

COPY

CASE NO. CRIM 24552

SUPREME COURT OF THE STATE OF CALIFORNIA

THE PEOPLE OF THE STATE  
OF CALIFORNIA,

PLAINTIFF,

-VS-

KEVIN COOPER,

DEFENDANT.

SUPERIOR COURT  
NO. CR-72787  
MOTIONS

APPEAL FROM THE SUPERIOR COURT OF SAN DIEGO COUNTY

HONORABLE RICHARD C. GARNER, JUDGE PRESIDING

REPORTERS' TRANSCRIPT ON APPEAL

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C.S.R. NO. 2400  
OFFICIAL REPORTERS

VOLUME

OF

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PAGES

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THROUGH

4212

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 FOR THE COUNTY OF SAN BERNARDINO  
3

4 THE PEOPLE OF THE STATE )  
OF CALIFORNIA, )

5 Plaintiff, )

6 vs. )

7 KEVIN COOPER, )

8 Defendant. )  
9

NO. OCR-9319

CR-72787

VOLUME 40

Pgs. 4100 thru 4212, incl.

10  
11 REPORTERS' DAILY TRANSCRIPT

12 BEFORE HONORABLE RICHARD C. GARNER, JUDGE

13 DEPARTMENT 10 - SAN BERNARDINO, CALIFORNIA

14 Monday, June 25, 1984

15 APPEARANCES:

16 For the Plaintiff:

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17 DENNIS KOTTMEIER  
18 District Attorney  
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22 Deputy Public Defender

23 Reported by:

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24 C.S.R. No. 1109  
and  
25 JUDITH L. MORRIS  
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26 C.S.R. No. 2400

010702

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1-1

1 SAN BERNARDINO, CALIFORNIA, MONDAY, JUNE 25, 1984

2 10:05 O'CLOCK A.M.

3 DEPARTMENT NO. 10

HON. RICHARD C. GARNER, JUDGE

4 APPEARANCES:

5 The Defendant with his Counsel, DAVID  
6 NEGUS, Deputy Public Defender of San  
7 Bernardino County; DENNIS KOTTMEIER,  
8 District Attorney of San Bernardino  
9 County, and JOHN P. KOCHIS, Deputy  
10 District Attorney of San Bernardino  
11 County, representing the People of  
12 the State of California.

13 (Leonard D. Gunn, C.S.R., Official Reporter, C-1109,  
14 Judith L. Morris, C.S.R., Official Reporter, C-2400.)

15  
16 MR. NEGUS: Shirley Killian.

17  
18 S H I R L E Y C A T H E R I N E K I L L I A N,

19 called as a witness by and on behalf of the defendant,  
20 was duly sworn, examined and testified as follows:

21 THE CLERK: You do solemnly swear that the testimony  
22 you are about to give in the action now pending before this  
23 Court shall be the truth, the whole truth, and nothing but  
24 the truth, so help you God?

25 THE WITNESS: I do.

26 THE CLERK: Please be seated.

1-2

1 State your name, please, for the record, and spell  
2 your last name.

3 THE WITNESS: Shirley Catherine Killian,  
4 K-i-l-l-i-a-n.

5  
6 DIRECT EXAMINATION

7 BY MR. NEGUS:

8 Q Mrs. Killian, on June 4, 1983, were you employed as the  
9 manager of the Canyon Corral Bar in the Chino Hills area?

10 A Yes, I was.

11 Q On that date, what hours were you working?

12 A On that date, I was actually off.

13 Q Did you come in at some point in time on Saturday,  
14 June 4th?

15 A Yes, I did. I was there earlier in the afternoon for  
16 a short period of time, then I left and went to a horse  
17 show and returned at approximately 11:00, 11:30,  
18 somewhere in there.

19 Q When you returned, did you notice three white male  
20 individuals come into the bar?

21 A No, sir. They were already in the bar.

22 Q What were they doing?

23 A Sitting at a round table. One had his head down as if  
24 he was intoxicated or sleeping. I questioned him.

25 Q Let me just show you a couple of photographs, H-307  
26 and H-308.

010705

**A** Yes.

A Yes, in both photographs.

A Here.

A (Complying.)

A Yes. There were three chairs.

A Yes, sir. He was approximately six foot tall, slim, sandy hair, blondish, very short haircut.

A He was wearing a light colored tee shirt.

A No. It's hard to tell with the lights in the restaurant.

A Could have been beige or any light color. Beige or

1 yellow.

