING THAT VISIT IN  
23 FAYETTEVILLE WHEN SHE HAD BROUGHT DAVID TO SEE HER.

24 Q. THAT WAS THE VISIT IN ROUGHLY OCTOBER OF --

25 A. '82.

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1 Q. -- '82?

2 A. YES.

3 Q. AND DID SHE SAY WHY SHE THOUGHT HELENA CONFIDED IN HER  
4 DURING THAT VISIT?

5 A. SHE SAID HELENA KNEW SHE WAS DYING.

6 Q. AND WANTED TO TELL YOUR MOM?

7 A. SHE JUST SAID SHE KNEW -- THAT HELENA KNEW SHE WAS DYING  
8 AND I DON'T KNOW THE SPECIFICS OTHER THAN SHE JUST CONFIDED IN  
9 HER ALL THAT SHE KNEW.

10 Q. OKAY. AND TELL US AGAIN WHAT YOUR MOTHER SAID HELENA  
11 CONFIDED IN HER.

12 A. MY MOTHER SAID THAT HELENA WAS THERE AND THAT DR.  
13 MACDONALD WAS NOT GUILTY OF THE CRIMES.

14 Q. OKAY. AND BY THERE, WHAT DID SHE MEAN?

15 A. PRESENT AT THE HOUSE THE NIGHT OF THE MURDERS.

16 Q. OKAY. AND ONCE YOUR MOTHER AND YOU HAD THAT DISCUSSION,  
17 DID THERE COME A TIME WHERE YOU ASKED HER IF SHE WANTED TO  
18 TELL ANYBODY ELSE ABOUT THAT?

19 A. IT WEIGHED HEAVILY ON MY MIND. I DIDN'T REALLY KNOW WHAT  
20 TO DO WITH THE KNOWLEDGE. IT WAS SOMETHING I CONSIDERED  
21 CAREFULLY. THE LAST THING I WANTED WAS TO DRAW ATTENTION TO  
22 THE REMAINING FAMILY MEMBERS, BUT, BY THE SAME TOKEN, I FELT  
23 SOMEHOW MORALLY OBLIGATED TO TELL SOMEBODY.

24 SO, I DISCUSSED IT IN MORE DETAIL WITH MY MOTHER,  
25 ASKED HER IF SHE CARED TO DIVULGE THIS INFORMATION TO SOMEBODY

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1 OUTSIDE OF THE FAMILY.

2 Q. AND WHAT DID YOUR MOTHER TELL YOU?

3 A. SHE SAID THAT IF THERE WAS SOMEONE WHO WOULD LISTEN AND  
4 THAT WHERE SHE THOUGHT IT MIGHT DO SOME GOOD SHE WOULD BE  
5 WILLING TO DO SO.

6 Q. OKAY. AND DID YOU IMMEDIATELY DO ANYTHING IN RESPONSE TO  
7 THAT?

8 A. I DIDN'T REALLY KNOW WHAT TO DO OR WHO I WOULD CONTACT.

9 Q. AND DID YOU TALK TO YOUR OTHER SIBLINGS ABOUT YOUR MOM'S  
10 DESIRE TO COME FORWARD?

11 A. AT THAT POINT, NO. I DISCUSSED IT WITH MY WIFE.

12 Q. OKAY. AND DID YOU DISCUSS IT WITH ANYBODY ELSE OTHER  
13 THAN YOUR MOTHER AND YOUR WIFE THAT YOU RECALL?

14 A. NO.

15 Q. OKAY. AND HOW LONG DID YOU THINK ABOUT IT BEFORE YOU  
16 TOOK ANY ACTION, AGAIN, ROUGHLY?

17 A. I WOULD SAY WITHIN A MATTER OF A FEW WEEKS AFTER JUST  
18 THINKING THROUGH IT, THINKING OF THE CONSEQUENCES, THINKING OF  
19 WHAT IT WOULD MEAN, THE NEGATIVE PUBLICITY THINGS. THE WHOLE  
20 CASE WAS SO -- JUST HAD TOUCHED A LOT OF PEOPLE IN WAYS THAT  
21 MANY PEOPLE DIDN'T REALIZE.

22 Q. OKAY. AND DURING THAT SEVERAL WEEKS THAT YOU THOUGHT  
23 ABOUT IT, THE ONLY PERSON YOU REALLY TALKED TO WAS YOUR WIFE,  
24 YOU DIDN'T TALK TO YOUR SIBLINGS DURING THAT TIME?

25 A. CORRECT. JUST MY WIFE.

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1 Q. OKAY. AND AFTER TALKING ABOUT IT WITH YOUR WIFE DID YOU  
2 MAKE A DECISION?

3 A. I LISTENED TO HER INPUT AND SHE SIMPLY CAUTIONED ME AS TO  
4 MAKING SURE I UNDERSTOOD WHAT WOULD HAPPEN, MY WIFE DID. AND  
5 I SIMPLY WENT ON THE INTERNET AND TRIED TO FIND SOMETHING  
6 CURRENT IN THE CASE AS I HAVEN'T KEPT UP WITH IT AND I FOUND  
7 KATHRYN'S WEBSITE.

8 Q. KATHRYN?

9 A. MACDONALD. AND IT APPEARED TO HAVE CURRENT INFORMATION  
10 AND I READ THAT APPARENTLY THEY WERE TRYING TO GET A HEARING  
11 OR THEY HAD FOUND NEW EVIDENCE, I DON'T RECALL THE DETAILS,  
12 BUT I JUST BELIEVED THAT THAT WOULD BE THE PERSON I NEEDED TO  
13 CONTACT. THAT WAS THE ONLY PERSON I WOULD KNOW TO CONTACT.

14 Q. OKAY. I TAKE IT FROM THE EMOTION THAT YOU'RE SHOWING  
15 HERE ON THE STAND THAT THAT WAS NOT SOMETHING YOU DID LIGHTLY?

16 A. NO. NO.

17 Q. AND YOU THOUGHT CAREFULLY ABOUT IT BEFORE YOU DECIDED YOU  
18 WANTED TO CONTACT SOMEBODY?

19 A. VERY MUCH.

20 Q. AND AT THAT POINT, DID YOU CONTACT KATHRYN MACDONALD?

21 A. YES, I SENT HER AN EMAIL.

22 Q. AND WAS THAT THE FIRST CONTACT YOU HAD EVER HAD WITH MS.  
23 MACDONALD?

24 A. YES.

25 Q. AND WHAT HAPPENED AFTER YOU INITIATED THIS CONTACT?

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1 A. I DON'T REMEMBER THE EXACT DETAILS, BUT -- WELL, WE  
2 EXCHANGED EMAILS AND THEN I BELIEVE SHE ARRANGED TO HAVE ME  
3 CALL HER BASED ON OUR SCHEDULES. AND, AGAIN, I CAN'T REMEMBER  
4 THE -- I KNOW IT DIDN'T TAKE MORE THAN A COUPLE OF DAYS BEFORE  
5 SHE SAID SHE WANTED TO COME DOWN AND MEET WITH ME AND DISCUSS  
6 THIS PERSON TO PERSON. AND SO WE ARRANGED THAT WE WOULD MEET  
7 IN FUQUAY.

8 Q. AND WAS THERE ANYBODY ELSE PRESENT AT THAT MEETING?

9 A. NO. WE MET AT A RESTAURANT THERE IN FUQUAY IN A PUBLIC  
10 PLACE.

11 Q. OKAY. AND DID YOU MEET FOR A LONG TIME OR A SHORT TIME  
12 OR DO YOU RECALL?

13 A. IT SEEMED LIKE WE WERE THERE A WHILE, A PRETTY GOOD  
14 WHILE.

15 Q. OKAY.

16 A. I WOULD ALMOST VENTURE A GUESS THAT IT MAY HAVE LASTED  
17 TWO HOURS.

18 Q. OKAY. AND WHAT HAPPENED NEXT AFTER YOU HAD THIS TALK FOR  
19 SEVERAL HOURS WITH MS. MACDONALD?

20 A. I, OF COURSE, JUST FILLED HER IN ON MOTHER'S SITUATION  
21 AND WHAT SHE HAD TOLD ME AND, YOU KNOW, I SORT OF LAID THE  
22 GROUND RULES BECAUSE, AGAIN, I WAS -- MY PRIMARY INTEREST WAS  
23 TO MAKE SURE SHE WAS PROTECTED.

24 Q. AND WHEN YOU SAY YOU LAID THE GROUND RULES, WHAT KIND OF  
25 GROUND RULES DID YOU LAY?

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1 A. WELL, I STIPULATED THAT IF AT ANY TIME MY MOTHER WAS  
2 UNCOMFORTABLE FOR ANY REASON TO GO FORWARD WITH THIS OR EVEN  
3 HAVE AN INTERVIEW WITH MRS. MACDONALD, THAT THAT WAS IT.  
4 THERE WOULD BE NO MORE. I WOULD STOP IT.

5 Q. SO, ONCE AGAIN, SORT OF BEING PROTECTIVE OF YOUR MOM?

6 A. ABSOLUTELY.

7 Q. OKAY. AND AFTER YOU HAD THIS INITIAL MEETING WITH MS.  
8 MACDONALD AND SET THESE GROUND RULES, WHAT HAPPENED NEXT?

9 A. WE DROVE TO FAYETTEVILLE TO THE ASSISTED LIVING CENTER  
10 AND I WENT IN BEFOREHAND TO CHECK ON MY MOM AND SEE HOW SHE  
11 WAS DOING. I EXPLAINED TO HER THAT MRS. MACDONALD WAS THERE  
12 AND I ASKED HER IF SHE WANTED TO MEET HER AND TALK TO HER.  
13 SHE SAID THAT WOULD BE FINE.

14 Q. LET ME BACK UP A SECOND. DID YOUR MOM KNOW THAT YOU HAD  
15 CONTACTED KATHRYN MACDONALD?

16 A. I HAD TOLD HER BEFOREHAND THAT I HAD EITHER CONTACTED --  
17 I DON'T KNOW IF I TOLD HER SPECIFICALLY THAT IT WAS KATHRYN  
18 MACDONALD OR SOMEBODY ABOUT IT. I CAN'T RECALL IF I TOLD HER  
19 SPECIFICALLY.

20 Q. FAIR ENOUGH. AND DID SHE KNOW YOU WERE MEETING SOMEBODY?

21 A. YES.

22 Q. OKAY. SO, SHE KNEW THOSE THINGS WERE HAPPENING AND THEN  
23 YOU WENT TO THE ASSISTED LIVING FACILITY WITH KATHRYN  
24 MACDONALD AND SHE WAITED SOME PLACE WHILE YOU WENT IN AND  
25 TALKED TO YOUR MOM?

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1 A. YES, SHE WAS OUT IN THE PARKING LOT AND MET MY BROTHER  
2 WHO HAD WALKED DOWN THERE WITH A FRIEND OF MINE FROM  
3 FAYETTEVILLE WHO STOPPED BY TO VISIT BECAUSE HE KNEW I WAS  
4 GOING TO BE IN THE AREA AND HE HAPPENED TO BE UP FROM SOUTH  
5 CAROLINA AND WANTED TO SEE ME FOR A MINUTE.

6 THE COURT: WELL, LET'S TAKE A RECESS TILL 10:45.

7 (RECESS TAKEN FROM 10:30 A.M., UNTIL 10:45 A.M.)

8 (DEFENDANT PRESENT.)

9 THE COURT: PLEASE BE SEATED AND WE'LL CONTINUE.

10 MR. WIDENHOUSE, THE WITNESS IS WITH YOU. YOU'RE STILL UNDER  
11 OATH, OF COURSE, MR. STOECKLEY.

12 MR. WIDENHOUSE: THANK YOU, YOUR HONOR.

13 BY MR. WIDENHOUSE:

14 Q. MR. STOECKLEY, I BELIEVE WHEN WE BROKE, WE WERE AT THE  
15 ASSISTED LIVING CENTER AND YOU HAD GONE IN TO TALK TO YOUR MOM  
16 AND MS. MACDONALD WAS WAITING IN HER CAR.

17 A. THAT'S CORRECT.

18 Q. AND CAN YOU TELL US WHAT HAPPENED AT THAT POINT? WHAT  
19 DID YOU TALK TO YOUR MOM ABOUT?

20 A. YES. SHE APPEARED TO BE PHYSICALLY HAVING A GOOD DAY,  
21 WASN'T TIRED, AND SHE AGREED TO HAVE MS. MACDONALD COME IN AND  
22 MEET HER.

23 Q. LET ME ASK YOU A QUESTION. DURING THE TIME THAT YOUR MOM  
24 WAS IN THE ASSISTED LIVING FACILITY AT THIS POINT AFTER BEING  
25 IN THE HOSPITAL, WHAT WERE HER MENTAL FACULTIES LIKE?

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1 A. HER MENTAL STATE WAS ALWAYS SHARP, BUT SHE HAD DIFFICULTY  
2 WITH HER BREATHING DUE TO THE EMPHYSEMA. SHE WAS ON CONSTANT  
3 OXYGEN THERAPY AND SO SHE WOULD BECOME SHORT OF BREATH WHICH  
4 WOULD MAKE HER TIRED. BUT AS FAR AS MENTALLY, SHE WAS ALWAYS  
5 ALERT. SHE WAS ALWAYS AWARE OF HER SURROUNDINGS AND WHO WAS  
6 THERE.

7 Q. AND WHEN YOU WOULD TALK TO HER WHEN YOU VISITED, DID YOU  
8 HAVE ANY TROUBLE COMMUNICATING WITH HER?

9 A. ABSOLUTELY NOT.

10 Q. I TAKE IT THAT MEANS SHE'S TALKATIVE?

11 A. OH, SHE'D ENGAGE YOU.

12 Q. OKAY. AND SHE UNDERSTOOD WHAT SHE WAS DOING? WHEN YOU  
13 WOULD TALK TO HER ABOUT THINGS YOU HAD DONE AS A CHILD OR AS A  
14 FAMILY --

15 A. ABSOLUTELY.

16 Q. -- SHE WOULD KNOW WHAT YOU WERE TALKING ABOUT AND BE ABLE  
17 TO CARRY ON A CONVERSATION ABOUT THOSE THINGS WITH YOU?

18 A. ABSOLUTELY.

19 Q. OKAY. AND TAKING YOU BACK TO THE ASSISTED LIVING CENTER  
20 WHEN YOU'RE IN WITH YOUR MOM AND YOU TALK TO HER ABOUT MRS.  
21 MACDONALD BEING OUT IN HER CAR, WHAT HAPPENED AFTER YOU TALKED  
22 TO YOUR MOM ABOUT THAT?

23 A. I JUST WENT OUT TO THE PARKING LOT AND MRS. MACDONALD WAS  
24 TALKING TO MY BROTHER AT THAT TIME AND I JUST LET HER KNOW  
25 THAT MY MOTHER AGREED TO MEET HER AND TALK TO HER.

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1 Q. OKAY. AND WHAT HAPPENED THEN?

2 A. I TOOK HER IN THE FACILITY TO MEET MY MOM AND INTRODUCED  
3 THEM.

4 Q. OKAY. AND YOU WERE IN YOUR MOM'S ROOM AT THAT POINT?

5 A. YES.

6 Q. AND WHO WAS IN THE ROOM BESIDES YOUR MOTHER?

7 A. JUST MYSELF AND MRS. MACDONALD AT THAT POINT.

8 Q. OKAY. AND CAN YOU TELL US WHAT WAS DISCUSSED AMONG THE  
9 THREE OF YOU IN YOUR MOM'S ROOM?

10 A. INITIALLY, IT WAS JUST SMALL TALK, JUST VERY LIGHT TALK  
11 ABOUT HOW ARE YOU DOING AND SHE WAS PLEASED TO MEET HER AND MY  
12 MOTHER DIDN'T REALIZE THAT MR. MACDONALD HAD REMARRIED. SO,  
13 IT WAS JUST VERY LIGHT TALK.

14 AND THEN SO WE SAT THERE A WHILE AND WE JUST -- I  
15 EXPLAINED TO MOTHER WHY WE WERE THERE AND WHAT -- YOU KNOW,  
16 WHATEVER SHE WANTED TO DISCUSS, FEEL FREE TO.

17 Q. AND DID SHE TELL Y'ALL -- Y'ALL -- YOU AND MS. MACDONALD  
18 THE SAME THINGS THAT SHE HAD TOLD YOU WHEN THE TWO OF YOU HAD  
19 TALKED ABOUT --

20 A. YES. SHE JUST COVERED WHAT WE HAD ALREADY -- SHE HAD  
21 TOLD ME, THAT MY SISTER HAD BEEN THERE THAT NIGHT. AND AT  
22 THAT POINT, MRS. MACDONALD JUST -- I GUESS HER REACTION WAS  
23 ONE OF KIND OF RELIEF. AND SHE ASKED ME IF WE COULD BRING THE  
24 ATTORNEY DOWN, HART MILES, IF WE COULD GET HIM INVOLVED. AND  
25 I BELIEVE AT SOME POINT KATHRYN WENT AND MADE A CELL PHONE

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1 CALL TO THE ATTORNEY.

2 Q. OKAY. AND I TAKE IT BEFORE YOU LET HER CONTACT AN  
3 ATTORNEY WHO MIGHT POSSIBLY COME DOWN TO THE ASSISTED LIVING  
4 CENTER YOU THOUGHT ABOUT WHETHER THAT WAS A GOOD IDEA IN TERMS  
5 OF YOUR MOTHER'S CONDITION?

6 A. WELL, HER CONDITION -- SHE WAS FINE THEN TO ENGAGE  
7 FURTHER AND HAVE MORE COMPANY VISIT WITH HER.

8 Q. OKAY. AND WHAT HAPPENED AFTER MS. MACDONALD LEFT THE  
9 ROOM TO CONTACT MR. MILES?

10 A. I JUST REMAINED THERE AND VISITED WITH MY MOTHER LIKE I'D  
11 NORMALLY DO.

12 Q. AND DID THERE COME A TIME WHEN SOME OTHER PEOPLE ARRIVED  
13 AT THE ASSISTED LIVING CENTER?

14 A. MRS. MACDONALD CAME BACK AND TOLD ME THAT HART HAD AGREED  
15 TO COME DOWN THEN, THAT AFTERNOON, WITH HIS PARALEGAL. AND  
16 SHE ASKED ME WHETHER I FELT THAT MOTHER WOULD BE WILLING TO  
17 GIVE AN AFFIDAVIT AS TO WHAT SHE HAD TOLD US. AND I SAID,  
18 WELL, WE'LL ASK HER. AND I'M SURE SHE AGREED AT SOME POINT  
19 THERE TO, YOU KNOW, DO SO.

20 Q. AND DID YOU DISCUSS WITH YOUR MOM WHETHER SHE WOULD BE  
21 WILLING TO DO AN AFFIDAVIT?

22 A. THAT'S -- AFTER KATHRYN HAD TALKED TO HART AND LET ME  
23 KNOW THAT HE WAS GOING TO COME DOWN FROM RALEIGH. I INITIALLY  
24 THOUGHT THAT IT MAY BE A DAY OR TWO THAT HE WOULD COME DOWN  
25 AND WE'D ARRANGE ANOTHER MEETING. AND SO, OF COURSE, I

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1 INFORMED MY MOTHER THAT THIS ATTORNEY WOULD COME DOWN AND  
2 SPEAK TO HER AND SHE WAS FINE WITH THAT.

3 Q. AND AS SORT OF HER FAMILIAL CARE GIVER YOU WERE OKAY WITH  
4 THAT AS WELL?

5 A. I WAS FINE. EVERYTHING WAS GOING OKAY AND I DIDN'T SEE  
6 ANY REASON THAT I SHOULD INTERFERE AT THAT POINT.

7 Q. AND DID THERE COME A TIME LATER THAT DAY WHEN MR. MILES  
8 AND HIS PARALEGAL ARRIVED AT THE ASSISTED LIVING CENTER?

9 A. CORRECT.

10 Q. AND WHEN THEY ARRIVED, WHAT HAPPENED INITIALLY?

11 A. THEY ARRIVED AND I BROUGHT THEM TO MY MOM'S ROOM AND  
12 INTRODUCED THEM.

13 Q. WHEN THEY ARRIVED, DID YOU HAVE ANY DISCUSSION ABOUT  
14 GROUND RULES WITH THEM?

15 A. I DON'T REMEMBER IF I TOLD THEM DIRECTLY. SO, I CAN'T  
16 SAY YES OR NO WITH THAT. I JUST MADE SURE THAT KATHRYN  
17 MACDONALD UNDERSTOOD THAT, THAT IF MY MOTHER GOT TO THE POINT  
18 WHERE SHE WAS UNCOMFORTABLE WITH WHAT WAS GOING ON IN ANY WAY  
19 THEN THEY'D HAVE TO LEAVE.

20 Q. OKAY.

21 A. I WASN'T GOING TO ALLOW IT TO CONTINUE.

22 Q. ALL RIGHT. AND CAN YOU TELL US A LITTLE BIT ABOUT THE  
23 PREPARATION OF THIS AFFIDAVIT?

24 A. WELL, WE JUST SAT THERE IN A PRETTY CASUAL SETTING AND  
25 JUST -- MOM JUST RELATED WHAT SHE HAD TOLD US ABOUT MY SISTER

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1 BEING THERE THAT NIGHT AND SHE TOUCHED ON THE TOPIC OF THE  
2 HARASSING PHONE CALLS.

3 SHE SAID THAT HELENA WAS INTIMIDATED AND TOLD TO  
4 KEEP QUIET. SHE SAID AN FBI AGENT HAD CONTACTED THEM DIRECTLY  
5 AND TOLD THEM TO FIND A WAY TO KEEP HELENA'S MOUTH SHUT AND TO  
6 KEEP HER OUT OF -- HER NOSE OUT OF THE BUSINESS. AND THOSE  
7 WERE THE MAIN TOPICS THERE.

8 THE COURT: I'M SORRY, I'M HAVING TROUBLE. WHO TOLD  
9 HELENA THAT?

10 THE WITNESS: HELENA TOLD -- OH, MY MOTHER SAID THAT  
11 THE FBI HAD CONTACTED MY MOTHER AND FATHER AT SOME POINT BACK  
12 DURING THE TRIAL AND TOLD THEM TO TELL HELENA OR HAVE THEM  
13 KEEP HELENA UNDER CONTROL AND THAT SHE SHOULD KEEP HER MOUTH  
14 SHUT AND KEEP HER NOSE OUT OF THE BUSINESS OF THE CASE.

15 BY MR. WIDENHOUSE:

16 Q. OKAY. AND WHEN YOU WERE HAVING THIS CONVERSATION WITH  
17 YOUR MOM, HOW MANY PEOPLE WERE IN THE ROOM, IF YOU RECALL, IN  
18 YOUR MOM'S ROOM?

19 A. IT WOULD HAVE BEEN THE FOUR OF US. OCCASIONALLY, A CNA  
20 MIGHT COME IN DOING ROUNDS AND POP IN AND ASK IF SHE NEEDED  
21 ANYTHING AND USUALLY I'D JUST INTERVENE AND SAY WE'RE FINE.

22 Q. AND CAN YOU TELL US WHAT A CNA IS?

23 A. CERTIFIED NURSING ASSISTANT.

24 Q. OKAY. AND IT'S JUST A ROUTINE CHECK THAT WOULD BE  
25 HAPPENING BECAUSE YOUR MOM WAS IN ASSISTED LIVING?

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1 A. THEY COME AROUND JUST TO SEE IF SHE NEEDED ANYTHING, ANY  
2 WATER, ANY BATHROOM ASSISTANCE, ANYTHING ALONG THOSE LINES.

3 Q. OKAY. AND WHEN YOU SAY THE FOUR OF US IN THE ROOM, WHO  
4 WERE THE FOUR PEOPLE IN THE ROOM AGAIN?

5 A. WELL, THERE WAS HART MILES AND I THINK LAURA, HIS  
6 PARALEGAL, MRS. MACDONALD AND MYSELF AND THEN MY MOTHER WAS  
7 THERE.

8 Q. OKAY. SO, FOUR OF YOU AND YOUR MOM?

9 A. IN ADDITION TO MY MOM.

10 Q. OKAY. AND DID THERE COME A TIME THAT AN AFFIDAVIT  
11 DOCUMENT WAS PREPARED AND TYPED UP?

12 A. YES. I REMEMBER I STAYED WITH MY MOTHER THERE, BUT THERE  
13 WAS A SMALL OFFICE ADJOINING THE NURSE'S STATION WHICH HAD A  
14 DOOR TO IT THAT COULD BE CLOSED, BUT THERE WAS OBVIOUSLY A PC  
15 IN THERE AND A PRINTER AND HART AND LAURA, THEY WERE  
16 DISCUSSING THINGS. I WASN'T IN THERE WATCHING WHAT THEY --  
17 YOU KNOW, I JUST STAYED WITH MY MOTHER THE WHOLE TIME.

18 Q. AND WOULD THEY COME BACK FROM TIME TO TIME AND HAVE YOU  
19 READ PARTS OF THE AFFIDAVIT TO YOUR MOM SO THAT SHE COULD  
20 COMMENT ON --

21 A. AFTER THEY HAD, I GUESS, THE BODY OF IT TYPED UP THEY  
22 BROUGHT IT IN AND ASKED ME TO READ IT OVER AND THEN I READ IT  
23 TO MY MOTHER AS IT WAS WRITTEN AND I TOLD HER YOU NEED TO TELL  
24 ME IF THERE'S ANYTHING HERE THAT'S NOT HOW IT'S SUPPOSED TO BE  
25 OR WHAT YOU SAID OR ANYTHING.

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1 SO, THERE WERE A FEW CORRECTIONS MADE. YOU KNOW,  
2 SHE WOULD JUST SAY, WELL, THAT'S NOT WHAT I MEANT OR I DIDN'T  
3 SAY IT QUITE THAT WAY. IT WAS MAINLY JUST THE VERBIAGE, NOT  
4 THE INFORMATION.

5 Q. DURING THAT TIME OF THE PREPARATION OF THE AFFIDAVIT WAS  
6 ANYBODY TELLING YOUR MOM WHAT TO SAY?

7 A. ABSOLUTELY NOT.

8 Q. AND AS BEST YOU COULD TELL, KNOWING HER AS YOU KNEW HER  
9 AND UNDERSTANDING HER SORT OF MENTAL FACULTIES AT THE TIME,  
10 WAS SHE ACTING FREELY AND VOLUNTARILY?

11 A. OH, CERTAINLY. YES.

12 Q. OKAY. I'M GOING TO SHOW YOU -- AN EXHIBIT IS GOING TO  
13 COME UP ON THAT SCREEN. IT'S DEFENSE EXHIBIT 5051. AND THE  
14 FIRST THING I WANT YOU TO DO IS JUST WATCH US SCROLL THROUGH  
15 IT AND SEE IF IT -- IF YOU CAN TELL US WHAT IT IS.

16 A. THE BODY OF THE AFFIDAVIT THAT WAS READ TO MY MOM.

17 (DEFENSE EXHIBIT NUMBER 5051

18 WAS IDENTIFIED FOR THE RECORD.)

19 Q. ALL RIGHT. AND LET ME SHOW YOU THE THIRD PAGE OF THE  
20 AFFIDAVIT. DOES THAT APPEAR TO BE A PAGE WHERE THERE ARE  
21 SIGNATURES?

22 A. YES.

23 Q. AND DO YOU RECOGNIZE THE THIRD SIGNATURE ON THE PAGE?

24 A. THE THIRD SIGNATURE IS MINE.

25 Q. ALL RIGHT. AND DID YOU PUT YOUR SIGNATURE ON THAT

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1 DOCUMENT?

2 A. YES.

3 Q. OKAY. AND THE SIGNATURE AT THE TOP OF THE PAGE, THE  
4 FIRST SIGNATURE, WHOSE SIGNATURE WAS THAT?

5 A. THAT'S MY MOTHER'S.

6 Q. OKAY. AND DID YOU SEE YOUR MOM SIGN THE DOCUMENT?

7 A. YES.

8 Q. OKAY. AND CAN YOU -- YOU SAID SHE HAD TROUBLE SEEING.  
9 HOW WAS SHE ABLE TO SIGN IT?

10 A. I TOOK HER HAND -- SHE HELD THE PEN AND I TOOK HER HAND  
11 AND JUST PLACED IT UP IN THE AREA OF THE LINE AND I TOLD HER  
12 TO SIGN HER NAME.

13 Q. OKAY. SO, THAT'S HER SIGNATURE THERE, NOT SOMEBODY  
14 ELSE'S?

15 A. OH, ABSOLUTELY.

16 Q. OKAY. AND BEFORE SHE PUT HER SIGNATURE ON THAT PAGE DID  
17 YOU READ THE FIRST TWO PAGES TO HER WORD FOR WORD?

18 A. THAT'S CORRECT.

19 Q. AND WHEN YOU WERE READING IT, DID YOU READ IT SLOWLY SO  
20 THAT SHE COULD -- SO THAT YOU WERE SURE SHE UNDERSTOOD WHAT  
21 YOU WERE READING?

22 A. YES.

23 Q. AND SHE WAS COMFORTABLE AND AGREED WITH EVERYTHING THAT  
24 YOU HAD READ TO HER?

25 A. SHE WOULDN'T HAVE SIGNED IT UNLESS SHE WAS.

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1 Q. OKAY. AND, AGAIN, SHE WAS ALERT?

2 A. ABSOLUTELY.

3 Q. KNEW WHAT SHE WAS DOING?

4 A. YES.

5 Q. AND NOBODY WAS FORCING HER TO SIGN THIS DOCUMENT?

6 A. NOBODY FORCED HER.

7 Q. I'M GOING TO DRAW YOUR ATTENTION TO PARAGRAPH TWO OF THE  
8 AFFIDAVIT. AND COULD YOU READ THAT LINE FOR US OUT LOUD?

9 A. PARAGRAPH TWO?

10 Q. YES.

11 A. NOT THE HIGHLIGHTED?

12 Q. YES, PARAGRAPH TWO THAT'S HIGHLIGHTED. NUMBER TWO, I'M  
13 SORRY.

14 A. NUMBER TWO. I WAS VERY CLOSE TO MY DAUGHTER AND HELD HER  
15 CONFIDENCES.

16 Q. OKAY. AND I'D LIKE TO DRAW YOUR ATTENTION TO THE  
17 PARAGRAPH NUMBERED FIVE AND ASK YOU IF YOU COULD READ THAT  
18 INTO THE RECORD FOR US.

19 A. ON THE SECOND OCCASION WHEN SHE CONFIDED IN ME, MY  
20 DAUGHTER KNEW SHE WAS DYING. SHE WANTED TO SET THE RECORD  
21 STRAIGHT WITH HER MOTHER ABOUT THE MACDONALD MURDERS, AND THAT  
22 SHE WISHED SHE HAD NOT BEEN PRESENT IN THE HOUSE AND KNEW THAT  
23 DR. MACDONALD WAS INNOCENT.

24 Q. OKAY. AND WHEN YOUR MOTHER REFERS TO THE SECOND OCCASION  
25 WHEN HELENA CONFIDED IN HER, WHAT OCCASION IS SHE TALKING

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1 ABOUT?

2 A. THAT WOULD HAVE BEEN IN REFERENCE TO THE LAST TIME I SAW  
3 HELENA THERE IN FAYETTEVILLE, THE WEEK SHE WAS THERE VISITING  
4 WITH DAVID.

5 Q. OKAY. THAT WOULD HAVE BEEN IN ROUGHLY OCTOBER OF 1982?

6 A. THAT'S CORRECT.

7 Q. AND SHE DIED SHORTLY AFTER THAT, IS THAT CORRECT?

8 A. THAT'S CORRECT, JANUARY OF 1983.

9 Q. I WANT TO TAKE YOU TO PARAGRAPH NUMBER 11 AND I'M GOING  
10 TO ASK YOU IF YOU WOULD READ THAT INTO THE RECORD AS WELL.

11 A. ON THE SECOND OCCASION DURING WHICH SHE CONFIDED IN ME,  
12 SHE TOLD ME SHE COULD NO LONGER LIVE WITH THE GUILT OF KNOWING  
13 SHE HAD BEEN IN THE HOUSE BUT LIED ABOUT IT AT THE TRIAL. SHE  
14 TOLD ME SHE WAS AFRAID TO TELL THE TRUTH BECAUSE SHE WAS  
15 AFRAID OF THE PROSECUTOR.

16 Q. OKAY. AND I'D LIKE TO TAKE YOU TO NUMBER 13 AND ASK IF  
17 YOU WOULD READ THAT INTO THE RECORD FOR US.

18 A. AS HER MOTHER, I FELT HELENA WAS TELLING ME THE FULL  
19 TRUTH ABOUT BEING IN THE MACDONALD HOUSE ON THE NIGHT OF THE  
20 MURDERS. SHE STATED TO ME THAT SHE WANTED TO SET THINGS  
21 STRAIGHT BEFORE SHE DIED.

22 Q. WAS YOUR MOTHER UNDER THE IMPRESSION THAT HELENA KNEW SHE  
23 WAS DYING WHEN SHE CAME AND VISITED IN OCTOBER?

24 A. PRETTY CERTAIN OF THAT.

25 MR. WIDENHOUSE: CAN I HAVE JUST A MOMENT, YOUR

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1 HONOR?

2 THE COURT: YES, SIR.

3 (PAUSE.)

4 MR. WIDENHOUSE: THANK YOU, YOUR HONOR. NO FURTHER  
5 QUESTIONS.

6 THE COURT: CROSS.

7 MR. BRUCE: THANK YOU, YOUR HONOR.

8 C R O S S - E X A M I N A T I O N 11:02 A.M.

9 BY MR. BRUCE:

10 Q. GOOD MORNING, MR. STOECKLEY. I'M JOHN BRUCE. I'D LIKE  
11 TO ASK A FEW QUESTIONS.

12 A. GOOD MORNING.

13 Q. YOU INDICATED THAT YOU WERE THE LAST IN THE BIRTH ORDER  
14 OF THE STOECKLEY FAMILY, IS THAT RIGHT?

15 THE COURT: WOULD YOU PULL THE MIC A LITTLE CLOSER  
16 TO YOU, MR. BRUCE? THANK YOU.

17 BY MR. BRUCE:

18 Q. SORRY ABOUT THAT. YOU INDICATED THAT YOU WERE LAST IN  
19 THE BIRTH ORDER IN THE STOECKLEY FAMILY, IS THAT CORRECT?

20 A. YES, SIR.

21 Q. AND YOUR SISTER, HELENA, WAS ABOUT SIX YEARS OLDER THAN  
22 YOU?

23 A. YES, SIR.

24 Q. AND DO I UNDERSTAND THAT FEBRUARY 16TH, HAPPENS TO BE  
25 YOUR BIRTHDAY?

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1 A. YES, SIR.

2 Q. SO, FEBRUARY 16TH, 1970, WOULD HAVE BEEN YOUR 11TH  
3 BIRTHDAY, IS THAT RIGHT?

4 A. IT WOULD HAVE BEEN, WHAT, MY TENTH.

5 Q. WHAT YEAR WERE YOU BORN?

6 A. FEBRUARY '59.

7 Q. OKAY.

8 A. WELL, '70 WOULD HAVE BEEN -- RIGHT.

9 Q. ELEVENTH?

10 A. ELEVENTH.

11 Q. ALL RIGHT. AND IS IT TRUE THAT ON YOUR 11TH BIRTHDAY,  
12 FEBRUARY 16TH, THAT YOUR SISTER CAME TO VISIT YOU?

13 A. SHE WAS AT THE HOUSE.

14 Q. AND SHE HAD ICE CREAM AND BIRTHDAY CAKE WITH YOU?

15 A. I REMEMBER SHE WAS THERE AND MY MOTHER ALWAYS PREPARED A  
16 LITTLE SOMETHING FOR US WHEN WE WERE CHILDREN.

17 Q. AND DID SHE BRING YOU A GIFT?

18 A. I CAN'T REMEMBER SPECIFICALLY.

19 Q. AND WAS THERE ANOTHER FEMALE WITH HER?

20 A. I DON'T RECALL IF THERE WAS OR NOT. SHE OFTENTIMES CAME  
21 ALONE OR SOMEBODY WOULD DROP HER OFF.

22 Q. DID SHE SEEM PERFECTLY NORMAL THAT DAY TO YOU?

23 A. SHE DID, YES.

24 Q. NO EVIDENCE THAT SHE WAS USING DRUGS?

25 A. NO. SHE WAS -- SHE WAS PRETTY LEVEL HEADED IN THAT

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1 REGARD BECAUSE SHE KNEW MY PARENTS WOULDN'T ALLOW THAT AROUND  
2 THE HOUSE.

3 Q. SO, IT WAS A HAPPY OCCASION FOR YOU ON THAT DAY?

4 A. PRETTY MUCH.

5 Q. NOW, YOU INDICATED THAT YOUR MOTHER'S HEALTH WAS  
6 DECLINING SOMEWHAT IN THE 2000S, THE EARLY PART OF THAT  
7 DECADE, IS THAT RIGHT?

8 A. CORRECT.

9 Q. I BELIEVE YOU INDICATED THAT SHE HAD MACULAR DEGENERATION  
10 AND EVENTUALLY BECAME LEGALLY BLIND, IS THAT RIGHT?

11 A. THAT'S CORRECT.

12 Q. AND SHE NEEDED OXYGEN THERAPY, I BELIEVE?

13 A. CORRECT.

14 Q. AND YOU TOLD US ABOUT HER FALLING AND BREAKING A LIMB, IS  
15 THAT RIGHT?

16 A. CORRECT. SHE DID FRACTURE HER HIP.

17 Q. AND THEN AT SOME POINT SHE DEVELOPED HEART PROBLEMS?

18 A. APPARENTLY, THESE WERE ONGOING THAT NOBODY IN THE FAMILY  
19 HAD BEEN AWARE OF.

20 Q. AND EMPHYSEMA, IS THAT RIGHT?

21 A. YES. CORRECT.

22 Q. AND WHEN YOU SAID SHE WAS ON A RESPIRATOR, YOU MEANT JUST  
23 WHEN SHE VISITED THE HOSPITAL?

24 A. WHEN SHE HAD BILATERAL PNEUMONIA SHE WAS ON A VENTILATOR.

25 Q. OKAY. JUMPING BACK NOW TO THAT 1982 VISIT. I BELIEVE

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1 YOU SAID THAT YOU WERE THERE DURING HELENA JUNIOR'S VISIT WITH  
2 YOUR MOTHER, IS THAT RIGHT?

3 A. THAT'S CORRECT.

4 Q. AND THE NEWBORN -- OR NOT NEWBORN, BUT SMALL BABY WAS  
5 THERE ALSO?

6 A. INFANT DAVID.

7 Q. AND I BELIEVE YOU TESTIFIED ON DIRECT EXAMINATION THAT  
8 HELENA DID NOT APPEAR TO BE OVERLY SICKLY AT THAT TIME?

9 A. NOT OVERLY. SHE HAD GAINED A LITTLE WEIGHT AND SHE -- I  
10 WAS USED TO SEEING HER APPEAR JAUNDICED. SHE HAD SUFFERED  
11 FROM HEPATITIS FOR MANY YEARS.

12 Q. AND I BELIEVE SHE ALSO SUFFERED FROM CIRRHOSIS OF THE  
13 LIVER, IS THAT RIGHT?

14 A. THAT DID -- I BELIEVE THAT WAS IN HER LATER YEARS THAT  
15 WAS A PROBLEM.

16 Q. NOW, I KNOW YOUR SISTER'S DEATH WAS DIFFICULT FOR YOU,  
17 BUT IS IT YOUR TESTIMONY THAT AS EARLY AS THE FALL OF 1982  
18 YOUR MOTHER AND SISTER KNEW THAT YOUR SISTER WAS DYING?

19 A. APPARENTLY MY SISTER KNEW IT.

20 Q. WELL, WHEN HER DEATH OCCURRED, HER BODY WASN'T DISCOVERED  
21 FOR A COUPLE OF DAYS, IS THAT RIGHT?

22 A. THAT WAS MY UNDERSTANDING.

23 Q. AND THE CAUSE OF DEATH WAS BRONCHIAL PNEUMONIA, IS THAT  
24 RIGHT?

25 A. I THINK THERE WERE SEVERAL CONTRIBUTING FACTORS, BUT THAT

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1 WAS PROBABLY THE MAIN ONE WITH THE CIRRHOSIS.

2 Q. NOW, YOU INDICATED THAT YOUR MOTHER HAD GOTTEN OUT OF THE  
3 HOSPITAL AND WAS BACK IN THE ASSISTED LIVING FACILITY AND YOU  
4 WERE VISITING HER APPROXIMATELY WEEKLY, IS THAT RIGHT?

5 A. THAT'S CORRECT.

6 Q. AND AT THAT POINT YOU BROUGHT UP THE MACDONALD MURDERS  
7 WITH HER, IS THAT RIGHT?

8 A. DURING THE COURSE OF CONVERSATIONS ABOUT JUST OUR FAMILY  
9 LIFE.

10 Q. AND AT THAT POINT SHE'S CONFIDED OR TOLD YOU THAT HELENA  
11 HAD CONFIDED IN HER -- HELENA JUNIOR CONFIDED IN YOUR MOTHER  
12 THAT HELENA WAS THERE ON THE NIGHT OF THE MURDERS, IS THAT  
13 RIGHT?

14 A. AFTER I HAD QUESTIONED HER ABOUT IT.

15 Q. AND SHE, YOUR MOTHER, WAS SPEAKING TO YOU IN, THIS WOULD  
16 HAVE BEEN, LATE 2006 OR EARLY 2007, IS THAT RIGHT?

17 A. CORRECT.

18 Q. AND SHE WAS SPEAKING ABOUT HELENA JUNIOR -- CAN I CALL  
19 HER HELENA JUNIOR, IS THAT ALL RIGHT?

20 A. CORRECT.

21 Q. YOUR MOTHER WAS SPEAKING TO YOU ABOUT HELENA JUNIOR  
22 TALKING TO YOUR MOTHER IN THE FALL OF '82?

23 A. CORRECT.

24 Q. AND THIS INFORMATION THAT YOU RECEIVED IN 2006 OR 2007,  
25 YOU ATTACHED IMPORTANCE TO IT?

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1 A. I DID. I DID BECAUSE MY MOTHER ATTACHED IMPORTANCE TO  
2 IT.

3 Q. BUT YOU ALREADY KNEW THAT YOUR SISTER HAD TOLD AN AWFUL  
4 LOT OF PEOPLE OVER THE YEARS THAT SHE WAS INVOLVED IN THE  
5 MACDONALD MURDERS, DIDN'T YOU KNOW THAT?

6 A. YES, THAT WAS COMMON KNOWLEDGE.

7 Q. IN FACT, IN THE EARLY '80S YOUR SISTER'S CLAIMS TO BE  
8 PART OF THE MACDONALD MURDERS WERE PART OF A COURT PROCEEDING,  
9 ISN'T THAT CORRECT?

10 A. THAT'S CORRECT.

11 Q. AND, IN FACT, DIDN'T SHE GIVE AN INTERVIEW TO *60 MINUTES*  
12 ON WHICH SHE SAID THAT SHE HAD BEEN INVOLVED IN AND PRESENT AT  
13 THE MACDONALD MURDERS?

14 A. I UNDERSTAND SHE DID, BUT I HAVEN'T WATCHED THE  
15 INTERVIEWS.

16 Q. SO, IT REALLY WASN'T ANYTHING NEW THAT YOU LEARNED IN  
17 2007?

18 A. NOT REALLY NEW, BUT THE WAY MY MOTHER TALKED ABOUT IT WAS  
19 WHAT HAD THE MOST IMPACT.

20 Q. AND I BELIEVE YOU INDICATED ON DIRECT EXAMINATION THAT  
21 AFTER YOUR MOTHER TOLD YOU THIS IT WEIGHED HEAVILY ON YOUR  
22 MIND?

23 A. THAT'S CORRECT.

24 Q. AND YOU WERE TRYING TO DECIDE WHAT TO DO ABOUT IT, IS  
25 THAT RIGHT?

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1 A. YES, SIR.

2 Q. AND YOU DECIDED NOT TO CALL ANYBODY CONNECTED WITH LAW  
3 ENFORCEMENT, IS THAT RIGHT?

4 A. THAT'S CORRECT.

5 Q. AND INSTEAD YOU WENT ON THE INTERNET AND FOUND THE  
6 MACDONALD WEBSITE?

7 A. THAT'S CORRECT.

8 Q. AND YOU SENT A MESSAGE TO THE WEBSITE, IS THAT RIGHT?

9 A. THAT'S CORRECT.

10 Q. AND PRETTY SHORTLY THEREAFTER YOU WERE CONTACTED BY  
11 KATHRYN MACDONALD?

12 A. THAT'S CORRECT.

13 Q. AND BY EMAIL OR?

14 A. IF MY MEMORY'S CORRECT, WE EXCHANGED A FEW EMAILS  
15 INITIALLY.

16 Q. OKAY. DID SHE ASK YOU FOR YOUR CONTACT NUMBERS?

17 A. I'M NOT CERTAIN OF HOW THE NUMBER EXCHANGE TOOK PLACE,  
18 BUT I DO REMEMBER A COUPLE CELL PHONE CONTACTS.

19 Q. IN FACT, DID YOU CONTACT KATHRYN MACDONALD WHILE YOU WERE  
20 ON YOUR LUNCH BREAK FROM WORK BETWEEN 11:00 AND NOON ON A  
21 PARTICULAR DAY?

22 A. I DO RECALL CALLING HER FROM WORK ON MY LITTLE TRAK  
23 PHONE, THAT'S CORRECT.

24 Q. AND DID YOU MAKE CLEAR TO HER THAT YOU WERE NOT TRYING TO  
25 RUSH INTO THIS MATTER?

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1 A. I BELIEVE SO. I KNOW SHE UNDERSTOOD MY TREPIDATION AS  
2 FAR AS BRINGING THIS TO LIGHT.

3 Q. BUT SHE WAS VERY EAGER TO GET GOING WITH IT, IS THAT  
4 RIGHT?

5 A. YES, SHE WAS.

6 Q. WAS THAT CONVERSATION THAT YOU HAD WITH KATHRYN MACDONALD  
7 FROM YOUR WORK PLACE, DID THAT OCCUR ON A FRIDAY?

8 A. I CAN'T SAY WITH CERTAINTY WHAT DAY THAT WAS.

9 Q. DID KATHRYN MACDONALD MAKE ARRANGEMENTS TO COME TO NORTH  
10 CAROLINA RIGHT AWAY THAT NIGHT TO MEET WITH YOU?

11 A. SHE DID. SAID SHE WOULD BE COMING DOWN IMMEDIATELY.

12 Q. AND IS THAT WHAT HAPPENED?

13 A. YES.

14 Q. AND SO THAT'S -- SO THE VERY DAY THAT YOU CALLED HER IS  
15 THE DAY THAT SHE CAME DOWN AND MET WITH YOU AT THE RESTAURANT?

16 A. WELL, I BELIEVE SHE CAME DOWN THAT EVENING AND I BELIEVE  
17 IT WAS THE NEXT DAY WE MET.

18 Q. OKAY. SO, YOU MET THE NEXT DAY?

19 A. THAT WAS MY RECOLLECTION.

20 Q. AND YOU MET AT A RESTAURANT IN FUQUAY-VARINA?

21 A. THAT'S CORRECT.

22 Q. AND YOU DISCUSSED THE SITUATION, IS THAT RIGHT?

23 A. THAT'S CORRECT.

24 Q. AND KATHRYN MACDONALD WANTED TO PROCEED IMMEDIATELY TO  
25 THE NURSING HOME TO -- WAS IT A NURSING HOME OR ASSISTED

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1 LIVING? WHAT'S THE PROPER TERM?

2 A. IT WAS ASSISTED LIVING IS WHAT THEY --

3 Q. THE NAME OF IT WAS HAYMOUNT NURSING HOME?

4 A. HAYMOUNT NURSING AND REHAB, THAT'S CORRECT.

5 Q. ALL RIGHT. DID KATHRYN MACDONALD WANT TO PROCEED THERE  
6 IMMEDIATELY?

7 A. WELL, SHE WASN'T OVERLY ANXIOUS, BUT SHE WAS INTERESTED  
8 IN GETTING TO MEET MY MOM IF SHE WOULD MEET HER, IF SHE WOULD  
9 HAVE HER.

10 Q. AND THIS WAS A SATURDAY I TAKE IT?

11 A. YES, SIR.

12 Q. AND DID THE TWO OF YOU PROCEED IMMEDIATELY TO THE NURSING  
13 FACILITY IN FAYETTEVILLE?

14 A. WE DID THAT AFTERNOON AFTER VISITING THERE AT THE  
15 RESTAURANT. LIKE I SAID, IT SEEMED TO BE MAYBE A COUPLE OF  
16 HOURS. I JUST REMEMBER AT ONE POINT WE LOOKED AT THE TIME AND  
17 SAID, WELL, YOU KNOW, WE -- TIME'S KIND OF GOTTEN AWAY FROM US  
18 SO WE DID.

19 Q. OKAY. SO, I ASSUME YOU GOT DOWN TO FAYETTEVILLE, WHAT,  
20 IN THE EARLY AFTERNOON?

21 A. THE LATER PART OF THE AFTERNOON, RIGHT.

22 Q. AND THE TWO OF YOU, KATHRYN MACDONALD AND YOU, DROVE TO  
23 FAYETTEVILLE IN THE SAME CAR?

24 A. THAT'S CORRECT.

25 Q. IN HER CAR OR YOUR CAR?

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1 A. I CAN'T EVEN REMEMBER NOW. I DON'T RECALL REALLY. I  
2 THOUGHT IT WAS MY TRUCK, BUT I -- I THINK IT WAS MY TRUCK.

3 Q. WELL, ONE OF YOU LEFT YOUR CAR AT THE RESTAURANT IN  
4 FUQUAY?

5 A. WELL, I DON'T KNOW IF WE -- I REALLY CAN'T REMEMBER WHAT  
6 WE DID AS FAR AS DRIVING DOWN THERE BECAUSE I DIDN'T FORESEE  
7 THE CONSEQUENCES OF EVERY DETAIL.

8 Q. OKAY. BUT YOUR MEMORY IS THAT THE TWO OF YOU RODE DOWN  
9 THERE TOGETHER?

10 A. RIGHT. I KNEW THAT I WASN'T GOING TO HAVE HER COME BY  
11 THE HOUSE BECAUSE I DIDN'T WANT ANYBODY TO KNOW EXACTLY HOW TO  
12 GET TO OUR HOUSE AT THAT POINT. I WAS STILL SOMEWHAT -- I  
13 WASN'T TRUSTING OR, YOU KNOW, THERE WASN'T REALLY ANYBODY I  
14 TRUSTED.

15 Q. AND I UNDERSTAND THAT WHILE YOU WERE TRAVELING TO  
16 FAYETTEVILLE, YOUR WIFE CALLED YOUR BROTHER TO ALERT HIM THAT  
17 THIS WAS HAPPENING?

18 A. I BELIEVE SO.

19 Q. AND THIS IS YOUR BROTHER CLARENCE?

20 A. CORRECT.

21 Q. AND IS IT FAIR TO SAY THAT HE WAS NOT SUPPORTIVE OF THIS  
22 EFFORT THAT YOU WERE UNDERTAKING?

23 A. ABSOLUTELY.

24 Q. IT IS FAIR TO SAY THAT?

25 A. YES.

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1 Q. NOW, WHEN YOU ARRIVED AT THE NURSING HOME, I BELIEVE YOU  
2 SAID YOU WENT IN FIRST TO TALK TO YOUR MOTHER, IS THAT RIGHT?

3 A. THAT'S CORRECT.

4 Q. AND WHEN YOU CAME BACK OUT TO THE PARKING LOT, YOUR  
5 BROTHER WAS THERE SPEAKING WITH KATHRYN MACDONALD?

6 A. THAT'S CORRECT.

7 Q. DID YOU OVERHEAR THAT CONVERSATION?

8 A. NO, BUT I DETECTED A BIT OF ANIMOSITY ON MY BROTHER'S  
9 PART.

10 Q. IS IT FAIR TO SAY HE JUST DIDN'T WANT YOUR MOTHER  
11 BOTHERED ABOUT THIS?

12 A. I WOULD SAY THAT WAS A GOOD ASSESSMENT.

13 Q. ALL RIGHT. AND SO, NEVERTHELESS, YOU AND KATHRYN  
14 RETURNED INTO THE NURSING HOME TO GO SEE YOUR MOTHER?

15 A. THAT'S CORRECT.

16 Q. AND THE TWO OF YOU SPOKE WITH HER ABOUT THE MACDONALD  
17 CASE?

18 A. THAT'S CORRECT.

19 Q. JUST THE THREE OF YOU IN THE ROOM AT THAT POINT?

20 A. YES.

21 Q. AND NOW AT SOME POINT KATHRYN MACDONALD REQUESTED THAT AN  
22 AFFIDAVIT BE PREPARED?

23 A. WELL, SHE DIDN'T DESCRIBE IT AS AN AFFIDAVIT. SHE JUST  
24 ASKED IF SHE WOULD BE WILLING TO MAKE A STATEMENT AND HAVE IT  
25 WITNESSED AND MOTHER AGREED.

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1 Q. YOUR MOTHER AGREED?

2 A. (WITNESS NODS HEAD.)

3 Q. AND THEN KATHRYN MACDONALD CALLED ATTORNEY HART MILES IN  
4 RALEIGH?

5 A. AT THAT POINT I ASSUME SO. I DON'T THINK SHE WAS IN MY  
6 PRESENCE WHEN SHE MADE THE CALL.

7 Q. WELL, DID SHE TELL YOU THAT'S WHAT SHE WAS GOING TO DO?

8 A. YES, SHE DID TELL ME THAT.

9 Q. AND SHE WAS GOING TO ASK HIM TO COME DOWN IMMEDIATELY?

10 A. I THINK SHE WAS JUST GOING TO FIND OUT WHEN HE WAS  
11 AVAILABLE TO COME DOWN. I DON'T KNOW ABOUT IMMEDIATELY.

12 Q. WELL, IN FACT, APPARENTLY HE DID AGREE TO COME DOWN  
13 IMMEDIATELY?

14 A. APPARENTLY SO, YES.

15 Q. BECAUSE WITHIN ABOUT AN HOUR AND 20 MINUTES HE AND HIS  
16 PARALEGAL WERE THERE, IS THAT RIGHT?

17 A. THEY DID SHOW UP SHORTLY THEREAFTER, YES.

18 Q. AND, AGAIN, THIS WAS ON A SATURDAY?

19 A. YES.

20 Q. NOW, ISN'T IT TRUE THAT DURING THE PERIOD OF TIME IN  
21 WHICH YOU WERE WAITING FOR THEM TO ARRIVE FROM RALEIGH THAT  
22 KATHRYN MACDONALD TYPED UP A DRAFT OF THE AFFIDAVIT?

23 A. I DON'T KNOW OF A DRAFT TYPED BEFOREHAND.

24 Q. BEG YOUR PARDON?

25 A. I DON'T RECALL A DRAFT. I NEVER SAW A DRAFT BEFOREHAND.

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1 I KNOW THAT SHE WAS TRYING TO SECURE THE USE OF A PC WITH A  
2 PRINTER AVAILABLE. I KNOW SHE WAS TRYING TO GET A HOLD OF  
3 HAVING ACCESS TO THAT WITH ONE OF THE STAFF, BUT I DON'T KNOW  
4 ABOUT HER GOING AHEAD AND TYPING A DRAFT.

5 Q. WELL, WAS SHE ABLE TO SECURE THE USE OF A COMPUTER AND  
6 PRINTER?

7 A. YES.

8 Q. IN A SMALL OFFICE AT THE NURSING FACILITY?

9 A. YES.

10 Q. AND AT THAT POINT, DID SHE BEGIN TYPING A DOCUMENT?

11 A. I'M NOT SURE. I'M NOT SURE IF SHE WAS TYPING AN ACTUAL  
12 DOCUMENT OR TRYING TO USE THE PC ITSELF. I DON'T KNOW.

13 Q. DO YOU RECALL BEING INTERVIEWED ON APRIL 21ST, 2007, BY  
14 THE FBI ABOUT THIS MATTER?

15 A. YES, JIM CHEROKE.

16 Q. THE MAN SEATED RIGHT OVER HERE?

17 A. YES.

18 Q. DO YOU RECOGNIZE HIM?

19 A. YES.

20 Q. DO REMEMBER TELLING HIM ON THAT DAY THAT WHILE THE  
21 ATTORNEY WAS ON THE WAY FROM RALEIGH THAT KATHRYN MACDONALD  
22 WAS TYPING?

23 A. WELL, AS I SAID, I DON'T KNOW WHAT SHE TYPED, IF SHE WAS  
24 TYPING, IF SHE WAS TRYING TO FAMILIARIZE HERSELF WITH THE  
25 PC --

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1 THE COURT: EXCUSE ME. DID YOU UNDERSTAND THE  
2 QUESTION? ASK YOUR QUESTION AGAIN.

3 BY MR. BRUCE:

4 Q. DID YOU TELL JIM CHEROKE ON APRIL 21ST, 2007, THAT WHILE  
5 THE ATTORNEY WAS TRAVELING FROM RALEIGH THAT KATHRYN MACDONALD  
6 WAS TYPING?

7 A. I DON'T RECALL IF I SPECIFICALLY TOLD HIM THAT, NO.

8 Q. AND DID YOU TELL HIM ON THAT DAY THAT KATHRYN MACDONALD  
9 WAS STILL TYPING THE AFFIDAVIT WHEN THE ATTORNEY, HART MILES,  
10 ARRIVED?

11 A. GIVEN THAT I DIDN'T KNOW INITIALLY, I CAN'T SAY NO THAT I  
12 TOLD HIM THAT. I CAN'T RECALL.

13 Q. WELL, MY HAVING ASKED YOU THESE QUESTIONS IS YOUR  
14 RECOLLECTION NOW THAT KATHRYN MACDONALD WAS TYPING WHILE THE  
15 ATTORNEY WAS COMING FROM RALEIGH?

16 A. I DO NOT RECALL WHETHER SHE WAS. I SPENT TIME THERE WITH  
17 MY MOTHER IN HER COMPANY.

18 Q. SO, YOU WERE WITH YOUR MOTHER WHILE YOU WERE WAITING FOR  
19 HART MILES TO ARRIVE?

20 A. THAT'S CORRECT. MY FOCUS WAS ON HER AND I WAS JUST  
21 WAITING FOR THE -- FOR HART AND I BELIEVE IT WAS HIS  
22 PARALEGAL.

23 Q. BUT YOU DID GO OUT OF THE ROOM A COUPLE OF TIMES WHILE  
24 YOU WERE WAITING?

25 A. YES. MY BROTHER WAS OUTSIDE WITH ANOTHER ACQUAINTANCE OF

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1 MINE. THEY WERE TALKING.

2 Q. AND, IN FACT, I BELIEVE YOU -- IS IT TRUE THAT KATHRYN  
3 MACDONALD WAS LEFT ALONE WITH YOUR MOTHER DURING A BRIEF TIME  
4 FRAME?

5 A. IT MAY BE TRUE BECAUSE IF I HAD LEFT THE ROOM SHE WOULD  
6 HAVE BEEN FREE TO COME AND GO.

7 Q. ALL RIGHT. WELL, AT SOME POINT YOU SAW A DRAFT OF AN  
8 AFFIDAVIT, DID YOU NOT?

9 A. CORRECT.

10 Q. OKAY. WELL, LET'S PUT IT THIS WAY, HART MILES AND HIS  
11 PARALEGAL ARRIVED, IS THAT RIGHT?

12 A. YES.

13 Q. WAS IT PRETTY QUICKLY THAT A DRAFT WAS PRODUCED?

14 A. THEY SEEMED TO GET TOGETHER AND HUDDLE A LITTLE BIT AND  
15 HAVE SOME DISCUSSION. I DON'T KNOW WHAT WAS TALKED ABOUT AT  
16 THAT TIME. AS I SAID, MY ATTENTION WAS ON MY MOM AND JUST  
17 MAKING SURE SHE WAS COMFORTABLE WITH THEM BEING THERE AND THAT  
18 -- LIKE I SAID, SHE WAS FINE WITH HOW THINGS WERE GOING.

19 I JUST LEFT THE PROCEDURAL BUSINESS UP TO THE FOLKS  
20 THERE. I DIDN'T GET INVOLVED EXCEPT FOR THE READING OF IT AND  
21 SIGNING AND WITNESSING.

22 Q. WELL, MY QUESTION IS, WAS IT A SHORT TIME AFTER THE  
23 ARRIVAL OF THE ATTORNEY AND HIS PARALEGAL, WAS IT A SHORT TIME  
24 BEFORE A DRAFT WAS PRODUCED TO READ TO YOUR MOTHER?

25 A. I DON'T THINK IT WAS -- YOU SAY A SHORT TIME. MAYBE

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1 WITHIN 20 MINUTES PERHAPS. YOU KNOW, THAT'S JUST A BEST  
2 ESTIMATE WHEN I THINK OF BEING IN THERE.

3 Q. ALL RIGHT. NOW, AT SOME POINT THERE WAS A DRAFT AND I  
4 BELIEVE YOU TESTIFIED THAT YOU READ ALOUD THE DRAFT TO YOUR  
5 MOTHER?

6 A. THAT'S CORRECT.

7 Q. ALL RIGHT. AND BY THE WAY, HAD ATTORNEY HART MILES  
8 INTERVIEWED HER HIMSELF BEFORE THAT HAPPENED?

9 A. WELL, AS I RECALL, HE DIDN'T INTERVIEW HER ALONE.

10 Q. HE DID?

11 A. THAT HE DID NOT.

12 Q. HE DID NOT.

13 A. AND HE -- WE WERE ALL PRESENT AND HE JUST ENGAGED IN  
14 CONVERSATION WHILE WE WERE ALL THERE.

15 Q. ALL RIGHT. NOW, WHEN YOU READ THE AFFIDAVIT TO YOUR  
16 MOTHER YOU INDICATED THAT SHE SPECIFIED A FEW CHANGES?

17 A. SHE DID. I WOULD READ AND SHE WOULD SAY, WELL, YOU KNOW,  
18 THAT'S NOT EXACTLY HOW I SAID IT AND, YOU KNOW, DIFFERENT  
19 THINGS. AND AS I SAID, IT WASN'T SO MUCH THE THOUGHT SHE WAS  
20 TRYING TO ARTICULATE, BUT MORE OF THE VERBIAGE, YOU KNOW. SO,  
21 SHE JUST -- JUST LITTLE -- I DON'T KNOW. YOU JUST -- THE WAY  
22 SHE IS, SHE JUST -- YOU KNOW, IF SOMETHING WASN'T JUST SO SHE  
23 WOULD SAY, HEY, THAT ISN'T -- SO, SHE MADE IT CLEAR IF  
24 ANYTHING DIDN'T SET WELL WITH HER AS I READ IT. SHE WAS VERY  
25 CLEAR ABOUT IT.

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1 Q. WELL, WAS ONE OF THE CHANGES THAT SHE WANTED MADE IS  
2 CONCERNING THE FACT ABOUT THE ALLEGED THREAT OF THE FBI FOR  
3 SOMEONE TO STOP CONTACTING THEM?

4 A. I DON'T REMEMBER HER TAKING EXCEPTION TO THAT BECAUSE  
5 THAT WAS A VERY -- THAT KIND OF STUCK IN HER MIND OVER THE  
6 YEARS. THAT WAS ONE OF THE REASONS SHE DIDN'T WANT TO BE  
7 INTERVIEWED SUBSEQUENTLY AFTER THE AFFIDAVIT CAME OUT.

8 Q. DID YOUR MOTHER REQUEST THAT THE AFFIDAVIT BE CHANGED TO  
9 SAY THAT THE FBI TOLD US, MEANING HER FAMILY, THAT THEY WANTED  
10 HELENA TO STOP CONTACTING THEM?

11 A. THAT WAS HER TERMINOLOGY, LET'S SAY HER WORDS, TO STOP  
12 CONTACTING THEM.

13 Q. I BELIEVE YOU SAID ON DIRECT EXAMINATION SOMETHING ABOUT  
14 THE FBI IS SAYING THIS TO YOUR PARENTS DURING THE TRIAL. DID  
15 YOU MEAN DURING THE TRIAL?

16 A. I DIDN'T SPEND TIME READING ABOUT THE TRIAL AND THOSE  
17 THINGS. SHE TOLD ME ON DIFFERENT OCCASIONS BEFORE THIS  
18 REVELATION ABOUT HELENA CONFIDING IN HER. SHE HAD TOLD ME  
19 MANY TIMES THAT THE FBI HAD TOLD THEM TO -- YOU KNOW, FOR  
20 HELENA TO STAY AWAY FROM IT.

21 Q. BUT IS IT YOUR TESTIMONY THAT SOMEONE FROM THE FBI  
22 CONTACTED YOUR PARENTS DURING THE TRIAL TO SAY THAT HELENA  
23 SHOULD BE QUIET?

24 A. I CAN'T SAY IT WAS DURING THE TRIAL. I JUST KNOW THAT  
25 SHE HAD SAID THE FBI HAD CONTACTED THEM AND TOLD THEM TO KEEP

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1 HER UNDER CONTROL AND OUT OF IT, KEEP HER NOSE OUT OF IT.

2 Q. WELL, YOU KNOW, OF COURSE, THAT YOUR PARENTS WERE  
3 SUBPOENAED BY THE DEFENSE TO COME TO RALEIGH FOR THE TRIAL?

4 A. I KNEW THEY WERE SUBPOENAED, BUT I DIDN'T KNOW ANY OF THE  
5 DETAILS.

6 Q. AND YOU KNOW THAT YOUR SISTER WAS TRANSPORTED TO RALEIGH  
7 AS A MATERIAL WITNESS FOR THE TRIAL?

8 A. I UNDERSTOOD THAT, YES.

9 Q. ISN'T THE TRUTH OF THE MATTER THAT SOMETIME IN THE '80S  
10 WHEN HELENA -- WELL, LET ME PUT IT THIS WAY, SOMETIME DURING  
11 THE '80S YOUR SISTER GAVE A LOT OF STATEMENTS TO A PRIVATE  
12 INVESTIGATOR WORKING FOR MACDONALD, IS THAT RIGHT?

13 A. SHE MAY HAVE. I'M NOT -- AS I SAID, I DIDN'T FOLLOW THE  
14 CASE AS A LOT OF PEOPLE HAVE.

15 Q. YOU REALIZE THAT THE TRIAL WAS IN JULY AND AUGUST OF  
16 1979, RIGHT?

17 A. THAT'S CORRECT.

18 Q. ALL RIGHT. AND DURING THE '80S WERE YOU AWARE THAT YOUR  
19 SISTER HAD TRAVELED TO CALIFORNIA TO MEET WITH PRIVATE  
20 INVESTIGATORS WORKING FOR MACDONALD?

21 A. I READ THAT SOMEWHERE. IT WAS JUST DURING -- A PIECE OF  
22 INFORMATION I HAVE READ. I DON'T EVEN KNOW WHAT TRANSPIRED.

23 Q. WASN'T IT DURING THIS ERA THAT THE FBI CALLED AND SAID  
24 HELENA NEEDS TO STOP CONTACTING US REPEATEDLY?

25 A. I DO NOT KNOW. MY MOTHER NEVER SPECIFIED --

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1 Q. COULD THAT BE WHAT YOUR MOTHER MEANT?

2 A. I CAN'T SAY. SHE NEVER SPECIFIED.

3 Q. COULD IT BE WHAT YOUR MOTHER MEANT?

4 A. COULD BE. SHE WASN'T SPECIFIC.

5 Q. LET'S LOOK AT THE DEFENSE EXHIBIT 5051 A MOMENT ON THE  
6 SCREEN, PLEASE. AND CAN YOU GO TO THE BOTTOM OF THE SECOND  
7 PAGE, PLEASE? AFTER PARAGRAPH 15 -- DO YOU SEE THAT, MR.  
8 STOECKLEY?

9 A. YES.

10 Q. AFTER PARAGRAPH 15 NOTHING APPEARS ON THE REST OF THAT  
11 PAGE, IS THAT RIGHT?

12 A. CORRECT.

13 Q. AND NOW GO TO THE THIRD PAGE. THE ONLY THING THAT'S ON  
14 THIS PAGE ARE THE SIGNATURES AND THE NOTARIAL ACKNOWLEDGEMENT,  
15 RIGHT?

16 A. CORRECT.

17 Q. AND DO YOU SEE AT THE TOP OF THE PAGE A TITLE OR A  
18 CAPTION THAT SAYS UNTITLED?

19 A. YES, I DO.

20 Q. DO YOU KNOW WHAT THAT MEANS?

21 A. NO. I DON'T KNOW HOW IT'S REVALENT (SIC) IN THIS CASE.

22 Q. BUT YOU DON'T KNOW WHAT IT MEANS?

23 A. WELL, I KNOW WHAT UNTITLED -- I DON'T KNOW HOW IT'S --  
24 WHAT IT MEANS IN REFERENCE TO THIS AFFIDAVIT OR THESE PAGES.

25 Q. OKAY. AT THE BOTTOM CENTER OF THE PAGE DO YOU SEE WHERE

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1 IT SAYS PAGE ONE?

2 A. YES.

3 Q. BUT IT'S REALLY THE THIRD PAGE?

4 A. YES.

5 Q. AND THE FIRST TWO PAGES ARE UNNUMBERED, IS THAT RIGHT?

6 A. I DIDN'T -- IF YOU'D BACK UP.

7 Q. LET'S BACK UP. GO TO THE SECOND PAGE. DO YOU SEE A  
8 NUMBER ON THE FIRST PAGE? THAT'S THE FIRST PAGE.

9 A. NO.

10 Q. DO YOU SEE A NUMBER ON THE SECOND PAGE?

11 A. NO, I DO NOT.

12 Q. NOW, I BELIEVE YOU INDICATED THAT YOU, AT THIS POINT,  
13 WERE HANDLING YOUR MOTHER'S FINANCIAL AFFAIRS?

14 A. YES.

15 Q. DID YOU HAVE OCCASION ON OTHER DAYS OTHER THAN THIS,  
16 MARCH 31ST, 2007, DID YOU HAVE OTHER OCCASIONS IN WHICH YOU  
17 NEEDED HER SIGNATURE ON DOCUMENTS?

18 A. PERHAPS. WELL, I WAS THE -- I'M SORRY, I JUST KIND OF  
19 DREW A BLANK. BUT I HAD LEGAL AUTHORITY TO SIGN HER DOCUMENTS  
20 AND --

21 Q. YOU HAD POWER OF ATTORNEY?

22 A. POWER OF ATTORNEY, YES.

23 Q. ALL RIGHT. BUT NOTWITHSTANDING THAT, DID YOU HAVE  
24 OCCASIONS WHERE YOU GOT HER TO SIGN THINGS?

25 A. YES. PROBABLY CONCERNING HER ADMITTANCE INTO THE

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1 FACILITIES, THE ASSISTED LIVING.

2 Q. AND SHE TRUSTED YOU, IS THAT RIGHT?

3 A. YES.

4 Q. AND I BELIEVE YOU STATED ON DIRECT EXAMINATION THAT WHEN  
5 IT CAME TIME TO SIGN THIS, YOU TOLD HER TO SIGN WHERE SHE DID  
6 BENEATH UNTITLED?

7 A. RIGHT. I JUST -- SHE HAD THE PEN IN HER HAND AND I JUST  
8 PLACED HER HAND IN THE GENERAL AREA OF THE DOCUMENT WHERE THE  
9 LINE IS.

10 Q. NOW, CAN YOU APPROXIMATE THE TIME THAT YOU AND KATHRYN  
11 MACDONALD ARRIVED AT THE NURSING HOME THAT DAY?

12 A. GOSH, IT MUST HAVE BEEN 3:00 OR 4:00 P.M.

13 Q. THAT LATE?

14 A. IT WAS LATE AFTERNOON.

15 Q. SO --

16 A. AND THAT'S JUST MY BEST ESTIMATE BASED ON THE LATE  
17 AFTERNOON SUN, THE LACK OF TRAFFIC. THERE WASN'T A LOT OF  
18 TRAFFIC LEAVING BRAGG. SO, IT WAS BEFORE THEN. I'D SAY, YOU  
19 KNOW, IF IT TOOK US 45 TO 50 MINUTES TO LEAVE FUQUAY, YOU  
20 KNOW, I'D SAY AROUND 3:00, 3:30, 4:00, SOMEWHERE IN THAT TIME  
21 FRAME.

22 Q. OKAY. SO, YOU HAD A LONG MEETING -- FIRST OF ALL, IS IT  
23 TRUE THAT KATHRYN MACDONALD WAS A COUPLE OF HOURS LATE TO YOUR  
24 MEETING IN FUQUAY?

25 A. I BELIEVE SHE WAS LATE, BUT I DON'T REMEMBER HOW LONG.

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1 Q. ALL RIGHT. AND THEN YOU INDICATED EARLIER YOU HAD A LONG  
2 MEETING WITH HER AT THE RESTAURANT?

3 A. YES, WE SAT AND WE JUST BECAME ACQUAINTED. YOU KNOW,  
4 SHE KIND OF FILLED ME IN ON WHERE THEY WERE GOING AND THE  
5 DEVELOPMENTS. AS I SAID, I DIDN'T KEEP UP WITH IT. I HAD  
6 MADE IT A POINT TO JUST TRY TO STEER CLEAR OF IT.

7 Q. AND THEN YOU HAD THE ABOUT 50 MINUTE DRIVE FROM  
8 FUQUAY TO FAYETTEVILLE?

9 A. YES.

10 Q. AND THEN YOU STOPPED AND TALKED WITH YOUR BROTHER IN THE  
11 PARKING LOT?

12 A. YES.

13 Q. I'M SORRY, YOU WENT IN AND TALKED TO YOUR MOTHER, CAME  
14 BACK OUT --

15 A. I WENT IN AND -- WELL, I STOPPED AND TALKED TO MY  
16 BROTHER. HE WAS OUT THERE IN THE PARKING LOT WITH ANOTHER  
17 ACQUAINTANCE OF OURS AND THEY WERE JUST TALKING. AND I COULD  
18 TELL MY BROTHER WAS A BIT AGITATED WITH ME, BUT THAT'S FINE.  
19 HE WAS --

20 Q. AND THEN YOU AND KATHRYN MACDONALD HAD THE MEETING WITH  
21 YOUR MOTHER AS YOU'VE TESTIFIED?

22 A. YES, SIR.

23 Q. AND THEN SHE CALLED THE ATTORNEY IN RALEIGH AND IT TOOK  
24 ABOUT AN HOUR AND 20 MINUTES FOR HIM AND HIS PARALEGAL TO  
25 ARRIVE?

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1 A. I WOULD SAY AT LEAST THAT IF THEY CAME FROM RALEIGH, YES,  
2 SIR.

3 Q. ALL RIGHT. SO, BY THAT TIME IT MUST HAVE BEEN AFTER 6:00  
4 P.M.?

5 A. IT WAS WELL INTO EARLY EVENING.

6 Q. ALL RIGHT. AND AFTER THE ATTORNEY AND HIS PARALEGAL  
7 ARRIVED SOME AMOUNT OF PREPARATION STILL HAD TO BE DONE ON THE  
8 AFFIDAVIT, IS THAT RIGHT?

9 A. THAT'S CORRECT.

10 Q. AND THEN YOU READ HER THE AFFIDAVIT AND MADE EDITS PER  
11 HER REQUEST OR SOMEONE MADE EDITS?

12 A. AT HER REQUEST. AS I READ, IT SHE WOULD POINT OUT WHAT  
13 SHE DIDN'T FEEL WAS QUITE RIGHT OR CONVEYED HER SENTIMENT.

14 Q. SO, BY THE TIME YOU DIRECTED HER IN SIGNING THIS  
15 SIGNATURE -- LET'S GO TO PAGE THREE OF 5051 -- WHAT WOULD YOU  
16 ESTIMATE THE TIME OF DAY WAS ABOUT THAT SHE SIGNED IT?

17 A. IT WAS -- IT COULDN'T HAVE BEEN DINNER TIME. NORMALLY,  
18 THEY WOULD COME IN AND CHECK ON HER AND ASK HER IF SHE'S READY  
19 FOR SUPPER. SO, IT WOULD HAVE BEEN BEFORE THEN. SO, IT WOULD  
20 HAVE BEEN MAYBE AROUND MOST PEOPLE'S QUITTING TIME FROM WORK.  
21 I WOULD SAY BEFORE 6:00, THAT WOULD BE MY BEST ESTIMATE,  
22 BECAUSE I DON'T RECALL ANYBODY STOPPING IN AND ASKING HER IF  
23 SHE WAS READY TO BE TAKEN DOWN FOR SUPPER.

24 Q. NOW, AS I UNDERSTAND IT, YOU WERE NOT GIVEN A COPY OF THE  
25 AFFIDAVIT AFTER IT WAS SIGNED?

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1 A. THAT'S CORRECT.

2 Q. AND MR. HART MILES INFORMED YOU THAT IT MIGHT BE THE  
3 SUBJECT OF A COURT FILING AND THAT IT MIGHT RECEIVE MEDIA  
4 COVERAGE?

5 A. I BROUGHT THAT UP BECAUSE THAT WAS ONE OF MY CONCERNS,  
6 YES.

7 Q. WELL, IF YOU BROUGHT IT UP, WHAT DID HE SAY ABOUT IT?

8 A. HE SAID IT WAS VERY POSSIBLE ONCE IT BECAME PUBLIC  
9 INFORMATION.

10 Q. AND I BELIEVE MR. MILES ACTUALLY GAVE YOU A REFERRAL FOR  
11 AN ATTORNEY TO CONTACT IF YOU WANTED AN ATTORNEY IN THE  
12 MATTER?

13 A. I BELIEVE I REQUESTED INFORMATION IF I NEEDED AN ATTORNEY  
14 AT ANY POINT. HE SAID HE DIDN'T SEE THAT I -- THE LIKELIHOOD  
15 OF NEEDING ONE, BUT I REMEMBER HE DID PROVIDE A NAME, BUT I  
16 DON'T EVEN REMEMBER IF I HAVE IT WRITTEN IN MY ROLODEX.

17 Q. YOU DIDN'T CONTACT THE ATTORNEY?

18 A. (NO RESPONSE.)

19 Q. YOU DID NOT CONTACT THE ATTORNEY AFTER MR. MILES GAVE YOU  
20 THE NAME?

21 A. NO, SIR. NO, NOT TO MY RECOLLECTION I DIDN'T.

22 Q. NOW, DID MR. HART MILES EMAIL YOU A COPY OF THE AFFIDAVIT  
23 LATER?

24 A. HE DID.

25 Q. DO YOU KNOW ABOUT HOW MANY DAYS LATER?

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1 A. I DO NOT KNOW.

2 Q. WHEN YOU GOT THE EMAIL COPY OF THE AFFIDAVIT, DID YOU  
3 READ IT OVER AT THAT TIME?

4 A. YES.

5 Q. DID YOU NOTICE SOMETHING THAT DIDN'T LOOK LIKE IT HAD  
6 BEEN IN THERE BEFORE?

7 A. NO, I DIDN'T -- SINCE I HAD READ IT AT THE NURSING HOME I  
8 THINK THE ONLY THING I REALLY LOOKED AT WERE THE SIGNATURES  
9 AND THE NOTARIZATION --

10 Q. WELL, LET'S LOOK AT --

11 A. -- BUT EVERYTHING WAS --

12 Q. I'M SORRY, AT THE NURSING HOME ALL YOU LOOKED AT WAS THE  
13 SIGNATURES AND --

14 A. NO, I READ EVERYTHING AT THE NURSING HOME SO THE  
15 AFFIDAVIT APPEARED TO BE EXACTLY AS I HAD READ IT THEN WHEN I  
16 RECEIVED IT.

17 Q. LET'S LOOK AT PAGE TWO. DIRECTING YOUR ATTENTION TO  
18 PARAGRAPH 14, DO YOU SEE WHERE IT SAYS I'VE DECIDED TO GIVE MY  
19 STATEMENT NOW BECAUSE OF MY ADVANCED AGE AND BECAUSE I DON'T  
20 BELIEVE HE SHOULD BE IN PRISON?

21 A. YES.

22 Q. AND I TAKE IT HE REFERS TO JEFFREY MACDONALD?

23 A. YES.

24 Q. AND MY ADVANCED AGE REFERS TO YOUR MOTHER?

25 A. THAT'S CORRECT.

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1 Q. IS IT THE CASE THAT YOUR MOTHER DID NOT STATE THIS DURING  
2 THE INTERVIEW?

3 A. NO, MY MOTHER DID SAY THAT SHE BELIEVED HE SHOULD NOT BE  
4 IN PRISON.

5 Q. SHE DID SAY THAT?

6 A. YES.

7 Q. DO YOU RECALL YOUR MOTHER SAYING THAT DURING THE  
8 INTERVIEW THAT LED TO THE PREPARATION OF THIS AFFIDAVIT?

9 A. I REMEMBER HER DISTINCTLY SAYING THAT SHE BELIEVED HE WAS  
10 INNOCENT AND SHOULDN'T BE IN PRISON.

11 Q. DO YOU RECALL DURING YOUR INTERVIEW WITH AGENT CHEROKE ON  
12 APRIL 21ST, 2007, SAYING THAT YOU DID NOT RECALL YOUR MOTHER  
13 SAYING THAT MACDONALD WAS NOT GUILTY?

14 A. NO, I DID NOT -- I DON'T RECALL THAT.

15 Q. YOU DON'T RECALL SAYING THAT TO MR. CHEROKE?

16 A. THAT'S CORRECT, I DO NOT RECALL.

17 Q. ALL RIGHT. DURING THE TRIAL YOU SAID I BELIEVE THAT YOU  
18 WERE AWARE THAT YOUR PARENTS TRAVELED TO RALEIGH PURSUANT TO  
19 SUBPOENA?

20 A. THAT'S CORRECT.

21 Q. AND ARE YOU AWARE THAT THEY WERE INTERVIEWED BY THE  
22 DEFENSE CONCERNING THE MACDONALD MATTER WHILE THEY WERE UP  
23 THERE?

24 A. I WAS NOT AWARE.

25 Q. YOU WERE AWARE FROM TALKING TO YOUR PARENTS THAT NEITHER

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1 ONE OF THEM TESTIFIED IN THE TRIAL?

2 A. I DIDN'T ENGAGE THEM ABOUT THE WHOLE MATTER BECAUSE IT  
3 WAS DIFFICULT FOR THEM.

4 Q. ALL RIGHT. THIS IS 1979, CORRECT, IS THE DATE OF THE  
5 TRIAL?

6 A. YES, SIR.

7 Q. AND AT THAT TIME YOU'RE 20 YEARS OLD --

8 A. YES, SIR.

9 Q. -- IS THAT RIGHT?

10 A. (WITNESS NODS HEAD.)

11 Q. AND WHERE WERE YOU LIVING?

12 A. LIVING IN WILMINGTON.

13 Q. OKAY. AND YOUR PARENTS WERE INDEPENDENTLY LIVING THEN,  
14 NO HEALTH PROBLEMS AT THAT TIME?

15 A. THAT'S CORRECT.

16 Q. WELL, WOULD IT SURPRISE YOU IF YOUR MOTHER TOLD THE  
17 DEFENSE TEAM IN RALEIGH DURING THE TRIAL THAT SHE DIDN'T KNOW  
18 WHERE TO REACH HELENA AND SHE DIDN'T WANT TO KNOW?

19 A. IT WOULDN'T SURPRISE ME, NO.

20 Q. WOULD IT -- WERE YOU KEEPING UP WITH YOUR SISTER DURING  
21 THIS TIME PERIOD?

22 A. NEGATIVE. NO, I DID NOT.

23 Q. NOT AT ALL?

24 A. NO, SIR.

25 Q. WERE YOU AWARE THAT YOUR SISTER HAD HAD A STROKE?

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1 A. I BELIEVE MY FATHER HAD TOLD ME BECAUSE HE WAS THE ONE  
2 THAT EVENTUALLY TOLD ME SHE HAD PASSED AWAY, BUT I --

3 Q. WELL, I'M TALKING ABOUT --

4 A. -- DO RECALL HEARING --

5 Q. I'M SORRY, I'M NOT TALKING ABOUT CLOSE TO THE TIME SHE  
6 DIED, I'M TALKING ABOUT BEFORE THE MACDONALD TRIAL.

7 A. I DON'T RECALL THAT.

8 Q. DO RECALL HER GOING HOME TO STAY WITH YOUR PARENTS DURING  
9 THIS TIME FRAME BECAUSE SHE WAS SICK?

10 A. I'M NOT AWARE OF IT.

11 Q. WERE YOU -- WOULD IT SURPRISE YOU IF YOUR MOTHER  
12 DESCRIBED HER DURING THIS TIME FRAME AS BEING LIKE A  
13 VEGETABLE?

14 A. I HAVE NEVER HEARD HER DESCRIBE HER AS THAT, NO.

15 Q. WOULD IT SURPRISE YOU IF YOUR MOTHER DESCRIBED HER DURING  
16 THIS TIME FRAME AS BEING A PHYSICAL AND MENTAL WRECK?

17 A. IT WOULDN'T SURPRISE ME, BUT I HAVEN'T HEARD THAT  
18 PERSONALLY.

19 Q. AND TO YOUR KNOWLEDGE, WAS YOUR SISTER A PHYSICAL AND  
20 MENTAL WRECK DURING THIS TIME PERIOD?

21 A. SHE WAS PHYSICALLY BEAT DOWN DUE TO THE LIFESTYLE SHE HAD  
22 TAKEN. MENTALLY, SHE -- I'VE NEVER SEEN HER SO DISCONNECTED  
23 FROM REALITY THAT I WOULD SAY SHE WAS JUST COMPLETELY  
24 UNRELIABLE, NO.

25 Q. DID YOUR MOTHER EVER EXPRESS TO YOU THAT SHE THOUGHT THAT

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1 PRINCE BEASLEY OR DADDY BEASLEY HAD UNDUE INFLUENCE ON YOUR  
2 SISTER?

3 A. YES.

4 Q. NOW, AFTER THE AFFIDAVIT WAS SIGNED AND FILED YOU WERE  
5 CONTACTED BY THE FBI, IS THAT RIGHT?

6 A. THAT'S CORRECT.

7 Q. AND WE'VE DISCUSSED THE FACT THAT YOU WERE INTERVIEWED ON  
8 APRIL 21ST, 2007, BY MR. CHEROKE, IS THAT RIGHT?

9 A. YES, SIR.

10 Q. DID YOU AND MR. CHEROKE GO TO SEE YOUR MOTHER TOGETHER  
11 AFTER THAT?

12 A. NO, WE APPARENTLY SCHEDULED IT WHERE MY WIFE AND I MET  
13 DOWN THERE.

14 Q. WELL, THAT'S WHAT I MEANT. I DIDN'T MEAN YOU WENT THE  
15 SAME DAY.

16 A. RIGHT, BUT WE DID --

17 Q. IN FACT, WOULD IT SOUND CONSISTENT WITH YOUR RECOLLECTION  
18 IF IT WAS ABOUT FOUR DAYS LATER, APRIL 25TH, THAT YOU MET DOWN  
19 THERE?

20 A. RIGHT.

21 Q. IS THAT RIGHT?

22 A. RIGHT.

23 Q. OKAY. AND SO THIS IS SOMETHING YOU AGREED TO DO, THAT  
24 THE FBI REQUESTED AND YOU AGREED?

25 A. YES. I JUST WANTED TO INSURE THAT MY MOTHER WAS NOT IN

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1 UNDUE STRESS AND THAT SHE UNDERSTOOD THAT THIS WAS NECESSARY.

2 Q. IN OTHER WORDS, YOU REQUESTED TO BE PRESENT WHILE THE FBI  
3 INTERVIEWED YOUR MOTHER?

4 A. YES.

5 Q. AND THEY AGREED?

6 A. YES.

7 Q. AND I BELIEVE YOU AND YOUR WIFE WENT DOWN THERE FOR THIS?

8 A. YES.

9 Q. AND SO MR. CHEROKE, YOU AND YOUR WIFE AND YOUR MOTHER SAT  
10 IN A ROOM WHILE MR. CHEROKE INTERVIEWED HER?

11 A. YES.

12 Q. DO YOU RECALL DURING THAT INTERVIEW THAT MS. STOECKLEY  
13 SAID THAT YOUR SISTER WAS A PERSON WHO LOVED KIDS AND OLD  
14 PEOPLE?

15 A. YES, THAT WAS WELL KNOWN.

16 Q. AND DO YOU RECALL DURING THAT INTERVIEW THAT YOUR MOTHER  
17 SAID THAT SHE BELIEVED HER SISTER DID WHATEVER BEASLEY TOLD  
18 -- I'M SORRY, LET ME REPHRASE THAT.

19 DO YOU RECALL IN THE INTERVIEW YOUR MOTHER SAYING  
20 THAT SHE BELIEVED THAT YOUR SISTER DID WHATEVER BEASLEY TOLD  
21 YOUR SISTER TO DO?

22 A. I DON'T RECALL THOSE WERE THE EXACT WORDS, BUT SHE DID  
23 STATE THAT DETECTIVES STUDER AND BEASLEY KEPT HER ENGAGED IN  
24 THE INFORMANT BUSINESS.

25 Q. DO YOU RECALL DURING THAT INTERVIEW THAT YOUR MOTHER

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1 STATED THAT YOUR SISTER COULD NEVER HURT A CHILD OR AN OLD  
2 PERSON?