2 Q Do you remember whether it had a pocket in front or not?

3 A I don't recall.

4 Q This particular individual, did you have a conversation  
5 with him?

6 A Yes. I asked his friend that was sitting there with him  
7 if he was sleeping or what, and at that point he --

8 MR. KOCHIS: Excuse me, your Honor. It's  
9 nonresponsive at this point. It calls for hearsay. I  
10 interpose an objection.

11 THE COURT: Mr. Negus, nonresponsive.

12 MR. NEGUS: I'll reask the question.

13 Q (BY MR. NEGUS) Did you have a conversation with the  
14 blonde fellow that was lying on the table?

15 A He raised his head but he said nothing to me.

16 Q You had a conversation with one of his friends?

17 A Yes.

18 Q How long did that conversation last?

19 A Just a matter of seconds.

20 Q Did you then leave the table?

21 A Yes, I did.

22 Q Can you describe the friend with whom you had the  
23 conversation?

24 A Dark-haired, a little shorter, more stocky. His hair  
25 wasn't as short but it wasn't long. It was a medium  
26 cut haircut.

1-5

- 1 Q Do you remember what kind of shirt he had on?
- 2 A He had a three-quarter length tee shirt on, the sleeves,  
3 that I recall, and the sleeves were dark. It was a  
4 two-colored tee shirt type.
- 5 Q Did you see the third individual there?
- 6 A He was there but only as a figure. I didn't pay any  
7 attention to him because I didn't have any conversation  
8 with him.
- 9 Q If you could again, in the orange grease pencil --  
10 Do you remember which chairs each of the individuals  
11 were sitting in?
- 12 A The dark-haired one was sitting here.
- 13 Q Could you put a "1" next to the "X" that you drew there?
- 14 A (Complying.)
- 15 Q Okay.
- 16 A This chair, whether it was the same chair or not, I  
17 don't know. There is a bunch of them. It was moved  
18 in this direction here. That's where the blonde was.
- 19 Q You have a "2" on that one?
- 20 A Yes.
- 21 Q There was another chair?
- 22 A Yes. This table was moved over in this direction.
- 23 Q This table that you are talking about is the table that's  
24 not even shown but there is a chair shown in the extreme  
25 right photograph, H-307?
- 26 A The chair and that table were over here.

010700



1-6

- 1 Q On Exhibit H-307, could you put a "5" for the spot in  
2 which the chairs and tables were moved?
- 3 A (Complying.)
- 4 Q Did they just turn around the chair from the table that  
5 was number "5" to put it at the table that you originally  
6 drew the "X" on?
- 7 A Yes.
- 8 Q And the person that you can't recall was seated in  
9 the chair closest to the table number 5?
- 10 A That's right.
- 11 Q Did you have any other contact with those people that  
12 evening after you made your first inquiry as to this  
13 individual?
- 14 A Yes, I did.
- 15 Q When was the next time?
- 16 A As they were leaving the bar. The sandy-haired young  
17 man had a bottle of beer in his hand and was going to  
18 exit with it.
- 19 Q Is that something that you are concerned about?
- 20 A Yes.
- 21 Q Does that mean it's a violation of the ABC?
- 22 A Yes, it is, definitely.
- 23 Q What did you do then?
- 24 A Took the bottle of beer away from him.
- 25 Q Then what happened?
- 26 A They left.

1-7

1 Q Where did they go?

2 A They walked out to the front of the building out the  
3 front door.

4 Q Then where did they go?

5 A I walked out just perhaps a minute afterwards to see if  
6 they were going to hang around or if they were going to  
7 leave and I observed the sandy-haired young man leaning  
8 against a small red car. The other dark-haired one  
9 that I had spoken to was standing next to what looked  
10 like a pickup truck.

11 Q What do you mean looked like a pickup truck? Did you  
12 see all of the vehicle?

13 A It was two cars over, but it was larger than a car  
14 and it had a cutoff, so at the time, of course, I just  
15 knew it was a vehicle but taller than the other vehicles  
16 in the parking lot.

17 Q Could you tell whether it had a camper shell on it or  
18 not?

19 A It didn't.

20 Q And what you could see of it was white?

21 A It was a light color. I can't say because of the lights  
22 outside don't show true colors.

23 Q What happened then between the two people, the one  
24 leaning against -- or the one at what looked like a  
25 pickup and the other at the red car?

26 A The dark-haired one at the light colored vehicle was

1-8

1 opening the door. The sandy-haired young man that  
2 couldn't walk was leaning with his hands up against  
3 the smaller red car. I stood there for a moment to  
4 see if he was going to get in the red car because I  
5 didn't want him driving in his condition.