3 A. YES.

4 Q. DO YOU RECALL YOUR MOTHER SAYING THAT YOUR SISTER HAD  
5 DESCRIBED DETAILS SUCH AS SEEING THE HOBBY HORSE?

6 A. YES, SHE DID.

7 Q. AND LET'S PUT UP EXHIBIT 2318 ON THE SCREEN, PLEASE.  
8 WE'VE GOT THE WRONG EXHIBIT. WE'LL HAVE TO LOCATE THAT LATER,  
9 MR. STOECKLEY. BACK UP TO 2317, I BELIEVE THAT'S IT. ALL  
10 RIGHT, WE'LL MOVE ON TO SOMETHING ELSE AND COME BACK TO IT,  
11 MR. STOECKLEY.

12 DO YOU RECALL YOUR MOTHER STATING THAT SHE FELT AT  
13 THE TIME OF THE VISIT IN '82 THAT YOUR DAUGHTER (SIC) WAS  
14 SERIOUSLY ILL?

15 A. NO, NOT WHILE I WAS VISITING, NOT THAT TIME.

16 Q. OKAY. DID YOUR MOTHER STATE DURING THIS -- THE INTERVIEW  
17 I'M SPEAKING OF NOW IS MR. CHEROKE -- AGENT CHEROKE'S  
18 INTERVIEW OF YOUR MOTHER IN THE PRESENCE OF YOU AND YOUR WIFE.  
19 DO YOU UNDERSTAND?

20 A. YES.

21 Q. OKAY. IN THAT INTERVIEW ON APRIL 25TH, 2007, DID YOUR  
22 MOTHER REPEAT THAT SHE HAD NEVER MADE UP HER MIND AS TO  
23 MACDONALD'S GUILT?

24 A. WOULD YOU REPEAT THAT, PLEASE?

25 Q. DURING THE APRIL 25TH INTERVIEW OF YOUR MOTHER, DID SHE

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1 STATE THAT SHE HAD NEVER MADE UP HER MIND WITH REGARD TO  
2 MACDONALD'S GUILT?

3 A. I DON'T RECALL THOSE WERE HER EXACT WORDS. I KNOW SHE  
4 HAD STRUGGLED WITH THE ISSUE AS WELL AS A LOT OF PEOPLE.

5 Q. DO YOU RECALL YOUR MOTHER STATING DURING THAT INTERVIEW  
6 THAT YOUR SISTER HAD TOLD YOUR MOTHER THAT YOUR SISTER DID NOT  
7 HAVE TO TESTIFY AT THE TRIAL?

8 A. I DON'T RECALL.

9 Q. YOU DON'T RECALL THAT?

10 A. NO, SIR.

11 Q. WELL, IN ANY OTHER CONVERSATION DID YOU HEAR YOUR MOTHER  
12 SAY YOUR SISTER HAD TOLD HER THAT YOUR SISTER DID NOT HAVE TO  
13 TESTIFY AT TRIAL?

14 A. WHAT MY MOTHER WOULD SAY ALONG THOSE LINES WAS THAT THEY  
15 WOULDN'T LET HER TESTIFY, SHE WANTED TO TESTIFY, BUT SHE WAS  
16 THREATENED WITH PROSECUTION FOR MURDER.

17 Q. OKAY. YOUR MOTHER SAID IN YOUR PRESENCE AT SOME TIME  
18 THAT YOUR SISTER WANTED TO TESTIFY AT THE TRIAL, BUT THEY  
19 WOULDN'T LET HER BECAUSE THE PROSECUTOR HAD THREATENED HER?

20 A. THAT'S CORRECT.

21 Q. SO, THE STATEMENT WAS THAT THEY WOULD NOT ALLOW YOUR  
22 SISTER TO TESTIFY AT THE TRIAL?

23 A. BECAUSE SHE FELT THREATENED. SHE WANTED IMMUNITY.

24 Q. REGARDLESS OF THE THREAT, THE STATEMENT WAS THAT YOUR  
25 SISTER WAS NOT ALLOWED TO TESTIFY AT THE TRIAL?

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1 A. CORRECT.

2 Q. AND YOU HEARD YOUR MOTHER SAY THAT?

3 A. YES.

4 Q. AND YOU DON'T KNOW WHETHER IT WAS DURING THE APRIL 25TH  
5 INTERVIEW, BUT YOU HEARD HER SAY IT SOMETIME?

6 A. SEVERAL TIMES.

7 Q. SEVERAL TIMES?

8 A. YES, SIR.

9 Q. NOW, DO YOU RECALL DURING THE APRIL 25TH INTERVIEW OF  
10 YOUR MOTHER BY AGENT CHEROKE THAT YOUR MOTHER STATED THAT  
11 HELENA NEVER TOLD YOUR MOTHER THAT YOUR SISTER WAS AFRAID OF  
12 THE PROSECUTOR?

13 A. I DON'T RECALL THAT.

14 Q. AT SOME POINT DURING OR AFTER THIS INTERVIEW, DID YOU  
15 REMARK TO AGENT CHEROKE THAT THIS INTERVIEW WAS GOING QUITE  
16 DIFFERENTLY THAN THE ONE HAD WITH THE DEFENSE?

17 A. I DO RECALL BECAUSE MY MOTHER WAS ALREADY ON THE  
18 DEFENSIVE BECAUSE SHE DIDN'T TRUST THE FBI.

19 Q. WELL, MY QUESTION WAS DID YOU REMARK TO AGENT CHEROKE  
20 THAT THIS INTERVIEW WAS GOING DIFFERENTLY THAN THE ONE WITH  
21 THE DEFENSE TEAM THAT YOUR MOTHER HAD?

22 A. I BELIEVE I MADE A COMMENT TO THAT EFFECT, YES, SIR.

23 Q. OKAY. LET'S TRY AGAIN WITH THIS EXHIBIT 2318.4. TO  
24 ORIENT US, LET'S BACK UP TO THE CONTENTS PAGE, 2317. DO YOU  
25 SEE THE TITLE OF THIS MAGAZINE?

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1 A. FRONT PAGE DETECTIVE.

2 (GOVERNMENT EXHIBIT NUMBER 2317

3 WAS IDENTIFIED FOR THE RECORD.)

4 Q. AND DO YOU SEE THE DATE?

5 A. AUGUST 1970.

6 Q. ALL RIGHT. NOW, LET'S GO TO PAGE 2318.4. DO YOU SEE A

7 PICTURE OF A TOY HORSE IN THAT?

8 A. YES, I DO.

9 (GOVERNMENT EXHIBIT NUMBER 2318.4

10 WAS IDENTIFIED FOR THE RECORD.)

11 Q. AND CAN YOU READ THE CAPTION?

12 A. WOULD YOU LIKE ME TO READ IT OUT LOUD?

13 Q. YES, PLEASE.

14 A. IT SAYS DRAMATIC PHOTO THROUGH WINDOW OF SLAIN CHILDREN'S

15 ROOM KEYNOTED TRAGEDY INITIALLY. IT WAS ACCENTED AGAIN AS

16 GREEN BERETS CARRIED COFFINS OF VICTIMS TO FUNERAL SERVICES IN

17 CHAPEL AT FORT BRAGG.

18 Q. SO, AS EARLY AS 1970, CAN YOU TELL FROM THIS THAT IT WAS

19 A PICTURE SHOWING THE HOBBY HORSE IN THE CHILD'S ROOM WAS

20 PUBLISHED?

21 A. I WOULD DRAW THAT CORRELATION, YES.

22 Q. ALL RIGHT. AND ARE YOU AWARE THAT THIS SAME PICTURE WAS

23 PUBLISHED IN THE FAYETTEVILLE NEWSPAPER AROUND THE TIME OF THE

24 MURDERS?

25 A. I AM NOT.

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1 Q. NOW, I'M GOING TO GO BACK TO THE APRIL 25TH, 2007,  
2 INTERVIEW. DO YOU RECALL -- WELL, LET ME ASK YOU THIS, YOUR  
3 PARENTS HAD TO GO TO RALEIGH TO ATTEND THE TRIAL, IS THAT  
4 RIGHT?

5 A. CORRECT.

6 Q. BUT THEY DIDN'T HAVE TO STAY VERY LONG, DID THEY?

7 A. I'M NOT SURE HOW LONG THEY WERE THERE. I DON'T BELIEVE  
8 IT WAS VERY LONG.

9 Q. BECAUSE NEITHER ONE OF THEM TESTIFIED?

10 A. THAT WAS MY UNDERSTANDING.

11 Q. AND THEY WERE NOT THERE IN RALEIGH DURING THE ENTIRE TIME  
12 THAT HELENA WAS IN RALEIGH TO YOUR KNOWLEDGE?

13 A. I BELIEVE THAT'S CORRECT.

14 Q. THEY WERE NOT?

15 A. THAT THEY WERE NOT THERE THE ENTIRE TIME, YES, SIR.

16 Q. IN FACT, DO YOU RECALL DURING THIS APRIL 25TH INTERVIEW  
17 THAT YOUR MOTHER STATED THAT SHE RECALLED HER HUSBAND GOING TO  
18 RALEIGH TO PICK UP HELENA AFTER SHE WAS THROUGH WITH THE  
19 TRIAL?

20 A. I DON'T RECALL THAT.

21 Q. DO YOU RECALL YOUR MOTHER EVER SAYING THAT --

22 A. NO.

23 Q. -- IN YOUR PRESENCE?

24 A. NO, NOT TO MY KNOWLEDGE.

25 Q. DO YOU HAVE ANY REASON TO DISPUTE IT?

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1 A. NO, MY MOTHER WOULDN'T LIE. SHE WOULD --

2 Q. AND IF HELENA HAD BEEN ARRESTED AS A MATERIAL WITNESS,  
3 TAKEN TO RALEIGH -- WELL, LET ME BACK UP A MINUTE. AT THIS  
4 TIME YOUR SISTER WAS LIVING IN SOUTH CAROLINA, IS THAT RIGHT?

5 A. YES.

6 Q. AT THE TIME OF THE TRIAL?

7 A. YES.

8 Q. AND SHE WAS ARRESTED AS A MATERIAL WITNESS AND TAKEN INTO  
9 CUSTODY TO RALEIGH, ARE YOU AWARE OF THAT?

10 A. I BELIEVE THAT'S WHAT I UNDERSTOOD, IN THE CUSTODY OF THE  
11 MARSHALS.

12 Q. AND IF ERNEST DAVIS WAS NOWHERE AROUND IN RALEIGH AND  
13 YOUR SISTER'S OBLIGATION WAS FINISHED, SHE'D BE SOMEWHAT  
14 STRANDED IN RALEIGH, WOULDN'T SHE?

15 A. COULD BE. I DON'T KNOW IF SHE HAD ANY CONTACTS IN  
16 RALEIGH TO TURN TO.

17 Q. SO, IT WOULD MAKE SENSE THAT YOUR FATHER WENT UP THERE TO  
18 PICK HER UP?

19 A. IF SHE ASKED HIM, HE WOULD HAVE.

20 Q. NOW, DO YOU RECALL AGAIN IN THIS APRIL 25TH INTERVIEW  
21 WITH AGENT CHEROKE OF YOUR MOTHER THAT YOUR MOTHER STATED THAT  
22 SOMEONE FROM THE FBI CALLED YOUR MOTHER AND SAID TO TELL YOUR  
23 SISTER TO STOP CALLING THE FBI?

24 A. I DO RECALL THAT STATEMENT.

25 Q. THAT'S NOT QUITE THE SAME THING AS ALLEGEDLY TELLING YOUR

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1 SISTER TO SHUT UP ABOUT THE MACDONALD CASE?

2 A. NO, BUT SHE HAD TOLD ME ON OCCASION WHEN WE'D HAVE THE  
3 DISCUSSIONS, OUR LITTLE TALKS, AND SHE WOULD SAY THAT THEY HAD  
4 PRETTY MUCH TOLD THEM STERNLY TO DO SOMETHING ABOUT HELENA TO  
5 GET HER NOSE OUT OF IT.

6 Q. DID YOUR MOTHER TELL AGENT CHEROKE IN YOUR PRESENCE THAT  
7 SHE, YOUR MOTHER, WAS NEVER INTERVIEWED BY THE ARMY CID OR THE  
8 FBI?

9 A. I DON'T RECALL THAT STATEMENT EITHER WAY, NO.

10 Q. DID YOU HEAR HER SAY WORDS TO THE EFFECT THAT SHE  
11 BELIEVED THAT NO ONE EVER INTERVIEWED HER ABOUT THE MACDONALD  
12 MURDERS?

13 A. I DON'T RECALL HEARING THAT.

14 Q. WELL, ARE YOU AWARE AS A MATTER OF FACT THAT SHE WAS  
15 CONTACTED AND INTERVIEWED BY THE FBI?

16 A. PRIOR TO AGENT CHEROKE'S INTERVIEW?

17 Q. YES.

18 A. NO, I'M NOT AWARE.

19 Q. MANY YEARS AGO.

20 A. I WASN'T AWARE OF THAT, NO, SIR.

21 Q. WELL, EVERYTHING IS MANY YEARS AGO. IN APPROXIMATELY  
22 JULY OF 1984, DO YOU REMEMBER YOUR MOTHER BEING INTERVIEWED BY  
23 AN AGENT WITH THE FBI?

24 A. NO, I'M NOT AWARE OF THAT.

25 Q. DO YOU KNOW WHAT WAS GOING ON IN THIS CASE IN 1984? WERE

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1 YOU AWARE THAT THERE WAS A HABEAS CORPUS PROCEEDING PENDING  
2 BASED IN LARGE PART ON YOUR SISTER'S STATEMENTS?

3 A. I WAS NOT AWARE OF THAT.

4 Q. WHERE WERE YOU LIVING IN 1984?

5 A. SHORTLY AFTER MY SISTER'S DEATH, I HAD MOVED BACK TO  
6 FAYETTEVILLE PROBABLY WITHIN SIX MONTHS OR SO, THAT'S A GUESS,  
7 BUT I DID MOVE BACK TO FAYETTEVILLE.

8 Q. AND YOUR MOTHER DID NOT MENTION TO YOU DURING THAT TIME  
9 FRAME THAT SHE WAS INTERVIEWED BY THE FBI ABOUT THIS MATTER?

10 A. NO, SHE DIDN'T VOLUNTARILY DISCUSS THOSE MATTERS UNTIL  
11 HER LATER STAGES WHEN SHE WAS CONFINED TO THE ASSISTED LIVING.

12 Q. DID SHE EVER TELL YOU THAT SHE TOLD THE FBI THAT SHE  
13 RECALLED THAT WHEN HELENA CAME HOME THE NIGHT OF THE MACDONALD  
14 MURDERS SHE WAS IN A PERFECTLY SOBER AND NON-DRUG STATE AND  
15 HELENA KNEW NOTHING ABOUT THE MACDONALD MURDERS?

16 A. I WASN'T TOLD THAT, NO, SIR.

17 Q. DID SHE EVER TELL YOU THAT SHE HAD TOLD THE FBI IN 1984  
18 THAT SHE, YOUR MOTHER, WAS OF THE OPINION THAT YOUR SISTER  
19 COULD NOT HAVE BEEN PRESENT OR HAVE COMMITTED THE MURDERS  
20 BECAUSE SHE WAS NOT VIOLENT AND LOVED CHILDREN?

21 A. WHAT I WAS -- WHAT MY MOTHER TOLD ME WAS THERE WAS A LINE  
22 BETWEEN BEING PRESENT OR COMMITTING THE MURDERS.

23 Q. OKAY. WELL, MY QUESTION WAS DID YOUR MOTHER EVER TELL  
24 YOU THAT SHE TOLD THE FBI IN 1984, THAT YOUR MOTHER WAS OF THE  
25 OPINION THAT HELENA COULD NOT HAVE BEEN PRESENT OR COMMITTED

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1 THE MURDERS, THAT SHE WAS NOT VIOLENT AND LOVED CHILDREN?

2 A. I WASN'T MADE AWARE OF THAT, THAT SHE HAD TOLD THE FBI  
3 THAT, NO.

4 Q. DID SHE EVER TELL YOU THAT SHE TOLD THE FBI IN 1984, THAT  
5 HELENA, YOUR SISTER, WAS NOT BEING TREATED FAIRLY BY PRINCE  
6 BEASLEY OR TED GUNDERSON?

7 A. NO, I WASN'T AWARE OF ANY OF THAT.

8 Q. NOW, WE'VE ALREADY TALKED ABOUT PRINCE BEASLEY. YOU KNOW  
9 WHO HE IS?

10 A. RIGHT.

11 Q. DO YOU KNOW WHO TED GUNDERSON IS?

12 A. I THINK HE WAS A PRIVATE INVESTIGATOR. I DON'T KNOW A  
13 WHOLE LOT ABOUT HIM.

14 Q. IS IT YOUR UNDERSTANDING THAT HE WAS A PRIVATE  
15 INVESTIGATOR HIRED BY THE MACDONALD DEFENSE?

16 A. I DON'T KNOW WHO HE WORKED FOR, I JUST -- I WAS AWARE OF  
17 THE NAME AND THAT HE WAS A PRIVATE INVESTIGATOR.

18 Q. DID YOU EVER HEAR YOUR MOTHER EXPRESS THE OPINION THAT  
19 HELENA WAS BEING TREATED UNFAIRLY BY BEASLEY OR GUNDERSON?

20 A. NO. NO, I HAVEN'T.

21 Q. DID YOU EVER HEAR YOUR MOTHER EXPRESS THE OPINION THAT  
22 HELENA'S MIND WAS GONE, ESPECIALLY WHEN UNDER THE INFLUENCE OF  
23 DRUGS OR ALCOHOL?

24 A. I HAVE HEARD HER SAY THAT, YOU KNOW, THE DRUGS AND  
25 ALCOHOL HAD AFFECTED HER. I NEVER HEARD HER USE THE TERM GONE

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1 OR ANYTHING MORE SPECIFIC THAN JUST THAT THEY HAD AFFECTED  
2 HER.

3 Q. DID YOU EVER HEAR YOUR MOTHER EXPRESS THE OPINION THAT  
4 WHEN DOING DRUGS HELENA THOUGHT ABOUT THE MACDONALD CASE, BUT  
5 YOUR SISTER WAS NOT INVOLVED IN THE CASE?

6 A. NO, I HAVEN'T.

7 Q. DID SHE EVER TELL YOU THAT SHE TOLD THESE THINGS TO LAW  
8 ENFORCEMENT? YOUR MOTHER I MEAN.

9 A. NO, SIR.

10 Q. DID YOU EVER HEAR YOUR MOTHER STATE THAT AFTER -- WELL,  
11 LET ME ASK YOU THIS, WAS YOUR SISTER EVER TREATED AT DOROTHEA  
12 DIX HOSPITAL FOR ALCOHOLISM AND MENTAL PROBLEMS?

13 A. I'M NOT AWARE OF THAT. I WAS JUST AWARE OF HER TREATMENT  
14 AT CHAPEL HILL.

15 Q. ARE YOU AWARE THAT DOROTHEA DIX IS A MENTAL HOSPITAL IN  
16 RALEIGH, NORTH CAROLINA?

17 A. YES, SIR.

18 Q. DID YOU EVER HEAR YOUR MOTHER EXPRESS THAT AFTER HER  
19 TREATMENT, THAT IS YOUR SISTER'S TREATMENT, AT DOROTHEA DIX  
20 FOR ALCOHOLISM AND MENTAL PROBLEMS THAT YOUR SISTER WAS NEVER  
21 RIGHT?

22 A. I HAVE NOT HEARD THAT.

23 Q. AND DID YOUR MOTHER TELL YOU THAT SHE TOLD THAT SAME  
24 SENTIMENT TO THE FBI IN 1984?

25 A. NO, SIR.

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1 Q. WHEN YOU HAD THESE TALKS IN 2007 WITH YOUR MOTHER, DID  
2 YOU DISCUSS THE PRIOR YEARS WHEN YOUR MOTHER HAD GIVEN  
3 INFORMATION ABOUT YOUR SISTER AND THE MACDONALD MURDERS?

4 A. NO, WE NEVER WENT BACK OTHER THAN COVERING THE FACT OF  
5 WHAT HELENA CONFIDED IN HER. SHE DIDN'T GO INTO YEARS PAST OR  
6 PRIOR HISTORY.

7 Q. AND, OF COURSE, IF YOUR MOTHER WAS INTERVIEWED BY THE FBI  
8 ON JULY 19TH, 1984, THAT WOULD HAVE BEEN AFTER THE 1982 VISIT  
9 THAT YOUR MOTHER TOLD YOU ABOUT HELENA CONFIDING IN HER?

10 A. THAT'S CORRECT.

11 Q. AND AFTER YOUR SISTER DIED IN 1983?

12 A. THAT'S CORRECT.

13 Q. DID YOU EVER HEAR YOUR MOTHER EXPRESS THE OPINION THAT  
14 HELENA ENJOYED THE ATTENTION FROM THE MACDONALD CASE?

15 A. SHE DIDN'T SAY SPECIFICALLY THE MACDONALD CASE. I KNOW  
16 SHE WAS -- SHE ENJOYED ATTENTION TO A DEGREE.

17 THE COURT: LET'S TAKE A RECESS TILL 1:30.

18 (LUNCHEON RECESS FROM 12:00 P.M., UNTIL 1:30 P.M.)

19 (DEFENDANT PRESENT.)

20 THE COURT: GOOD AFTERNOON, EVERYONE. PLEASE BE  
21 SEATED.

22 MR. STOECKLEY, YOU'RE STILL UNDER OATH. I BELIEVE  
23 THE WITNESS IS STILL WITH MR. BRUCE.

24 MR. BRUCE: THANK YOU, SIR. THANK YOU, YOUR HONOR.

25 BY MR. BRUCE:

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1 Q. MR. STOECKLEY, JUST A COUPLE MORE QUESTIONS. I WAS  
2 QUESTIONING YOU WHEN WE BROKE FOR LUNCH ABOUT AN INTERVIEW  
3 THAT YOUR MOTHER GAVE TO THE FBI ON JULY 19TH, 1984. DO YOU  
4 RECALL MY QUESTIONING BEFORE LUNCH?

5 A. YES, SIR.

6 Q. AND I WANTED TO ASK YOU IF YOUR MOTHER EVER EXPRESSED TO  
7 YOU SOMETHING LIKE THIS, THAT HELENA, YOUR SISTER, TOLD YOUR  
8 MOTHER THAT WHEN YOUR SISTER TESTIFIED AT THE MACDONALD TRIAL  
9 YOUR SISTER TOLD EVERYTHING SHE KNEW AND TOLD THE TRUTH?

10 A. I WASN'T AWARE OF THAT. I HAVE NO KNOWLEDGE OF IT.

11 Q. OKAY. SO, YOUR MOTHER DIDN'T TELL YOU THAT IS WHAT  
12 YOU'RE SAYING?

13 A. CORRECT.

14 Q. AND YOUR MOTHER DIDN'T TELL YOU THAT SHE TOLD THE FBI  
15 THAT STATEMENT IN '84?

16 A. THAT'S CORRECT. I HAVE NO KNOWLEDGE.

17 Q. ALL RIGHT. NOW, AFTER THE APRIL 25TH INTERVIEW -- DO YOU  
18 REMEMBER THE APRIL 25TH INTERVIEW WHERE AGENT JIM CHEROKE  
19 INTERVIEWED YOUR MOTHER IN THE PRESENCE OF YOU AND YOUR WIFE?

20 A. YES, SIR.

21 Q. AND THAT WAS JUST ABOUT FOUR DAYS AFTER AGENT CHEROKE HAD  
22 INTERVIEWED YOU?

23 A. YES, SIR.

24 Q. AND IT WASN'T VERY LONG AFTER MARCH 31ST, WHEN YOUR  
25 MOTHER HAD SIGNED THE AFFIDAVIT, IS THAT RIGHT?

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1 A. CORRECT, SIR.

2 Q. IS IT FAIR TO SAY THAT BY THE END OF MR. CHEROKE'S  
3 INTERVIEW WITH YOUR MOTHER THAT YOUR MOTHER HAD WEARIED OF THE  
4 PROCESS SOMEWHAT?

5 A. WHAT MY MOTHER SAID WAS SHE WAS FINISHED WITH IT.

6 Q. DID SHE SAY THAT SHE HAD PASSED ON THE INFORMATION AND  
7 SHE DID NOT WISH TO DISCUSS THE MACDONALD CASE EVER AGAIN?

8 A. CORRECT. I DON'T KNOW IF THOSE WERE HER EXACT WORDS, BUT  
9 SHE DID SAY SHE WAS FINISHED.

10 MR. BRUCE: NO FURTHER QUESTIONS, YOUR HONOR.

11 THE COURT: ALL RIGHT. REDIRECT.

12 MR. WIDENHOUSE: YES, YOUR HONOR.

13 R E D I R E C T E X A M I N A T I O N 1:32 P.M.

14 BY MR. WIDENHOUSE:

15 Q. JUST A COUPLE OF QUESTIONS, MR. STOECKLEY. MR. BRUCE  
16 ASKED YOU IF YOUR SISTER, HELENA, DIDN'T DIE OF NATURAL CAUSES  
17 OF PNEUMONIA. AND ISN'T IT TRUE THAT YOU KNOW THAT A  
18 CONTRIBUTING CAUSE OF HER DEATH WAS POST-HEPATITIS CIRRHOSIS  
19 OF THE LIVER?

20 A. THAT'S CORRECT.

21 Q. OKAY. YOU ALSO MENTIONED ON CROSS-EXAMINATION THAT THE  
22 WAY YOUR MOTHER TALKED ABOUT THE MACDONALD INCIDENT TO YOU IN  
23 THE ASSISTED LIVING CENTER WAS NEW TO YOU?

24 A. THAT'S CORRECT. WE REALLY NEVER DISCUSSED IT IN DEPTH,  
25 BUT OUR CONVERSATIONS ABOUT END OF LIFE TOPICS LED US TO THAT

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1 AND ULTIMATELY ME ASKING HER WHAT SHE KNEW AS THE TRUTH.

2 Q. OKAY. AND I BELIEVE BY THE TIME YOU WERE HAVING THIS  
3 DISCUSSION IN THE ASSISTED LIVING CENTER I THINK YOU SAID YOUR  
4 FATHER HAD PASSED AWAY?

5 A. THAT'S CORRECT.

6 Q. AND IN THE SORT OF HOUSEHOLD WHEN YOU WERE GROWING UP HE  
7 WAS THE ONE WHO REALLY MADE SURE THE MACDONALD MATTER DIDN'T  
8 GET DISCUSSED?

9 A. WE KNEW BETTER THAN TO BRING IT UP.

10 Q. HE DIDN'T WANT IT BROUGHT UP?

11 A. HE DIDN'T WANT IT BROUGHT UP.

12 Q. OKAY. AND A LAST QUESTION. MR. BRUCE KEPT ASKING YOU  
13 ABOUT WHETHER YOUR MOTHER TOLD THE FBI THAT HELENA WAS NOT  
14 PRESENT BECAUSE SHE LOVED KIDS AND, THEREFORE, WOULDN'T BE  
15 PRESENT AND COULDN'T COMMIT A MURDER OR WOULDN'T COMMIT A  
16 MURDER. AND I THINK YOU TRIED TO EXPLAIN WHAT THAT STATEMENT  
17 MEANT TO YOU AND I WANT TO MAKE SURE YOU HAVE AN OPPORTUNITY  
18 TO DO THAT.

19 A. HELENA WAS A VERY GIVING PERSON. AND ALTHOUGH SHE HAD  
20 HER ALBATROSSES, THERE WERE STILL THINGS THAT WERE IMPORTANT  
21 TO HER IN THIS LIFE DESPITE THE FAILINGS, AND LOVING OTHERS  
22 AND BEING TRUTHFUL, AND THOSE WERE QUALITIES OUR PARENTS TRIED  
23 TO INSTILL IN US. THOSE ARE QUALITIES THAT BROUGHT ME HERE  
24 ULTIMATELY. IF WE CAN'T FIND THE TRUTH, THEN WHAT ARE ANY OF  
25 US --

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1 Q. ALL RIGHT. AND I GUESS MY LAST QUESTION IS I JUST WANT  
2 TO MAKE SURE YOU'RE CONFIDENT AS YOU SIT THERE TODAY THAT WHEN  
3 YOUR MOTHER SIGNED THAT AFFIDAVIT SHE KNEW WHAT SHE WAS DOING  
4 AND KNEW WHAT WAS ON THOSE TWO PAGES THAT YOU READ?

5 A. YES, VERY MUCH SO.

6 MR. WIDENHOUSE: THANK YOU, YOUR HONOR. NO FURTHER  
7 QUESTIONS.

8 MR. BRUCE: NO RE-CROSS, YOUR HONOR.

9 THE COURT: YOU MAY STEP DOWN.

10 MR. WIDENHOUSE: YOUR HONOR, COULD HE BE EXCUSED?

11 THE COURT: YES, SIR. CALL YOUR NEXT WITNESS.

12 MR. WIDENHOUSE: THANK YOU. WENDY ROUDER.

13 (PAUSE.)

14 **WENDY PHYLLIS ROUDER, DEFENSE WITNESS, SWORN**

15 D I R E C T E X A M I N A T I O N 1:39 P.M.

16 BY MR. WIDENHOUSE:

17 Q. GOOD AFTERNOON. COULD YOU STATE YOUR NAME AND WHERE YOU  
18 LIVE FOR THE COURT, PLEASE?

19 A. MY NAME IS WENDY PHYLLIS ROUDER AND I LIVE IN SAN  
20 FRANCISCO.

21 Q. ALL RIGHT. AND CAN YOU TELL US YOUR EDUCATIONAL  
22 BACKGROUND?

23 A. YES. I'LL START WITH THE MOST RECENT EDUCATION. MY MOST  
24 RECENT DEGREE IS A J.D., AND THEN PRIOR TO THAT I RECEIVED A  
25 PH.D. DO YOU WANT ME TO KEEP GOING BACKWARDS?

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1 Q. THAT'S FINE. WHAT'S YOUR PH.D. IN?

2 A. SPEECH.

3 Q. ALL RIGHT. AND WHERE DO YOU WORK NOW?

4 A. I WORK THROUGH THE LAW FIRM OF RENNE SLOAN HOLTZMAN AND  
5 SAKAI.

6 Q. OKAY. AND WHAT KIND OF WORK DO YOU DO?

7 A. BASICALLY, I'M A WORK PLACE INVESTIGATOR.

8 Q. AND WERE YOU INVOLVED IN THE JEFFREY MACDONALD TRIAL BACK  
9 IN 1979?

10 A. I WAS.

11 Q. OKAY. AND HOW WERE YOU INVOLVED?

12 A. I HAD JUST GRADUATED FROM LAW SCHOOL IN MARCH -- WELL,  
13 ACTUALLY I FINISHED COURSE WORK IN DECEMBER OF 1978. I TOOK  
14 THE BAR. IN MARCH OF '79, I JOINED THE DEFENSE TEAM  
15 ESSENTIALLY IN THE POSITION OF A LEGAL CLERK WAITING FOR BAR  
16 RESULTS, PASSED THE BAR, AND THEN CAME TO RALEIGH AS A TRIAL  
17 ASSISTANT ATTORNEY.

18 Q. OKAY. AND WERE YOU IN RALEIGH FOR THE ENTIRE TRIAL?

19 A. I WAS.

20 Q. OKAY. WERE YOU IN THE COURTROOM EVERY DAY OR JUST SOME  
21 OF THE DAYS?

22 A. JUST SOME OF THE DAYS I THINK.

23 Q. ALL RIGHT. AND DID YOU CONTINUE TO BE INVOLVED WITH THE  
24 MACDONALD LITIGATION AFTER THE TRIAL WAS OVER?

25 A. FOR A SHORT TIME, YES.

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1 Q. AND WHAT WERE YOU WORKING ON AT THAT POINT?

2 A. I WAS WORKING ON -- ASSISTING IN WRITING THE BRIEF TO THE  
3 FOURTH CIRCUIT.

4 Q. OKAY. AND DO YOU KNOW SORT OF A BALLPARK TIME OF WHEN  
5 YOU CEASED BEING INVOLVED IN THE MACDONALD LITIGATION?

6 A. I PASSED THE NEW YORK BAR IN 1981. SO, BY THAT TIME I  
7 WAS WELL DONE I THINK.

8 Q. ALL RIGHT. AND YOU HAVEN'T BEEN INVOLVED IN THE  
9 LITIGATION SINCE THEN?

10 A. CORRECT.

11 Q. OKAY. DURING THE TRIAL DO YOU -- DID YOU HAVE DIRECT  
12 CONTACT WITH HELENA STOECKLEY?

13 A. I DID.

14 Q. CAN YOU TELL US A LITTLE ABOUT THAT?

15 A. I WAS THE ONLY ONE IN THE OFFICE ON A WEEKEND MORNING AND  
16 A PHONE CALL CAME INTO THE OFFICE ASKING THAT -- WELL, ASKING  
17 THAT HELENA STOECKLEY BE REMOVED FROM THE MOTEL WHERE SHE WAS  
18 STAYING. AND I CALLED MR. BERNARD SEGAL, WHO AT THE TIME WAS  
19 DR. MACDONALD'S CHIEF COUNSEL, AND I ASKED HIM WHAT I SHOULD  
20 DO AND HE SAID GO TO THE MOTEL AND FIND OUT WHAT'S GOING ON.

21 Q. OKAY. AND DID YOU DO THAT?

22 A. I DID.

23 Q. DID YOU GO BY YOURSELF?

24 A. I BELIEVE -- AND I'M NOT SURE WHETHER I MET A PERSON  
25 NAMED RED UNDERHILL AT THE MOTEL OR IF I LITERALLY WENT WITH

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1 HIM. I DON'T RECALL.

2 Q. OKAY. WHAT HAPPENED ONCE YOU GOT TO THE MOTEL? WELL, DO  
3 YOU REMEMBER WHICH MOTEL IT WAS?

4 A. I BELIEVE IT WAS CALLED THE JOURNEY'S END.

5 Q. AND WHAT HAPPENED WHEN YOU GOT TO THE HOTEL?

6 A. WELL, THE MOTEL LADY ESCORTED US TO THE ROOM IN WHICH MS.  
7 STOECKLEY AND HER COMPANION, MR. ERNIE DAVIS, WAS STAYING AND  
8 I GUESS OUR GOAL WAS TO EXTRICATE MS. STOECKLEY FROM WHATEVER  
9 CHAOS WAS GOING ON IN THE MOTEL ROOM.

10 Q. AND COULD YOU TELL FROM BEING IN THE MOTEL ROOM WHAT KIND  
11 OF CHAOS MIGHT HAVE BEEN GOING ON?

12 A. WHEN WE WALKED IN HER NOSE WAS BLEEDING AND SHE WAS  
13 YELLING AT MR. DAVIS.

14 Q. ALL RIGHT. WHAT WAS HER PHYSICAL CONDITION COULD YOU  
15 TELL?

16 A. PHYSICALLY -- I MEAN, SHE WAS TOTALLY COGENT. SO, I  
17 CAN'T SAY THAT OTHER THAN THE BLOODY NOSE AND SHE MAY HAVE HAD  
18 A CAST ON HER ARM I REMEMBER ANYTHING UNUSUAL ABOUT HER  
19 PHYSICAL CONDITION.

20 Q. DO YOU RECALL WHETHER SHE WAS TAKEN TO A HOSPITAL THAT  
21 WEEKEND?

22 A. NOT WITH ANY CERTAINTY. I CAN'T RECALL.

23 Q. OKAY. AND WERE YOU ABLE TO CALM THE SITUATION?

24 A. HOPEFULLY, BUT MR. DAVIS LEFT AND IT SEEMED CALMER AFTER  
25 HE LEFT.

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1 Q. OKAY. AND WHAT DID YOU DO AT THAT POINT?

2 A. AT SOME POINT IN TIME I BELIEVE I ASKED HER IF SHE WAS  
3 OKAY ALONE OR IF SHE WANTED SOMEBODY TO BE WITH HER. SHE  
4 INVITED ME TO STAY WITH HER.

5 Q. OKAY. AND WHAT DID YOU DO?

6 A. WELL, I PROCEEDED TO SPEND THE NEXT SEVERAL HOURS WITH  
7 HER INTERRUPTED ONE TIME, I BELIEVE.

8 Q. OKAY. AND DID YOU ALL TALK?

9 A. WE DID. IT'S A LONG TIME TO BE SILENT.

10 Q. OKAY. AND WHAT KINDS OF THINGS DID YOU TALK ABOUT, IF  
11 YOU REMEMBER?

12 A. I DO REMEMBER THAT WE TALKED ABOUT THEATER AND OPERA AND  
13 WE TALKED ABOUT HER FAMILY BACKGROUND. I DON'T REMEMBER THE  
14 SPECIFICS OF IT, BUT I REMEMBER THAT AS A TOPIC. AND EVERY  
15 ONCE IN A WHILE SHE WOULD RAISE ISSUES ABOUT HER INVOLVEMENT  
16 WITH THE MURDERS OF DR. MACDONALD'S FAMILY.

17 Q. OKAY. AND WHAT KINDS OF THINGS WOULD SHE -- I'LL LET YOU  
18 GET SOME WATER BEFORE I --

19 A. THANK YOU.

20 Q. OKAY. AND WHAT KINDS OF THINGS WOULD SHE SAY WHEN SHE  
21 BROUGHT UP THE SUBJECT OF THE CASE?

22 A. SHE WOULD SAY THAT SHE THINKS SHE WAS THERE, SHE FEELS  
23 GUILTY, SHE WISHES SHE COULD TAKE SODIUM PENTOTHAL TO PURGE  
24 HER GUILT. SHE DIDN'T USE THE WORD PURGE, BUT ABOUT GETTING  
25 IT ALL OUT. AND SHE REMEMBERED A ROCKING -- THERE BEING A

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1 ROCKING HORSE AND THE LITTLE DAUGHTER. AND THOSE WERE SOME OF  
2 THE REFERENCES SHE MADE.

3 Q. OKAY. AND DID THERE COME A POINT WHEN SHE HAD TO LEAVE  
4 THE JOURNEY'S END?

5 A. YES.

6 Q. AND DO YOU REMEMBER WHY?

7 A. I BELIEVE IT WAS BECAUSE THE MOTEL LADY WAS YELLING GET  
8 HER OUT OF HERE, GET HER OUT OF HERE.

9 Q. OKAY. AND SO WHAT DID YOU DO?

10 A. AT SOME POINT, MADE ARRANGEMENTS FOR ANOTHER HOTEL.  
11 THAT'S WHAT I REMEMBER.

12 Q. DO YOU REMEMBER AFTER ALL THIS TIME WHICH HOTEL IT WAS?

13 A. I BELIEVE AT SOME POINT WE WOUND UP AT A HILTON INN. I  
14 THINK THAT'S THE NAME.

15 Q. OKAY. AND DO YOU KNOW HOW SHE GOT TO THE HILTON?

16 A. I BELIEVE MR. UNDERHILL WAS DRIVING. WE ESCORTED HER TO  
17 THE HILTON. I REMEMBER BEING IN A PARKING LOT ALONE WITH HER  
18 WHEN MR. UNDERHILL LEFT FOR A WHILE.

19 Q. AND DID YOU HAVE CONVERSATIONS WITH HER WAITING AT THE  
20 HILTON? FOR EXAMPLE, DID SHE WANT YOU TO STAY WITH HER AT THE  
21 HILTON?

22 A. SHE ASKED ME TO STAY WITH HER. I DON'T REMEMBER IF IT  
23 WAS AT THE HILTON. JUST COULD -- COULD I -- SHE ASKED ME IF I  
24 COULD SPEND THE NIGHT WITH HER.

25 Q. UH-HUH. AND WHAT DID YOU TELL HER?

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1 A. I TOLD HER THAT I NEEDED TO CHECK THAT WITH MY BOSS.

2 Q. OKAY. AND DID YOU END UP SPENDING THE NIGHT?

3 A. NO.

4 Q. OKAY. BUT WAS SHE OKAY STAYING AT THE HILTON?

5 A. I THINK -- I BELIEVE I PARTED FROM HER AT THE HILTON AND  
6 I -- I BELIEVE THAT'S THE PLACE. AND I DON'T KNOW WHAT  
7 HAPPENED AFTER AND I DON'T HAVE ANY SPECIFIC MEMORY OF WHETHER  
8 THE HILTON WAS FINE WITH HER, NOT FINE WITH HER. I DON'T  
9 REMEMBER.

10 Q. DID YOU HAVE ANY DISCUSSIONS WITH HER AT THE HILTON  
11 BEFORE YOU LEFT ABOUT THE INCIDENT SURROUNDING THE TRIAL?

12 A. AS THE HOURS PROGRESSED AND WE MOVED FROM LOCATION TO  
13 LOCATION, THE TOPIC OF HER INVOLVEMENT CAME UP.

14 Q. OKAY. AND --

15 A. I DON'T KNOW -- YOU KNOW, I CAN'T SAY THESE WORDS WERE AT  
16 THIS LOCATION AND THESE WORDS WERE AT THAT LOCATION. I CAN'T  
17 REMEMBER THAT.

18 Q. AND DID YOU MAKE ANY COMMENTS TO HER IN RESPONSE TO SOME  
19 OF THOSE THINGS SHE WAS SAYING?

20 A. YES. I EVENTUALLY SAID TO HER AT SOME POINT IN TIME,  
21 HELENA, WHY ARE YOU TELLING ME ALL THIS, WHY DON'T YOU TESTIFY  
22 THAT WAY ON THE STAND, OR SOMETHING TO THAT EFFECT. I ASKED  
23 HER WHY SHE DIDN'T -- WOULDN'T TESTIFY.

24 Q. AND WHAT WAS HER RESPONSE TO YOU?

25 A. SHE SAID I CAN'T WITH THOSE DAMN PROSECUTORS SITTING

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1 THERE.

2 Q. OKAY.

3 A. AND I BELIEVE SHE ADDED THEY'LL BURN ME, FRY ME, HANG ME,  
4 YOU KNOW, THOSE WORDS ARE NOT SPECIFIC.

5 Q. OKAY. LET ME SHOW YOU EXHIBIT 5080. IT'S GOING TO COME  
6 UP ON THE SCREEN THERE.

7 A. EXCUSE ME, I DIDN'T PREDICT THE WEATHER IN RALEIGH AND  
8 I'M WEARING THE WRONG -- HERE IN WILMINGTON, AND I'M WEARING  
9 THE WRONG GLASSES. OKAY. WHERE WOULD I LOOK?

10 Q. IT SHOULD BE ON THE SCREEN.

11 A. OKAY.

12 Q. AND DO YOU RECOGNIZE -- FROM READING -- FROM LOOKING AT  
13 THE FIRST HALF OF THE PAGE, DO YOU RECOGNIZE THE DOCUMENT?

14 A. LOOKS LIKE AN AFFIDAVIT THAT I SIGNED.

15 (DEFENSE EXHIBIT NUMBER 5080

16 WAS IDENTIFIED FOR THE RECORD.)

17 Q. ALL RIGHT. I'M GOING TO TAKE YOU TO THE LAST PAGE AND --

18 A. THAT IS MY SIGNATURE.

19 Q. ALL RIGHT. AND DID YOU READ THE AFFIDAVIT BEFORE YOU  
20 SIGNED IT?

21 A. YES.

22 Q. DID YOU BY ANY CHANCE TYPE THE AFFIDAVIT YOURSELF?

23 A. NO.

24 Q. OKAY. I'D LIKE TO DRAW YOUR ATTENTION TO PARAGRAPH FIVE  
25 OF THE AFFIDAVIT.

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1 A. YES.

2 Q. AND WOULD YOU JUST READ THAT TO YOURSELF AND TELL ME IF  
3 IT REFLECTS WHY YOU CAME TO DO THE AFFIDAVIT TO START WITH.

4 A. IT DOES.

5 Q. OKAY. AND WOULD YOU READ PARAGRAPH FIVE FOR THE RECORD?

6 A. IN AUGUST 2005, I WAS CONTACTED BY JEFFREY MACDONALD'S  
7 WIFE, KATHRYN MACDONALD. SHE TOLD ME SHE WAS WORKING ON HER  
8 HUSBAND'S BEHALF IN A PARALEGAL CAPACITY.

9 KATHRYN MACDONALD ASKED ME IF I COULD RECALL ANY  
10 FURTHER DETAILS ABOUT MY INTERACTIONS WITH WITNESS HELENA  
11 STOECKLEY DURING HER TIME IN RALEIGH IN AUGUST OF 1979. I  
12 RELATED TO HER THE INFORMATION I RECITE BELOW.

13 Q. ALL RIGHT. AND I'D LIKE TO DRAW YOUR ATTENTION TO  
14 PARAGRAPH SIX. WELL, I GUESS -- IT LOOKS LIKE THERE ARE TWO  
15 PARAGRAPH SIXES. I ASSUME THERE WERE TWO -- WERE THERE TWO  
16 PARAGRAPH SIXES WHEN YOU SIGNED THE AFFIDAVIT?