6 He just stood there. The dark-haired one looked up  
7 and observed me standing there and he yelled at the  
8 other young man, said, "Hey, get in here", and proceeded  
9 to pull him by the arm trying to get him into the front  
10 of the pickup.

11 Q Did you see whether he succeeded or not?

12 A No. I went back inside.

13 Q When you left that night, did you notice whether the  
14 red car was still there or not?

15 A I did not notice.

16 Q Did you leave after closing time?

17 A Shortly, yes.

18 Q Do you remember whether there were any strange cars  
19 still in the parking lot?

20 A There is always a few cars in the parking lot on  
21 Saturday night because everybody goes to breakfast  
22 and they double up, so I really didn't notice. It's  
23 not unusual for there to be five or six cars still in  
24 the parking lot at closing time.

25 Q Did you see the third individual, the one that  
26 remained, that was still in the bar when you walked

1 outside, did you ever see that individual leave?

2 A No.

3 Q Did he walk out during this period of time that you  
4 were watching the other two individuals?

5 A Not that I know of.

6 Q In your bar in June, did you sell Miller High Life in  
7 bottles to take out?

8 A No.

9 Q Are you aware of anyplace in the general vicinity of your  
10 bar that is the nearest place you could buy Miller to  
11 take out?

12 A There is a market and a liquor store approximately two  
13 blocks from us.

14 Q Would that be at the corner of Canyon Corral and  
15 Pipeline?

16 A Yes. Carbon Canyon Road and Pipeline.

17 Q Excuse me.

18 A That's close.

19 Q Did there come a time when you became aware of the  
20 Ryen homicides?

21 A It was Sunday.

22 Q At that point in time, did any officers come into your  
23 bar to talk to you?

24 A Yes.

25 Q Do you remember what the first officer that came into  
26 the bar looked like?

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1 A The first one that talked to me was curly-haired, dark,  
2 curly hair, mustache.  
3 Q Do you know his name?  
4 A I think it's Jim or something. I don't really remember.  
5 Q Sheriff's Officers have lunch at the Canyon Corral?  
6 A Periodically.  
7 Q Did you recognize this particular officer?  
8 A I had seen him before, yes.  
9 Q Did he take a brief statement from you?  
10 A Yes. He was interviewing everybody.  
11 Q Who all do you recall him interviewing?  
12 A When I got there, my waitress was gone and the day girl  
13 was still working. I questioned that and they told me  
14 that the Sheriff's Department -- This is when I found  
15 out about the Ryens. And they said that the Sheriff's  
16 Department were interviewing her and that she would be  
17 back on duty shortly.  
18 Q That person was the person that had been the waitress  
19 the night before?  
20 A Yes.  
21 Q That was Kathy Royals?  
22 A That's right.  
23 Q Did you see her come back?  
24 A Yes.  
25 Q Was anybody with her?  
26 A Yes. One of my customers was with her.

0-1-07-1-3

1-11

- 1 Q Who was that?
- 2 A Ralph Land, L-a-n-d.
- 3 Q Were they brought back in a Sheriff's car?
- 4 A I don't know. I just saw them come in the door.
- 5 Q Did you see the Sheriffs interview anybody else besides
- 6 yourself and those two individuals?
- 7 A Yes. They interviewed another cocktail waitress by the
- 8 name of Virginia McNeil.
- 9 Q Anyone else?
- 10 A Not that I can recall.
- 11 Q Did they ask you for the names of any of the people who
- 12 had been in the bar the night before?
- 13 A They asked me if we had our normal crowd or if we had
- 14 any strangers in the bar.
- 15 Q Any the strangers that you described were the three
- 16 people that you described here today?
- 17 A Yes.
- 18 Q Did you give them the names of anybody else employed in
- 19 the bar?
- 20 A They asked me who my bartender was. I told him who
- 21 that was.
- 22 Q That would be Ed Leiko?
- 23 A Yes.
- 24 Q Anybody else besides those we mentioned that were
- 25 working that night?
- 26 A Not that I recall. Just two waitresses and a bartender.

0-1-0-7-1-4

1-12

1 Q You were interviewed two other times; is that true?

2 A I believe so.

3 Q One was the next day, on Monday, and another one a couple

4 of days after that?

5 A Yes.

6 Q Did you give essentially the same descriptions that you

7 have given here in court to those officers?

8 A Yes, sir.

9 Q Did the officers ever come out and show you any pictures?

10 A No, sir.

11 Q Did they ever ask you to do a composite, that is, a

12 put-together of a picture of what the individuals who

13 talked to you looked like?