17 A. I DIDN'T COUNT. SORRY. I DON'T KNOW.

18 Q. YOU DON'T HAVE ANY REASON TO BELIEVE THIS ISN'T THE  
19 ACCURATE AFFIDAVIT?

20 A. NO, I HAVE NO REASON TO BELIEVE THAT IT ISN'T ACCURATE.

21 Q. ALL RIGHT. WELL, THE SECOND PARAGRAPH NUMBER SIX --

22 A. OKAY.

23 Q. -- WOULD YOU READ THAT AND LET ME ASK YOU DOES IT REFLECT  
24 WHY YOU CAME TO GO LOOK FOR HELENA STOECKLEY --

25 A. IT DOES.

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1 Q. -- THAT WEEKEND? AND COULD YOU READ THAT PARAGRAPH FOR  
2 THE RECORD?

3 A. ON A WEEKEND MORNING, I BELIEVE THE WEEKEND OF AUGUST 18,  
4 1979, I WAS ALONE IN OUR COUNSEL OFFICE WHEN MR. SEGAL ASKED  
5 ME TO INVESTIGATE A COMPLAINT ALLEGEDLY MADE BY THE MANAGEMENT  
6 OF THE MOTEL WHERE HELENA STOECKLEY HAD BEEN REGISTERED TO  
7 STAY DURING HER TIME IN RALEIGH.

8 THE COMPLAINT BY MOTEL MANAGEMENT WAS THAT MS.  
9 STOECKLEY WAS BEING ASSAULTED BY SOMEONE WHO THE MOTEL MANAGER  
10 DID NOT IDENTIFY AND THAT MS. STOECKLEY WAS CAUSING TROUBLE  
11 FOR THE MOTEL.

12 Q. OKAY. THANK YOU. AND WHEN I ASK YOU TO READ THE NEXT  
13 ONE, YOU MAY NEED TO READ A LITTLE MORE SLOWLY. I CAN'T HEAR  
14 QUITE AS FAST AS YOU TALK.

15 I'LL DRAW YOUR ATTENTION TO PARAGRAPH NINE OF THE  
16 AFFIDAVIT AND WOULD YOU READ IT FOR THE RECORD?

17 A. KATHRYN MACDONALD INFORMED ME THAT A NEW WITNESS HAD COME  
18 FORWARD, A UNITED STATES MARSHAL, TO WHOM HELENA STOECKLEY HAD  
19 MADE REMARKABLY SIMILAR STATEMENTS.

20 Q. WELL, LET ME STOP YOU A SECOND. WHEN YOU SAY REMARKABLY  
21 SIMILAR STATEMENTS, REMARKABLY SIMILAR TO WHAT?

22 A. TO THE STATEMENTS THAT APPARENTLY MRS. MACDONALD READ AS  
23 MY TESTIMONY IN VOIR DIRE IN 1979.

24 Q. OKAY. CONTINUE.

25 A. KATHRYN MACDONALD INFORMED ME THAT A NEW WITNESS HAD COME

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1 FORWARD -- I'M SORRY, LET ME NOT BACKTRACK. SHE TOLD ME THE  
2 SAME UNITED STATES MARSHAL HAD SWORN THAT ALSO IN HIS PRESENCE  
3 ONE OF THE PROSECUTORS, JAMES BLACKBURN, HAD THREATENED TO  
4 INDICT MS. STOECKLEY FOR MURDER IF SHE WERE TO MAKE THE SAME  
5 ADMISSIONS REGARDING HER INVOLVEMENT IN THE MACDONALD MURDERS  
6 IN THE COURTROOM.

7 Q. ALL RIGHT. AND DID YOU RECOGNIZE THE NAME OF JAMES  
8 BLACKBURN WHEN YOU HEARD IT IN 2005?

9 A. I DID.

10 Q. AND WHAT DID YOU RECOGNIZE IT TO BE?

11 A. THAT HE WAS ONE OF THE TWO TRIAL PROSECUTORS IN THE CASE  
12 OF *UNITED STATES V. JEFFREY MACDONALD*.

13 Q. ALL RIGHT. WHEN YOU HEARD THIS INFORMATION OR GOT THIS  
14 INFORMATION, WAS IT THE FIRST TIME THAT YOU HAD HEARD ABOUT A  
15 POSSIBLE THREAT TO HELENA STOECKLEY BY ONE OF THE PROSECUTORS  
16 IN THE MACDONALD TRIAL?

17 A. ABSOLUTELY.

18 Q. AND DID YOU FIND THIS REVELATION SIGNIFICANT?

19 A. ABSOLUTELY.

20 Q. AND WHY IS THAT?

21 A. BECAUSE IT RANG A BELL FOR ME. THE BELL THAT RANG WAS,  
22 AH-HA, THAT'S WHY SHE SAID SHE CAN'T TESTIFY WITH THOSE DAMN  
23 PROSECUTORS SITTING THERE. IN '79, I HAD NO SUCH ASSOCIATION  
24 WITH THAT PHRASE.

25 Q. OKAY. AND LET ME TAKE YOU TO PARAGRAPH TEN OF THE

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1 AFFIDAVIT AND ASK YOU TO READ IT TO YOURSELF AND TELL ME IF IT  
2 REFLECTS YOUR RESPONSE WHEN YOU HEARD ABOUT THE PROSECUTOR'S  
3 THREAT.

4 (PAUSE.)

5 A. OKAY. SHALL I READ IT?

6 Q. YES, IF YOU COULD READ IT FOR THE RECORD AS WELL.

7 A. MY FIRST STATEMENT TO MRS. MACDONALD WAS NOW IT ALL MAKES  
8 SENSE. SHE ASKED ME WHAT I MEANT AND I SAID THAT AFTER HELENA  
9 STOECKLEY HAD MADE HER STATEMENTS TO ME TOTALLY UNSOLICITED I  
10 HAD ASKED HER WHY SHE WAS MAKING ADMISSIONS TO ME IN PRIVATE  
11 WHEN SHE HAD MADE PUBLIC DENIALS IN THE COURTHOUSE AND WHY  
12 DIDN'T SHE TESTIFY IN COURT AS TO WHAT SHE WAS TELLING ME.  
13 SHE THEN RESPONDED, I CAN'T, I'M AFRAID.

14 I ASKED HER WHAT SHE WAS AFRAID OF. I FULLY  
15 EXPECTED HER TO SAY THAT SHE WAS AFRAID OF THE PEOPLE WITH  
16 WHOM SHE WAS INVOLVED THE NIGHT OF THE MACDONALD FAMILY  
17 MURDERS OR THAT PERSON OR PERSONS WHO THE MOTEL MANAGER HAD  
18 REPORTED AS HAVING ASSAULTED HER.

19 THUS, I WAS VERY SURPRISED WHEN MS. STOECKLEY  
20 RESPONDED THAT SHE COULD NOT TESTIFY AS TO WHAT SHE WAS  
21 SHARING WITH ME BECAUSE OF THOSE DAMN PROSECUTORS SITTING  
22 THERE AND SHE ADDED WORDS TO THE EFFECT OF THEY'LL FRY ME.

23 Q. ALL RIGHT. NOW, THERE'S SEVERAL CLAUSES OR PHRASES IN  
24 PARAGRAPH TEN THAT ARE EMPHASIZED BY BEING IN ITALICS. DID  
25 YOU DIRECT THAT THE AFFIDAVIT BE PREPARED WITH THOSE EMPHASES?

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1 A. I DON'T RECALL. I DOUBT IT, BUT I DON'T RECALL.

2 Q. OKAY. WHEN YOU READ THE AFFIDAVIT BEFORE YOU SIGNED IT  
3 AND DECIDED TO SIGN IT, DID YOU THINK THAT THE EMPHASES WERE  
4 APPROPRIATE?

5 A. THEY'RE NOT INAPPROPRIATE. AND I DON'T KNOW THAT IT'S A  
6 COMPLETE PICTURE OF MY THOUGHT PROCESS IN 1979, BUT I DON'T  
7 THINK THEY WERE INAPPROPRIATE.

8 Q. OKAY. WELL, CAN YOU TELL US WHY THE WORDS NOW IT ALL  
9 MAKES SENSE WERE EMPHASIZED?

10 A. AH, THAT ITALIC WORD. I WAS FOCUSING ON I FULLY  
11 EXPECTED. NOW IT ALL MAKES SENSE IS TOTALLY APPROPRIATE AND  
12 IT PROBABLY CAPTURED MY INFLECTION AS WELL. I TEND TO GET  
13 EXCITED WHEN I GET EXCITED.

14 Q. AND YOU DON'T HAVE THE SAME RECOLLECTION ABOUT FULLY  
15 EXPECTED?

16 A. THAT'S WHAT I WAS REFERRING TO, YES.

17 Q. AND IN THE NEXT TO THE LAST SENTENCE -- LINE OF PARAGRAPH  
18 TEN THERE'S AN EMPHASIS ON THOSE DAMN PROSECUTORS SITTING  
19 THERE. WAS THAT AN APPROPRIATE EMPHASIS DO YOU THINK?

20 A. YES.

21 Q. ALL RIGHT. AND IN THE LAST LINE THE EMPHASIS ON THEY'LL  
22 FRY ME, WAS THAT AN APPROPRIATE EMPHASIS BASED ON YOUR THOUGHT  
23 PROCESS?

24 A. PROBABLY NOT. PROBABLY NOT.

25 Q. NOW, THAT LAST LINE -- LET ME ASK YOU THIS, IN

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1 PREPARATION FOR COMING HERE TODAY AND TESTIFYING, DID YOU  
2 REVIEW YOUR -- THE TRANSCRIPT OF YOUR VOIR DIRE TESTIMONY FROM  
3 1979?

4 A. VERY BRIEFLY.

5 Q. ALL RIGHT. AND DO YOU REMEMBER FROM THAT REVIEW WHETHER  
6 THE WORDS TO THE EFFECT OF THEY'LL FRY ME APPEARS IN YOUR VOIR  
7 DIRE TESTIMONY?

8 A. IT DOES NOT.

9 Q. ALL RIGHT. AND WHY WOULD IT APPEAR IN THE AFFIDAVIT AND  
10 NOT THE VOIR DIRE TESTIMONY?

11 A. WHEN MRS. MACDONALD TOLD ME ABOUT THE MARSHAL HAVING  
12 REVEALED WHAT HE REVEALED ABOUT MR. BLACKBURN THAT'S WHAT I  
13 REMEMBERED. AT THE MOMENT I SAID TO MRS. MACDONALD, AH,  
14 THAT'S WHAT SHE MEANT AND MRS. MACDONALD ASKED ME WHAT DID IT  
15 MEAN AND THEN I SAID THAT'S WHAT THOSE WORDS THOSE DAMN  
16 PROSECUTORS SITTING THERE AND I THINK SHE ADDED THEY'LL FRY  
17 ME, BURN ME, HANG ME. THAT WAS MY EUREKA MOMENT. THAT'S WHAT  
18 I REMEMBERED SAYING TO MRS. MACDONALD. THAT'S WHAT I  
19 REMEMBERED AT THAT MOMENT. THAT'S WHAT I REMEMBER NOW. BUT I  
20 CAN'T EXPLAIN WHY IT'S NOT IN MY TRIAL VOIR DIRE TESTIMONY.

21 Q. ALL RIGHT. WELL, AS YOU SIT HERE TODAY EVEN AFTER 33  
22 YEARS, ARE YOU SATISFIED, YOU KNOW, TO YOURSELF THAT SHE USED  
23 WORDS OR WORDS TO THAT EFFECT IN 1979?

24 A. ABOUT THEY'LL FRY ME --

25 Q. YES.

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1 A. -- OR THOSE DAMN PROSECUTORS?

2 Q. YES.

3 A. IT'S IN MY HEAD SO I'M SATISFIED. DO I -- CAN I  
4 INDEPENDENTLY SEPARATE OUT THE TWO PHRASES AND SAY, AH, SHE  
5 HAD HER HAND IN THIS POSITION, THAT POSITION, I SEE IT? NO, I  
6 CAN'T GO THAT FAR.

7 Q. LET ME DIRECT YOUR ATTENTION TO PARAGRAPH 11 OF THE  
8 AFFIDAVIT AND ASK IF YOU WOULD READ IT FOR THE RECORD.

9 A. HELENA STOECKLEY MAY HAVE SAID BURN ME OR HANG ME INSTEAD  
10 OF FRY ME. MY SPECIFIC RECALL AFTER 26 YEARS IS THAT THE  
11 WORDS SHE USED EXPRESSED IN HER VERNACULAR HER FEAR OF THE  
12 PROSECUTION IMPOSING ADVERSE CONSEQUENCES ON HER WERE SHE TO  
13 TESTIFY TRUTHFULLY.

14 Q. ALL RIGHT. AND IF I COULD TAKE YOU TO PARAGRAPH 15 OF  
15 THE AFFIDAVIT AND ASK IF YOU WOULD READ THAT FOR THE RECORD?

16 A. FURTHER, I DID NOT REALIZE THAT MR. BLACKBURN HAD MET  
17 WITH MS. STOECKLEY, AS I HAD THOUGHT HE WOULD HAVE HAD TO  
18 MIRANDIZE HER, AND THAT IF HE DID SO, SHE WOULD REFUSE TO  
19 SPEAK WITH HIM, OR IF SHE PLEADED THE FIFTH AMENDMENT IN  
20 COURT, THIS ALONE WOULD RAISE REASONABLE DOUBT REGARDING HER  
21 INVOLVEMENT IN THE MACDONALD MURDERS.

22 Q. SO, YOU DON'T -- DO YOU HAVE A RECOLLECTION OF BEING IN  
23 THE COURTROOM ON THE DAY THAT THERE WAS ESSENTIALLY NO COURT  
24 SO THAT THE VARIOUS PARTIES COULD INTERVIEW MS. STOECKLEY?

25 A. YES, I REMEMBER THAT.

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1 Q. OKAY. BUT YOU DON'T HAVE -- YOU DIDN'T REALIZE THAT MR.  
2 BLACKBURN WAS GOING TO INTERVIEW HER?

3 A. NO, I JUST -- NO, I DID NOT REALIZE THAT. I WAS  
4 CONCERNED -- NOT CONCERNED -- I REALIZED THE DEFENSE WAS GOING  
5 TO INTERVIEW HER. AND TO TELL YOU THE TRUTH, I FELT A LITTLE  
6 LEFT OUT BECAUSE THEY DIDN'T INVITE ME INTO THAT ROOM.

7 Q. OKAY. FAIR ENOUGH. I WOULD HAVE FELT LEFT OUT TOO. LET  
8 ME TAKE YOU TO PARAGRAPH 17 OF THE RECORD -- I MEAN OF THE  
9 AFFIDAVIT AND ASK IF YOU WOULD READ THAT FOR THE RECORD?

10 A. THE FACT THAT HELENA STOECKLEY'S ADMISSIONS TO ME WERE  
11 DISCOUNTED AFTER VOIR DIRE HAS ALWAYS TROUBLED ME, AND I FELT  
12 COMPELLED TO BRING MY FURTHER RECOLLECTIONS TO THE COURT'S  
13 ATTENTION, GIVEN THE TESTIMONY THAT -- IT PROBABLY SHOULD HAVE  
14 CONTAINED THE WORDS THAT GIVEN THE TESTIMONY I UNDERSTOOD  
15 ABOUT MR. JAMES BRITT.

16 Q. AND I KNOW YOU'VE ALREADY TESTIFIED THAT YOU AT LEAST  
17 BRIEFLY REVIEWED YOUR VOIR DIRE TESTIMONY --

18 A. VERY BRIEFLY.

19 Q. -- IN PREPARATION. IN YOUR REVIEW OF THAT, DID IT SEEM  
20 TO BE ACCURATE? IN OTHER WORDS, AFTER 26 YEARS, DID YOU THINK  
21 YOU SAID WHAT YOU THOUGHT YOU EXPERIENCED THAT WEEKEND?

22 A. YES, IT WAS ACCURATE TO MY RECOLLECTION.

23 MR. WIDENHOUSE: THANK YOU, YOUR HONOR. NO FURTHER  
24 QUESTIONS.

25 THE COURT: CROSS.

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1 MR. BRUCE: THANK YOU, YOUR HONOR.

2 C R O S S - E X A M I N A T I O N 2:01 P.M.

3 BY MR. BRUCE:

4 Q. MS. ROUDER, MY NAME IS JOHN BRUCE AND I'D LIKE TO ASK YOU  
5 A FEW QUESTIONS.

6 A. CERTAINLY.

7 Q. I BELIEVE YOU TESTIFIED ON DIRECT EXAMINATION THAT A CALL  
8 CAME INTO THE OFFICE WHERE YOU WERE WORKING ON THAT WEEKEND  
9 MORNING, IS THAT RIGHT?

10 A. THAT'S CORRECT.

11 Q. AND WAS THE CALL TO YOU FROM THE HOTEL MANAGEMENT?

12 A. MOTEL. THAT'S MY MEMORY, YES.

13 Q. MOTEL MANAGEMENT.

14 A. YES.

15 Q. AND THEN YOU CALLED MR. SEGAL?

16 A. CORRECT.

17 Q. OKAY. FOR INSTRUCTIONS?

18 A. CORRECT.

19 Q. AND WHEN YOU SAY YOU WERE WORKING IN THE OFFICE, WHERE  
20 WAS THE OFFICE?

21 A. SOMEWHERE DOWNTOWN RALEIGH, NOT TOO FAR FROM THE  
22 COURTHOUSE.

23 Q. SO, THE DEFENSE TEAM HAD AN OFFICE OUTSIDE THE FEDERAL  
24 BUILDING?

25 A. YES, I BELIEVE SO. THAT'S MY MEMORY.

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1 Q. OKAY. NOW, WHEN YOU WENT OVER TO THE JOURNEY'S END AND  
2 RESCUED HELENA FROM HER BOYFRIEND, WOULD THAT BE A FAIR  
3 CHARACTERIZATION?

4 A. I'M SORRY, A LITTLE LOUDER, PLEASE.

5 Q. DID YOU GO OVER TO THE JOURNEY'S END AND RESCUE HELENA  
6 FROM HER BOYFRIEND IN ESSENCE?

7 A. I DON'T KNOW THAT I RESCUED HER. I DON'T KNOW THAT  
8 RESCUE IS A FAIR WORD AND NO.

9 Q. OKAY. BUT YOU WENT OVER THERE AND SHE HAD A BLOODY  
10 NOSE --

11 A. CORRECT.

12 Q. -- AND WAS YELLING AT HIM, IS THAT RIGHT?

13 A. AND WHAT?

14 Q. AND WAS YELLING AT HIM?

15 A. YES, THAT'S CORRECT.

16 Q. AND YOU ASKED HER IF SHE WANTED HIM TO LEAVE?

17 A. YES, I BELIEVE I DID.

18 Q. AND SHE SAID YES?

19 A. THAT'S CORRECT.

20 Q. AND SHE ASKED -- YOU TRANSMITTED THAT MESSAGE THAT HE  
21 NEEDED TO LEAVE?

22 A. I DON'T REMEMBER WHAT I SAID, IF I TRANSMITTED THE  
23 MESSAGE. I MIGHT -- I MAY HAVE TRANSMITTED THE MESSAGE.

24 Q. ANYWAY, HE LEFT?

25 A. CORRECT.

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1 Q. AND THE ONLY PERSON HELPING OR THE ONLY PERSONS HELPING  
2 HELENA AT THE JOURNEY'S END WITH THIS AT THAT TIME WERE YOU  
3 AND RED UNDERHILL?

4 A. THAT'S MY MEMORY, YES.

5 Q. ALL RIGHT. THERE WERE NO DEPUTY U.S. MARSHALS THERE?

6 A. I DON'T BELIEVE THERE WERE. NO, I DON'T REMEMBER ANY.

7 Q. YOU WOULD HAVE NOTICED IF THERE HAD BEEN ANY THERE, IS  
8 THAT RIGHT?

9 A. NOT IF I HAD NOT REGULARLY KNOWN WHO THEY WERE. I MEAN,  
10 I DON'T KNOW WHO MR. BRITT IS OR WAS.

11 Q. WELL, I MEAN, WOULDN'T YOU HAVE KNOWN IF, IN THAT LITTLE  
12 HOTEL ROOM, THERE WAS A DEPUTY U.S. --

13 A. OH, IN THE ROOM. NO, THERE WAS NOBODY ELSE IN THE ROOM  
14 BESIDES MR. DAVIS INITIALLY, MR. UNDERHILL AND MS. STOECKLEY  
15 AND MYSELF. YES, I WOULD HAVE KNOWN IN THE ROOM.

16 Q. ALL RIGHT. SO, THERE WAS NOBODY INTERACTING THAT YOU SAW  
17 WITH HELENA STOECKLEY OTHER THAN YOU AND RED UNDERHILL?

18 A. AND MR. DAVIS.

19 Q. AND MR. DAVIS, HER BOYFRIEND, IS THAT RIGHT?

20 A. YES, THAT'S CORRECT.

21 Q. OKAY. NOW, AS I UNDERSTAND IT, WHILE YOU WERE TALKING TO  
22 MS. STOECKLEY SHE ASKED YOU TO REMAIN, IS THAT RIGHT?

23 A. SHE DID.

24 Q. AFTER MR. DAVIS HAD LEFT SHE WANTED SOMEONE TO STAY WITH  
25 HER, IS THAT RIGHT?

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1 A. THAT'S CORRECT.

2 Q. AND YOU BEGAN CONVERSING WITH HER AT THE JOURNEY'S END  
3 MOTEL?

4 A. THAT'S CORRECT.

5 Q. AND RED UNDERHILL WAS NOT PRESENT AT THIS TIME?

6 A. HE WAS IN AND OUT. I BELIEVE -- HE WAS IN AND OUT. SO,  
7 AT WHICH TIME IS THIS TIME?

8 Q. AT THE TIME THAT SHE WAS MAKING STATEMENTS TO YOU ABOUT  
9 THE MACDONALD MURDERS.

10 A. I DON'T BELIEVE HE WAS PRESENT.

11 Q. IT WAS JUST YOU AND MS. STOECKLEY?

12 A. THAT'S MY UNDERSTANDING, CORRECT.

13 Q. ALL RIGHT. WHEN YOU WENT OVER TO THE HOTEL, DID MR.  
14 SEGAL GIVE YOU ANY INSTRUCTIONS ABOUT QUESTIONING MS.  
15 STOECKLEY?

16 A. I DON'T RECALL ONE WAY OR THE OTHER.

17 Q. WELL, DID YOU HAVE IT IN YOUR MIND WHEN YOU WERE GOING  
18 OVER TO THE MOTEL THAT YOU WOULD QUESTION HER ABOUT THE  
19 MACDONALD CASE?

20 A. I HAD IT IN MY MIND THAT I WOULD NOT QUESTION HER ABOUT  
21 THE MACDONALD CASE.

22 Q. YOU DECIDED IN ADVANCE YOU WERE NOT GOING TO DO THAT?

23 A. I WOULD NOT INITIATE QUESTIONING, CORRECT.

24 Q. ALL RIGHT. BUT THE TOPIC JUST ACCIDENTALLY CAME UP?

25 A. IT DIDN'T ACCIDENTALLY CAME UP, SHE BROUGHT IT UP.

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1 Q. SHE BROUGHT UP THE TOPIC?

2 A. YES.

3 Q. WHICH WAS CONTRARY TO YOUR PLAN?

4 A. I HAD NO -- I HAD NO PLAN. I WAS SENT OVER THERE TO  
5 FIGURE OUT WHAT WAS GOING ON, WHY THE MOTEL LADY WAS SAYING  
6 GET HER OUT OF HERE, GET HER OUT OF HERE. SO, I HAD NO PLAN  
7 BEYOND GOING OVER TO DEAL WITH THAT DRAMA OF THE MOTEL LADY  
8 CALLING AND YELLING GET HER OUT OF HERE.

9 Q. MY UNDERSTANDING IS THAT YOU MADE DETAILED NOTES OF THESE  
10 CONVERSATIONS WITH HELENA STOECKLEY?

11 A. YOU KNOW, I HAVE THOUGHT ABOUT WHETHER I MADE NOTES AND I  
12 DON'T KNOW THAT I DID MAKE NOTES. I KNOW THERE'S A REFERENCE  
13 TO NOTES I BELIEVE AND I DON'T REMEMBER MAKING NOTES.

14 SO, THERE IS A REFERENCE, IF I RECALL, IN THE VOIR  
15 DIRE TESTIMONY TO NOTES, BUT I CAN'T SAY THAT INDEPENDENTLY I  
16 REMEMBER MAKING NOTES. I CERTAINLY DIDN'T MAKE  
17 CONTEMPORANEOUS NOTES. IF I DID MAKE NOTES, IT WOULD HAVE  
18 BEEN LATER THAT DAY.

19 Q. ALL RIGHT. WELL, THAT WAS GOING TO BE MY NEXT QUESTION.  
20 YOU DON'T RECALL MAKING NOTES WHILE HELENA WAS TALKING TO YOU?

21 A. CORRECT.

22 Q. SO, IF YOU MADE NOTES, AS IS REFLECTED IN THE TRIAL  
23 TRANSCRIPT, THAT WOULD HAVE BEEN LATER?

24 A. THAT'S RIGHT.

25 Q. AND DID YOU DO THAT, MAKE THE NOTES LATER, AT THE

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1 SUGGESTION OR DIRECTION OF BERNIE SEGAL?

2 A. I DON'T REMEMBER, BUT THAT WOULDN'T BE IMPLAUSIBLE.

3 Q. BECAUSE YOU WERE WORKING FOR HIM ON THE CASE?

4 A. CORRECT. CORRECT.

5 Q. NOW, AS I UNDERSTAND IT, WHILE YOU WERE STAYING --  
6 REMAINING WITH HELENA STOECKLEY AT THE JOURNEY'S END THE  
7 MANAGEMENT CAME AND ASKED HER TO LEAVE?

8 A. THE FEMALE MANAGER OF THE MOTEL, YES, CAME AND DEMANDED  
9 THAT I OR WE GET HER OUT OF HERE.

10 Q. AND DID YOU CALL MR. SEGAL FOR FURTHER DIRECTION?

11 A. I PROBABLY DID BECAUSE I WOULDN'T HAVE KNOWN WHERE SHE  
12 SHOULD GO, BUT I CAN'T REMEMBER THAT I DID.

13 Q. WELL, DIDN'T YOU FIND OUT OR THE TEAM FIND OUT THAT THE  
14 HILTON WOULD TAKE HER?

15 A. APPARENTLY, YES, THE TEAM DID FIND OUT BECAUSE APPARENTLY  
16 WE WENT TO THE HILTON HOTEL. WHEN I SAY APPARENTLY, I HAVE A  
17 MEMORY OF DRIVING WITH HER TO SOME OTHER RESIDENTIAL LOCATION  
18 AND I BELIEVE IT WAS THE HILTON HOTEL.

19 Q. OKAY. AND THEN AFTER ARRIVING AT THE HILTON, DID YOU  
20 ASSIST HER IN GETTING CHECKED IN?

21 A. I DON'T REMEMBER.

22 Q. AND DID YOU REMAIN THERE WITH HER FOR A WHILE?

23 A. I REMAINED AT A SITE, WHICH I BELIEVE WAS THE HILTON,  
24 UNTIL SUCH TIME AS JUDGE DUPREE PHONED ME.

25 Q. WELL, WE'LL GET TO THAT IN A MINUTE.

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1 A. OKAY.

2 Q. YOU TESTIFIED ON DIRECT EXAMINATION THAT YOU DID NOT TYPE  
3 THIS AFFIDAVIT WHICH IS DEFENSE EXHIBIT 5080. AND WE'LL PUT  
4 IT ON THE SCREEN. IS THAT CORRECT?

5 A. THAT'S CORRECT.

6 Q. WHO DID TYPE IT?

7 A. I DON'T KNOW.

8 Q. HOW DID YOU GET IT?

9 A. IT WAS MAILED TO ME OR FAXED TO ME OR --

10 Q. WELL, DOES IT APPEAR TO HAVE ANY FAX TRANSMITTAL  
11 INFORMATION ON IT?

12 A. NOT THAT I CAN SEE SO IT PROBABLY WAS SENT TO ME IN U.S.  
13 MAIL.

14 Q. AND IT WAS SENT BY KATHRYN MACDONALD?

15 A. I DON'T KNOW WHO DEPOSITED IT IN THE MAIL.

16 Q. WELL, YOUR ONLY CONVERSATION ABOUT THIS BEFORE IT ARRIVED  
17 IN THE MAIL WAS WITH KATHRYN MACDONALD?

18 A. THAT'S CORRECT.

19 Q. AND THEN IT CAME --

20 A. WELL, I THINK THAT'S CORRECT. I DON'T INDEPENDENTLY  
21 REMEMBER TALKING TO AN ATTORNEY AFFILIATED WITH DR. MACDONALD  
22 AT THE TIME, BUT SOMETHING ABOUT YOUR QUESTION SAYS MAYBE I  
23 DID SPEAK WITH AN ATTORNEY. I DON'T KNOW.

24 Q. WELL, DID YOU OR DIDN'T YOU?

25 A. I DON'T REMEMBER. I DON'T REMEMBER. I JUST WANT TO

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1 SHARE WITH YOU THAT I'M NOT SPECIFICALLY RULING THAT  
2 POSSIBILITY OUT.

3 Q. WOULD THAT HAVE BEEN MR. TIMOTHY JUNKIN?

4 A. COULD HAVE BEEN. COULD HAVE BEEN.

5 Q. DO YOU KNOW HIM?

6 A. NO, NEVER MET HIM.

7 Q. DO YOU KNOW WHO I'M TALKING ABOUT?

8 A. THAT'S A NAME THAT WAS AFFILIATED ON VARIOUS DOCUMENTS, I  
9 BELIEVE, WITH THE MACDONALD CASE.

10 Q. COULD IT HAVE BEEN MR. WADE SMITH?

11 A. OH, I KNOW MR. SMITH. NO, IT WASN'T MR. SMITH.

12 Q. OKAY. SO, YOU'RE NOT SURE IF YOU TALKED TO ANYONE, BUT  
13 KATHRYN MACDONALD --

14 A. CORRECT.

15 Q. -- BEFORE THE AFFIDAVIT ARRIVED IN THE MAIL?

16 A. CORRECT.

17 Q. AND IT ARRIVED AS A PAPER COPY?

18 A. I ASSUME SO.

19 Q. WELL, DID YOU MAKE ANY CHANGES TO IT?

20 A. NO.

21 Q. AND LET'S GO TO THE LAST PAGE OF THE EXHIBIT, PLEASE. I  
22 NOTICE THAT THE ONLY THING ON THIS PAGE IS YOUR SIGNATURE AND  
23 THE NOTARY.

24 A. CORRECT.

25 Q. DID YOU KEEP A COPY OF THE AFFIDAVIT?

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1 A. NO.

2 Q. ARE YOU ABSOLUTELY CERTAIN THAT THE FIRST FOUR PAGES OF  
3 THE AFFIDAVIT ARE JUST LIKE IT WAS WHEN YOU SIGNED IT?

4 A. I DO NOT WALK AROUND REMEMBERING THE CONTENT OF DOCUMENTS  
5 I'VE READ SO I CANNOT SAY WITH 100 PERCENT CERTAINTY THAT THE  
6 FIRST FOUR PAGES ARE WHAT I SIGNED, BUT THEY DON'T LOOK  
7 UNFAMILIAR TO ME AND I WOULD SURMISE THAT THEY ARE EXACTLY  
8 WHAT I READ.

9 Q. YOU SIGNED IT ON NOVEMBER 29TH, 2005, IS THAT CORRECT?

10 A. THAT IS CORRECT. SEVEN YEARS AGO.

11 Q. AND THAT WAS OVER 26 YEARS -- 36 YEARS --

12 A. NO. NO. NO.

13 Q. 26 YEARS AFTER --

14 A. I'M ONLY 33 YEARS OLD SO --

15 Q. IT WAS OVER 26 YEARS AFTER THE MACDONALD TRIAL?

16 A. 27 YEARS.

17 Q. OKAY.

18 A. 26. 26 YEARS. I MEAN ONE PLUS FIVE.

19 Q. WELL, THE TRIAL WAS IN JULY AND AUGUST OF '79, IS THAT  
20 CORRECT.

21 A. YEAH. 26 YEARS.

22 Q. IF YOU MADE CONTEMPORANEOUS NOTES -- NOT CONTEMPORANEOUS  
23 NOTES. I WITHDRAW THAT. IF YOU MADE NOTES THAT DAY OF YOUR  
24 CONVERSATIONS WITH HELENA STOECKLEY, ARE THOSE MORE LIKELY TO  
25 BE AN ACCURATE RECOLLECTION THAN AN AFFIDAVIT DONE 26 YEARS

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1 LATER?

2 A. IF I MADE THEM, YES.

3 Q. AND THIS HAPPENED -- BY THE WAY, WAS IT SATURDAY OR  
4 SUNDAY?

5 A. I BELIEVE IT WAS SUNDAY.

6 Q. OKAY. SO, IT WAS THE NEXT DAY ON MONDAY THAT YOU  
7 TESTIFIED IN COURT ON VOIR DIRE EXAMINATION ABOUT THIS?

8 A. THAT SEEMS TO BE MY MEMORY, YES.

9 Q. SO, IS IT LIKELY THAT YOUR RECOLLECTION WAS FRESHER WHEN  
10 YOU TESTIFIED THE DAY AFTER THIS HAPPENED AS OPPOSED TO 26  
11 YEARS LATER?

12 A. IT'S LIKELY, YES.

13 Q. OKAY. SO, LET'S GO TO PAGE -- TRIAL DAY 22, PAGE 136.  
14 AND CAN YOU SEE THAT?

15 A. I CAN.

16 Q. WOULD YOU PLEASE READ STARTING AT LINE TEN DOWN TO LINE  
17 17?

18 A. OKAY.

19 MR. UNDERHILL HAD GONE UPSTAIRS TO GET HIS CLOTHES.  
20 AGAIN, OUR CONVERSATION WAS PREDOMINANTLY SMALL TALK. THERE  
21 WAS A PAUSE. SHE SAID I STILL THINK I WAS THERE IN THAT HOUSE  
22 THAT NIGHT. AND I SAID, HELENA, IS IT A FEELING OR -- A  
23 FEELING YOU'RE HAVING OR A MEMORY? SHE SAID IT'S A MEMORY. I  
24 REMEMBER STANDING AT THE COUCH HOLDING A CANDLE ONLY, YOU  
25 KNOW, IT WASN'T DRIPPING WAX, IT WAS DRIPPING BLOOD.

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1 Q. ALL RIGHT. IS THAT CONSISTENT WITH YOUR RECOLLECTION OF  
2 WHAT YOU TESTIFIED TO IN 1979?

3 A. IT IS.

4 Q. NOW, LET'S COMPARE THAT TO GOING BACK TO DEFENSE EXHIBIT  
5 5080 AT PAGE THREE, PARAGRAPH TEN. WHEN YOU SAY IN YOUR  
6 AFFIDAVIT IN THAT PARAGRAPH AFTER HELENA STOECKLEY HAD MADE  
7 HER STATEMENTS TO ME TOTALLY UNSOLICITED, I HAD ASKED HER WHY  
8 SHE WAS MAKING ADMISSIONS TO ME IN PRIVATE WHEN SHE HAD MADE  
9 PUBLIC DENIALS AT THE COURTHOUSE, IS THAT SORT OF A 26 YEAR  
10 LATER PARAPHRASE OF WHAT WE READ?

11 A. YOU WANT ME TO -- YOU WANT MY OPINION OR YOU WANT ME --

12 Q. YES.

13 A. MY OPINION IS THAT IS NOT A PARAPHRASE OF WHAT I READ.

14 Q. OKAY. WELL, WHEN YOU MADE THE PHASE -- WHEN YOU USED THE  
15 PHRASE MAKING ADMISSIONS IN PARAGRAPH TEN, WERE YOU REFERRING  
16 TO THE STATEMENT SHE MADE ABOUT IT'S A MEMORY, I REMEMBER  
17 STANDING AT THE COUCH HOLDING A CANDLE, ET CETERA?

18 A. I REFER TO ALL THE STATEMENTS THAT I ATTRIBUTED TO HER IN  
19 MY VOIR DIRE TESTIMONY.

20 Q. ALL THE STATEMENTS?

21 A. UH-HUH.

22 Q. DO YOU RECALL A MORE DIRECT ADMISSION THAN ONE IN YOUR  
23 VOIR DIRE TESTIMONY?

24 A. WELL, IN MY VOIR DIRE TESTIMONY I SAID THAT SHE HAD SAID  
25 SOMETHING ABOUT A ROCKING -- SEEING A ROCKING HORSE AND THE

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1 FAMILIARITY OF KRISTEN LEE (SIC). I MEAN, IT'S ALL THESE  
2 THINGS THAT SHE WAS COMING UP WITH, THAT SHE FEELS GUILTY, YOU  
3 KNOW, THERE'S A WHOLE BUNCH OF THINGS IN MY VOIR DIRE  
4 TESTIMONY.

5 Q. PLEASE PUT UP GOVERNMENT EXHIBIT 2317. DO YOU REMEMBER  
6 THIS DOCUMENT BEING INTRODUCED IN THE TRIAL?

7 A. NO.

8 Q. WERE YOU SHOWN THIS DOCUMENT WHEN YOU WERE ON THE STAND?

9 A. I DON'T REMEMBER. I DON'T REMEMBER.

10 Q. YOU DON'T REMEMBER IT?

11 A. THE ONLY THING I REMEMBER IS A PHOTOGRAPH, A NEWSPAPER  
12 PHOTOGRAPH.

13 Q. OKAY. WELL, LOOK AT 2318.4. DO YOU REMEMBER BEING SHOWN  
14 THAT PHOTOGRAPH?

15 A. IT LOOKS -- YEAH, I BELIEVE THAT'S WHAT I WAS SHOWN.

16 Q. OKAY. AND THE POINT WAS MADE WHEN YOU WERE SHOWN THAT  
17 THAT THE FACT THAT THERE WAS A ROCKING HORSE IN THE ROOM WAS  
18 PUBLIC KNOWLEDGE?

19 A. I DON'T -- YOU KNOW, I KNOW -- I DIDN'T MAKE THAT POINT,  
20 LET ME SAY THAT.

21 Q. WELL, LET'S LOOK AT TRIAL DAY 22, PAGE 138. AND WOULD  
22 YOU READ STARTING AT LINE 13?

23 A. 13.

24 IF I WERE READING -- YEAH, I STILL THINK I COULD  
25 HAVE BEEN THERE THAT NIGHT, RIGHT. THAT'S ME. I DON'T KNOW

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1 THE CONTEXT OF -- THE SENTENCE BEGINS, WELL, IF I WERE READING  
2 AND I DON'T KNOW THE CONTEXT. YOU WANT TO SHOW ME --

3 Q. OKAY. WELL, LET'S GO UP HIGHER. YES. MAYBE WE BETTER  
4 GO TO THE PREVIOUS PAGE, 137. WHY DON'T YOU START READING  
5 ALOUD AT LINE SIX?

6 A. MS. ROWDER (SIC) -- I'M SORRY, IT'S A MISSPELLING OF MY  
7 NAME SO I'M TRYING TO CAPTURE THE SOUND.

8 Q. IT'S R-O-U, IS THAT CORRECT?

9 A. R-O-U, YES. I BELIEVE YOU SAID -- WAS IT SATURDAY OR  
10 YESTERDAY MORNING WHEN YOU FIRST SAW HER?

11 YES.

12 ABOUT 11:00 OR 11:30?

13 YEAH.

14 AT THE JOURNEY'S END?

15 YES.

16 SHE SAID AT THIS FIRST MEETING, AS I UNDERSTAND YOUR  
17 TESTIMONY -- SHE SAID SHE COULD HAVE BEEN THERE. SHE DID NOT  
18 KNOW AT THAT POINT YESTERDAY MORNING WHETHER OR NOT SHE WAS  
19 THERE, IS THAT CORRECT?

20 HER STATEMENT WAS I COULD HAVE BEEN IN THE HOUSE  
21 THAT NIGHT.

22 Q. ALL RIGHT. LET ME STOP YOU A MINUTE. IT SEEMS TO ME IN  
23 YOUR VOIR DIRE TESTIMONY YOU WERE BEING VERY PRECISE ABOUT  
24 HELENA STOECKLEY'S STATEMENTS. DO YOU AGREE WITH THAT?

25 A. I TRY TO BE PRECISE EVERY TIME -- THE FEW TIMES I'VE

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1 TESTIFIED I'VE TRIED TO BE PRECISE. SO, THAT'S MY EFFORT THEN  
2 AND NOW, YES.

3 Q. AND COULD THAT BE BECAUSE YOU WERE REFERRING TO NOTES  
4 DURING YOUR PRETRIAL -- YOUR VOIR DIRE TESTIMONY?

5 A. I DON'T KNOW WHY AND IF I -- YOU KNOW, WHY AND IF, I  
6 DON'T KNOW.

7 Q. ALL RIGHT. LET'S GO ON TO THE NEXT PAGE, PLEASE. NOW,  
8 JUST CONTINUE READING FROM THE TOP.

9 A. DID SHE SAY I DON'T KNOW?

10 I DID NOT ASK HER, AND SHE DIDN'T SAY, I DON'T KNOW.

11 OKAY, I PUT THAT DOWN.

12 AND THEN THE COURT SAYS, WELL, SHE SAID, I STILL  
13 THINK I COULD HAVE BEEN THERE. THAT WAS HER EXACT WORDS,  
14 WASN'T IT?

15 THEN I SAY, NO, THERE'S TWO AND THEN THE COURT CUTS  
16 ME OFF AND SAYS BUT THE FIRST TIME, DID YOU NOT SAY, I STILL  
17 THINK I COULD HAVE BEEN THERE, IS THAT WHAT YOU SAID? AND  
18 THEN I SAY, WELL, IF I WERE READING -- YEAH, I STILL THINK I  
19 COULD HAVE BEEN THERE NIGHT, RIGHT.

20 Q. DO YOU THINK THAT MIGHT BE REFERRING TO READING NOTES?

21 A. 32 YEARS LATER, IT DOESN'T MAKE ANY SENSE TO ME WHAT'S  
22 GOING ON.

23 Q. OKAY.

24 A. YES. COULD IT HAVE BEEN? YES, IT COULD HAVE BEEN  
25 ANYTHING. YES.

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1 Q. WELL, READING NOTES DURING YOUR VOIR DIRE TESTIMONY MIGHT  
2 MAKE IT MORE ACCURATE, MIGHTEN IT NOT?

3 A. YEAH, IT MIGHT. YES, I WOULD HOPE.

4 Q. YOU MADE THE NOTES ON SUNDAY?

5 A. I DON'T -- I DON'T KNOW. I TOLD YOU THAT I DON'T KNOW  
6 THAT I MADE NOTES.

7 Q. ALL RIGHT. CONTINUE READING AT LINE 16, PLEASE.

8 A. MR. BLACKBURN: QUESTION: AND SHE SAID THAT WAS BECAUSE  
9 SHE SAID SHE REMEMBERED A ROCKING HORSE?

10 AND I ANSWER SHE SAID A ROCKING HORSE.

11 MR. BLACKBURN: YOUR HONOR, AT THIS POINT I WANT TO  
12 HAND UP TO THE WITNESS THE AUGUST ISSUE OF THE FRONT PAGE OF  
13 *DETECTIVE MAGAZINE* AND TURN TO PAGE 19. IT PURPORTS TO BE A  
14 STORY ABOUT THIS MURDER, AND IF YOU WOULD LOOK, PLEASE, ON  
15 PAGE 19, THE TOP PHOTOGRAPH, IF YOU WOULD TELL US WHAT YOU SEE  
16 IN IT.

17 Q. GO TO THE NEXT PAGE, PLEASE.

18 A. I CLEARLY SEE A ROCKING HORSE.

19 AND WHAT YOU -- AND WOULD YOU READ WHAT IS WRITTEN  
20 UNDERNEATH?

21 AND I READ QUOTE, DRAMATIC PHOTO THROUGH WINDOW OF  
22 SLAIN CHILDREN'S ROOM KEYNOTED TRAGEDY INITIALLY. IT WAS  
23 ACCENTED AGAIN AS GREEN BERETS CARRIED -- AS GREEN BERETS  
24 CARRIED COFFINS OF VICTIMS TO FUNERAL SERVICES IN CHAPEL AT  
25 FORT BRAGG.

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1           AND THE QUESTION IS, MS. ROUDER, DO YOU HAVE ANY  
2 PERSONAL KNOWLEDGE AS TO WHETHER OR NOT THAT PARTICULAR  
3 PHOTOGRAPH EVER APPEARED IN EITHER THE FAYETTEVILLE OR RALEIGH  
4 NEWSPAPERS SHORTLY AFTER THE MURDERS?

5           ANSWER: ABSOLUTELY NO IDEA.

6 Q.    AND YOU STILL DON'T HAVE ANY IDEA WHETHER THOSE WERE  
7 PUBLISHED?

8 A.    ABSOLUTELY STILL DO NOT KNOW.

9 Q.    BUT THE -- BACK UP, PLEASE, TO THE PREVIOUS PAGE. WOULD  
10 YOU AGREE WITH ME THAT THE PHRASE OR SENTENCE I STILL THINK I  
11 COULD HAVE BEEN THERE IS NOT AS MUCH OF AN ADMISSION AS THE  
12 STATEMENT ABOUT THE CANDLE ON PAGE 136? LET'S GO TO PAGE 136.

13 A.    IS NOT AS MUCH OF AN ADMISSION, WOULD I AGREE WITH YOU?

14 Q.    I STILL THINK I COULD HAVE BEEN THERE --

15 A.    RIGHT.

16 Q.    -- COMPARED TO YOU ASK HER IF IT'S A MEMORY AND SHE SAYS  
17 IT'S A MEMORY.

18 A.    AH, THE STATEMENT IT'S A MEMORY IS A MUCH FIRMER  
19 COMMITMENT THAN THE TENTATIVE CONDITIONAL COULD HAVE, YES.

20 Q.    OKAY. SO, CAN YOU RECALL IN YOUR VOIR DIRE TESTIMONY  
21 ANYTHING THAT WAS MORE CLEARLY AN ADMISSION THAN THE STATEMENT  
22 ON PAGE 136 IT'S A MEMORY, I REMEMBER STANDING AT THE COUCH  
23 HOLDING A CANDLE ONLY, YOU KNOW, IT WASN'T DRIPPING WAX, IT  
24 WAS DRIPPING BLOOD?

25 A.    I THINK THAT EVERY STATEMENT THAT I'VE QUOTED WAS AN

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1 ADMISSION.

2 Q. ALL RIGHT. ON PAGE 136 AFTER SHE MAKES -- AFTER YOU  
3 REPORT HELENA STOECKLEY MAKING THE STATEMENT IT WAS DRIPPING  
4 BLOOD YOU WERE ASKED ANOTHER QUESTION AND THERE'S AN ANSWER AT  
5 LINES 18 THROUGH 22. PLEASE READ THAT.

6 A. QUESTION: IS THAT THE LAST CONVERSATION YOU HAD WITH HER  
7 YESTERDAY THAT RELATED TO THIS CASE?

8 ANSWER: MY FOLLOW UP TO THAT WAS, HELENA, WHY DON'T  
9 YOU JUST GO AND SAY THAT IN COURT AND SHE SAID I CAN'T WITH  
10 THOSE DAMN PROSECUTORS STANDING -- SITTING THERE.

11 Q. AND AT THAT POINT MR. SEGAL CONCLUDES HIS QUESTIONING OF  
12 YOU?

13 A. CORRECT.

14 Q. AND WOULD IT BE FAIR TO SAY THAT IF YOUR NOTES REFLECTED  
15 THEY WILL FRY ME, THEY WILL BURN ME, THEY WILL HANG ME, HE  
16 WOULD HAVE ASKED YOU THAT?

17 A. PROBABLY HE WOULD, YES. PROBABLY, BUT POSSIBLY NOT  
18 BECAUSE THAT WAS -- LOOK, I'VE LOOKED BACK AND SAID WHY DIDN'T  
19 THOSE WORDS APPEAR IN MY VOIR DIRE TESTIMONY AND I THOUGHT  
20 THAT'S NOT THE CRITICAL IDEA BEHIND -- WHETHER THEY'LL FRY HER  
21 IS IRRELEVANT, THAT THEY'RE SITTING THERE IS WHAT'S RELEVANT.  
22 SO, I DON'T KNOW.

23 Q. LET'S GO BACK TO THE AFFIDAVIT FOR A MOMENT, DEFENDANT  
24 EXHIBIT 5080, AND LET'S LOOK AT PARAGRAPH 13.

25 A. OKAY.

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1 Q. AND IT SAYS -- WELL, JUST READ THE FIRST -- WELL, READ  
2 THE WHOLE PARAGRAPH.

3 A. OKAY. I ALSO RECALL THAT UPON MY ARRIVAL TO MS.  
4 STOECKLEY'S ROOM THE PHONE RANG AND THE HOTEL OPERATOR HAD  
5 ASKED ME SPECIFICALLY -- FOR ME SPECIFICALLY. THE CALL WAS  
6 FROM JUDGE FRANKLIN DUPREE. HE ADDRESSED ME BY NAME AND ASKED  
7 WHY I WAS THERE WITH HELENA STOECKLEY AND WARNED ME NOT TO ASK  
8 HER ANY QUESTIONS.

9 FOR YEARS AFTERWARD, I HAVE WONDERED HOW JUDGE  
10 DUPREE CAME TO KNOW THAT I HAD ARRIVED ON A WEEKEND TO SEE  
11 ABOUT MS. STOECKLEY'S WELL BEING AND WHY HE WAS CONCERNED  
12 ABOUT WHAT SHE MIGHT BE SAYING OR BEING ASKED.

13 NOW, IN AUGUST OF 2005, HEARING MR. BRITT'S  
14 STATEMENT THIS BIZARRE OCCURRENCE ALSO MADE SENSE TO ME.

15 Q. WELL, FIRST OF ALL, I WANT TO ASK YOU ABOUT THAT CALL  
16 FROM KATHRYN MACDONALD. WHEN SHE CALLED YOU AND TOLD YOU  
17 ABOUT WHAT THE RETIRED DEPUTY MARSHAL HAD REPORTED, YOU TOOK  
18 IT AT FACE VALUE?

19 A. I DID.

20 Q. SO, YOU ASSUMED THAT, NUMBER ONE, KATHRYN MACDONALD WAS  
21 TELLING YOU THE TRUTH?

22 A. I DID.

23 Q. AND YOU ASSUMED, NUMBER TWO, THAT THE DEPUTY MARSHAL THAT  
24 SHE WAS QUOTING WAS TELLING THE TRUTH?

25 A. I DID.

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1 Q. AND NOT ONLY TELLING THE TRUTH, BUT GETTING -- TRUTH  
2 IMPLIES HONESTY, DISHONESTY, BUT PEOPLE CAN BE MISTAKEN ALSO,  
3 IS THAT RIGHT?

4 A. I HAVE FOUND THAT TO BE SO, YES.

5 Q. AND YOU WERE ASSUMING THAT NEITHER KATHRYN MACDONALD NOR  
6 THE DEPUTY MARSHAL WERE MISTAKEN?

7 A. I ACTED ON THAT ASSUMPTION, YES.

8 Q. ALL RIGHT. BY THE WAY, YOU WERE NOT PRESENT I BELIEVE  
9 YOU TESTIFIED ON DIRECT EXAMINATION AT THE DEFENSE INTERVIEW  
10 OF --

11 A. THAT IS CORRECT.

12 Q. -- HELENA STOECKLEY?

13 A. THAT IS CORRECT.

14 Q. AND YOU FELT SOMEWHAT LEFT OUT?

15 A. I DID.

16 Q. DID SOMEONE ON THE TEAM REPORT TO YOU ABOUT THAT  
17 INTERVIEW?

18 A. IT WAS TALKED ABOUT AFTERWARDS. I DON'T -- THEY DIDN'T  
19 REPORT IT TO ME, BUT WAS I WITHIN EAR SHOT, YES.

20 Q. AND THEN YOU SAT IN THE COURTROOM AND OBSERVED HELENA  
21 STOECKLEY'S TESTIMONY ON FRIDAY, AUGUST 17TH?

22 A. I DON'T KNOW IF IT WAS ON FRIDAY. I WAS IN THE COURTROOM  
23 WHEN SHE TESTIFIED, YES.

24 Q. WORKING ALONG SIDE THE TRIAL TEAM DURING THE TRIAL WAS  
25 JOE MCGINNISS, THE AUTHOR, IS THAT RIGHT?

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1 A. THAT IS CORRECT.

2 Q. AND DID YOU SHARE WITH HIM -- IF YOU TOOK ANY NOTES,  
3 WOULD YOU HAVE SHARED THEM WITH HIM?

4 A. I WOULD HOPE NOT. I WOULD HAVE HOPED THAT I WOULD NOT  
5 SHARED WITH HIM UNLESS MR. SEGAL INVITED ME TO DO THAT.

6 Q. ALL RIGHT. WELL, MR. SEGAL WAS ON BOARD WITH THE FACT  
7 THAT MR. MCGINNISS WAS GIVEN ACCESS TO THE DEFENSE TEAM DURING  
8 THE MACDONALD TRIAL, RIGHT?

9 A. YES.

10 Q. SO, YOU DON'T KNOW OF ANY REASON WHY THOSE NOTES WOULD  
11 HAVE BEEN WITHHELD FROM MR. MCGINNISS?

12 A. NO, I DON'T KNOW OF ANY REASON WHY. NO.

13 Q. DID YOU SPEAK WITH MR. MCGINNISS ABOUT YOUR CONVERSATIONS  
14 WITH HELENA STOECKLEY?

15 A. I DON'T REMEMBER HAVING A ONE ON ONE WITH HIM, BUT  
16 BECAUSE HE HAD ACCESS I MIGHT HAVE SHARED IN HIS EARSHOT WITH  
17 MR. SEGAL ABOUT MY CONVERSATION WITH HELENA.

18 Q. WELL, IF HE REPORTED ABOUT YOUR CONVERSATION WITH HELENA  
19 STOECKLEY IN HIS BOOK, HE COULDN'T -- HE HADN'T OBSERVED IT  
20 FIRSTHAND, HAD HE?

21 A. I DON'T KNOW.

22 Q. WELL, HE WASN'T THERE WHEN YOU TALKED WITH HELENA  
23 STOECKLEY?

24 A. NO, BUT I DON'T KNOW WHERE HE GOT HIS INFORMATION FROM.  
25 HE MIGHT HAVE OVERHEARD ME TALKING TO MR. SEGAL. I MIGHT HAVE

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1 TALKED TO HIM. HE MIGHT HAVE MADE IT UP. I DON'T -- I DON'T  
2 KNOW. I DON'T EVEN REMEMBER WHAT'S IN HIS BOOK.

3 Q. WELL, HAVE YOU EVER READ HIS BOOK?

4 A. LET'S SEE, WE'RE 32 YEARS OUT. I READ IT ABOUT 30 YEARS  
5 AGO.

6 Q. OKAY. CAN YOU PUT GOVERNMENT EXHIBIT 2201 ON THE SCREEN  
7 AND GO TO PAGE 2201.8? CAN YOU READ THAT?

8 A. WHERE WOULD YOU LIKE ME TO --

9 Q. NO, NO, I'M ASKING YOU IF YOU CAN READ -- I'M NOT ASKING  
10 YOU TO READ ALOUD.

11 A. YEAH. YEAH, I THINK.

12 Q. CAN YOU LOOK AT THE SECOND PARAGRAPH STARTING ON SUNDAY  
13 MORNING AND --

14 A. ON WHICH PAGE? 2201.8?

15 Q. ON PAGE 536.

16 A. NO, I CAN'T SEE ANY -- OH, THERE THEY ARE. 536.

17 Q. AND I SAID SECOND PARAGRAPH, BUT I MEANT SECOND PARAGRAPH  
18 AFTER THE BREAK.

19 A. YES, I SEE.

20 Q. AND IT STARTS ON SUNDAY MORNING.

21 A. OKAY.

22 Q. JUST READ IT TO YOURSELF.

23 A. OKAY.

24 (PAUSE.)

25 OKAY.

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1 Q. IS THAT CONSISTENT WITH YOUR RECOLLECTION?

2 A. IT'S BRINGING BACK CERTAIN MEMORIES, YEAH, IT IS.

3 Q. I'M GOING TO TRY TO SPEED THIS PROCESS UP A LITTLE BIT.  
4 GO DOWN TO THE PARAGRAPH STARTING WITH ROUDER COMMA CONCERNED  
5 THAT ERNIE DAVIS AND READ THAT TO YOURSELF, PLEASE.

6 (PAUSE.)

7 A. OKAY.

8 Q. WOULD YOU SAY THAT'S PRETTY ACCURATE?

9 A. EXCEPT FOR THE SENTENCE THAT BEGINS ROUDER, CONCERNED  
10 THAT ERNIE DAVIS, PERHAPS, WAS NOT REACTING WELL TO RECENT  
11 STRESSES, AND FEARING THAT HE MIGHT HAVE BEEN THE CAUSE OF THE  
12 BLACK EYE, I DON'T KNOW THAT -- THE FIRST PART OF THAT  
13 SENTENCE DOESN'T RESONATE WITH ME AS TRUE OR NOT TRUE. I  
14 DON'T KNOW THAT I WAS CONCERNED ABOUT DAVIS'S REACTION TO  
15 RECENT STRESSES.

16 Q. WERE YOU CONCERNED THAT HE MIGHT HARM HELENA STOECKLEY  
17 AGAIN?

18 A. YES.

19 Q. OKAY. READ THE DIALOGUE THERE THAT STARTS HELENA AND  
20 THEN THE NEXT PARAGRAPH.

21 A. HELENA, DO YOU WANT HIM TO LEAVE ROUDER ASKED. YES, SAID  
22 STOECKLEY, I WANT HIM TO GO. SHE IMMEDIATELY BEGAN PLACING  
23 HIS CLOTHES AND PERSONAL BELONGINGS IN A SUITCASE ADDING, AS  
24 WELL, ALL THE MOTEL ASHTRAYS SHE COULD FIND.

25 Q. DO YOU REMEMBER THAT?

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1 A. I REMEMBER THE SUITCASE AND OBJECTS FROM THE MOTEL BEING  
2 THROWN IN IT. AND HAD I NOT READ THAT, I WOULD HAVE SAID  
3 TOWELS, BUT NOW I THINK I REMEMBER ASHTRAYS.

4 Q. AND DROP DOWN THERE TO WHERE THE DIALOGUE STARTS AGAIN  
5 WHERE IT SAYS WILL YOU BE ALL RIGHT.

6 A. YES. WILL YOU BE ALL RIGHT, ROUDER ASKED, OR WOULD YOU  
7 LIKE SOMEBODY TO STAY WITH YOU? STOECKLEY SAID SHE WOULD  
8 PREFER TO HAVE A COMPANION. HOW ABOUT YOU, SHE ASKED ROUDER,  
9 COULD YOU STAY?

10 Q. ISN'T THAT CONSISTENT WITH YOUR RECOLLECTION?

11 A. YES.

12 Q. SO, IT SEEMS THAT MR. MCGINNISS IS PRETTY FAITHFULLY  
13 REPORTING WHAT HE WAS TOLD ABOUT CONVERSATIONS BETWEEN YOU AND  
14 MS. STOECKLEY?

15 A. WHAT I HAVE READ IS ACCURATE TO MY RECOLLECTION TO THE  
16 EXTENT THAT I'VE SAID IT IS.

17 Q. ALL RIGHT. LET'S MOVE ON TO -- ON THAT SAME 2201.8, BUT  
18 THE HALF OF THE OTHER SIDE, WHICH IS PAGE 537, AND GO DOWN TO  
19 WHERE IT SAYS EVENTUALLY.

20 A. OKAY. DO YOU WANT ME TO READ THAT OUT LOUD?

21 Q. YES, PLEASE.

22 A. OKAY. EVENTUALLY THERE CAME A LULL IN THE CONVERSATION  
23 AND STOECKLEY SAID I STILL THINK I COULD HAVE BEEN THERE THAT  
24 NIGHT. WHAT MAKES YOU THINK SO, ROUDER ASKED. I DON'T KNOW.  
25 THERE WAS ANOTHER PAUSE AND THEN STOECKLEY SAID THAT ROCKING

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1 HORSE, THAT ROCKING HORSE IN KRISTEN'S ROOM. SEEING THE TOY  
2 HORSE DEPICTED IN ONE OF THE CRIME SCENE PHOTOGRAPHS HAD  
3 BROUGHT BACK TO STOECKLEY A FLASH -- OF MEMORY? OF  
4 IMAGINATION? THAT IS NOT MY WORDS, OKAY?

5 Q. WHAT'S NOT YOUR WORDS?

6 A. THE NARRATIVE COMMENT THAT APPARENTLY MR. MCGINNISS HAS  
7 ADDED IN SAYING SEEING THE TOY ROCKING HORSE DEPICTED IN ONE  
8 OF THE CRIME SCENE PHOTOGRAPHS HAD BROUGHT BACK TO STOECKLEY A  
9 FLASH -- OF MEMORY? OF IMAGINATION? I DON'T KNOW WHAT THAT  
10 SENTENCE MEANS IN TERMS OF WHAT I EXPERIENCED.

11 Q. OKAY. BUT STICKING WITH THE PART THAT HE HAS GOT IN  
12 QUOTES --

13 A. IN QUOTES, OKAY, STICKING WITH THAT. THE QUOTE IS -- THE  
14 QUOTE SEEMS ACCURATE. I DON'T HAVE A SPECIFIC MEMORY, BUT  
15 IT'S NOT INCONSISTENT WITH ANYTHING I CAN RECALL.

16 Q. WELL, THAT QUOTE THAT SAYS I STILL THINK I COULD HAVE  
17 BEEN THERE THAT NIGHT --

18 A. THAT PART IS CONSISTENT WITH MY TESTIMONY.

19 Q. IN FACT, IT'S PRETTY MUCH WORD FOR WORD, ISN'T IT?

20 A. UH-HUH, IT IS. BUT THAT -- BUT I TESTIFIED TO THAT IN  
21 COURT AND THAT COULD HAVE BEEN MR. MCGINNISS'S SOURCE. I  
22 DON'T KNOW. I DON'T KNOW.

23 Q. ALL RIGHT. LET'S GO DOWN FURTHER ON THAT PAGE WHERE  
24 THERE'S -- STARTING WITH OF COURSE, STOECKLEY REPLIED.

25 A. CAN YOU PULL IT UP? THANK YOU.

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1           STARTING WITH OF COURSE, STOECKLEY REPLIED, WHAT DO  
2 YOU THINK I'VE BEEN TAKING ALL THOSE DAMN DRUGS FOR?

3           IF MACDONALD WERE CONVICTED, ROUDER ASKED, DO YOU  
4 THINK YOU CAN LIVE WITH THAT GUILT TOO?

5           I DON'T THINK SO.

6           ISN'T THERE ANYTHING YOU CAN DO TO GET RID OF THE  
7 GUILT?

8           MAYBE SODIUM PENTOTHAL OR HYPNOSIS OR SOMETHING LIKE  
9 THAT STOECKLEY SAID.

10 Q.    IS THAT CONSISTENT WITH YOUR RECOLLECTION OF YOUR  
11 CONVERSATION WITH HELENA STOECKLEY?

12 A.    IT'S CONSISTENT OF THE GIST. I DON'T KNOW IF IT'S  
13 CONSISTENT OF WHAT I RELAYED WORD FOR WORD, NO. IT'S  
14 CONSISTENT WITH THE GIST.

15 Q.    ALL RIGHT. LET'S GO TO THE NEXT PAGE, 2201.9, AND LOOK  
16 AT THE PART BEFORE THE BREAK ON PAGE 538.

17 A.    THE CONVERSATION WAS INTERRUPTED BY THE MANAGER OF THE  
18 JOURNEY'S END WHO CALLED TO SAY THAT STOECKLEY WAS NO LONGER  
19 WELCOME AT THE MOTEL.

20           A ROOM WAS OBTAINED FOR HER AT A NEARBY HILTON.  
21 LATER IN THE AFTERNOON, AS ROUDER AND STOECKLEY SAT TOGETHER  
22 IN AN AUTOMOBILE EN ROUTE FROM ONE MOTEL TO THE OTHER,  
23 STOECKLEY AGAIN SAID I STILL THINK I WAS THERE IN THAT HOUSE  
24 THAT NIGHT.

25           HELENA, IS THAT A FEELING YOU'RE HAVING OR A MEMORY,

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1 ROUDER ASKED. IT'S A MEMORY STOECKLEY SAID. I REMEMBER  
2 STANDING AT THE COUCH HOLDING A CANDLE ONLY, YOU KNOW, IT  
3 WASN'T DRIPPING WAX, IT WAS DRIPPING BLOOD.

4 Q. ALL RIGHT. LET'S GO BACK TO TRIAL DAY 22, PAGE 136, AND  
5 YOU SEE WHERE IT SAYS, HELENA, IS THAT A FEELING YOU'RE  
6 HAVING, ET CETERA?

7 A. UH-HUH.

8 Q. ISN'T THAT WORD FOR WORD WHAT MR. MCGINNISS REPORTED IN  
9 HIS BOOK?

10 A. YOU KNOW WHAT, PUT BOTH ON THE SCREEN SIDE BY SIDE AND  
11 I'LL MATCH EVERY WORD. I CAN TELL YOU IF IT'S WORD BY WORD.

12 Q. THE EXHIBIT NUMBER IS 2201.9.

13 A. IN FACT, IF YOU CAN READ TO ME ONE, I'LL COMPARE IT TO  
14 THE OTHER, I MEAN IF THAT'S WHAT WE NEED TO DO.

15 Q. ALL RIGHT. I'LL READ FROM THE TRIAL TRANSCRIPT.

16 A. OKAY. ONE SECOND NOW I HAVE TO CATCH UP.

17 Q. I STILL THINK I WAS THERE IN THE HOUSE THAT NIGHT.

18 A. OKAY. JUST THOSE WORDS. I STILL THINK I WAS THERE IN  
19 THE HOUSE. THAT'S WORD FOR WORD. GO AHEAD.

20 Q. AND I SAID, HELENA -- QUOTE, HELENA, IS IT A FEELING YOU  
21 ARE HAVING OR A MEMORY? CLOSE QUOTE.

22 A. EXCEPT I SAID. YEAH, THAT WORKS. THAT'S WORD FOR WORD.  
23 GO AHEAD.

24 Q. AND THEN IT SAYS SHE SAID QUOTE, IT'S A MEMORY. I  
25 REMEMBER STANDING AT THE COUCH COMMA HOLDING A CANDLE COMMA

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1 ONLY, YOU KNOW, IT WASN'T DRIPPING WAX, IT WAS DRIPPING BLOOD.

2 A. WORD FOR WORD RIGHT OUT OF THE TRANSCRIPT, YES. THANK  
3 YOU.

4 Q. ALL RIGHT. NOW, JUST PUT UP PAGE 2201.9, PAGE 538. NOW,  
5 THERE IS ONE DIFFERENCE BETWEEN THE TRIAL TRANSCRIPT. WHEN  
6 YOU GET TO THE PART ABOUT IT'S DRIPPING BLOOD IT ENDS WITHOUT  
7 ANY MENTION OF THE PROSECUTORS.

8 A. APPEARS TO BE CORRECT, YES.

9 Q. ALL RIGHT.

10 MR. BRUCE: MAY I HAVE ONE MOMENT, YOUR HONOR,  
11 PLEASE?

12 THE COURT: YES, SIR.

13 (PAUSE.)

14 BY MR. BRUCE:

15 Q. LET'S GO BACK TO 2201.8 ON PAGE 537 AND DO YOU SEE --  
16 READ DOWN THAT PAGE TO YOURSELF --

17 A. WHAT?

18 Q. THE 537 HALF ON THE RIGHT.

19 A. THE WHOLE PAGE?

20 Q. DON'T READ IT ALOUD, JUST READ THROUGH IT.

21 A. THE WHOLE PAGE YOU WANT ME TO READ?

22 Q. AND RIGHT ABOUT WHERE THE CURSOR IS DO YOU SEE WHERE IT  
23 SAYS ROUDER KEPT TALKING?

24 A. YES, I DO SEE THAT. THAT'S WHERE YOU WANT ME TO BEGIN?

25 Q. YES.

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1 A. (WITNESS REVIEWS DOCUMENT.) (PAUSE.) OKAY.

2 Q. ALL RIGHT. DO YOU SEE WHERE IT SAYS ROUDER KEPT TALKING  
3 TO STOECKLEY THROUGHOUT THE AFTERNOON TAKING NOTES ON THE  
4 CONVERSATION?

5 A. I SEE THAT, YES.

6 Q. OKAY. DO YOU DISPUTE THAT?

7 A. AS I SAID, I DON'T HAVE A SPECIFIC MEMORY, BUT I DON'T  
8 DISPUTE IT.

9 Q. WELL, IF YOU WERE TAKING NOTES --

10 A. WHY IT SEEMS ODD TO ME IS I HAVE NO MEMORY OF HAVING A  
11 PENCIL AND PAPER AND WRITING AS SHE WAS TALKING. I MEAN, IT  
12 WOULD NOT BE CONSISTENT WITH THE DYNAMICS OF THE DAY, WHICH  
13 WAS GETTING TO THE MOTEL AND DEALING WITH THE ISSUES, MOVING  
14 HER AROUND.

15 I DON'T -- YOU KNOW, AGAIN, I CAN'T SAY I DIDN'T DO  
16 IT, BUT IT JUST DOESN'T SEEM CONSISTENT WITH WHAT WAS GOING  
17 ON.

18 Q. ALL RIGHT. LET'S LOOK AT TRIAL DAY 22, PAGE 131, AND  
19 YOU'RE BEING QUESTIONED BY MR. SEGAL IT APPEARS. START  
20 READING AT LINE TWO; QUESTION, AT ANY POINT.

21 A. AT ANY POINT, DID YOU TALK TO HER ABOUT INVOLVEMENT IN  
22 THE MURDERS OF THE MACDONALD FAMILY?

23 YES. THIS FOLLOWED A PAUSE IN THE CONVERSATION -- A  
24 CONVERSATION FRAMED BY SMALL TALK. THERE WAS A PAUSE, AND SHE  
25 BROUGHT UP THE SUBJECT.

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1 DID YOU MAKE NOTES -- AT MY REQUEST, DID YOU MAKE  
2 NOTES OF WHAT SHE SAID TO YOU AT THAT TIME?

3 YES.

4 DO YOU HAVE THOSE WITH YOU?

5 OKAY, SO WHAT DO I HEAR HERE? I HEAR THAT THERE  
6 WERE NOTES MADE, BUT NOT WHILE I WAS WITH HER. IN OTHER  
7 WORDS, THIS IS SUGGESTING THAT I MADE NOTES AND MORE LOGICALLY  
8 AT THE END OF THE DAY, WHICH IS MORE LOGICAL.

9 Q. OKAY.

10 A. AND I DON'T HAVE A MEMORY OF DOING THAT, BUT THAT SEEMS  
11 TO BE WHAT THIS SAYS.

12 Q. AND YOU WERE UNDER OATH AND YOU WOULD HAVE CERTAINLY TOLD  
13 THE TRUTH --

14 A. ABSOLUTELY.

15 Q. -- ABOUT WHETHER OR NOT YOU MADE NOTES, IS THAT RIGHT?

16 A. ABSOLUTELY.

17 Q. ALL RIGHT. KEEP READING ON, DO YOU HAVE THOSE WITH YOU?

18 A. I DO.

19 DO YOU WANT TO READ TO US YOUR BEST RECOLLECTION AS  
20 YOU RECORDED IT IN YOUR MEMORANDUM THERE AS TO WHAT SHE SAID  
21 TO YOU IN THIS FIRST -- IN THIS FIRST TIME THAT SHE MADE AN  
22 OBSERVATION ABOUT THE MACDONALD CASE?

23 AFTER A PAUSE, SHE SAYS TO ME I STILL THINK I COULD  
24 HAVE BEEN THERE THAT NIGHT. AND THEN I ASKED WHAT MAKES YOU  
25 THINK SO? SHE SAID I DON'T KNOW. THERE WAS A PAUSE AND THEN

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1 SHE SAID THAT ROCKING HORSE. THERE WAS ANOTHER PAUSE AND SHE  
2 ADDED, YOU KNOW, KRISTEN, KRISTEN JEAN. THOSE PICTURES, WHEN  
3 I LOOKED AT THOSE PICTURES, I KNEW I HAD SEEN HER SOMEWHERE  
4 BEFORE. ANOTHER PAUSE AND THEN SHE ADDED AND THAT DRIVEWAY, I  
5 REMEMBER BEING IN THAT DRIVEWAY.

6 WAS THAT END OF HER REMARKS ABOUT THE JOURNEY --  
7 REMARKS ABOUT THE MACDONALD CASE AT THAT JUNCTURE?

8 SPECIFICALLY, PLACING HERSELF ON SOMETHING CONCRETE,  
9 YES. THERE WERE MORE ALLUSIONS TO HER INVOLVEMENT THROUGH IN  
10 THAT PARTICULAR CONVERSATION.

11 Q. ALL RIGHT. NOW, AFTER YOU CONCLUDED YOUR CROSS AND --  
12 DIRECT AND CROSS, THE COURT ASKED YOU SOME QUESTIONS. DO YOU  
13 REMEMBER THAT?

14 A. YES.

15 Q. LET'S GO TO TRIAL DAY 22, PAGE 145. AND DO YOU SEE WHERE  
16 IT STARTS OUT WHERE HE ASKS YOU IF YOU'RE ASSOCIATED WITH  
17 DEFENSE COUNSEL IN THE DEFENSE IN THIS CASE?

18 A. I SEE. YES.

19 Q. ALL RIGHT. LET'S SKIP OVER TO PAGE 146. AND DO YOU SEE  
20 WHERE ON LINE THREE -- WOULD YOU READ THAT, LINE THREE THROUGH  
21 EIGHT?

22 A. CERTAINLY.

23 QUESTION, AND THIS IS FROM THE COURT, I SEE. DID  
24 YOU PREPARE SOME OF THESE BRIEFS YOURSELF?

25 ANSWER: YES.

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1 QUESTION: WELL, I WANT TO COMMEND YOU ON HAVING  
2 DONE A VERY GOOD JOB.

3 ANSWER: THANK YOU.

4 Q. SO, THE JUDGE IS COMMENDING YOU FOR YOUR WORK ON THE  
5 BRIEFS IN THE MACDONALD CASE?

6 A. CONTINUALLY.

7 Q. AND HE DID THAT MORE THAN ONCE?

8 A. MANY TIMES.

9 Q. MANY TIMES. AND THEN STARTING AT LINE 13, HE ASKS YOU A  
10 QUESTION. WOULD YOU READ THE QUESTION AND ANSWER DOWN THROUGH  
11 22?

12 A. CERTAINLY.

13 IN CALIFORNIA, IS IT UNUSUAL -- IS IT USUAL AND  
14 CUSTOMARY AND THE ORDINARY PRACTICE FOR ATTORNEYS TO GO AND  
15 SPEND ALL OF THIS TIME LIKE YOU SPENT WITH THE WITNESS  
16 YESTERDAY BETWEEN TIME WHEN SHE HAS -- BETWEEN TIME WHEN SHE  
17 HAS TESTIFIED ONE TIME AND HAS BEEN PLACED UNDER SUBPOENA TO  
18 TESTIFY AGAIN?

19 AND I ANSWER I CAN'T ANSWER WHETHER IT IS USUAL OR  
20 CUSTOMARY. I WILL SAY THAT I THINK PERHAPS THE TIME I SPENT  
21 WITH HER I WAS RESPONDING MORE AS A PERSON CONCERNED WITH HER  
22 PHYSICAL WELL BEING. THAT WAS SORT OF THE IMPETUS FOR THE  
23 TIME.

24 SHALL I CONTINUE?

25 Q. NO. THE GIST OF THIS IS THE JUDGE WAS EXPRESSING SOME

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1 CONCERN ABOUT THIS CONTACT WITH THE WITNESS BY THE DEFENSE  
2 TEAM, IS THAT FAIR?

3 A. APPARENTLY.

4 Q. I WASN'T ASKING YOU WHETHER -- I DIDN'T MEAN TO ASK YOU  
5 WHETHER HIS CONCERN WAS FAIR, BUT IS IT FAIR TO CHARACTERIZE  
6 THAT HE HAD CONCERN?

7 A. DO YOU MEAN DO I INTERPRET WHAT I READ AS THE JUDGE  
8 SHOWING CONCERN?

9 Q. YES, AND ALSO WHEN YOU HEARD IT LIVE.

10 A. FROM WHAT I READ HERE AND WHAT THE JUDGE SAID TO ME ON  
11 THE PHONE, YES, HE HAD CONCERN.

12 Q. WELL, YOU SAID THE JUDGE SAID TO YOU ON THE PHONE, BUT IS  
13 THERE ANYTHING IN HERE, IN THIS TRANSCRIPT, ABOUT THE JUDGE  
14 CALLING YOU ON THE PHONE?

15 A. NO. WHY WOULD THAT BE RELEVANT TO ANYTHING? I'M SORRY  
16 TO ASK A QUESTION AND I KNOW YOU ASKED ME A QUESTION. I'M  
17 SORRY. THE LAWYER IN ME SLIPPED OUT, I'M SORRY.

18 Q. THERE'S A PRETTY LONG COLLOQUY BETWEEN YOU AND THE JUDGE  
19 IN THIS TRANSCRIPT ABOUT YOUR MEETING WITH MS. STOECKLEY, IS  
20 THAT RIGHT?

21 A. CORRECT.

22 Q. AND YET NEITHER YOU NOR THE JUDGE MAKE ANY REFERENCE TO  
23 HAVING A PHONE CONVERSATION THAT WEEKEND?

24 A. WELL, I COULD SAY I THOUGHT ABOUT CHASTISING HIM FOR  
25 CALLING ME AT THE MOTEL AND INTERRUPTING, BUT I DIDN'T REALLY

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1 THINK ABOUT THAT. NO. NO.

2 Q. DO YOU RECALL THERE WAS CONVERSATION THAT DAY IN COURT  
3 ABOUT A PHONE CONVERSATION THAT THE JUDGE HAD WITH SOMEONE?

4 A. DO WHAT? SAY THAT AGAIN.

5 Q. DO YOU RECALL THAT THERE WAS CONVERSATION IN COURT THAT  
6 DAY, MONDAY, AUGUST 20TH, ABOUT A PHONE CONVERSATION THAT THE  
7 JUDGE HAD WITH ANOTHER PERSON NOT YOU?

8 A. NO, I DON'T. I DON'T RECALL. NO.

9 Q. JUST A MOMENT, PLEASE.

10 (PAUSE.)

11 LET'S GO TO TRIAL DAY 22, PAGE 179. AND IF YOU  
12 WOULD READ LINE THREE THROUGH TEN ALOUD.

13 A. OH, I'M GLAD -- I'M GLAD YOU MENTIONED THAT BECAUSE I  
14 HAVE NEGLECTED, JUST COMPLETELY OVERLOOKED IT, TO TELL YOU,  
15 BUT I WANT YOU TO KNOW THAT AMONG OTHERS CALLED BY HELENA, SHE  
16 CALLED ME -- SHE CALLED ME TWICE SATURDAY NIGHT STATING THAT  
17 SHE WAS LIVING IN MORTAL DREAD OF PHYSICAL HARM BY BERNARD  
18 SEGAL, COUNSEL FOR THE DEFENDANT, AND THAT SHE WANTED A LAWYER  
19 TO REPRESENT HER. I SAID, WELL, NOW, LOOK, I CANNOT TALK TO  
20 YOU ABOUT THIS CASE, BUT SOMEBODY WILL CALL YOU TOMORROW.  
21 WHERE WILL YOU BE?

22 Q. KEEP ON READING TO THE END.

23 A. THIS IS THE REASON I KNEW THIS JOURNEY'S END THING. SHE  
24 GAVE ME THE JOURNEY'S END. OF COURSE, WHAT I WANTED TO DO WAS  
25 GO TO THE CRIMINAL JUSTICE ACT TO SEE WHETHER OR NOT I COULD

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1 PAY ANY LAWYER UNDER THESE CIRCUMSTANCES, AND AMAZINGLY I  
2 FOUND AN AMENDMENT TO THE ACT, WHICH IS NOT EVEN IN THE BOUND  
3 VOLUME, WHICH ALLOWS ME TO DO IT FOR A WITNESS WHO IS --

4 MR. SMITH: (INTERPOSING.) THAT'S INCREDIBLE.

5 THE COURT: SO I TOLD STEVE COGGINS THEN, I SAID,  
6 FIND ME A LAWYER, AND I THINK HE CALLED EVERYBODY IN THE BOOK  
7 JUST ABOUT, BUT HE FINALLY GOT JERRY LEONARD.

8 LAW CLERK: HAVE YOU EVER TRIED TO FIND A LAWYER ON  
9 SUNDAY AFTERNOON?

10 THE COURT: YOU CAN ALWAYS FIND ME. SEGAL'S GOT ME  
11 WORKING ON SUNDAY AFTERNOON.

12 Q. THAT'S ENOUGH. ACTUALLY, SEGAL AND ROUDER HAD HIM  
13 WORKING ON SUNDAY AFTERNOON, IS THAT RIGHT?

14 A. I THINK THAT'S WHAT JUDGE DUPREE WOULD HAVE SAID.

15 Q. BUT IN ANY CASE, JUDGE DUPREE WAS TELLING EVERYONE THAT  
16 HE HAD RECEIVED TWO PHONE CALLS FROM HELENA STOECKLEY, IS THAT  
17 RIGHT?

18 A. THAT'S WHAT I READ HERE, YES.

19 Q. BUT TO YOUR RECOLLECTION, WAS THERE ANY MENTION IN COURT  
20 ABOUT JUDGE DUPREE HAVING CALLED YOU?

21 A. NO. I MEAN, WHAT -- YEAH. NO. NO.

22 Q. WELL, THERE'S NOTHING IN *FATAL VISION* ABOUT JUDGE DUPREE  
23 HAVING CALLED YOU THAT WEEKEND, WOULD YOU AGREE WITH THAT?

24 A. I DON'T KNOW, BUT I TAKE YOUR WORD FOR IT. I MEAN, I  
25 DON'T WANT TO ENGAGE IN, YOU KNOW, ARGUMENTATIVE THINGS.

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1 Q. AND THERE'S NOTHING IN THE TRIAL TRANSCRIPT ABOUT JUDGE  
2 DUPREE HAVING CALLED YOU, IS THERE?

3 A. NO.

4 Q. AND --

5 A. THAT I KNOW OF.

6 Q. AND YET, 26 YEARS LATER, IT POPS UP IN YOUR AFFIDAVIT?

7 A. YES, BUT WHY -- THE REASON I LEFT -- I WOULDN'T HAVE LEFT  
8 HELENA STOECKLEY IF JUDGE DUPREE DIDN'T TELL ME WE'RE SENDING  
9 -- WE'RE SENDING SOMEONE DOWN AND I DON'T THINK YOU SHOULD BE  
10 TALKING TO HER.

11 Q. HE SAID WE'RE SENDING SOMEONE DOWN?

12 A. YES. I DON'T REMEMBER IF HE SAID A LAWYER OR A MARSHAL,  
13 BUT HE TOLD ME TO STOP TALKING TO HER. I WOULDN'T HAVE  
14 STOPPED TALKING -- LOOK, YOU KNOW, SHE WAS BRINGING STUFF UP,  
15 I WAS WILLING TO -- CERTAINLY WILLING TO LISTEN. AND I WOULD  
16 NEVER HAVE LEFT HER IF I WEREN'T ORDERED BY JUDGE DUPREE TO  
17 LEAVE HER -- TO LEAVE HER.

18 Q. WHY DIDN'T YOU SAY THAT IN COURT THE NEXT DAY?

19 A. WHY WOULD I SAY THAT? WHAT HAS THAT GOT TO DO WITH WHAT  
20 SHE TOLD ME? YOU KNOW, THAT'S AN ANSWER, PUT A PERIOD THERE.  
21 IT'S REALLY NOT A QUESTION. YOUR QUESTION HONESTLY MAKES NO  
22 SENSE TO ME.

23 Q. IT'S A PRETTY DRAMATIC EVENT TO BE CALLED BY A UNITED  
24 STATES DISTRICT JUDGE ON THE TELEPHONE, ISN'T IT?

25 A. IT CERTAINLY -- AFTER 32 YEARS OF PRACTICING LAW, I WILL

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1 SAY IT REALLY IS.

2 Q. AND DID YOU EVER REPORT IT TO ANYONE PRIOR TO THIS  
3 AFFIDAVIT IN 2007 -- 2005?

4 A. REPORT IT IN THE SENSE OF WHAT? DID I EVER --

5 Q. WRITE ABOUT IT? SPEAK ABOUT IT?

6 A. I MIGHT HAVE. I MIGHT HAVE. DID YOU KNOW THAT JUDGE  
7 DUPREE SENT ME A LETTER COMPLIMENTING ME AND TELLING ME HE  
8 BELIEVED DR. MACDONALD WAS GOING TO BE ACQUITTED? DID YOU  
9 KNOW THAT?

10 Q. WELL, LIKE YOU SAID, I CAN'T ANSWER QUESTIONS.

11 A. OKAY.

12 Q. SO, YOU TELL US ABOUT THE LETTER.

13 A. OKAY. I ASSUME THAT YOU DON'T KNOW THAT JUDGE DUPREE  
14 WROTE TO ME AND SAID THAT HE COULDN'T OFFER ME A LAW CLERK  
15 POSITION BECAUSE HE TRULY -- BECAUSE HE BELIEVED THAT DR.  
16 MACDONALD WOULD BE ACQUITTED. AND NOW DURING -- NOW, THAT HE  
17 HAS NOT BEEN ACQUITTED, HE ASSUMES I WOULD BE WORKING ON THE  
18 APPELLATE BRIEF. SO, THAT WAS A SORT OF VERY STRANGE WAY OF  
19 TELLING ME I'M NOT GIVING YOU A JOB.

20 Q. HAD YOU ASKED HIM FOR A JOB?

21 A. YES.

22 Q. SO, HIS LETTER TO YOU WAS A REPLY TO YOUR REQUEST FOR A  
23 LAW CLERK POSITION?

24 A. THAT'S CORRECT.

25 Q. AND YOU DECIDED TO ASK HIM FOR A LAW CLERK POSITION

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1 BECAUSE HE HAD COMPLIMENTED YOU SEVERAL TIMES ON YOUR BRIEF  
2 WRITING?

3 A. AND BECAUSE I KNEW THAT I WOULD BE UNEMPLOYED AFTER THE  
4 MACDONALD CASE.

5 Q. AND I ASSUME THAT IF YOU WERE ASKING HIM FOR A LAW CLERK  
6 POSITION THAT HE'S -- FROM YOUR EXPERIENCE WITH HIM IN THE  
7 MACDONALD TRIAL, HE WAS A PERSON THAT YOU WOULD WANT TO WORK  
8 FOR?

9 A. I DIDN'T GET THAT FAR. IT STARTED OUT AS BANTER, I WAS  
10 WILLING TO ENTERTAIN IT, AND I NEVER -- I DIDN'T -- HAD NO  
11 IDEA WHAT -- I KNOW I APPLIED AND I HAD NO IDEA WHAT I WOULD  
12 DO IF HE DID, IN FACT, OFFER IT TO ME.

13 Q. IN ANY CASE, IN REPLY TO YOUR REQUEST FOR A LAW CLERK  
14 POSITION HE WROTE YOU A NICE LETTER?

15 A. I DON'T KNOW IF IT WAS NICE. HE WROTE ME WHAT I JUST  
16 SAID.

17 Q. AND THAT WAS AFTER THE TRIAL?

18 A. THAT WAS AFTER THE TRIAL, YES.

19 Q. AND IT WASN'T CALLING YOU ON A WEEKEND AT A HOTEL OR  
20 ANYTHING LIKE THAT?

21 A. NO, IT WASN'T CALLING ME AT A HOTEL.

22 Q. NOW, MY UNDERSTANDING IS YOU WERE IN THE COURTROOM DURING  
23 THE COURT PROCEEDINGS ALMOST THE ENTIRE TRIAL?

24 A. THE MAJORITY OF THE TIME.

25 Q. AND --

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1 A. DON'T FORGET, I HAD TO FIND THE TIME TO PEPPER JUDGE  
2 DUPREE WITH BRIEFS.

3 Q. AND SO YOU WERE AWARE FROM BEING IN THE COURTROOM, WERE  
4 YOU NOT, THAT THERE WAS GOING TO BE BOTH A DEFENSE AND  
5 PROSECUTION INTERVIEW OF HELENA STOECKLEY?

6 A. AT THE TIME, I WAS PROBABLY AWARE BECAUSE I PROBABLY  
7 HEARD THAT, BUT I HAVE NO INDEPENDENT MEMORY THAT THERE WAS  
8 GOING TO BE A PROSECUTION INTERVIEW. I KNEW THERE WAS GOING  
9 TO BE A DEFENSE INTERVIEW. I WAS PAYING A LOT OF ATTENTION TO  
10 THAT.

11 Q. ALL OF THE STATEMENTS THAT YOU REPORTED ON IN YOUR NOTES  
12 IF YOU MADE THEM -- OR WHAT'S YOUR CURRENT RECOLLECTION NOW OF  
13 THE NOTE SITUATION HAVING REVIEWED THIS MATERIAL DURING OUR  
14 EXAMINATION?

15 A. ALL THE EVIDENCE POINTS TO THE FACT THAT THERE WAS SOME  
16 NOTES THAT I CREATED, BUT --

17 Q. OKAY. IN THE CONVERSATIONS YOU HAD WITH HELENA STOECKLEY  
18 THAT YOU MAY HAVE REPORTED IN YOUR NOTES, ALL OF THOSE  
19 CONVERSATIONS WERE WHEN THE TWO OF YOU WERE ALONE, IS THAT  
20 CORRECT?

21 A. THAT'S CORRECT.

22 Q. AND ALL THE CONVERSATIONS --

23 A. AGAIN, I DON'T HAVE ANY MEMORY OF MR. UNDERHILL STANDING  
24 THERE AND HE WOULD BE THE ONLY OTHER PERSON THAT COULD HAVE  
25 POSSIBLY OVERHEARD.

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1 Q. AND THE SAME WOULD BE TRUE FOR ALL OF THE CONVERSATIONS  
2 BETWEEN YOU AND HELENA STOECKLEY THAT YOU REPORTED IN YOUR  
3 VOIR DIRE TESTIMONY, THE TWO OF YOU WERE ALONE?

4 A. AGAIN, I HAVE NO MEMORY OF MR. UNDERHILL STANDING THERE,  
5 BUT I'M NOT SURE. AGAIN, MY MEMORY IS THAT WE WERE ALONE.

6 Q. WELL, MR. SEGAL'S PURPOSE IN CALLING YOU TO THE STAND ON  
7 MONDAY, AUGUST 20TH, FOR VOIR DIRE WAS IN HOPES OF PERSUADING  
8 JUDGE DUPREE TO PERMIT YOU TO TESTIFY BEFORE THE JURY TO  
9 HELENA'S OUT OF COURT STATEMENTS TO YOU, IS THAT CORRECT?

10 A. THAT'S TRUE.

11 Q. BECAUSE YOU HAD BEEN INVOLVED IN BRIEF WRITING TRYING TO  
12 PERSUADE THE JUDGE TO ALLOW THEM UNDER THE FEDERAL RULES OF  
13 EVIDENCE, IS THAT RIGHT?

14 A. THAT'S TRUE.

15 Q. AND SO IF MR. SEGAL HAD HAD CORROBORATION OF THOSE  
16 STATEMENTS FROM RED UNDERHILL, WOULDN'T HE HAVE PUT RED  
17 UNDERHILL UP TO SAY THE SAME THING?

18 A. I BELIEVE I TESTIFIED AFTER SIX, SEVEN OR EIGHT OTHER  
19 WITNESSES TESTIFIED AND I THINK THAT POSSIBLY MR. SEGAL WOULD  
20 HAVE NOT DONE THAT BECAUSE IF HE, THE JUDGE, AFTER HEARING ALL  
21 THAT AND HEARING ME, WAS NOT GOING TO ALLOW IT, THE RECORD WAS  
22 MADE AND THERE WOULD BE NO REASON TO PUT MR. UNDERHILL ON.  
23 YET, IT'S POSSIBLE HE WOULD HAVE. I DON'T KNOW.

24 Q. IT WAS ON FRIDAY, AUGUST THE 17TH, AFTER HELENA  
25 STOECKLEY'S TESTIMONY THAT THE STOECKLEY WITNESSES, SO-CALLED

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1 STOECKLEY WITNESSES, TESTIFIED ON VOIR DIRE, DO YOU REMEMBER  
2 THAT?

3 A. I REMEMBER A DAY OF THAT, YES.

4 Q. AND DO YOU REMEMBER THAT THE JUDGE TOOK UNDER ADVISEMENT  
5 OVER THE WEEKEND THE MOTION OF THE DEFENSE TO ADMIT THE OUT OF  
6 COURT STATEMENTS OF HELENA STOECKLEY THROUGH THE STOECKLEY  
7 WITNESSES?

8 A. SOUNDS FAMILIAR, YES.

9 Q. AND THEN ON MONDAY, AUGUST 20TH, HE ANNOUNCED HIS RULING  
10 THAT HE WAS NOT GOING TO PERMIT THE STOECKLEY WITNESSES TO  
11 TESTIFY TO THE OUT OF COURT STATEMENTS?

12 A. I HAVE NO REASON TO DISPUTE THE FACTS CONTAINED IN YOUR  
13 QUESTION.

14 Q. AND THEN, MR. SEGAL, IN FURTHER EFFORT TO GET A FAVORABLE  
15 RULING, PUT YOU UP TO TESTIFY ABOUT THE EVENTS OF THE WEEKEND?

16 A. THAT'S PROBABLY HOW IT OCCURRED.

17 Q. ALL RIGHT.

18 MR. BRUCE: MAY I HAVE JUST A MOMENT?

19 THE COURT: YES, SIR.

20 (PAUSE.)

21 BY MR. BRUCE:

22 Q. THE DEFENSE TEAM ALSO INTERVIEWED HELENA STOECKLEY'S  
23 MOTHER, DO YOU REMEMBER THAT?

24 A. NO.

25 Q. DID YOU SIT IN ON THAT INTERVIEW?

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1 A. NO.

2 Q. SOMEWHERE IN ALL OF THIS, I CAN'T POINT TO IT RIGHT NOW,  
3 BUT SOMEWHERE IN ALL OF THIS IT SAYS THAT A FEMALE MEMBER OF  
4 THE DEFENSE TEAM SAT IN. THAT WASN'T YOU?

5 A. I DON'T BELIEVE SO. THERE WERE THREE OF US, MAYBE MORE,  
6 BUT THERE WERE DEFINITELY -- I REMEMBER TWO OTHERS.

7 Q. AND WHO WERE THEY?

8 A. ONE WAS JUDGE FRAN FINE, WHO WASN'T A JUDGE THEN.

9 Q. WHAT WAS HER NAME?

10 A. FRANCES FINE. AND THE OTHER WAS AN ATTORNEY NAMED SARA  
11 SIMMONS.

12 MR. BRUCE: NO FURTHER QUESTIONS, YOUR HONOR.

13 THE COURT: ANY REDIRECT?

14 MR. WIDENHOUSE: NO REDIRECT.

15 THE COURT: YOU MAY STEP DOWN. THANK YOU.

16 THE WITNESS: THANK YOU, YOUR HONOR.

17 THE COURT: WELL, WE'LL TAKE OUR AFTERNOON RECESS.

18 WE'LL START BACK AT 3:15.

19 (RECESS TAKEN FROM 2:58 P.M., UNTIL 3:17 P.M.)

20 (DEFENDANT PRESENT.)

21 THE COURT: GOOD AFTERNOON, EVERYONE. PLEASE BE  
22 SEATED AND WE'LL CONTINUE. MR. WIDENHOUSE.

23 MR. WIDENHOUSE: WE CALL LAURA REDD.

24 **LAURA IRVIN REDD, DEFENSE WITNESS, SWORN**

25 D I R E C T E X A M I N A T I O N 3:18 P.M.

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1 BY MR. WIDENHOUSE:

2 Q. GOOD AFTERNOON.

3 A. HI.

4 Q. WOULD YOU STATE YOUR NAME AND TELL THE COURT JUST THE  
5 TOWN WHERE YOU LIVE?

6 A. LAURA IRVIN REDD. WAKE FOREST, NORTH CAROLINA.

7 Q. AND ARE YOU A CERTIFIED PARALEGAL?

8 A. YES, SIR.

9 Q. AND ARE YOU ALSO A NOTARY PUBLIC?

10 A. YES, SIR.

11 Q. DO YOU RECALL WHERE YOU WERE WORKING IN MARCH OF 2007?

12 A. FOR HART MILES.

13 Q. ALL RIGHT. AND DID THERE COME A TIME WHEN MR. MILES  
14 ASKED YOU TO GO TO FAYETTEVILLE WITH HIM IN CONNECTION WITH  
15 HIS REPRESENTATIONS OF JEFFREY MACDONALD?

16 A. YES, SIR.

17 Q. AND CAN YOU TELL US HOW THAT CAME ABOUT AS BEST YOU  
18 RECALL?

19 A. I REMEMBER IT WAS A SATURDAY AFTERNOON, JUST A LEISURELY  
20 DAY AT HOME, AND IT WAS PROBABLY -- IT'S BEEN FIVE OR SIX  
21 YEARS AGO -- I'M THINKING 3:00, MAYBE 2:00 OR 3:00 IN THE  
22 AFTERNOON I'M THINKING, LATER ON IN THE AFTERNOON AFTER LUNCH,  
23 THAT I GOT A CALL FROM MR. MILES THAT HE WANTED ME TO RIDE  
24 WITH HIM TO FAYETTEVILLE TO AN ASSISTED LIVING FACILITY TO  
25 TAKE HELENA STOECKLEY'S AFFIDAVIT, TO TAKE IT AND NOTARIZE IT.

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1 Q. AND WHAT DID YOU DO ONCE YOU GOT TO THE ASSISTED LIVING  
2 CENTER?

3 A. FIRST WENT IN AND MET MRS. STOECKLEY AND HER SON GENE AND  
4 CHATTED FOR A BIT AND --

5 Q. AND AS YOU CHATTED WITH -- DID YOU ENGAGE IN CONVERSATION  
6 WITH MS. STOECKLEY AS WELL AS OTHER PEOPLE THAT WERE IN THE  
7 ROOM?

8 A. YES, SIR, I INTRODUCED MYSELF TO MRS. STOECKLEY AND HER  
9 SON. I ALSO MET KATHRYN MACDONALD THAT DAY. OF COURSE, KNEW  
10 HART. IT WAS JUST US. HAD A VERY ENGAGING CONVERSATION WITH  
11 MRS. STOECKLEY. SHE WAS VERY SHARP, VERY -- I WAS SURPRISED  
12 ACTUALLY FOR HER AGE AND HEALTH CONDITION THAT SHE WAS AS  
13 INTELLIGENT AS SHE WAS.

14 Q. SO, SHE SEEMED MENTALLY ALERT --

15 A. VERY MUCH SO.

16 Q. -- AND AWARE OF WHAT SHE WAS DOING?

17 A. VERY WITTY. VERY WITTY.

18 Q. OKAY. AND CAN YOU TELL US WHO ALL WAS IN THE ROOM WHEN  
19 YOU WERE HAVING THIS CONVERSATION TO START WITH?

20 A. YES, SIR. IT WAS MYSELF, MR. MILES, KATHRYN MACDONALD,  
21 GENE STOECKLEY AND HELENA STOECKLEY.

22 Q. AND HOW DID THE -- AFTER PLEASANTRIES WERE EXCHANGED, HOW  
23 DID THE DISCUSSION PROCEED? DO YOU REMEMBER?

24 A. I CAN'T RECALL EXACTLY. I'M THINKING IT WAS SOMETHING  
25 ALONG THE LINES OF GENE SAYING, YOU KNOW, MOM, THESE ARE THE

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1 PEOPLE THAT I TOLD YOU ABOUT, YOU KNOW, THIS IS MR. MILES AND  
2 THIS IS HIS PARALEGAL AND, YOU KNOW, THEY CAME TO TAKE YOUR  
3 STATEMENT KIND OF THING. I DON'T REMEMBER EXACTLY WORD FOR  
4 WORD, I'M SORRY.

5 Q. WAS SOMEBODY TAKING NOTES?

6 A. YOU KNOW, IF I'M NOT MISTAKEN, IT SEEMS LIKE KATHRYN HAD  
7 A LAPTOP THAT MAYBE SHE WAS TYPING AS SHE WENT OR EITHER HART  
8 MIGHT HAVE HAD -- SOMEBODY HAD A LAPTOP. I'M THINKING THAT  
9 THEY WERE TYPING AS SHE SPOKE. I KNOW I DIDN'T DO IT.

10 BUT THEN WE HAD AN ISSUE WITH THE PRINTING, WE  
11 COULDN'T GET IT TO PRINT FROM OUR LAPTOP. SO, THEN WE HAD TO  
12 GO FIND SOMEBODY TO LET US IN THEIR OFFICE TO TRY TO ENTER IT  
13 ON THEIR COMPUTER. IT WAS VERY DISCOMBOBULATED.

14 Q. ALL RIGHT. AND IN ANY EVENT, SOMEBODY GOT TO THE POINT  
15 WHERE THERE WAS A DOCUMENT CREATED?

16 A. YES, SIR.

17 Q. AND I TAKE IT, YOU DIDN'T TYPE THE AFFIDAVIT?

18 A. I THINK IT WAS KIND OF A EVERYBODY WAS TRYING TO GET IT  
19 DONE AT THE SAME -- YOU KNOW, I TYPE REALLY FAST. I THINK I  
20 REMEMBER TELLING KATHRYN, YOU KNOW, HERE, MOVE, LET ME DO IT,  
21 I THINK I CAN TYPE FASTER KIND OF THING, BUT I THINK IT WAS A  
22 JOINT EFFORT.

23 Q. AND WAS THE TYPING BEING DONE IN THIS OTHER ROOM WHERE  
24 THE --

25 A. YES, SIR, BECAUSE WE COULD NOT GET WHAT WE HAD ENTERED --

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1 WHAT WHOEVER HAD ENTERED ON THE LAPTOP WE COULDN'T GET IT TO  
2 PRINT. WE DIDN'T HAVE A PRINTER, YOU KNOW, AND WE COULDN'T --  
3 OUR LAPTOP WASN'T COMPATIBLE WITH THEIR STUFF. SO, WE HAD TO  
4 RE-ENTER EVERYTHING FROM THE LAPTOP ON THEIR SYSTEM AND TRY TO  
5 GET IT TO PRINT. AND I REMEMBER WE HAD A REALLY HARD TIME AND  
6 IT TOOK A LONG TIME.

7 Q. OKAY. IS YOUR RECOLLECTION THAT SOMEBODY WAS LOOKING AT  
8 THE SCREEN, THE WORDS ON THE SCREEN ON THE LAPTOP, AND WAS  
9 TYPING ON A KEYBOARD TO ENTER INTO A COMPUTER OR DO YOU  
10 RECALL?

11 A. I DON'T EXACTLY. IT MAY HAVE BEEN MAYBE, YOU KNOW, WHEN  
12 I WAS TYPING, SHE MAY HAVE BEEN READING AS I TYPED. I'M JUST  
13 NOT EXACTLY SURE HOW WE GOT IT DONE. I DO REMEMBER IT WAS A  
14 VERY -- IT WAS A BIG HASSLE TO GET IT DONE BECAUSE IT WASN'T  
15 OUR EQUIPMENT. IT WASN'T LIKE IN MY OFFICE WITH MY SYSTEM  
16 THAT I KNEW.

17 Q. ALL RIGHT.

18 A. IT WAS -- IN FACT, WE HAD TO WAIT A REALLY LONG TIME TO  
19 GET SOMEBODY TO LET US IN TO EVEN GET ACCESS TO THEIR COMPUTER  
20 AND THEY DID US A FAVOR, YOU KNOW, LETTING US DO THAT.

21 Q. OKAY. BUT YOUR RECOLLECTION IS YOU HAD SOME PART IN THE  
22 PREPARATION --

23 A. YES, SIR.

24 Q. -- OF THE AFFIDAVIT?

25 A. YES, SIR.

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1 Q. OKAY. I'M GOING TO SHOW YOU, AND IT'S GOING TO COME UP  
2 ON THE SCREEN THERE, DEFENSE EXHIBIT 5051. AND I'M JUST GOING  
3 TO HAVE -- WE'RE JUST GOING TO SCROLL THROUGH IT AND THEN I'M  
4 GOING TO ASK YOU IF YOU RECOGNIZE THE DOCUMENT ONCE WE --  
5 DON'T SCROLL TOO FAST. SORRY.

6 A. AS FAR AS I RECOLLECT, THIS IS THE DOCUMENT.

7 Q. OKAY. AND LET ME SHOW YOU THE SECOND PAGE AND JUST TAKE  
8 A QUICK LOOK AT PARAGRAPHS 11 THROUGH 15.

9 A. YES, SIR, I BELIEVE THIS IS IT.

10 Q. OKAY. DOES THAT APPEAR -- LET ME GO TO PAGE THREE. I'M  
11 SORRY. PAGE THREE.

12 A. THAT IS MY SIGNATURE, THAT IS MY HANDWRITING, UNDER GENE  
13 -- GENE'S SIGNATURE I PRINTED IT AND THAT IS MY HANDWRITING  
14 UNDER GRADY PETERSON, WHO WAS A WITNESS, I PRINTED THAT. AND  
15 I DEFINITELY REMEMBER HELENA'S SIGNATURE. THAT IS HELENA'S  
16 SIGNATURE.

17 Q. OKAY. BUT BASED ON YOUR RECOLLECTION, DOES THE  
18 AFFIDAVIT, DEFENSE EXHIBIT 5051, REFLECT WHAT MS. STOECKLEY  
19 TOLD PEOPLE ON MARCH 31ST?

20 A. AND THIS IS 5051?

21 Q. YES.

22 A. YES, SIR.

23 (DEFENSE EXHIBIT NUMBER 5051

24 WAS IDENTIFIED FOR THE RECORD.)

25 Q. ALL RIGHT. AND DO YOU RECALL WHEN SHE SIGNED IT? BY

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1 THAT, I MEAN DO YOU RECALL SEEING HER SIGN IT?

2 A. OH, YES, SIR.

3 Q. OKAY. YOU WOULDN'T HAVE NOTARIZED IT IF YOU HADN'T  
4 SEEN --

5 A. NO, SIR.

6 Q. -- HER SIGNATURE?

7 A. NO, SIR.

8 Q. ALL RIGHT. AND --

9 A. THERE'S A DIFFERENT OATH IF THERE'S A SUBSCRIBING  
10 WITNESS. HAD SOMEONE ELSE BEEN IN HER PRESENCE WHEN SHE  
11 SIGNED IT, I WOULD HAVE HAD TO DO ANOTHER OATH SAYING SO AND  
12 SO APPEARED BEFORE ME AND SWORE THAT HE SAW HER SIGN IT. BUT,  
13 NO, SIR, I PERSONALLY SAW IT.

14 Q. OKAY. SO, YOU SAW HER SIGN --

15 A. YES, SIR.

16 Q. -- WHAT'S THERE AT THE TOP OF THE PAGE?

17 A. YES, SIR.

18 Q. AND BEFORE SHE SIGNED IT WERE YOU IN THE ROOM WHEN HER  
19 SON GENE READ IT TO HER?

20 A. YES, SIR.

21 Q. AND YOU HEARD HIM READ THE WHOLE THING?

22 A. YES, SIR.

23 Q. AND DO YOU RECALL WHAT SHE SAID OR WHAT HE SAID TO HER  
24 AFTER HE FINISHED READING IT AND HOW SHE RESPONDED?

25 A. SHE WAS VERY -- SHE WAS A VERY FUNNY LADY AND SHE WAS

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1 LIKE -- YOU KNOW, KIND OF LIKE, YES, GENE, I TOLD YOU. AND IT  
2 WAS KIND OF LIKE -- AT THIS POINT, IT WAS LIKE, YOU KNOW, HOW  
3 MANY TIMES DO I HAVE TO TELL YOU THIS? YES, THIS IS WHAT --  
4 SHE WAS A LITTLE IMPATIENT WITH US.

5 Q. OKAY. SO, SHE HAD HEARD THE ENTIRE AFFIDAVIT READ AND  
6 YOU HEARD HER SAY THIS IS WHAT I'M GOING TO ACKNOWLEDGE?

7 A. YES, SIR.

8 Q. IN THE TIME THAT YOU WERE THERE IN THE ASSISTED LIVING  
9 CENTER, DID ANYBODY TRY TO COERCE MRS. STOECKLEY?

10 A. EXACT OPPOSITE. ESPECIALLY, MR. MILES. I DON'T KNOW IF  
11 YOU KNOW MR. MILES OR NOT, HE HAS GOT MORE INTEGRITY THAN  
12 ANYBODY I THINK I'VE EVER MET. AND HE HANDLED HER WITH KID  
13 GLOVES AND WANTED TO MAKE SURE THAT THIS IS WHAT SHE WANTED TO  
14 DO.

15 IN FACT, I DON'T KNOW HIS EXACT WORDS, BUT I THINK  
16 HE EVEN ASKED HER, YOU KNOW, IS THIS -- ARE YOU COMING FORWARD  
17 WITH IT OR IS ANYBODY MAKING YOU DO THIS, KIND OF THING. HE  
18 COVERED THE BASES, YES, SIR.

19 Q. ALL RIGHT. AND WERE YOU PRESENT WHEN -- DID YOU WRITE  
20 THE NAME GRADY PATTERSON AND --

21 A. PETERSON, YES, SIR.

22 Q. PETERSON, I'M SORRY.

23 A. THAT'S OKAY.

24 Q. AND WERE YOU PRESENT WHEN THE PERSON WHO REPRESENTED  
25 HIMSELF TO BE GRADY PETERSON SIGNED THERE?

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1 A. YES, SIR, HE WAS A WORKER THERE AT THE ASSISTED LIVING  
2 FACILITY.

3 Q. ALL RIGHT. AND I BELIEVE YOU'VE TOLD US YOU WROTE GENE  
4 STOECKLEY'S NAME AS WELL?

5 A. YES, SIR.

6 Q. AND WERE YOU PRESENT WHEN HE SIGNED?

7 A. YES, SIR.

8 Q. AND IS THE INFORMATION THAT'S BOXED IN RED ON THE SCREEN,  
9 IS THAT YOUR NOTARY SEAL?

10 A. YES, SIR.

11 Q. AND IS THAT YOUR SIGNATURE --

12 A. YES, SIR.

13 Q. -- ON THE DOCUMENT?

14 A. YES, SIR.

15 Q. AND WOULD YOU HAVE NOTARIZED THIS DOCUMENT IF THERE  
16 WEREN'T -- IF ALL THREE PAGES WEREN'T TOGETHER WHEN YOU PUT  
17 YOUR SIGNATURE AND NOTARY SEAL ON IT?

18 A. ABSOLUTELY NOT. I WOULD NOT HAVE GIVEN A BLANK  
19 AFFIRMATION BECAUSE THAT COULD HAVE BEEN ATTACHED TO ANYTHING,  
20 A CAR DEED OR ANYTHING ELSE. SO, NO, SIR, I WOULD NEVER HAVE  
21 DONE THAT.

22 Q. I NOTICE THAT THE SIGNATURES AND NOTARIZATION INFORMATION  
23 IS ON A SEPARATE PAGE. IT DOESN'T -- IT'S NOT AT THE BOTTOM  
24 OF PAGE TWO. WAS THERE A REASON THAT IT TURNED OUT THAT WAY?

25 A. YOU KNOW, I CAN'T UNDERSTAND THAT MYSELF BECAUSE I THINK

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1 -- LIKE I SAID, I WAS HAVING TROUBLE WITH THEIR SYSTEM AND I  
2 THINK THAT WE JUST COULDN'T GET IT TO FIT, EVERYTHING TO FIT  
3 ON THAT SAME PAGE. AND IF I REMEMBER CORRECTLY, I THINK I  
4 COULDN'T GET IT OFF OF DOUBLE SPACE WHEN WE GOT TO THIS POINT.

5 I THINK ACTUALLY WE JUST TOOK THE AFFIDAVIT AND READ  
6 IT TO HER, THEN WENT BACK AND DID THE NOTARY PART AND CAME  
7 BACK AND SIGNED. I DON'T REMEMBER EXACTLY HOW IT HAPPENED,  
8 BUT I DO KNOW EXACTLY WHAT THE WOMAN SAID AND THIS IS EXACTLY  
9 WHAT THE WOMAN SAID.

10 Q. BUT YOUR RECOLLECTION IS THE REASON THERE'S THIS THIRD  
11 PAGE THAT'S LABELED UNTITLED AT THE TOP AND HAS A NUMBER ONE  
12 AT THE BOTTOM WAS A PROBLEM WITH THE PROCESSING SYSTEM AND THE  
13 COMPATIBILITY?

14 A. THAT WE DIDN'T KNOW WHAT WE WERE DOING ON THEIR COMPUTER,  
15 YES, SIR.

16 Q. BUT YOU'RE CERTAIN THAT THIS AFFIDAVIT IS THE ONE YOU  
17 NOTARIZED?

18 A. IT ENTAILS ALL THE INFORMATION, YES, SIR.

19 Q. ALL RIGHT.

20 A. YES, SIR.

21 Q. AND NOBODY FORCED MS. STOECKLEY TO SIGN?

22 A. NO, SIR, ABSOLUTELY NOT.

23 Q. AND SHE WAS CLEAR HEADED?

24 A. LIKE I SAY, I WAS SURPRISED. I WAS VERY SURPRISED AT HOW  
25 SMART SHE WAS. I REALLY WAS. I WAS VERY SURPRISED. SHE WAS

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1 VERY SMART AND WITTY.

2 MR. WIDENHOUSE: THANK YOU, YOUR HONOR. NO FURTHER  
3 QUESTIONS.

4 THE COURT: CROSS.

5 MR. BRUCE: THANK YOU, YOUR HONOR.

6 C R O S S - E X A M I N A T I O N 3:29 P.M.

7 BY MR. BRUCE:

8 Q. MS. REDD, AS I UNDERSTAND YOUR TESTIMONY, YOU WERE CALLED  
9 WITH NO NOTICE ON SATURDAY AFTERNOON TO TAKE THIS TRIP?

10 A. WITH NO NOTICE, IS THAT WHAT YOU SAID?

11 Q. YES.

12 A. NO, SIR, I DID NOT HAVE ANY NOTICE.

13 Q. YOU MAY WANT TO SPEAK DIRECTLY INTO THE --

14 A. OH, I'M SORRY.

15 Q. AND WERE YOU IN FULL TIME EMPLOYMENT FOR MR. HART MILES  
16 AT THAT TIME?

17 A. NO, SIR. I ONLY WORKED PART TIME FOR MR. MILES MY ENTIRE  
18 TIME WITH HIM.

19 Q. ARE YOU A CONTRACT PARALEGAL, IS THAT YOUR --

20 A. NO, SIR. AT THE TIME I HAD A CHILD THAT WAS IN HIGH  
21 SCHOOL AND HAD A PROBLEM WITH ATTENDANCE SO I HAD TO MAKE SURE  
22 I GOT HER THERE AND PICKED HER UP EVERY DAY.

23 Q. ARE YOU STILL WORKING FOR MR. MILES?

24 A. NO, SIR.

25 Q. SO, YOU AGREED TO GO ON THIS TRIP ON SHORT NOTICE?

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1 A. OH, YES, SIR.

2 Q. AND IT TOOK YOU ABOUT HOW LONG FROM THE TIME HART MILES  
3 CALLED YOU FOR YOU AND HE TO GET DOWN THERE?

4 A. FROM THE TIME HE CALLED ME TO THE TIME WE GOT THERE?

5 Q. YES.

6 A. I'D SAY THREE HOURS, THREE AND A HALF MAYBE.

7 Q. AND YOU ESTIMATED THAT THE TIME CAME IN -- THE CALL CAME  
8 IN, I'M SORRY, ABOUT 2:00 OR THREE O'CLOCK?

9 A. YES, SIR, BUT, NOW, I DON'T -- I'M NOT ABSOLUTELY SURE.  
10 I JUST REMEMBER IT WAS AFTER LUNCH. IT WAS LATER ON IN THE  
11 AFTERNOON. I REMEMBER WHEN WE GOT THERE IT WASN'T DARK, BUT  
12 IT WAS CERTAINLY DARK WHEN WE LEFT.

13 Q. ALL RIGHT. AND, OF COURSE, THIS WAS ON MARCH THE 31ST,  
14 IS THAT RIGHT?

15 A. YES, SIR.

16 Q. OKAY. SO, IT MIGHT NOT HAVE BEEN DARK WHEN YOU ARRIVED,  
17 BUT IT BECAME DARK BEFORE YOU LEFT?

18 A. YES, SIR.

19 Q. IS IT TRUE THAT KATHRYN MACDONALD WAS TYPING THE  
20 AFFIDAVIT AS YOU WERE DRIVING DOWN OR DOING SOME OF THE TYPING  
21 ON IT?

22 A. NOT THAT I'M AWARE. KATHRYN DID NOT DRIVE DOWN WITH US.

23 Q. NO, WHILE YOU AND HART MILES WERE DRIVING DOWN, SHE WAS  
24 ALREADY AT THE NURSING HOME, IS THAT RIGHT?

25 A. SHE WAS THERE WHEN WE GOT THERE.

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1 Q. WASN'T SHE THERE WHEN THE CALL CAME FROM HER TO HART  
2 MILES TO HAVE YOU ALL COME DOWN?

3 A. I HAVE NO IDEA. I'M SORRY, I DON'T -- I HAVE NO IDEA.

4 Q. WELL, IF GENE STOECKLEY HAD SAID THAT KATHRYN MACDONALD  
5 WAS TYPING A DRAFT OF THE AFFIDAVIT WHILE YOU AND HART WERE  
6 RIDING DOWN, WOULD YOU DISPUTE THAT?

7 A. I WOULD NEVER CALL GENE A LIAR, NO, SIR. I JUST WASN'T  
8 PRIVY TO THAT INFORMATION.

9 Q. WELL, WERE THERE WORDS ON PAPER AT THE TIME THAT YOU GOT  
10 THERE?

11 A. WERE THERE WORDS ON PAPER? ON PAPER, I DON'T BELIEVE SO.  
12 THERE MAY HAVE BEEN WORDS ON THE LAPTOP ALREADY, BUT I DON'T  
13 BELIEVE THERE WAS ANYTHING PRINTED.

14 Q. THAT'S A GOOD POINT. WERE THERE WORDS ON THE COMPUTER  
15 SCREEN BY THE TIME YOU GOT THERE?

16 A. I MEAN, I KNOW THERE -- I'M NOT POSITIVE. I'M SORRY,  
17 IT'S BEEN, WHAT, OVER FIVE YEARS? I MEAN, YOU KNOW, AND THE  
18 THING ABOUT IT IS, IS THAT THAT WASN'T THE ONLY CASE I WORKED  
19 ON. IT WAS A VERY IMPORTANT CASE AND A VERY HIGH PROFILE  
20 CASE, BUT IN CASES LIKE THAT MR. MILES MOSTLY FILED ALL OF HIS  
21 -- WELL, IN FEDERAL CASES LIKE THIS FILED ALL OF HIS PLEADINGS  
22 AND, YOU KNOW, I WAS CONCENTRATING MORE ON TRAFFIC CASES AND  
23 THINGS LIKE THAT.

24 Q. I BELIEVE YOU TESTIFIED ON DIRECT EXAMINATION THAT YOU  
25 MIGHT HAVE DONE SOME TYPING AND KATHRYN MACDONALD MIGHT HAVE

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1 DONE SOME TYPING, IS THAT RIGHT?

2 A. YES, SIR. I DO REMEMBER THAT WE HAD AN ISSUE WITH WE  
3 COULDN'T GET THE STUFF TO PRINT FROM THE LAPTOP SO THEN WE HAD  
4 TO GO INTO THEIR OFFICE AND GET IT ON THEIR SYSTEM TO BE ABLE  
5 TO PRINT IT. I BELIEVE THAT'S HOW IT WORKED. I JUST KNOW IT  
6 WAS A VERY BIG PAIN AND IT TOOK A LOT LONGER THAN IT SHOULD  
7 HAVE.

8 Q. WELL, WHEN YOU -- THE PART OF THE TYPING THAT YOU WERE  
9 DOING, YOU WERE JUST TYPING, YOU WEREN'T --

10 A. RETYPING, RIGHT, WHAT WE WERE TRYING TO GET TO PRINT OUT  
11 TO BEGIN WITH KIND OF THING, YES, SIR.

12 Q. YOU WEREN'T COMPOSING?

13 A. OH, NO, SIR. NO, SIR.

14 Q. KATHRYN MACDONALD WAS DOING THAT?

15 A. I DON'T KNOW IF THAT WAS HER OR HART. I DON'T KNOW.

16 Q. WHOSE LAPTOP WAS IT?

17 A. I DON'T KNOW IF IT WAS HERS OR HART. I KNOW THERE WAS A  
18 LAPTOP, BUT I CAN'T REMEMBER IF IT WAS HART THAT HAD ONE OR  
19 SHE HAD ONE.

20 Q. BUT YOU HAVE A RECOLLECTION, I BELIEVE YOU TESTIFIED  
21 EARLIER, THAT WHEN YOU GOT INTO THE OFFICE CENTER OF THE  
22 NURSING HOME WORKING ON THEIR COMPUTER, IT WAS YOU AND KATHRYN  
23 WORKING BACK AND FORTH?

24 A. YEAH. I BELIEVE HART MIGHT HAVE COME IN THERE A TIME OR  
25 TWO TO SEE WHAT WAS GOING ON, WHAT WAS TAKING SO LONG.

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1 Q. BUT, GENERALLY, IT WAS YOU AND KATHRYN WORKING BACK AND  
2 FORTH?

3 A. YES, SIR.

4 Q. BUT YOU DIDN'T DECIDE ON THE WORDING OF THIS AFFIDAVIT,  
5 THAT WASN'T YOU?

6 A. NO, SIR. I'M MORE ELOQUENT THAN THAT. NO, I'M JUST  
7 KIDDING.

8 Q. LET'S PUT 5051 ON THE SCREEN, PLEASE, DEFENSE EXHIBIT.  
9 GO TO PAGE THREE. NOW, I UNDERSTAND THAT YOU SAID ON DIRECT  
10 EXAMINATION THAT IT SAYS UNTITLED AT THE TOP JUST BECAUSE  
11 THERE WAS SOME GLITCH WITH THE COMPUTER?

12 A. I ASSUME THAT'S HOW THEIR SYSTEM WAS SET UP AND IF YOU  
13 DIDN'T NAME THE DOCUMENT IT JUST CAME OUT UNTITLED.

14 Q. BUT WHY DOES IT SAY PAGE ONE AT THE BOTTOM?

15 A. I ASSUME THAT WAS THE WAY THEIR SYSTEM WAS SET UP. WE  
16 DID NOT SAVE THE DOCUMENT TO THEIR SYSTEM. I GUESS IF WE HAD  
17 SAVED IT TO THEIR SYSTEM, WE WOULD HAVE HAD TO HAVE NAMED IT  
18 AND THEN IT WOULD HAVE HAD OUR NAME INSTEAD OF THIS UNTITLED I  
19 ASSUME.

20 Q. SO, THE FIRST TWO PAGES OF THE AFFIDAVIT WERE PREPARED ON  
21 ONE COMPUTER AND THE LAST PAGE ON A DIFFERENT ONE?

22 A. I BELIEVE THAT'S HOW IT WENT.

23 Q. ALL RIGHT. ONCE YOU NOTARIZED THIS PAGE THREE THAT SAYS  
24 UNTITLED PAGE ONE, ONCE YOU NOTARIZED IT, WHAT WAS DONE WITH  
25 THE AFFIDAVIT?

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1 A. IT WAS PUT IN MR. MILES' BRIEFCASE.

2 Q. CAN WE PUT ON THE SCREEN GOVERNMENT EXHIBIT 2089? CAN WE  
3 GO TO PAGE TWO? DO YOU REMEMBER THIS AFFIDAVIT?

4 A. YES.

5 Q. IS THAT YOUR SIGNATURE AND NOTARIAL SEAL?

6 A. YES, SIR.

7 (GOVERNMENT EXHIBIT NUMBER 2089  
8 WAS IDENTIFIED FOR THE RECORD.)

9 Q. CAN YOU REMEMBER ANY OF THE CIRCUMSTANCES SURROUNDING  
10 THIS AFFIDAVIT?

11 A. AS FAR AS WHEN I NOTARIZED IT?

12 Q. WELL, DID MR. BRITT COME BY MR. MILES' OFFICE AND SIGN  
13 THIS AFFIDAVIT?

14 A. I MET MR. BRITT ON SEVERAL OCCASIONS. I'M NOT SURE IF HE  
15 -- IF I NOTARIZED THIS WHEN HE CAME INTO OUR OFFICE. I ALSO  
16 MET HIM AT BIG ED'S DOWN AT CITY MARKET. ALL THIS HAS BEEN SO  
17 LONG AGO, I AM SO SORRY.

18 Q. BUT ANYWAY, THERE'S NO DOUBT IN YOUR MIND THAT HE SIGNED  
19 THIS --

20 A. OH, NO, SIR. NO DOUBT IN MY MIND.

21 Q. -- IN YOUR PRESENCE?

22 A. OH, YES, SIR.

23 Q. AND I NOTICE THAT THIS SIGNATURE PAGE AND NOTARY PUBLIC  
24 INFORMATION IS ON THE SAME PAGE AS THE SECOND PAGE OF TEXT, IS  
25 THAT CORRECT?

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1 A. YES, SIR.

2 Q. SO, THIS IS DEFINITELY HIS AFFIDAVIT?

3 A. YES, SIR.

4 Q. GOING BACK TO MRS. STOECKLEY'S AFFIDAVIT FOR A MOMENT.

5 SO, THE WHOLE PROCESS FROM THE TIME THAT YOU GOT INVOLVED TOOK

6 ABOUT -- I'M TALKING ABOUT WHEN YOU ALL GOT THE CALL IN

7 RALEIGH -- TOOK HOW MANY HOURS?

8 A. SIX OR SEVEN.

9 Q. SIX OR SEVEN HOURS?

10 A. YES.

11 Q. AND KATHRYN MACDONALD AND GENE STOECKLEY HAD ALREADY BEEN

12 TALKING TO MRS. STOECKLEY FOR SOME TIME BEFORE THAT?

13 A. I WASN'T THERE, I DON'T KNOW.

14 MR. BRUCE: NO FURTHER QUESTIONS, YOUR HONOR.

15 EXCUSE ME.

16 (PAUSE.)

17 BY MR. BRUCE:

18 Q. WHAT TYPE OF WORD PROCESSING PROGRAM IS USED IN THIS

19 AFFIDAVIT?

20 A. WHICH AFFIDAVIT ARE WE SPEAKING OF?

21 Q. I'M SORRY. LET'S GO BACK AND PUT THAT ONE ON THE SCREEN,

22 5051. THIS AFFIDAVIT. WHAT TYPE OF WORD PROCESSING PROGRAM

23 IS USED IN THIS AFFIDAVIT?

24 A. I'M SORRY, I DON'T KNOW. I DON'T.

25 Q. IS IT THE SAME ONE ON THE FIRST TWO PAGES AS ON THE THIRD

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1 PAGE?

2 A. CAN I SEE -- I MEAN, ARE YOU ASKING ME IS THE FONT THE  
3 SAME OR ARE YOU -- I'M NOT SURE WHAT YOU'RE ASKING ME.

4 Q. WELL, FONT -- NO, I'M ASKING WHAT -- YOU KNOW, THERE'S  
5 WORDPERFECT. THERE'S WORD.

6 A. YES, SIR. AND I'LL BE HONEST WITH YOU, I COULDN'T TELL  
7 YOU. I MEAN, I CAN USE THEM ALL, BUT IT'S JUST -- I MEAN,  
8 THEY ALL DO THE SAME THING, IT'S JUST A DIFFERENT WAY TO GET  
9 THEM TO DO IT. I'M NOT SURE WHICH IS WHICH. I COULDN'T TELL  
10 YOU WHICH. I DON'T HAVE THE META DATA. THE META DATA WOULD  
11 TELL YOU WHAT TYPE OF SYSTEM IT WAS ON.

12 MR. BRUCE: NO FURTHER QUESTIONS, YOUR HONOR.

13 MR. WIDENHOUSE: NO REDIRECT. THANK YOU, YOUR  
14 HONOR.

15 THE COURT: YOU MAY STEP DOWN. THANK YOU VERY MUCH.

16 THE WITNESS: THANK YOU.

17 MR. WIDENHOUSE: YOUR HONOR, MAY SHE BE EXCUSED AS  
18 WELL?

19 THE COURT: YES, SIR.

20 MR. WIDENHOUSE: THANK YOU.

21 MR. WILLIAMS: YOUR HONOR, WITH YOUR PERMISSION, OUR  
22 NEXT WITNESS IS SARA MCMANN.

23 THE COURT: ALL RIGHT, SIR.

24 (PAUSE.)

25 **SARA MCMANN, DEFENSE WITNESS, SWORN**

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1                                    D I R E C T   E X A M I N A T I O N                                    3:42 P.M.

2 BY MR. WILLIAMS:

3 Q.     GOOD AFTERNOON, MS. MCMANN.

4 A.     YES.

5 Q.     COULD YOU PLEASE STATE YOUR NAME?    MS. MCMANN, WE'RE HERE

6 OVER TO YOUR RIGHT.

7 A.     OKAY.    SARA ANN MCMANN.

8 Q.     ALL RIGHT.    THANK YOU.    MS. MCMANN, WHERE ARE YOU FROM?

9 A.     GREENVILLE, SOUTH CAROLINA.

10 Q.    ARE YOU MARRIED?

11 A.    YES, SIR.

12 Q.    HOW LONG HAVE YOU BEEN MARRIED?

13 A.    ALMOST 48 -- WELL, I'VE BEEN MARRIED 48 YEARS, BUT I'M

14 GETTING CLOSE TO 50.

15 Q.    ALL RIGHT.    GOOD.    MS. MCMANN, I WANT TO TAKE YOU BACK TO

16 1982.    WERE YOU LIVING IN SOUTH CAROLINA IN 1982?

17 A.    YES, SIR.

18 Q.    WERE YOU LIVING THERE WITH YOUR HUSBAND?

19 A.    YES, SIR.

20 Q.    AND DID YOU HAVE OCCASION TO HEAR ABOUT A YOUNG LADY BY

21 THE NAME OF HELENA STOECKLEY?

22 A.    YES, I DID.

23 Q.    TELL US ABOUT THAT.

24 A.    WE WERE IN CHURCH ONE SUNDAY WHEN A MAN IN OUR CHURCH

25 ASKED FOR PRAYER FOR A LADY AND A BABY.    AND THE WAY HE HAD

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1 MET THIS LADY AND BABY, HE WAS WORKING WITH A USED CAR LOT IN  
2 WALHALLA. THIS IS THE NORTHWEST CORNER OF SOUTH CAROLINA BY  
3 GEORGIA.

4 AND WHAT HAPPENED WAS HE WANTED TO HAVE PRAYER FOR  
5 THIS LADY AND BABY BECAUSE THE BABY WAS ON A MONITOR FOR CRIB  
6 DEATH AND THE WOMAN WAS NOT ABLE TO TAKE CARE OF HERSELF VERY  
7 WELL AT THAT TIME.

8 Q. SO, HE EXPRESSED THAT SHE WAS IN NEED?

9 A. YES.

10 Q. AND WHAT, IF ANYTHING, DID YOU AND YOUR HUSBAND DO IN  
11 RESPONSE?

12 A. WE HELPED HER.

13 Q. TELL US ABOUT THAT.

14 A. WE PRAYED ABOUT IT IN CHURCH THAT SUNDAY AND WE WENT OVER  
15 TO WALHALLA GARDENS. I FOUND OUT FROM ELSIE AND JANET, THEY  
16 WERE GOOD FRIENDS OF OURS, THAT THEY LIVED -- SHE LIVED IN  
17 WALHALLA GARDENS. AND WE WENT OVER ON MONDAY NIGHT RIGHT  
18 AFTER THAT SUNDAY.

19 Q. WHAT DID YOU FIND?

20 A. WE FOUND A BABY THAT WAS SIX POUNDS SOMETHING WHEN HE WAS  
21 BORN, HIS NAME WAS DAVID, AND HE WAS ON A MONITOR FOR CRIB  
22 DEATH. AND HELENA DID NOT HAVE MUCH FINANCE TO TAKE CARE OF  
23 HIM, BUT SHE WAS IN THIS GOVERNMENT HOUSING SO, YOU KNOW, THE  
24 RENT WASN'T VERY HIGH. IT WASN'T A BAD PLACE. IT'S JUST THAT  
25 SHE NEEDED HELP. SO, I WOULD GO HELP HER AND I WOULD MAKE

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1 SURE THAT DAVID WAS BEING FED FROM THEN ON.

2 Q. AND THIS WOMAN THAT YOU'VE IDENTIFIED AS HELENA, WHAT WAS  
3 HER FULL NAME AS YOU UNDERSTOOD IT?

4 A. HELENA STOECKLEY DAVIS.

5 Q. WHEN YOU SAY THAT YOU HELPED HER, DESCRIBE THAT FOR US,  
6 THAT DAY AND THE LATER DAYS.

7 A. OKAY. MY HUSBAND WAS WORKING AND SO I HAD TIME. MY  
8 OLDER CHILDREN WERE WELL IN AGE IN HIGH SCHOOL AND I HAD TIME  
9 IN THE DAY TO TAKE CARE OF HER AND GO HELP HER BECAUSE I  
10 WANTED TO MAKE SURE SHE WAS GETTING DAVID FED ENOUGH. JUST  
11 BECAME HER FRIEND. WE WERE FRIENDS. AND I WOULD GO OVER  
12 THERE.

13 AND I WOULD PRAY WITH JANET IN THE MORNING BECAUSE  
14 WE BOTH FELT, YOU KNOW, COMPASSION FOR HER NEEDS AND FOR  
15 DAVID'S NEEDS BECAUSE HE WAS NOT REAL, REAL HEALTHY AT THAT  
16 TIME BECAUSE OF THE CRIB DEATH.

17 Q. AND WE'VE TALKED ABOUT THIS WAS 1982. CAN YOU REMEMBER  
18 THE MONTH, MAYBE NOT THE EXACT DATE, BUT THE MONTH IN 1982  
19 WHEN YOU STARTED TO GO OVER AND VISIT HELENA AND HER SON?

20 A. DAVID WAS BORN DURING THE FIRST OF '82, SO HE WAS VERY  
21 SMALL, AND IT WAS THE FIRST WEEK OF AUGUST APPROXIMATELY THAT  
22 THIS ALL HAPPENED, THAT WE MET HER.

23 Q. SO, FROM AUGUST OF 1982 GOING FORWARD YOU HELPED HER.  
24 DID THERE COME A TIME WHERE THAT HELP BECAME A LITTLE BIT MORE  
25 COMPREHENSIVE WHERE YOU DID MORE THAN JUST GO AND VISIT?

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1 A. SHE HAD A FRIEND THAT WAS WITH HER AND HE -- IT WAS STEVE  
2 LEWING, OKAY, AND AT ONE POINT SHE WANTED HIM OUT OF THERE AND  
3 HE WASN'T TREATING HER TOO WELL.

4 SO, HE HAD GONE OFF ON A SATURDAY, TOOK HER CAR AND  
5 WENT SO-CALLED FISHING, BUT HE HAD BEEN DRINKING. SO, HE  
6 ROLLED THE CAR OVER AND SHE CALLED ME AND SHE SAYS, NOW, I CAN  
7 COME STAY WITH YOU, I'M FREE, AWAY FROM STEVE, HE'S IN JAIL.

8 Q. IS THAT WHAT SHE DID?

9 A. YEAH, WE WENT AFTER HER AND DAVID AND GOT HER MOVED IN A  
10 HURRY THAT DAY.

11 Q. SO, MOVED FROM WALHALLA GARDENS OVER TO WHERE?

12 A. TO OUR HOME IN KEOWEE KEY, WHICH HAD A GUARD BOOTH TO GO  
13 INTO THE AREA. IT'S A VERY NICE AREA AND SO SHE HAD SECURITY  
14 FROM HIM IN THAT WAY.

15 Q. WAS THIS STILL IN 1982?

16 A. THIS WAS IN OCTOBER -- I THINK IT -- I KNOW IT WAS THE  
17 LAST SATURDAY OF THE MONTH. IT MAY HAVE BEEN OCTOBER 24TH  
18 THAT SHE MOVED -- WE MOVED HER TO OUR HOUSE.

19 Q. AND DO I UNDERSTAND CORRECTLY THAT SHE LIVED WITH YOU  
20 UNTIL DECEMBER 1982?

21 A. YES, SIR, PROBABLY SHORTLY BEFORE CHRISTMAS. WE HAD A  
22 LOT OF FUN. WE WERE DECORATING FOR CHRISTMAS. SHE WAS A VERY  
23 TALENTED WOMAN. I DON'T THINK SHE HAD A LOT OF MUSIC LESSONS,  
24 BUT WE HAD A BABY GRAND PIANO AND SHE PLAYED ALL OVER IT.  
25 JUST IT'S A GIFT, YOU KNOW, SHE WAS ABLE TO PLAY IT. VERY

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1 MUSICALLY TALENTED.

2 Q. BETWEEN AUGUST 1982 AND DECEMBER 1982, DID YOU EVER HAVE  
3 OCCASION TO TALK WITH HER ABOUT SOMETHING THAT HAD OCCURRED IN  
4 FAYETTEVILLE?

5 A. I SURELY DID. AND I CAN REMEMBER IN WALHALLA GARDENS WE  
6 JUST WERE TALKING LIKE YOU AND I NOW, OKAY, AND SHE SAID -- WE  
7 SAID WE WERE -- HAD MOVED FROM SOUTHERN PINES AND WE LIVED IN  
8 A HOUSING DEVELOPMENT AND WE WERE RIGHT AT THE EDGE OF FORT  
9 BRAGG. AND THAT WAS AT THE TIME THE CASE WAS GOING ON FOR MR.  
10 MACDONALD IN RALEIGH, OKAY, THE TRIAL. SO, IT WAS ON THE  
11 FRONT PAGE EVERY DAY.

12 WELL, SHE SAID -- THAT NIGHT SHE SAID, WELL, I'M  
13 FROM FAYETTEVILLE. AND WE DID NOT MENTION OR I DIDN'T EVEN  
14 REALIZE WHO SHE WAS THAT NIGHT. BUT SHE SAID I'M FROM  
15 FAYETTEVILLE AND I WAS INVOLVED IN AN FBI CASE AND I JUST  
16 HAVEN'T BEEN ABLE TO GET BACK OVER THERE BECAUSE, YOU KNOW, OF  
17 THAT.

18 AND SO I DIDN'T EVEN THINK ABOUT WHO SHE WAS BECAUSE  
19 I HADN'T MET HER BEFORE, BUT THE NEXT MORNING I WENT  
20 DOWNSTAIRS TO GET SOMETHING FOR MY HUSBAND'S LUNCH AND TO GET  
21 HIM OFF TO WORK AND I -- IT'S LIKE A LIGHT BULB WENT OFF IN MY  
22 HEAD. YOU KNOW HOW YOU JUST -- SOMETHING WILL CONNECT AND I'M  
23 LIKE, OH, MY GOSH, THAT'S HELENA STOECKLEY FROM THE MACDONALD  
24 CASE WE HAD SEEN IN THE NEWSPAPER.

25 AND SO WHAT HAPPENED IS I WENT UPSTAIRS AND I SAID

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1 TO MY HUSBAND, DO YOU REALIZE WHO WE MET LAST NIGHT? I SAID  
2 IT WAS HELENA STOECKLEY FROM THE MACDONALD CASE.

3 Q. AND DID THERE COME A TIME THAT YOU TALKED WITH HELENA  
4 ABOUT THAT?

5 A. WELL, SHE HAD SAID THAT MONDAY NIGHT THAT SHE WAS FROM  
6 FAYETTEVILLE, OKAY, AND SAID SHE'D BEEN INVOLVED IN A CASE,  
7 BUT THEN I LET IT BE KNOWN TO HER THAT, YOU KNOW, WE KNEW  
8 ABOUT THE WHOLE SITUATION THAT HAD HAPPENED, YOU KNOW, FROM  
9 THE NEWSPAPER ONLY, THAT IT WAS THE MACDONALD CASE.

10 AND SHE SAYS, WELL, SHE SAID THE MEN THAT DID IT,  
11 SHE SAID THEY ASKED ME TO GO ALONG, THAT THEY WERE GOING TO  
12 ROUGH MACDONALD UP AND I WOULD BECOME A WIZARD IN THE OCCULT  
13 GROUP --

14 COURT REPORTER: I'M SORRY, CAN YOU REPEAT THAT  
15 AGAIN?

16 THE WITNESS: YES, MA'AM. HELENA TOLD ME THAT THEY  
17 -- THAT THE MEN THAT WENT AND DID THE MURDERING, OKAY,  
18 JEFFREY'S WIFE, CHILDREN, AND ALMOST KILLED JEFFREY, THAT THEY  
19 WERE GOING TO ROUGH JEFFREY MACDONALD UP AND THAT SHE WOULD  
20 BECOME A WIZARD IN THE OCCULT GROUP.

21 BY MR. WILLIAMS:

22 Q. I UNDERSTAND.

23 A. OKAY.

24 Q. DID HELENA TELL YOU THAT SHE RAN OUT SCREAMING?

25 A. YES. SHE WAS HAUNTED WITH NIGHTMARES ABOUT THIS.

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1 Q. DID SHE SAY ANYTHING ABOUT DR. MACDONALD, ABOUT WHETHER  
2 HE WAS --

3 A. SHE AND I BOTH WANTED TO SEE HIM FREED. WE KNEW HE WAS  
4 NOT GUILTY. I KNOW AS WELL AS I KNOW I'M SITTING HERE TODAY  
5 THAT JEFFREY MACDONALD IS INNOCENT.

6 Q. HELENA MOVED OUT IN DECEMBER OF 1982, I BELIEVE YOU TOLD  
7 US EARLIER.

8 A. BEFORE CHRISTMAS BECAUSE SHE HAD A DRINKING PROBLEM AND  
9 SHE FELT GUILTY AFTER I PRAYED WITH HER TO RECEIVE THE LORD.  
10 SHE JUST FELT GUILTY. I THINK MOST PEOPLE THAT ARE ALCOHOLIC  
11 -- SHE FELT GUILTY ABOUT IT.

12 BUT IT WAS ALSO FOR OUR ADVANTAGE BECAUSE SHE KNEW  
13 SHE WASN'T WELL, OKAY, AND WE HAD TAKEN DAVID AND HER TO SEE  
14 HER PARENTS BECAUSE SHE WANTED TO HAVE DAVID BE SEEN BY HER  
15 PARENTS. SO, WE WENT BACK FOR THE GOLF TOURNAMENT. MY  
16 HUSBAND AND SON LOVE TO GOLF. AND WE MET MR. STOECKLEY IN  
17 ABERDEEN AND HE TOOK DAVID AND HELENA TO HIS HOME TO VISIT  
18 WITH HER MOTHER AND HIM AND HAVE A WEEKEND TOGETHER.

19 Q. DID THERE COME A TIME WHEN HELENA HAD SOME CONVERSATION  
20 WITH YOU ABOUT DAVID HER SON AND WHAT SHE WOULD WANT TO HAVE  
21 HAPPEN WITH DAVID?

22 A. MORE THAN ONCE SHE WOULD HAND HIM TO MY HUSBAND AND I AND  
23 SAY WILL YOU RAISE HIM BECAUSE SHE KNEW SHE WAS DYING. SHE  
24 KNEW SHE HAD -- WAS NOT IN GOOD HEALTH.

25 AT THANKSGIVING TIME SHE WENT BACK OVER AND I

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1 BELIEVE THAT'S WHEN MR. BEASLEY MIGHT HAVE COME FOR HER AND  
2 MET HER AND TAKEN HER AND HER FATHER BROUGHT HER BACK.

3           THERE WAS MORE THAN ONE TIME AFTER THE FIRST TIME WE  
4 TOOK HER TO SEE HER PARENTS THAT SHE GOT TO GO BACK AND BE  
5 WITH THEM AND HER SISTER AND THE OTHER -- THE REST OF THE  
6 FAMILY --

7 Q.    MORE THAN ONE TIME?

8 A.    -- THAT WERE THERE IN FAYETTEVILLE.  AND THAT WAS SO GOOD  
9 THAT SHE WAS ABLE TO DO THAT.  AND I'M SORRY, I'M GETTING OFF  
10 OF WHAT YOU ASKED ME.

11 Q.    IT'S OKAY.  YOU'RE FINE.  NO, YOU'RE FINE.  SO, I  
12 UNDERSTOOD YOU TO SAY THAT HELENA SAID THAT HELENA THOUGHT  
13 THAT SHE WAS VERY SICK, THAT SHE THOUGHT SHE DID NOT HAVE MUCH  
14 TIME, AND SHE ASKED YOU TO TAKE CARE OF DAVID?

15 A.    MANY TIMES.  AND SHE --

16 Q.    AFTER HELENA --

17 A.    SHE WENT TO THE DOCTOR WHEN SHE WAS BACK IN FAYETTEVILLE  
18 AT THANKSGIVING AND HE LET HER KNOW SHE WASN'T WELL.

19 Q.    AFTER SHE MOVED OUT, DO YOU HAVE AN UNDERSTANDING OF WHEN  
20 SHE PASSED AWAY?

21 A.    YES, VERY MUCH SO.

22 Q.    AND WHEN WAS THAT?

23 A.    DAVID HAS AN AUNT THAT KIND OF KEPT TRACK OF HER IN  
24 SENECA GARDENS AND THIS WAS IN THE NEXT -- ABOUT THE FIRST  
25 WEEK OF JANUARY.  SHE WASN'T IN SENECA GARDENS VERY LONG.

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1 Q. OF WHAT YEAR?

2 A. 1983.

3 Q. SO, SHE PASSED AWAY IN JANUARY OF 1983?

4 A. DAVID WAS SEVEN MONTHS OLD AND HE LAID AND ALMOST DIED  
5 AFTER SHE DIED. HE'S A MIRACLE.

6 Q. WHAT HAPPENED TO DAVID AFTER SHE PASSED AWAY?

7 A. HE BECAME A WARD OF THE STATE BECAUSE HIS DAD WAS  
8 INCARCERATED. AND HE WENT TO -- FIRST HE WAS HOSPITALIZED  
9 BECAUSE HE WAS ALMOST DEHYDRATED. THEY PUT AN I.V. IN HIS  
10 ANKLE.

11 Q. WAS HE PUT INTO THE COURT SYSTEM?

12 A. YES. WE BECAME FOSTER PARENTS IN ORDER TO RAISE HIM AT  
13 FIRST. WE HAD TO BECAUSE THAT WAS THE SITUATION. AND A LADY  
14 IN WESTMINSTER, SOUTH CAROLINA, WHICH IS HIS ADDRESS NOW, HAD  
15 HIM FIRST BECAUSE WE WEREN'T QUALIFIED AS FOSTER PARENTS. WE  
16 WORKED THROUGH SOCIAL SERVICE IN OCONEE COUNTY.

17 Q. AND WHO ENDED UP RAISING DAVID?

18 A. WE HAVE. HE'S OUR SON BY LEGAL GUARDIANSHIP BECAUSE HIS  
19 DAD IS STILL LIVING AND HE HAS A GOOD RELATIONSHIP WITH US AND  
20 HIS FATHER. HE'S MARRIED AND HAS A PRECIOUS SON.

21 Q. OKAY. NOW, I WANT TO DIRECT YOUR ATTENTION AGAIN BACK TO  
22 THIS PERIOD 1982, 1983. WAS THERE A TIME THAT YOU TALKED WITH  
23 PRINCE BEASLEY BY TELEPHONE?

24 A. ONE TIME THAT I CAN REMEMBER.

25 Q. AND I'M GOING TO DIRECT YOUR ATTENTION TO THE SCREEN IN

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1 FRONT OF YOU. DEFENSE EXHIBIT 5077.

2 A. I KNOW MR. BEASLEY WENT TO HIS DEATH BED WANTING TO CLEAR  
3 JEFFREY MACDONALD BECAUSE I KNOW HE HELD THE MEN THAT DID IT.

4 Q. ALL RIGHT. AND IF YOU COULD READ THIS STATEMENT STARTING  
5 WITH WHERE IT SAYS I TALKED, BEFORE THE YELLOW.

6 A. I TALKED WITH MRS. SARA MCMANN BY TELEPHONE IN REFERENCE  
7 TO HELENA STOECKLEY DAVIS AND THE JEFFREY MACDONALD MURDER  
8 CASE.

9 Q. ALL RIGHT. AND THEN KEEP READING THE PART THAT'S IN THE  
10 YELLOW.

11 A. OKAY. MY EYESIGHT ISN'T THE BEST FOR THIS, BUT SHE  
12 STATED TO ME THAT --

13 Q. LET ME SEE IF I CAN MAKE IT JUST A LITTLE LARGER.

14 A. OKAY.

15 Q. DOES THAT HELP?

16 A. YES. SHE STATED TO ME THAT SHE BEFRIENDED HELENA AND HER  
17 SMALL SON DAVID FOR QUITE SOME TIME BEFORE HER DEATH. SHE  
18 STATED THAT SHE AND HELENA HAD TALKED SEVERAL TIMES ABOUT THE  
19 MACDONALD MURDER. SHE STATED THAT HELENA HAD ADMITTED TO HER  
20 THAT SHE WAS A WITNESS TO THE MURDERS, BUT TOOK NO ACTIVE PART  
21 IN THEM. SHE TOLD MRS. MCMANN THAT DR. MACDONALD WAS NOT  
22 GUILTY AND THAT SHE WAS GOING TO HELP HIM.

23 Q. AND THEN THE NEXT YELLOW PART THERE?

24 A. SHE STATED THAT HELENA SEEMED TO BE VERY WORRIED OVER  
25 THIS SITUATION.

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1 Q. ALL RIGHT. I UNDERSTAND THAT YOU DID NOT WRITE THIS  
2 NOTE, BUT IS THAT AN ACCURATE SUMMARY OF SOME OF THE THINGS  
3 YOU'VE TOLD US TODAY?

4 A. YES, PRETTY MUCH OF IT SEEMS TO BE.

5 (DEFENSE EXHIBIT NUMBER 5077  
6 WAS IDENTIFIED FOR THE RECORD.)

7 Q. AND IF YOU'LL LOOK AT THE TOP RIGHT OF THE SCREEN, YOU'LL  
8 SEE A DATE THERE IN RED.

9 A. FEBRUARY 26TH, 1983.

10 Q. AND I'M NOT ASKING YOU TO GIVE US THE EXACT DAY THAT YOU  
11 SPOKE WITH PRINCE BEASLEY BY TELEPHONE, BUT I WILL ASK YOU  
12 THIS, WAS IT SOMETIME IN EITHER 1982 OR 1983?

13 A. IT WAS BEFORE HELENA DIED SO IT WAS IN '82.

14 Q. OKAY. AND WHERE IT SAYS KEOWEE KEYS, THAT'S A NAME THAT  
15 YOU MENTIONED EARLIER.

16 A. UH-HUH.

17 Q. IS THAT WHERE YOU LIVED?

18 A. YES. IT WASN'T -- THAT WASN'T THE ADDRESS, BUT THAT WAS  
19 THE NAME OF THE -- IT WAS KEOWEE KEYS WAS THE BUILDING NAME OF  
20 THE AREA.

21 Q. THE SUBDIVISION?

22 A. IT WAS A RESORT AREA OF THE LAKES.

23 Q. AND SALEM, SOUTH CAROLINA, WHAT IS THAT?

24 A. SALEM, THAT WAS THE CITY. IT'S A VERY SMALL PLACE.

25 Q. OKAY.

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1 A. AND PART OF OUR ADDRESS. OUR ADDRESS WASN'T KEOWEE KEYS,  
2 THAT WAS JUST THE NAME OF THE PLACE, BUT IT WAS IN SALEM,  
3 SOUTH CAROLINA, THAT'S CORRECT.

4 Q. OKAY. NOW, IF WE LOOK FURTHER DOWN INTO THIS STATEMENT,  
5 THERE'S ALSO A REFERENCE AT THE BOTTOM THAT PRINCE BEASLEY  
6 WROTE, MR. BEASLEY WROTE, SAYING THAT YOUR HUSBAND DID NOT  
7 WANT TO SPEAK WITH HIM AND DID NOT WANT YOU TO SPEAK WITH HIM  
8 BECAUSE A POLYGRAPH HAD ALREADY SHOWED HELENA WAS TELLING THE  
9 TRUTH AND THE DOCTOR SAID SHE WAS ALL RIGHT.

10 IS IT FAIR TO SAY THAT PART OF THE STATEMENT IS  
11 PROBABLY NOT YOUR RECOLLECTION?

12 A. MY HUSBAND WASN'T AGAINST ANYTHING THAT WE DID AT ALL.  
13 WE WERE IN ONE ACCORD ABOUT EVERYTHING. SO, I DON'T KNOW WHAT  
14 THIS IS SAYING. CAN WE GO OVER THIS AGAIN?

15 Q. SURE. AND YOU CAN READ IT THERE. WHAT I'M ASKING YOU IS  
16 THE PARTS WE JUST READ IN YELLOW, THE PARTS THAT YOU READ, I  
17 BELIEVE YOU TOLD US THOSE WERE ACCURATE.

18 A. YEAH, EVERYTHING'S PRETTY MUCH ACCURATE, BUT MY HUSBAND  
19 AND I WERE IN ONE ACCORD TO HELP HER, TAKE CARE OF HER AND TO  
20 RAISE DAVID.

21 Q. AND IF PRINCE BEASLEY MISUNDERSTOOD THAT THEN THAT --

22 A. I DON'T KNOW WHAT HE WAS THINKING THERE ABOUT ANYTHING  
23 REALLY.

24 Q. BUT THAT WOULD BE --

25 A. BECAUSE I JUST TALKED TO HIM ONE TIME AND MY HUSBAND WAS

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1 USUALLY AT WORK AND, YOU KNOW, WE JUST -- WE WERE A FAMILY  
2 WITH HER.

3 Q. I UNDERSTAND. LET ME TAKE YOU BACK UP A LITTLE HIGHER  
4 INTO THE STATEMENT. YOU MENTIONED THAT YOU FOUND OR HE SAYS  
5 YOU MENTIONED THAT TWO BOTTLES OF VODKA WERE FOUND IN THE  
6 HOUSE BEFORE SHE MOVED OUT. IS THAT WHAT YOU WERE TELLING US  
7 ABOUT HELENA STILL HAD A DRINKING PROBLEM?

8 A. SHE DID HAVE A DRINKING PROBLEM. AT NIGHT PROBABLY  
9 MOSTLY WHEN SHE -- YOU KNOW, SHE WOULD EAT A GOOD MEAL, BUT AT  
10 NIGHT I THINK WHEN SHE COULDN'T SLEEP WELL SHE WOULD PROBABLY  
11 BE DRINKING THE MOST, BUT I NEVER REALLY SAW HER IN A REAL  
12 DRUNKEN STATE WHERE SHE WASN'T IN CONTROL OR ANYTHING. SHE  
13 WOULD PUT IT IN A DIAPER BAG.

14 Q. I UNDERSTAND. AND, MS. MCMANN, THERE'S ALSO A REFERENCE  
15 HERE IN THE BEASLEY STATEMENT THAT YOU HAD TOLD HIM ABOUT AN  
16 FBI AGENT BY THE NAME OF FRANK MILLS WHO HAD COME OVER TO  
17 VISIT ONE DAY. TELL US ABOUT THAT.

18 A. HE JUST CAME OVER TO WHERE I WAS TEACHING PIANO AT THE  
19 CHURCH WHERE WE PRAYED FOR THEM IN THE BEGINNING WHERE WE  
20 ATTENDED CHURCH. AND HE FELT, I BELIEVE, THAT JEFFREY WAS  
21 GUILTY. AND I JUST TOLD HIM, I SAID, ALL HELENA -- I TOLD HIM  
22 RIGHT THERE IN THE CHURCH BEFORE WE CAME OUT TO OUR HOUSE, I  
23 SAID ALL HELENA AND I WANT TO DO IS SEE HIM FREE, BUT THAT  
24 WOULD HAVE ALSO PUT HER IN JEOPARDY BECAUSE SHE WAS THERE THAT  
25 NIGHT. I DON'T KNOW IF I STATED THAT, BUT AS WELL AS I KNOW

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1 I'M SITTING HERE, HELENA WAS THERE THAT NIGHT. I'VE ALREADY  
2 SAID WHY SHE WENT. SHE DIDN'T INTEND TO MURDER ANYBODY, BUT  
3 SHE WENT THAT NIGHT.

4 MR. WILLIAMS: IF I COULD HAVE JUST A MINUTE, YOUR  
5 HONOR?

6 (PAUSE.)

7 MR. WILLIAMS: THANK YOU, YOUR HONOR.

8 THE COURT: CROSS.

9 MS. COOLEY: THANK YOU, YOUR HONOR.

10 C R O S S - E X A M I N A T I O N 4:01 P.M.

11 BY MS. COOLEY:

12 Q. GOOD AFTERNOON, MS. MCMANN, CAN YOU HEAR ME? I'M RIGHT  
13 HERE.

14 A. YES, MA'AM.

15 Q. HI, THERE. I'M LESLIE COOLEY. I'M GOING TO ASK YOU A  
16 COUPLE OF QUESTIONS IF THAT'S ALL RIGHT.

17 A. SURE.

18 Q. OKAY. I WANT TO FIRST ASK YOU, YOU SAID THAT YOU FIRST  
19 MET HELENA IN AUGUST OF 1982, IS THAT RIGHT?

20 A. YES.

21 Q. BUT SHE DIDN'T MOVE IN WITH YOU UNTIL SEVERAL MONTHS  
22 AFTER THAT?

23 A. RIGHT. IT WAS THE LAST SATURDAY IN OCTOBER.

24 Q. OKAY.

25 A. BUT I WOULD GO SEE HER IN WALHALLA GARDENS.

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1 Q. AND YOU MENTIONED THAT WHEN SHE WAS LIVING WITH YOU, THE  
2 REASON WHY SHE ENDED UP HAVING TO MOVE OUT IS BECAUSE OF HER  
3 DRINKING, IS THAT A FAIR STATEMENT?

4 A. YES, SHE JUST FELT SHE SHOULD GO ON ELSEWHERE.

5 Q. AND SUFFICE IT TO SAY, IT WAS A PROBLEM FOR HER. YOU  
6 FOUND THE VODKA BOTTLES IN HER ROOM AND --

7 A. WE NEVER GAVE HER --

8 Q. -- YOU SAID SHE WOULD HIDE IT IN HER DIAPER BAG?

9 A. YEAH. WE NEVER GAVE HER ANY PUNISHMENT. WE WERE JUST  
10 ONE HAPPY FAMILY AND WE KNEW ABOUT HER DRINKING, BUT SHE KNEW  
11 WE KNEW AND SHE DID HAVE THAT PROBLEM.

12 Q. SURE. AND I DON'T MEAN THAT IT WAS A PROBLEM -- THAT YOU  
13 HAD A PROBLEM WITH HER, I MEAN THAT SHE HAD A PROBLEM WITH  
14 ALCOHOL.

15 A. WELL, WHAT I MIGHT SAY IS FOR OUR OWN GOOD -- I DIDN'T  
16 EVEN KNOW SHE WAS GOING TO MOVE OUT, BUT FOR OUR OWN GOOD,  
17 AFTER SHE DIED -- I'M GLAD SHE DIDN'T DIE IN OUR HOME BECAUSE  
18 THAT WOULD HAVE PRESENTED A PROBLEM FOR US WITH ALL THE THINGS  
19 THAT WERE INVOLVED. SO, MAYBE THAT WAS PART OF IT TOO.

20 I DON'T KNOW WHY SHE DECIDED TO GO. SHE DIDN'T EVEN  
21 SAY FOR SURE SHE WAS GOING TO GO UNTIL THE LAST MINUTE, BUT IT  
22 WAS FOR OUR GOOD NOW THAT I LOOK BACK ON IT BECAUSE IF SHE HAD  
23 DIED IN OUR HOME WE WOULD HAVE BEEN QUESTIONED.

24 Q. AND ABOUT HER DEATH, YOU SAID SHE WAS LIVING IN SENECA  
25 GARDEN APARTMENTS?

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1 A. YES. SHE WENT FROM ONE -- THE GOVERNMENT HOUSING IN  
2 WALHALLA TO SENECA, WHICH THEY'RE MAYBE EIGHT MILES APART.  
3 THEY'RE CLOSE.

4 Q. AND YOU SAID SHE DIED IN JANUARY OF 1983, IS THAT RIGHT?

5 A. YES.

6 Q. AND WERE YOU AWARE AT THE TIME THAT THEY FOUND HER BODY  
7 THAT SHE HAD BEEN DEAD IN THERE FOR SEVERAL DAYS?

8 A. WHAT HAPPENED IS HER AUNT WENT TO SEE HER AND SAW HER  
9 THROWING UP AND NOT WELL AND SHE COULDN'T GET IN. SHE DIDN'T  
10 LET HER IN.

11 SO, WHAT HAPPENED WAS FAYE DAVIS, HER AUNT, THOUGHT  
12 SHE MIGHT HAVE DIED ON MONDAY AND BY FRIDAY NOON THEY FOUND  
13 HER.

14 THE MAINTENANCE MAN OF SENECA GARDENS SAW BLOW  
15 FLIES ON THE WINDOW. PEOPLE THOUGHT THERE WAS SOMETHING WRONG  
16 BECAUSE PEOPLE LIVING AROUND THERE DIDN'T SEE HER COMING AND  
17 GOING.

18 BUT I WENT TO VISIT HER, I BELIEVE MY HUSBAND AND I,  
19 ONE TIME AFTER SHE MOVED BECAUSE WE NO LONGER FELT THE NEED TO  
20 HELP WITH DAVID. SHE HAD GOTTEN A CHECK AND WAS, YOU KNOW,  
21 DOING BETTER AS FAR AS I WAS CONCERNED. I DIDN'T GO THERE  
22 LIKE I DID AS MUCH AS I DID IN THE BEGINNING.

23 Q. SURE. BECAUSE WHEN SHE HAD MOVED OUT, YOU SAID THAT SHE  
24 HAD KIND OF GOTTEN IT TOGETHER?

25 A. YEAH, WE JUST FELT LIKE, WELL, SHE WAS CLOSE TO FAYE AND

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1 FAYE WAS AS CLOSE A FRIEND TO HER AND THEY LIVED AT SENECA.  
2 THAT'S DAVID'S BROTHER'S -- HALF BROTHER'S WIFE. FAYE AND I  
3 WERE LIKE HELENA ONLY WE STILL ARE VERY CLOSE. WE'RE ONE  
4 FAMILY. I TOOK DAVID TO SEE ERNEST EVERY WEEK --

5 Q. WHEN HE WAS IN PRISON?

6 A. -- IN THE BEGINNING.

7 Q. ERNEST WHEN HE WAS IN PRISON?

8 A. (WITNESS NODS HEAD.) WE ARE STILL VERY CLOSE.

9 Q. AND YOU SAID THAT SHE MOVED OUT AND SHE WAS DOING WELL AT  
10 THE TIME. YOU'RE AWARE THAT SHE DIED FROM BRONCHIAL  
11 PNEUMONIA, RIGHT?

12 A. YEAH. SHE KNEW SHE WASN'T WELL. SHE WAS AN INTELLIGENT  
13 WOMAN AND SHE SAID TO US IF SOMETHING HAPPENS TO ME, WILL YOU  
14 PLEASE RAISE DAVID? SHE'D GO LIKE THIS TO HAND HIM AND  
15 MOTION. SHE SAID THIS TO MY HUSBAND AND I BOTH.

16 Q. AND NOW I WANT TO BACK UP JUST A MINUTE.

17 A. YES, MA'AM.

18 Q. YOU FIRST BECAME AWARE OF HER SITUATION WHEN YOU WERE IN  
19 CHURCH, IS THAT RIGHT?

20 A. UH-HUH.

21 Q. ALL RIGHT. AND THEN AFTER YOU WENT TO VISIT HER, SHE HAD  
22 MENTIONED BEING INVOLVED WITH THE FBI IN FAYETTEVILLE AND IT  
23 CLICKED WITH YOU THAT SHE WAS SOMEHOW INVOLVED WITH THE  
24 MACDONALD CASE, IS THAT RIGHT?

25 A. WELL, HER PICTURE WAS IN THE NEWSPAPER AND WE EVERY DAY

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1 -- YOU KNOW, WE WERE LIVING IN SOUTHERN PINES RIGHT BY FORT  
2 BRAGG. WE COULD GET TO FAYETTEVILLE BY GOING ACROSS FORT  
3 BRAGG BECAUSE THE ALLOTMENT WHERE WE LIVED WAS RIGHT AT THE  
4 EDGE OF FORT BRAGG. WE LIVED THERE THREE YEARS; '78, '79 AND  
5 '80.

6 Q. AND SO IT'S FAIR TO SAY YOU FOLLOWED THE MACDONALD CASE  
7 PRETTY CLOSELY WHEN YOU WERE LIVING IN --

8 A. JUST IN THE NEWSPAPER, RIGHT.

9 Q. AND YOU SAID THAT SHE HAD A FRIEND LIVING WITH HER, STEVE  
10 SOMEONE?

11 A. STEVE LEWING.

12 Q. LEWING?

13 A. JUST A BOYFRIEND. BUT SHE AND I WOULD TAKE DAVID AND GO.  
14 I WOULD TAKE THEM TO SEE ERNEST AND SHE WAS LIKE, YOU KNOW,  
15 WHAT IS THERE FOR ME? MY HUSBAND'S IN JAIL. I'M NOT SAYING  
16 SHE DIDN'T LOVE HER HUSBAND.

17 Q. AND I WANT TO TALK WITH YOU FOR A MOMENT ABOUT WHAT SHE  
18 SAID HAPPENED. SO, ACCORDING TO WHAT YOU'VE TESTIFIED ABOUT  
19 ON DIRECT EXAMINATION, HELENA TOLD YOU THAT ON THE NIGHT OF  
20 THE MACDONALD MURDERS SHE WENT WITH A GROUP OF INDIVIDUALS --

21 A. MEN. THREE MEN.

22 Q. -- AND THEY ASKED HER TO GO ALONG IN ORDER FOR HER TO  
23 BECOME A WIZARD IN THE OCCULT GROUP, IS THAT RIGHT?

24 A. YEAH, THEY SAID COME ALONG, WE'RE GOING TO ROUGH  
25 MACDONALD UP, AND YOU'LL BECOME A WIZARD IN THE OCCULT GROUP

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1 IF SHE GOES. BIGGEST MISTAKE OF HER LIFE.

2 Q. SO, SORT OF LIKE A GANG INITIATION OR SOMETHING?

3 A. UH-HUH.

4 Q. NOW, PRINCE BEASLEY, YOU SAID THAT YOU HAD MET HIM ON ONE  
5 OCCASION, IS THAT RIGHT?

6 A. I DON'T -- I DID NOT MEET HIM. I ONLY TALKED TO HIM ON  
7 THE PHONE AND HE REALLY WANTED TO SEE JEFFREY FREED BECAUSE HE  
8 HELD THE MEN THAT DID IT.

9 Q. I'M SORRY, HE HELPED THE MEN?

10 A. HE HELD THE MEN THAT DID IT.

11 Q. HE HELD THE MEN. NOW, THE TIME THAT YOU TALKED WITH HIM  
12 -- YOU ONLY SPOKE WITH HIM ONE TIME ON THE PHONE. DID YOU  
13 TALK WITH HIM ABOUT -- OR HELENA ABOUT HIM AT ALL?

14 A. DID I TALK TO HELENA ABOUT HIM?

15 Q. ABOUT BEASLEY.

16 A. YEAH, HE CALLED IN ORDER TO MAKE ARRANGEMENTS WITH HELENA  
17 TO HELP HER GET HOME AGAIN.

18 Q. AND SO THAT WAS ON A SEPARATE OCCASION FROM THE TIME WHEN  
19 YOU CALLED HIM AND GAVE HIM THE STATEMENT THAT RESULTED IN  
20 THIS WRITTEN STATEMENT FROM HIM?

21 A. NO, THE ONLY TIME I TALKED TO HIM THAT I CAN REMEMBER IS  
22 ONE TIME ON THE PHONE, BUT I BELIEVE HELENA TALKED TO HIM MORE  
23 BECAUSE WE HAD A HOME PHONE. I WOULD GO TEACH PIANO AT THE  
24 CHURCH AND SHE HAD -- SHE WAS THERE AT THE HOUSE. YOU KNOW, I  
25 HAD DAVID THE DAY THE -- YOU KNOW, THAT THEY CAME, THE FBI MAN

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1 CAME.

2 Q. MR. MILLS, SPECIAL AGENT MILLS?

3 A. HE CAME TO THE CHURCH AND DAVID WAS WITH ME SO I JUST  
4 LEFT HER AT HOME, YOU KNOW, AND I TAUGHT PIANO AND I CAME BACK  
5 AND I TOLD MR. MILLS HE COULD COME TO THE HOUSE FROM THE  
6 CHURCH. AND HE WANTED TO TALK TO HELENA, BUT HE WASN'T IN ONE  
7 ACCORD WITH WHAT WE BELIEVED AND WHAT HE BELIEVED AND SHE JUST  
8 DIDN'T WANT TO BE BOTHERED ABOUT IT. SHE SAID, YOU KNOW, I'M  
9 NOT GOING TO SIGN ANYTHING.

10 Q. SURE. AND JUST TO MAKE SURE WE'RE CLEAR, THAT'S MR.  
11 MILLS, SPECIAL AGENT FRANK MILLS, WITH THE FBI?

12 A. (WITNESS NODS HEAD.)

13 Q. AND I'M TALKING ABOUT A SEPARATE PERSON. I'M TALKING  
14 ABOUT PRINCE BEASLEY WHO WAS A FORMER DETECTIVE IN  
15 FAYETTEVILLE.

16 A. THOSE ARE THE ONLY TWO PEOPLE THAT I HAD ANY ASSOCIATION  
17 WITH ABOUT THIS SITUATION. I KNOW MR. MILLS CAME TO ME AT  
18 CHURCH AND MR. BEASLEY TALKED TO ME ON THE PHONE ONE TIME  
19 BECAUSE SHE -- YOU KNOW, THEY WOULD CALL OUR HOUSE. WHAT I'M  
20 SAYING IS IT WAS A HOUSE PHONE.

21 Q. RIGHT.

22 A. SO, IF SHE WAS THERE, SHE COULD HAVE ANSWERED IT OR SHE  
23 COULD HAVE CALLED HIM.

24 Q. SURE.

25 A. SHE WAS --

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1 Q. AND SHE HAD A RELATIONSHIP WITH PRINCE BEASLEY?

2 A. SHE WAS -- HAD A RELATIONSHIP OF HELPING WITH HIM AND HE  
3 HELPED HER GET HOME TO VISIT HER PARENTS JUST LIKE WE DID.

4 Q. AND YOU WERE AWARE THAT HER RELATIONSHIP WITH PRINCE  
5 BEASLEY LASTED OVER SOME PERIOD OF TIME, IS THAT RIGHT?

6 A. WELL, YOU KNOW, THEY WERE BOTH WORKING TOGETHER KIND OF  
7 ON THIS THING I THINK, YOU KNOW.

8 Q. AND WERE YOU AWARE THAT THE TWO OF THEM HAD A BOOK DEAL  
9 IN THE WORKS WITH A MAN NAMED FRED BOST?

10 A. NO, I DIDN'T KNOW ABOUT THAT. SHE MIGHT HAVE TOLD ME,  
11 BUT I DON'T REMEMBER THAT.

12 Q. WERE YOU AWARE THAT SHE WENT TO CALIFORNIA WITH PRINCE  
13 BEASLEY OR THAT HE PROMISED HER A NEW IDENTITY OR ANY OF THOSE  
14 THINGS?

15 A. NO, I DIDN'T KNOW ABOUT THAT AT ALL.

16 Q. NOW, I WANT TO GO BACK JUST BRIEFLY TO THE NIGHT OF THE  
17 MACDONALD MURDERS. YOU SAID THAT PRINCE BEASLEY, THAT HE HELD  
18 THEM. WHEN YOU SAY HE HELD THEM, WHAT ARE YOU REFERRING TO?

19 A. I'M REFERRING TO WHEN THE MURDERS HAPPENED AS FAR AS I  
20 UNDERSTAND, OKAY, THAT HE DID HOLD THE MEN THAT WERE GUILTY  
21 FOR 48 HOURS.

22 Q. HE HELD THEM FOR 48 HOURS?

23 A. THAT'S WHAT I --

24 Q. AT THE POLICE DEPARTMENT OR --

25 A. I DON'T KNOW. I DON'T KNOW MILITARY LAW.

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1 Q. AND THAT ALL CAME FROM HELENA OR FROM MR. BEASLEY?

2 A. IT COULD HAVE COME FROM HIM WHEN WE TALKED. IT'S BEEN A  
3 LONG TIME AGO AND I'M NOT POSITIVE OF THAT ANSWER.

4 Q. AND NOW SPEAKING FURTHER OF MR. BEASLEY, YOU'VE  
5 CHARACTERIZED HIM AS PRETTY PASSIONATE ABOUT FREEING JEFFREY  
6 MACDONALD, IS THAT A FAIR STATEMENT?

7 A. I JUST THINK HE WANTED TO DO WHAT WAS RIGHT. I DON'T  
8 KNOW HIM, DIDN'T KNOW HIM, YOU KNOW, I JUST --

9 Q. AND YOU HAD A CHANCE TO LOOK AT THE STATEMENT THAT HE  
10 WROTE DOWN ABOUT YOUR CONVERSATION AND I TAKE IT THAT YOU  
11 PROBABLY HAVEN'T SEEN THAT BEFORE YOU WERE CALLED AS A WITNESS  
12 IN THIS HEARING, IS THAT RIGHT?

13 A. WELL, I DIDN'T REALLY HAVE A LOT OF -- I GUESS MY PROBLEM  
14 IS I DON'T HAVE A LOT OF MEMORY OF EXACTLY WHAT WE SAID ON THE  
15 PHONE. YOU KNOW, IT WAS A ONE TIME THING. BUT I THINK HE DID  
16 PROBABLY ASK ME SOME QUESTIONS AND I WAS THE ONLY ONE THERE.  
17 MY HUSBAND HAD NO INVOLVEMENT WITH THAT.

18 WE WERE IN ONE ACCORD ABOUT TRYING TO HELP HELENA  
19 MOSTLY KEEP ALIVE AND DAVID TO KEEP ALIVE. OUR WHOLE THING  
20 WAS A MINISTRY TO HER AND -- MAYBE I SHOULD SAY THIS. I DID  
21 WRITE TO JEFFREY TELLING HIM I KNEW HE WAS INNOCENT. I FEEL  
22 COMPASSION BECAUSE I KNOW THE TRUTH.

23 Q. AND WHEN WAS THAT? WHEN DID YOU WRITE TO --

24 A. I DON'T REMEMBER. IT WAS AFTER WE GOT DAVID.

25 Q. IT WAS AFTER YOU GOT DAVID. SO, IT WAS AFTER YOU HAD

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1 BEEN IN TOUCH WITH HELENA?

2 A. I FELT I WOULD LIKE TO HELP HIM.

3 Q. AND SO YOU'RE HERE TODAY SO THAT YOU CAN DO YOUR PART TO  
4 HELP HIM?

5 A. (WITNESS NODS HEAD.)

6 MS. COOLEY: I HAVE NOTHING FURTHER, YOUR HONOR.

7 THE COURT: REDIRECT.

8 MR. WILLIAMS: YES, SIR, YOUR HONOR, IF I COULD.

9 R E D I R E C T E X A M I N A T I O N 4:12 P.M.

10 BY MR. WILLIAMS:

11 Q. MS. MCMANN, I'M GOING TO DIRECT YOUR ATTENTION TO THE  
12 SCREEN WHERE I'M GOING TO PLACE DEFENSE EXHIBIT 5019, AND I'LL  
13 MAKE THIS LARGER SO THAT IT'S EASIER TO SEE, AND I'M GOING TO  
14 ASK YOU TO READ WHAT'S STATED THERE AT THE TOP OF THE SCREEN?

15 A. DECLARATION OF PRINCE E. BEASLEY.

16 (DEFENSE EXHIBIT NUMBER 5019

17 WAS IDENTIFIED FOR THE RECORD.)

18 Q. ALL RIGHT. AND I'M GOING TO PAGE FORWARD TO THE END OF  
19 THE DOCUMENT AND ASK YOU IF THERE IS A SIGNATURE LINE THERE  
20 AND IF YOU COULD -- IF YOU SEE THAT, READ THE NAME THAT'S  
21 UNDER IT.

22 A. PRINCE E. BEASLEY.

23 Q. ALL RIGHT. AND THEN THE NEXT PARAGRAPH WHERE IT STARTS  
24 THE WORD ON, IF YOU COULD READ THAT FOR US, PLEASE.

25 A. ON MARCH 27TH, 1994, BEFORE ME, THE UNDERSIGNED, A NOTARY

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1 PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED  
2 PRINCE E. BEASLEY, PERSONALLY KNOWN TO BE OR PROVED TO ME ON  
3 THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON WHOSE NAME  
4 IS SUBSCRIBED TO WITHIN INSTRUMENT AND ACKNOWLEDGMENT THAT HE  
5 EXECUTED THE SAME. WITNESS MY HAND AND OFFICIAL SEAL.

6 Q. AND IT HAS A NOTARY PUBLIC SIGNATURE?

7 A. OKAY.

8 Q. DO YOU SEE THAT THERE?

9 A. YEAH. DO YOU WANT ME TO READ THAT?

10 Q. NO, THAT'S OKAY.

11 A. OKAY.

12 Q. LOOK AT THE DATE FOR ME ONE MORE TIME. ON MARCH 27TH,  
13 WHAT IS THE YEAR?

14 A. OH, 1984.

15 Q. OKAY. NOW, I'M GOING TO DIRECT YOUR ATTENTION BACK TO AN  
16 EARLIER PART OF THIS DOCUMENT AND IF YOU COULD PLEASE READ THE  
17 SECTION IN YELLOW.

18 A. EARLY THE NEXT MORNING I SET UP SURVEILLANCE AT HELENA  
19 STOECKLEY'S APARTMENT AT 1108 CLARK STREET, FAYETTEVILLE. AT  
20 APPROXIMATELY 2:15 A.M. ON FEBRUARY 18TH, 1970, STOECKLEY AND  
21 TWO OR THREE MEN PULLED UP IN AN OLD FADED YELLOW CAR WITH OUT  
22 OF STATE PLATES.

23 I BLOCKED THEIR CAR IN THE DRIVEWAY WITH MY CAR AND  
24 CALLED OUT TO HELENA. AS SHE APPROACHED MY CAR, THE MEN  
25 FOLLOWED AS IF TO PROTECT HER. SHE TOLD THEM IT WAS ALL RIGHT

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1 AND THEY WENT BACK TO THEIR CAR.

2           BEFORE I SAID ANYTHING, HELENA SAID TO ME THAT SHE  
3 KNEW WHY I WAS THERE TO SEE HER AND ASKED, MR. BEASLEY, DO YOU  
4 WANT TO SEE MY ICE PICK? I TOLD HER I DID NOT THINK HER  
5 STATEMENT WAS FUNNY. I ASKED HER IF SHE WAS INVOLVED IN THE  
6 FORT BRAGG MURDERS. SHE SAID SHE THOUGHT SHE WAS PRESENT WHEN  
7 IT HAPPENED AND COULD REMEMBER HOW AWFUL IT WAS.

8 Q. ALL RIGHT. I'M GOING PAGE DOWN A LITTLE FURTHER. CAN  
9 YOU READ THE FIRST LINE THERE AT PARAGRAPH 12, THE NEXT  
10 PARAGRAPH?

11 A. AFTER NUMBER 12?

12 Q. YES.

13 A. I RADIOED THE POLICE DEPARTMENT AND ADVISED THEM TO CALL  
14 THE ARMY CID. I TOLD THEM I HAD FOUND SUSPECTS IN THE  
15 MURDERS. OVER AN HOUR PASSED AND NO ASSISTANCE ARRIVED. SO,  
16 I WAS FORCED TO RELEASE THEM BECAUSE THEY BECAME THREATENING  
17 TO ME.

18 Q. IS THAT WHAT YOU WERE SPEAKING OF WHEN YOU WERE ASKED ON  
19 CROSS AND YOU HAD SAID THAT IT WAS YOUR UNDERSTANDING HE WAS  
20 FORCED TO RELEASE THE PEOPLE HE HAD CAUGHT IN THE MURDERS?

21 A. I DIDN'T KNOW THAT.

22 Q. BUT DOES THAT -- IS THAT CONSISTENT WITH WHAT YOU WERE  
23 TELLING US EARLIER?

24 A. WELL, IT CERTAINLY DOES APPLY, DOESN'T IT?

25           MR. WILLIAMS: THANK YOU, YOUR HONOR.

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1 MS. COOLEY: IF I MAY HAVE JUST ONE MOMENT, YOUR  
2 HONOR?

3 THE COURT: YES.

4 MS. COOLEY: THANK YOU.

5 (PAUSE.)

6 MS. COOLEY: I HAVE NOTHING FURTHER, YOUR HONOR.

7 THE COURT: YOU MAY STEP DOWN. YOUR NEXT WITNESS.

8 MR. WIDENHOUSE: JERRY LEONARD.

9 THE WITNESS: GO AHEAD?

10 MR. WILLIAMS: YOUR HONOR, CAN WE RELEASE MS.

11 MCMANN?

12 MR. BRUCE: NO OBJECTION.

13 THE COURT: CERTAINLY.

14 (PAUSE.)

15 MR. WILLIAMS: YOUR HONOR, COULD WE APPROACH THE

16 BENCH?

17 THE COURT: YES, SIR.

18 (BENCH CONFERENCE ON THE RECORD.)

19 THE COURT: MR. WEST.

20 MR. WEST: GOOD AFTERNOON, YOUR HONOR.

21 THE COURT: I UNDERSTAND YOU REPRESENT MR. LEONARD.

22 MR. WEST: YES, SIR.

23 THE COURT: HE REPRESENTS MR. LEONARD.

24 MR. BRUCE: THAT'S FINE WITH ME.

25 MR. WILLIAMS: YOUR HONOR, WE JUST WANT TO LET THE

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1 COURT KNOW THAT WE --

2 COURT REPORTER: MR. WILLIAMS, COULD YOU --

3 MR. WILLIAMS: I'M SORRY.

4 MR. WIDENHOUSE: WE'RE UNDER THE IMPRESSION THAT  
5 HE'S GOING TO ASSERT THE ATTORNEY-CLIENT PRIVILEGE AND WE'VE  
6 SIMPLY COME TO THE BENCH TO ASK YOU IF YOU WANT US TO DO THAT  
7 IN OPEN COURT TO START WITH OR IF YOU'D RATHER HEAR US IN  
8 CHAMBERS. I'M JUST TRYING TO GET SOME GUIDANCE FROM THE COURT  
9 IS ALL. AND MR. WEST OBVIOUSLY IS HERE TO REPRESENT HIM.

10 THE COURT: MR. LEONARD'S FORMER CLIENT WAS --

11 MR. WIDENHOUSE: HELENA STOECKLEY.

12 THE COURT: AND SHE'S DECEASED.

13 MR. WIDENHOUSE: CORRECT.

14 THE COURT: I DON'T THINK I'VE EVER HAD THE  
15 PRIVILEGE ASSERTED IN THIS SITUATION BEFORE, BUT I'M SURE YOU  
16 CAN ENLIGHTEN ME ON IT.

17 MR. WIDENHOUSE: WELL, HE'S TOLD ME HE'S GOING TO  
18 ASSERT THE PRIVILEGE.

19 THE COURT: WELL, I'VE NEVER HAD THE OCCASION WHERE  
20 IT WAS ASSERTED WHERE SOMEBODY WAS DEPARTED AND NOT SUBJECT TO  
21 PROSECUTION. IT SEEMS TO BE SOMEWHAT MOOT.

22 MR. WEST: AND, YOUR HONOR, WE WILL OBVIOUSLY COMPLY  
23 WITH WHATEVER YOUR HONOR ORDERS, BUT OUT OF A SENSE OF CAUTION  
24 UNDER THE RULES OF PROFESSIONAL CONDUCT THE WAY I READ THEM, I  
25 THINK WE HAVE A DUTY TO ASSERT IT AND THEN IF YOU ORDER MR.

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1 LEONARD TO ANSWER THEN HE HAS TO AND THAT TAKES CARE OF THE  
2 CONCERN, BUT YOU GOT THE ATTORNEY-CLIENT PRIVILEGE AND THE  
3 DUTY OF CONFIDENTIALITY.

4           AND THE WAY I READ THE RULES, ON HIS BEHALF, I AT  
5 LEAST HAVE TO REQUEST THIS OF THE COURT OR HE DOES BECAUSE  
6 THERE IS SOME LINE OF CASES THAT SAY THAT THE ATTORNEY-CLIENT  
7 PRIVILEGE SURVIVES THE DEATH OF A CLIENT, YOUR HONOR, THE WAY  
8 I READ THEM AND I HUMBL Y SUBMIT THAT TO YOUR HONOR. BUT MR.  
9 LEONARD IS NOT TRYING TO GET IN THE WAY OF THIS AND --

10           THE COURT: I UNDERSTAND, BUT I'M JUST TELLING YOU  
11 I'VE NEVER HAD THAT PARTICULAR SITUATION BEFORE.

12           MR. WEST: I HADN'T EITHER.

13           THE COURT: CAN YOU ENLIGHTEN ME ON IT, MR.  
14 WIDENHOUSE?

15           MR. WIDENHOUSE: WELL, I MEAN, THERE IS A U.S.  
16 SUPREME COURT CASE, *SWIDLER VS. BERLIN*, THAT SAYS THE  
17 ATTORNEY-CLIENT PRIVILEGE SURVIVES DEATH. AND I THINK HE  
18 WOULD BE IN A POSITION WHERE HE COULD ASSERT IT.

19           THE COURT: WELL, I'M NOT FAMILIAR WITH THE CASE,  
20 BUT DID IT INVOLVE A CRIMINAL MATTER?

21           MR. BRUCE: I THINK IT DID, YOUR HONOR. I THINK IT  
22 INVOLVED VINCE FOSTER.

23           MR. WEST: THE VINCE FOSTER CASE, YOUR HONOR. IT  
24 HAD TO DO WITH SOME NOTES AND DOCUMENTS AND I'M HAPPY TO  
25 PROVIDE THAT CASE TO YOUR HONOR IF YOUR HONOR WOULD LIKE FOR

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1 ME TO.

2 THE COURT: WELL, I'LL DISCUSS IT WITH YOU ALL RIGHT  
3 HERE IN FRONT OF THE PUBLIC AND YOU CAN ADVISE ME.

4 MR. WIDENHOUSE: WELL, I MEAN, *SWIDLER VS. BERLIN*  
5 WAS A CRIMINAL CASE AND IT SAYS THE PRIVILEGE SURVIVES DEATH.  
6 IT DOES HAVE A FOOTNOTE THAT SAYS WE'RE NOT ADDRESSING THE  
7 QUESTION ABOUT THE SITUATION WHERE A DEFENDANT IS TRYING TO  
8 HAVE AN ATTORNEY BREACH THE ATTORNEY-CLIENT PRIVILEGE TO  
9 PRESENT FAVORABLE EVIDENCE TO THE DEFENSE IN A CRIMINAL CASE.

10 AND THAT'S WHAT WE THINK WE HAVE HERE, ALTHOUGH I'M  
11 A LITTLE BIT IN THE DARK BECAUSE WHEN I'VE INTERVIEWED MR.  
12 LEONARD, HE SAYS HE CAN'T TALK TO ME ABOUT THINGS THAT MS.  
13 STOECKLEY SAID TO HIM DURING HIS REPRESENTATION OF HER.

14 MR. WEST: AND, YOUR HONOR, THE ONLY REASON THAT I  
15 -- LAST WEEK I BECAME INVOLVED, MR. LEONARD ASKED ME TO BE  
16 INVOLVED, AND I SPOKE WITH THE U.S. ATTORNEY AND I SPOKE WITH  
17 MR. WILLIAMS AND I SAID, YOU KNOW, WHAT IS IT YOU WANT TO ASK  
18 MR. LEONARD. AND WHILE I DON'T KNOW EXACTLY WHAT THEY WANT TO  
19 ASK, AND THERE MAY BE SOME QUESTIONS THEY WANT TO ASK THAT,  
20 YOU KNOW, WHAT DID YOU HEAR A THIRD PARTY SAY OR HOW DID YOU  
21 BECOME INVOLVED, CLEARLY WOULD NOT FALL WITHIN PRIVILEGE AT  
22 ALL.

23 BUT IN MY CONVERSATIONS WITH BOTH OF THEM I GOT THE  
24 IMPRESSION THAT THEY MIGHT ASK THINGS THAT MIGHT FALL UNDER  
25 THAT.

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1           AND, AGAIN, MR. LEONARD IS AT THE COURT'S PLEASURE  
2 AND IF YOU ORDER HIM TO, WHICH IS WHAT HE NEEDS FOR THAT -- TO  
3 DO TO PROTECT HIM UNDER THE RULES OF PROFESSIONAL CONDUCT,  
4 THAT'S WHAT I'M CONCERNED ABOUT, YOUR HONOR, IS JUST MAKING  
5 SURE THAT HE COMPLIES WITH HIS OBLIGATIONS UNDER THE RULES.  
6 AND IF YOUR HONOR ORDERS HIM TO SPEAK, HE HAS TO SPEAK.

7           THE COURT: ARE YOU FAMILIAR WITH THE CASE, MR.  
8 BRUCE?

9           MR. BRUCE: I AM FAMILIAR WITH THE CASE, BUT CAN I  
10 SAY SOMETHING ELSE? YOUR HONOR RE-EDUCATED ME LAST WEEK ON  
11 FIRST AMENDMENT LAW AND SEALING THINGS AND I THINK THIS  
12 DISCUSSION CAN BE HAD IN OPEN COURT. IT'S JUST A LEGAL ISSUE  
13 WITH THE ATTORNEY-CLIENT PRIVILEGE.

14           NOW, IF THE COURT LATER RULES THAT YOU WANT TO HEAR  
15 THE EVIDENCE IN CAMERA FROM JERRY LEONARD ABOUT WHAT HIS  
16 CLIENT TOLD TO SEE IF THE PRIVILEGE SHOULD BE LIFTED, THAT'S  
17 ONE THING, BUT THIS LEGAL DISCUSSION CAN BE HAD OUT AT COUNSEL  
18 TABLES AND WE DON'T NEED TO KEEP IT FROM --

19           MR. WEST: AND THAT'S FINE. I JUST DIDN'T WANT TO  
20 POP UP AND SAY OBJECTION AND YOUR HONOR --

21           THE COURT: NO, THAT'S ALL RIGHT.

22           MR. WEST: I DO THINK HIS IDEA ABOUT THE IN CAMERA  
23 IS THE APPROPRIATE THING IF YOUR HONOR DECIDES TO DO THAT AND  
24 I AGREE WITH THE U.S. ATTORNEY ABOUT THAT.

25           THE COURT: WELL, DO YOU THINK IT'S RIGHT FOR ME TO

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1 HEAR IT IN CAMERA?

2 MR. WEST: I THINK THAT WOULD BE THE BEST THING  
3 UNDER WHAT I'VE READ, YOUR HONOR.

4 THE COURT: WELL, NOW, HOW CAN WE DO THAT?

5 MR. WEST: YOUR HONOR, AGAIN, IF YOUR HONOR ORDERS  
6 HIM TO DO IT, THEN I THINK THE WAY THAT WE WOULD CONTEMPLATE  
7 THAT IS THAT YOUR HONOR WOULD HAVE TO SPECIFICALLY ORDER HIM  
8 TO TALK AND IT WOULD BE, OF COURSE, TRANSCRIBED BY THE  
9 TRANSCRIPTIONIST SO THAT IT'S ON THE RECORD. AND THEN IT  
10 WOULD BE UP TO YOUR HONOR ABOUT, I THINK, WHETHER YOUR HONOR  
11 DID THAT JUST WITH MR. LEONARD AND MYSELF OR WHETHER YOU HAD  
12 THE OTHER PARTIES INVOLVED, AND MR. LEONARD DOES NOT HAVE A  
13 POSITION ABOUT THAT.

14 THE COURT: WELL, DO YOU HAVE ANY PROBLEM WITH ME  
15 HEARING IT IN CAMERA?

16 MR. WIDENHOUSE: NO.

17 THE COURT: ANYBODY?

18 MR. BRUCE: I DON'T HAVE ANY -- THE GOVERNMENT DOES  
19 NOT HAVE ANY PROBLEM WITH THIS PRIVILEGE BEING LIFTED OR YOUR  
20 HONOR HEARING IT IN CAMERA FIRST. I THINK THERE ARE SOME  
21 LEGAL ARGUMENTS AS TO WHETHER OR NOT THE PRIVILEGE EXISTS AND  
22 WHAT IS THE PROPER PROCEDURE.

23 ALL I'M SAYING IS THAT I THINK THAT THE LEGAL  
24 CONTENTIONS OF THE PARTIES THAT WE'RE PUTTING FORWARD TO THE  
25 COURT ABOUT THIS ISSUE SHOULD BE DONE IN OPEN COURT AND THEN

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1 THE COURT CAN DECIDE WHETHER TO TAKE EVIDENCE IN CAMERA.

2 MR. WEST: AND I DON'T HAVE A PROBLEM WITH THAT,  
3 YOUR HONOR. I JUST DIDN'T WANT TO BE POPPING UP AND YOUR  
4 HONOR NOT UNDERSTAND WHERE WE WERE COMING FROM. AND THAT'S  
5 WHY I ALSO CALLED BOTH THESE GENTLEMEN SO THEY KNEW LAST WEEK  
6 ABOUT IT.

7 AGAIN, WE ARE NOT TRYING TO GET IN THE WAY OF THE  
8 COURT AT ALL. I'M JUST MERELY TRYING TO PROTECT MR. LEONARD  
9 UNDER THE RULES OF PROFESSIONAL RESPONSIBILITY, THAT'S ALL,  
10 YOUR HONOR.

11 THE COURT: WELL, I'M NOT FAMILIAR WITH THE CASE  
12 THAT YOU REFERRED TO. WHAT'S THE NAME OF IT AGAIN?

13 MR. BRUCE: IS IT *SWIDLER*?

14 MR. WEST: I HAVE A COPY IF YOU'D LIKE FOR ME TO  
15 HAND IT TO YOU.

16 THE COURT: I WOULD, YEAH.

17 MR. WEST: THOMAS, CAN YOU GET THAT, PLEASE?

18 THE COURT: WELL, I THINK WE'LL STOP FOR THE DAY,  
19 BUT I THINK TOMORROW MORNING WHAT I WOULD LIKE TO DO IS  
20 PROCEED WITH YOUR CASE AND I'LL COME BACK TO THIS SOMETIME.

21 MR. WIDENHOUSE: THIS IS OUR LAST WITNESS.

22 THE COURT: WELL, THEN, I'M GOING TO GO FORWARD WITH  
23 MR. BRUCE'S CASE TOMORROW MORNING. YOU ALL CAN PRESENT IT IN  
24 CAMERA SOMEWHERE ALONG THE LINE AT THE CONCLUSION OF MR.  
25 BRUCE'S CASE IF YOU WANT TO OR AFTER YOUR REBUTTAL AND THEN

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1 I'LL TAKE A LOOK AT IT AND SEE WHAT HE'S GOT TO SAY.

2 MR. WIDENHOUSE: ALL RIGHT.

3 THE COURT: WE'RE KIND OF DOING IT IN A VACUUM.

4 MR. WIDENHOUSE: OKAY.

5 THE COURT: I DON'T WANT TO DO THAT.

6 MR. WEST: YOUR HONOR, DO YOU WANT ME TO PROVIDE  
7 ANYTHING ELSE TO YOU IN TERMS OF SOME OF THE -- COUPLE OF  
8 CASES THAT WE'VE LOOKED AT?

9 THE COURT: YEAH, I'D LIKE TO HAVE THEM.

10 MR. WEST: I DON'T KNOW IF THAT WOULD HELP THE COURT  
11 KNOW WHERE WE'RE COMING FROM. AND, AGAIN, WE WANT TO BE  
12 REALLY CLEAR, MR. LEONARD DOES NOT WANT TO GET IN THE WAY OF  
13 WHATEVER YOUR HONOR WANTS.

14 THE COURT: AS I UNDERSTAND, HE WAS APPOINTED -- HE  
15 WAS APPOINTED TO REPRESENT HER?

16 MR. WEST: THAT'S CORRECT. JUDGE DUPREE APPOINTED  
17 MR. LEONARD AFTER MS. STOECKLEY WAS ON THE STAND AND SPENT A  
18 PERIOD OF DAYS WITH HER AS I UNDERSTAND IT.

19 AND I THINK THAT -- FROM WHAT I UNDERSTAND FROM THE  
20 U.S. ATTORNEY, HE HAS SOME QUESTIONS ABOUT WHETHER MR. LEONARD  
21 HEARD SOME THINGS FROM THIRD PARTIES, BUT, ALSO, PERHAPS, FROM  
22 MS. STOECKLEY, I THINK, IF I UNDERSTAND THESE FOLKS CORRECTLY.

23 THE COURT: WELL, IF HE HEARD THINGS FROM THIRD  
24 PARTIES THAT'S CERTAINLY PERMITABLE AND IF IT'S SOMETHING SHE  
25 SAID THAN THE ATTORNEY-CLIENT PRIVILEGE IS WAIVED.

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1 MR. WEST: WELL, WE THINK THAT, YOUR HONOR, THINGS  
2 THAT MS. STOECKLEY MAY HAVE SAID TO MR. LEONARD, JUST THE TWO  
3 OF THEM, WOULD BE --

4 THE COURT: I UNDERSTAND THAT.

5 MR. WEST: THAT'S WHAT I WAS TRYING TO SAY.

6 THE COURT: OH, I THOUGHT YOU MEANT --

7 MR. WEST: NO, SIR, I'M SORRY, I DIDN'T SPEAK  
8 CLEARLY ENOUGH. AND I THINK THEY WOULD LIKE TO ASK ABOUT THE  
9 CONVERSATIONS AND I THINK THEY MAY TAKE THE TACT THAT THE  
10 PRIVILEGE SOMEHOW MAY NOT EXIST AT THIS POINT. AND, AGAIN, I  
11 DON'T HAVE A DOG IN THAT FIGHT. I'M JUST TRYING TO MAKE SURE  
12 MR. LEONARD DOESN'T GET IN TROUBLE --

13 THE COURT: I UNDERSTAND.

14 MR. WEST: -- WITH THE AUTHORITIES OF THE BAR.

15 MR. BRUCE: YOUR HONOR, JERRY LEONARD SENT A LETTER  
16 TO THIS COURT IN 2007, ABOUT THIS ISSUE AFTER DISCUSSING IT  
17 WITH HART MILES WHO WAS THE ATTORNEY FOR JEFFREY MACDONALD AT  
18 THE TIME. AND THE LETTER SAID -- AND IT ENCLOSED AN INQUIRY  
19 FROM THE STATE BAR AND A REPLY.

20 AND THE LETTER SAID THAT THE ATTORNEYS FOR JEFFREY  
21 MACDONALD WERE TRYING TO GET JERRY LEONARD TO DISCLOSE WHAT  
22 HELENA STOECKLEY HAD TOLD HIM IN AN ATTORNEY-CLIENT SITUATION  
23 DURING THE MACDONALD TRIAL AND THAT THEY HAD MADE AN INQUIRY  
24 TO THE STATE BAR COUCHING IT AS THERE WAS EVIDENCE OF  
25 INNOCENCE THAT WOULD FREE A PRISONER AND UNDER THOSE

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1 CIRCUMSTANCES WHAT WAS THE DUTY OF THE LAWYER.

2           AND THEY SENT THE LETTER AND THE OPINION FROM THE  
3 STATE BAR OR ANSWER TO QUESTION, IT WASN'T REALLY AN OPINION,  
4 TO YOUR HONOR. WE DIDN'T FIND OUT ABOUT IT UNTIL 2012.  
5 THERE'S SOME MATERIAL IN THERE THAT THE COURT MIGHT WANT TO  
6 CONSIDER. WE HAVE COPIES IF YOU NEED THEM.

7           THE COURT: I DON'T RECALL IT.

8           MR. BRUCE: AND RESPECTFULLY WE WOULD LIKE TO GET  
9 THIS RESOLVED BECAUSE EVIDENCE THAT WE PUT ON WILL BE  
10 DEPENDENT -- NOT ALL OF IT, OF COURSE. WE CAN START SOME OF  
11 OUR EVIDENCE, BUT THERE ARE SOME WITNESSES THAT WE NEED TO  
12 KNOW WHAT THEIR CASE WITH RESPECT TO JERRY LEONARD IS BEFORE  
13 WE START TO PUT ON OUR EVIDENCE IN REPLY.

14           COURT REPORTER: WOULD IT BE POSSIBLE FOR ME TO STEP  
15 BACK DOWN FOR A MINUTE?

16           THE COURT: YEAH. GO AHEAD. WE'LL WAIT.

17           (PAUSE.)

18           MR. BRUCE: AND SO MY POSITION WOULD BE EITHER  
19 TONIGHT OR IN THE MORNING, WHATEVER YOUR HONOR PREFERENCES, THAT  
20 WE, ALL SIDES, MACDONALD, ATTORNEY FOR JERRY LEONARD AND THE  
21 GOVERNMENT PRESENT THEIR POSITIONS ON THE LAW IN OPEN COURT.

22           WE CAN GIVE YOU ANY MATERIALS WE HAVE TONIGHT AND  
23 THEN THE COURT CAN DECIDE THE ISSUE. EITHER YOU'RE RULING  
24 THAT THE PRIVILEGE STILL EXISTS OR YOU'RE RULING THAT YOU NEED  
25 TO REVIEW WHATEVER HE'S GOING TO SAY IN CAMERA TO DECIDE

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1 WHETHER THE PRIVILEGE SHOULD BE LIFTED OR OVERCOME. AND  
2 THAT'S THE WAY WE SHOULD PROCEED IN THAT FASHION.

3 THE COURT: WELL, I'M GOING TO STOP FOR THE DAY.  
4 I'M GOING TO TAKE -- LIBBY, HAND ME THE CASE YOU'VE GOT THERE  
5 AND I'LL TRY TO READ IT TONIGHT OR THIS AFTERNOON AND MAKE --  
6 GET SOME KIND OF TENTATIVE LOOK AT IT. HAVE YOU RESEARCHED  
7 THIS, MR. BRUCE?

8 MR. BRUCE: A LITTLE. IN FACT, WE STARTED  
9 RESEARCHING IT FROM THE -- BEFORE WE EVEN KNEW THAT THE  
10 MACDONALD LAWYERS HAD TALKED TO JERRY LEONARD. AND BY THE  
11 WAY, IT'S NOT MR. WIDENHOUSE OR MR. WILLIAMS.

12 BUT BEFORE WE EVEN KNEW THAT, BASED ON WHAT JERRY  
13 LEONARD HAD TOLD THE FBI IN OUR INVESTIGATION IN 2006, WE  
14 THOUGHT WE MIGHT BE THE ONES ADVOCATING TO HAVE THE PRIVILEGE  
15 LIFTED SO HE COULD TELL WHAT HIS CLIENT TOLD HIM DURING THE  
16 TRIAL.

17 AND THE RESEARCH THAT WE DID SHOWED IT'S A THORNY  
18 QUESTION. THE PRIVILEGE -- THE GENERAL RULE IS IT DOES  
19 SURVIVE DEATH, BUT THERE IS A NORTH CAROLINA SUPREME COURT  
20 CASE WHICH, OF COURSE, IS NOT BINDING IN FEDERAL COURT, WHERE  
21 THE COURT ORDERED THE PRIVILEGE LIFTED SO THAT RICK GAMMON, AN  
22 ATTORNEY IN RALEIGH, WAS REQUIRED TO DISCLOSE TO COLON  
23 WILLOUGHBY WHAT HIS DEAD CLIENT HAD SAID BECAUSE IT WAS  
24 EVIDENCE IN A MURDER CASE.

25 SO, THERE'S NO ABSOLUTE RULE I THINK. I THINK IT'S

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1 A DIFFICULT ISSUE. THE BAR, WHEN THEY SENT INFORMATION BY THE  
2 MACDONALD ATTORNEYS FRAMING THE QUESTION, IT WAS FRAMED AS IF  
3 -- THE QUESTION WAS IF THE LAWYER BECAME AWARE FROM A CLIENT  
4 THAT THE CLIENT HAD PERJURED THEMSELVES IN A PROCEEDING, WHAT  
5 WAS THE ATTORNEY'S DUTY AND THE ANSWER --

6 THE COURT: I THINK IT WAS DISCUSSED.

7 MR. BRUCE: AND THE ANSWER WAS IF THE PROCEEDING IS  
8 STILL GOING ON, THE ATTORNEY SHOULD TAKES STEPS TO RECTIFY THE  
9 PERJURY.

10 BUT, OF COURSE, THAT MAKES A LOT OF ASSUMPTIONS  
11 ABOUT WHAT HELENA STOECKLEY MAY HAVE TOLD JERRY LEONARD AND IT  
12 ALSO -- THE INTERPRETATION THAT THE MACDONALD LAWYERS AT THAT  
13 TIME PUT ON IT WAS THAT THE PROCEEDING IN THE MACDONALD CASE  
14 IS STILL GOING ON IN 2012, WHEN THE TRIAL WAS IN 1979.

15 BUT I THINK YOUR HONOR SHOULD READ WHAT THE BAR SAID  
16 ABOUT IT. IT MIGHT BE --

17 MR. WIDENHOUSE: YOUR HONOR, I MEAN, I REALLY -- I  
18 DON'T DISAGREE WITH THAT ALTHOUGH IT REALLY DOES RELY ON THE  
19 TWO *IN RE MILLER* CASES, WHICH ARE STATE CASES.

20 MR. WEST: AND I AGREE THAT'S AN IMPORTANT CASE.

21 MR. WIDENHOUSE: BUT THE *SWIDLER AND BERLIN* CASE  
22 ADDRESSES THE QUESTION OF THE ATTORNEY-CLIENT PRIVILEGE IN A  
23 CRIMINAL CASE, BUT NOT IN THE CONTEXT OF WHERE THE DEFENDANT  
24 IS TRYING TO GET THE EVIDENCE IN TO HELP. SO, YOU DO NEED TO  
25 READ THAT CASE AND YOU'RE GOING TO COME AWAY THINKING THE

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1 QUESTION IS NOT CLEARLY ANSWERED.

2 WE HAVE A VERY RECENT FEDERAL DISTRICT COURT CASE  
3 FROM THE WEST COAST AND WE CAN PROVIDE A COPY TO YOU AS WELL  
4 BEFORE WE LEAVE TODAY THAT AT LEAST GOES THROUGH THE ANALYSIS  
5 THAT WE THINK WOULD APPLY. AND, YOU KNOW, JOHN CAN LOOK IT  
6 TONIGHT AND SEE IF HE AGREES. BUT IT AT LEAST GIVES YOU ONE  
7 JUDGE'S TAKE ON THE STEPS THAT YOU WOULD THINK ABOUT IN  
8 DECIDING WHETHER, IN A GIVEN CONTEXT, THAT THE PRIVILEGE  
9 SHOULD BE LIFTED.

10 THE COURT: WELL, LET ME ASK YOU, AS I UNDERSTAND IT  
11 YOUR CASE -- YOU CONSIDER THIS TESTIMONY AS A PREDICATE FOR  
12 YOUR CASE, IS THAT CORRECT?

13 MR. BRUCE: WELL, NOT THE WHOLE CASE, OF COURSE, BUT  
14 THERE ARE SOME WITNESSES THAT IT WOULD BE IMPORTANT FOR US TO  
15 KNOW WHAT THE MACDONALD MOVANT EVIDENCE IS BEFORE WE PRESENT  
16 THOSE WITNESSES.

17 SO, I JUST DID NOT, RESPECTFULLY, WANT TO BE PUT IN  
18 THE POSITION OF PUTTING ON OUR WHOLE CASE BEFORE THIS ISSUE  
19 ABOUT THEIR WITNESS IS DECIDED.

20 THE COURT: WELL, I DON'T KNOW WHEN I'M GOING TO GET  
21 TO THIS. I DON'T KNOW HOW LONG IT'S GOING TO TAKE. I DON'T  
22 WANT TO MAKE A -- I CAN MAKE A SNAP JUDGMENT, BUT I THINK THE  
23 EVIDENCE IS KIND OF -- I HATE TO ACT IN HASTE AND REPENT AT  
24 LEISURE, YOU KNOW. I'M TRYING TO THINK HOW I CAN GET SOME  
25 TIME. HOW LONG IS YOUR CASE GOING TO TAKE?

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1 MR. BRUCE: I'M AWFULLY BAD AT ESTIMATING, BUT WE  
2 HAVE ABOUT 12 WITNESSES, AND I'M THINKING WE CAN GET IT DONE  
3 IN ABOUT THREE DAYS.

4 THE COURT: WELL, YOU GIVE ME YOUR RESEARCH AND YOUR  
5 RESEARCH. HAVE YOU BRIEFED THIS AT ALL?

6 MR. BRUCE: I HAVE NOT WRITTEN A BRIEF.

7 MR. WIDENHOUSE: NO.

8 THE COURT: HAVE YOU?

9 MR. WIDENHOUSE: I SHOULDN'T HAVE LET MS. ROUDER GO,  
10 BUT, NO, I HAVEN'T BRIEFED IT.

11 THE COURT: WELL, AS YOU KNOW, I WASN'T AT THE CASE  
12 -- THE TRIAL. I KNOW NOTHING ABOUT IT. I PURPOSELY HAVE  
13 NEVER READ *FATAL VISION* ONCE I GOT THIS CASE ASSIGNED TO ME.

14 MR. WIDENHOUSE: YOU MAY BE GETTING MOST OF IT READ  
15 TO YOU HERE.

16 THE COURT: BUT I'LL HAVE TO LOOK AT YOUR MATERIALS  
17 AND IF I HAVE TO DELAY THIS FOR HALF A DAY, I'LL HAVE TO DELAY  
18 IT FOR HALF A DAY.

19 MR. WIDENHOUSE: OKAY. IF YOU WANT TO TAKE A BREAK  
20 UNTIL THURSDAY, I CAN GET YOU A BRIEF BY TOMORROW AFTERNOON,  
21 BUT I NEED TO KNOW THAT I DON'T HAVE TO GET READY FOR JOHN'S  
22 WITNESSES TONIGHT. IT WOULD BE A SHORT BRIEF TOO.

23 MR. BRUCE: WELL, YOUR HONOR, WE'VE GOT A LOT OF  
24 WITNESSES HERE. MY SUGGESTION WOULD BE LET US GIVE YOU THE  
25 MATERIALS THAT WE HAVE TONIGHT AND BE PREPARED TO ARGUE IT IN

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1 THE MORNING AND THEN THE COURT CAN DECIDE WHETHER ITS IN A  
2 POSITION TO RULE.

3 THE COURT: WELL, I DON'T KNOW WHETHER I CAN READ IT  
4 TONIGHT.

5 MR. BRUCE: WELL, COULD WE --

6 THE COURT: I FIND NOWADAYS I READ BETTER IN THE  
7 MORNING.

8 MR. WIDENHOUSE: YES, I UNDERSTAND.

9 THE COURT: WELL, GIVE ME YOUR MATERIALS. AND I  
10 THINK YOU'VE CERTAINLY GOT ENOUGH WITNESSES TO GO ON WITH  
11 SOMETHING, RIGHT?

12 MR. BRUCE: YES.

13 THE COURT: ALL RIGHT. WE'LL GO ON WITH YOURS  
14 TOMORROW AND I'LL TRY TO GET TO -- SOMETHING ON THIS AS SOON  
15 AS I CAN, TAKE A LOOK AT IT.

16 NOW, THE CASE THAT YOU'RE REFERRING TO, THE QUESTION  
17 OF EVADING THE PRIVILEGE WAS BECAUSE HE WANTED TO HELP SOMEONE  
18 WHO WAS CHARGED IN ANOTHER OFFENSE?

19 MR. BRUCE: WELL, THE CASE I WAS REFERRING TO IN THE  
20 NORTH CAROLINA SUPREME COURT IS *IN RE MILLER* AND THERE IT WAS  
21 THE PROSECUTION THAT WANTED TO GET THE -- A MAN WHO WAS  
22 ACCUSED OF CONSPIRING WITH A WOMAN TO KILL HER HUSBAND HIRED  
23 RICK GAMMON AND HE -- IT LATER CAME OUT THAT HE TOLD RICK  
24 GAMMON THAT HE HAD HELPED HER POISON HER HUSBAND AND RICK  
25 GAMMON GAVE HIM THE ADVICE THAT THAT MIGHT MAKE HIM AN

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1 ACCESSORY TO MURDER. THE MAN -- THE CLIENT OF RICK GAMMON  
2 THEN WENT HOME AND COMMITTED SUICIDE.

3 COLON WILLOUGHBY SOUGHT THE EVIDENCE FROM RICK  
4 GAMMON, WHAT DID HIS MAN, ERIC MILLER I THINK HIS NAME WAS,  
5 TELL YOU BEFORE HE DIED ABOUT THIS MURDER.

6 IT WENT ALL THE WAY TO THE NORTH CAROLINA SUPREME  
7 COURT. IT'S A VERY CONFUSING OPINION. BUT THE LONG AND SHORT  
8 OF IT IS, IS THEY SENT IT BACK TO JUDGE STEPHENS AND SAID THAT  
9 JUDGE STEPHENS SHOULD TAKE THE INFORMATION FROM RICK GAMMON IN  
10 CAMERA AND HE DID AND THEN HE ORDERED IT TURNED OVER TO COLIN  
11 WILLOUGHBY AND COLON WILLOUGHBY USED THE INFORMATION TO  
12 PROSECUTE THE WOMAN.

13 THE COURT: TO PROSECUTE HER.

14 MR. BRUCE: THAT'S CORRECT, PROSECUTE THE WOMAN THAT  
15 KILLED HER HUSBAND.

16 THE COURT: RIGHT.

17 MR. WIDENHOUSE: THE DIFFERENCE IN THE *MILLER*  
18 LITIGATION IS THERE WAS A WAIVER OF THE PRIVILEGE FROM THE  
19 EXECUTOR OF THE ESTATE AND IT WAS A MATTER OF STATE LAW THAT  
20 ALLOWED THE EXECUTOR TO DO THAT. AND THAT DOESN'T APPLY HERE  
21 BECAUSE IN FEDERAL COURT THE STATE LAW DOESN'T CONTROL.

22 MR. BRUCE: ANOTHER WRINKLE TO THIS IS THAT IN THE  
23 SUBMISSION THAT MR. JERRY LEONARD SENT TO THIS COURT IN 2007,  
24 AT THE BEHEST OF MACDONALD'S THEN LAWYERS, INCLUDED AN  
25 AFFIDAVIT FROM GENE STOECKLEY, WHO TESTIFIED TODAY, PURPORTING

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1 TO WAIVE HELENA STOECKLEY'S ATTORNEY-CLIENT PRIVILEGE.

2 THE COURT: WHO WAIVED IT?

3 MR. BRUCE: GENE STOECKLEY, HER BROTHER, WHO  
4 TESTIFIED HERE TODAY, SIGNED AN AFFIDAVIT PURPORTING TO WAIVE  
5 HIS DECEASED SISTER'S ATTORNEY-CLIENT PRIVILEGE. AND I HAVE  
6 THOSE DOCUMENTS. AND JERRY LEONARD, AT THE BEHEST OF HART  
7 MILES, SENT THEM TO YOUR HONOR IN EITHER -- I THINK IN '07.

8 MR. WEST: THAT'S CORRECT, YOUR HONOR.

9 MR. WIDENHOUSE: THAT'S ROUGHLY CORRECT.

10 THE COURT: I DON'T HAVE ANY RECOLLECTION OF IT.

11 MR. BRUCE: WE CAN PROVIDE -- DOES LIBBY --

12 LAW CLERK: WE'VE GOT THEM SOMEWHERE.

13 MR. BRUCE: YOU'VE GOT THEM.

14 MR. WEST: YOU ALL PROVIDED ME A COPY SO I'M AWARE  
15 OF IT NOW.

16 MR. WIDENHOUSE: YEAH, THERE IS A LETTER, THERE IS  
17 THE BAR INQUIRY, AND WE'VE GOT SOME EMAILS BACK AND FORTH  
18 BETWEEN HART AND THE BAR.

19 MR. BRUCE: I THINK LIBBY'S INDICATING SHE HAS THEM.

20 LAW CLERK: I RECALL IT.

21 MR. BRUCE: DO YOU NEED ADDITIONAL COPIES?

22 LAW CLERK: (NODS HEAD.)

23 THE COURT: WELL, WE'LL GO FORWARD TOMORROW MORNING  
24 WITHOUT RULING ON THIS UNTIL WE CAN TRY TO GET A HANDLE ON IT.

25 MR. BRUCE: OKAY. SO, I SHOULD BE PREPARED TO PUT

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1 ON WITNESSES TOMORROW MORNING?

2 THE COURT: YES.

3 MR. BRUCE: OKAY. ONE OTHER THING, THERE'S A LOT OF  
4 MEDIA HERE --

5 COURT REPORTER: I NEED TO STEP DOWN AGAIN. CAN WE  
6 DO THIS OUT THERE OR?

7 THE COURT: I'M SORRY?

8 COURT REPORTER: I EITHER NEED TO STEP BACK DOWN  
9 BECAUSE I DIDN'T KNOW WE'D BE UP HERE SO LONG OR CAN WE DO IT  
10 FROM OUT THERE?

11 THE COURT: DO YOU HAVE ANY OBJECTION TO IT?

12 MR. WIDENHOUSE: NO, I DON'T HAVE ANY OBJECTION.

13 THE COURT: ALL RIGHT. LET'S DO IT FROM OUT THERE.  
14 (BENCH CONFERENCE CONCLUDED.)

15 THE COURT: COUNSEL, LET ME SEE YOU JUST ONE MORE  
16 SECOND.

17 (BENCH CONFERENCE ON THE RECORD.)

18 THE COURT: I'VE GOT THAT CIVIL MATTER THURSDAY  
19 MORNING. I'M JUST THINKING IF I CAN WORK THAT IN SOMEHOW.

20 MADAM CLERK: WE'RE STARTING THAT AT NINE O'CLOCK ON  
21 THURSDAY AND I BELIEVE YOU HAD ALREADY TOLD EVERYBODY THAT WE  
22 WOULD PICK THIS HEARING BACK UP AT 10:00.

23 THE COURT: YEAH, THAT'S WHAT I HAD PLANNED TO DO.  
24 WELL, LEAVE ME YOUR MATERIALS AND LET ME TAKE A LOOK AT IT.  
25 AND I THINK YOU BETTER PLAN TO STAY -- PLAN TO GO FORWARD

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1 TOMORROW MORNING.

2 MR. BRUCE: PLAN TO DO WHAT, I'M SORRY?

3 THE COURT: PLAN TO GO FORWARD TOMORROW MORNING, BUT  
4 I'M GOING TO TRY TO TAKE A LOOK AT IT TONIGHT.

5 MR. BRUCE: THANK YOU.

6 THE COURT: THANK YOU VERY MUCH.

7 MR. WEST: THANK YOU, YOUR HONOR.

8 MR. BRUCE: YOUR HONOR, I WAS JUST GOING TO SAY,  
9 JUST TRYING TO SAVE HEADACHES FOR EVERYBODY, THERE'S A LOT OF  
10 MEDIA HERE THAT ARE GOING TO BE VERY CURIOUS ABOUT WHAT WE'RE  
11 TALKING ABOUT AND I THINK WE CAN ARGUE THIS IN OPEN COURT  
12 BECAUSE I DON'T SEE ANY NEED TO DO IT AT THE BENCH.

13 MR. WIDENHOUSE: I DON'T DISAGREE WE CAN ARGUE IN  
14 OPEN COURT.

15 THE COURT: OKAY. WE'LL START OFF TOMORROW MORNING  
16 WITH THE ARGUMENTS.

17 MR. WIDENHOUSE: ALL RIGHT.

18 THE COURT: NOW, LET ME GET YOUR MATERIALS.

19 MR. WIDENHOUSE: YES, YOUR HONOR.

20 THE COURT: GIVE THEM TO LIBBY BEFORE YOU LEAVE.

21 MR. WEST: YOUR HONOR, MAY I ASK SOMETHING? I'M  
22 TRYING NOT TO BE A HINDERANCE ANYMORE TO THE COURT THAN I'VE  
23 ALREADY BEEN TODAY, BUT --

24 THE COURT: JUST WAIT UNTIL YOU ASK FOR A  
25 CONTINUANCE AGAIN.

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1 MR. WEST: THANK YOU, YOUR HONOR. WE'VE DONE A FAIR  
2 AMOUNT OF RESEARCH ABOUT THIS JUST RECENTLY AND I'M HAPPY TO  
3 TRY TO SHARE THAT, BUT I ALSO AM TRYING NOT TO GET IN THE WAY,  
4 IF YOU'D LIKE FOR ME TO PROVIDE THAT I CAN.

5 THE COURT: YES, I WOULD. I'VE NEVER HAD THIS  
6 PARTICULAR QUESTION.

7 MR. WEST: I HADN'T EITHER UNTIL VERY RECENTLY.

8 THE COURT: WELL, EVERY TIME I COME TO COURT I HAVE  
9 SOMETHING NEW COME UP I CAN TELL YOU THAT.

10 MR. WEST: YES, SIR.

11 THE COURT: YOU KNOW, WHEN I WAS PRACTICING LAW, I  
12 CAN REMEMBER, AND I KNOW YOU ALL HAVE, TOO, BUT YOU THINK  
13 THERE'S GOT TO BE A CASE ON THAT. YOU DON'T THINK IT'S GOING  
14 TO TAKE ANY TIME AND TWO WEEKS LATER YOU'RE SAYING WHY ISN'T  
15 THERE SOMETHING ON THIS.

16 MR. WEST: YES, SIR.

17 MR. BRUCE: ED, YOU'RE GOING TO PROVIDE THAT TO US,  
18 TOO?

19 MR. WEST: YES. NO, I MEAN, I'M TRYING TO --

20 THE COURT: LET ME HAVE WHAT YOU'VE GOT AND I'LL TRY  
21 TO GET IT --

22 MR. WEST: THANK YOU.

23 THE COURT: THANK YOU VERY MUCH.

24 (BENCH CONFERENCE CONCLUDED.)

25 THE COURT: WE'LL TAKE A RECESS TILL 9:00 A.M.

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1 TOMORROW.

2 (WHEREUPON, THESE PROCEEDINGS RECESSED AT 4:44 P.M.,  
3 TO RECONVENE AT 9:00 A.M., ON SEPTEMBER 19, 2012.)

I CERTIFY THAT THE FOREGOING IS A TRUE AND ACCURATE  
TRANSCRIPT OF SAID PROCEEDINGS.

/s/ STACY SCHWINN, CCR, CVR-M  
STACY SCHWINN, CCR, CVR-M

11/19/12  
DATE

September 18, 2012