14 A Just other than descriptions, where they were sitting,

15 basically that's it. That's all that I can recall.

16 Q They never came out with a plastic thing and asked you

17 to sort of build a face for them?

18 A No.

19 Q Would you today still be able to recognize those

20 individuals if you saw them?

21 A The blonde, perhaps. He stood out from the rest.

22 Q Was your memory much clearer back a day or two after

23 the incident?

24 A I'm sure it was, yes.

25 ///

26 ///

0010715

1 MR. NEGUS: Thank you. I have nothing further.

2  
3 CROSS EXAMINATION

4 BY MR. KOCHIS:

5 Q Mrs. Killian, the T-shirt that you recall the sandy-  
6 haired gentleman wearing, is that also consistent with a  
7 white T-shirt?

8 A Yes.

9 Q Or an off-white T-shirt?

10 A Off-white.

11 Q Did you ever learn the first name of either of the three  
12 young men?

13 A No, sir, I never did.

14 Q Did you ever learn their last names?

15 A No, sir.

16 Q Did you ever record either in writing or in your own  
17 memory any portion of the license plate of the car, the  
18 white car you saw them standing by?

19 A No, sir. I wasn't in a position to see it.

20 Q Is it fair to say that when you talked to the sheriff's  
21 officers in this case you never gave them a car license  
22 number?

23 A No, sir, I did not.

24 Q Never gave them the name of any of the people?

25 A No, sir.

26 Q These young men, were they drinking Budweiser beer in



1 the tall bottles?

2 A Yes, sir.

3 Q Did it appear to you that the sandy-haired gentleman  
4 was intoxicated?

5 A Yes, sir, it did.

6 Q And what observations did you make that led you to that  
7 conclusion?

8 A His head was down on the table and --

9 Q Did you get a chance to see him walk when he tried to  
10 leave the bar?

11 A Yes, I did.

12 Q Did he have any difficulty standing up?

13 A Yes, he did.

14 Q Did he have any difficulty walking?

15 A Yes.

16 Q The other gentleman, the one with the dark hair, did he  
17 exhibit to you any signs of being under the influence  
18 of alcohol?

19 A Yes, sir.

20 Q What type of signs did he exhibit?

21 A Staggering a little also. He was in better condition  
22 than the sandy-haired one, but they had obviously been  
23 drinking.

24 Q Did either of the two, those two men, argue with you when  
25 you had contact with them in the bar?

26 A No, sir.

1 Q Did either of them try to pick a fight that you saw?

2 A No.

3 Q Do you recall approximately what time it was that evening  
4 that you first saw these individuals?

5 A Approximately around 11:30 I think was my first contact  
6 with them.

7 Q And do you recall approximately what time it was that you  
8 saw the sandy-haired gentleman and the man with the  
9 dark hair leave your bar?

10 A I would say within 30 minutes.

11 Q When you came back inside, was the third gentleman still  
12 seated at the approximate location that you've marked  
13 on those photographs?

14 A I have no idea where he was. I did not talk to the man.  
15 I had thought that they had all left. I knew that two  
16 of them were outside, but I assumed the other one had gone  
17 back outdoors. I had no idea he was still in the  
18 restaurant.

19 Q Did you ever see the third individual that night again  
20 after the two other people left?

21 A I did not, no.

22 Q Were these the only three people in your bar that night  
23 that weren't regular customers?

24 A As far as I remember, yes.

25 Q Do you recall about how many people were in your bar and  
26 restaurant between 11:00 and midnight?

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1 A Oh, I would say around 50 perhaps, approximately. It  
2 was pretty crowded. Fifty to sixty.

3 MR. KOCHIS: I have nothing else.

4 THE COURT: Mr. Negus.

5 MR. NEGUS: Nothing further.

6 THE COURT: Thank you very much, Ms. Killian.

7 THE WITNESS: Thank you.

8 MR. NEGUS: Luis Simo.

9 THE CLERK: Raise your right hand, please.  
10

11 L U I S S I M O, called as a witness by and on behalf of  
12 the People, was sworn and testified as follows:

13 THE CLERK: Please be seated. State your name,  
14 please, for the record and spell your first and last name.

15 THE WITNESS: My name is Luis Simo, L-u-i-s,  
16 S-i-m-o.  
17

18 DIRECT EXAMINATION

19 BY MR. NEGUS:

20 Q Mr. Simo, in June of 1983, were you a reserve deputy  
21 sheriff for the County of San Bernardino?

22 A Yes, I was.

23 Q And in that month were you assigned to provide security  
24 for Joshua Ryen?

25 A Yes, I did.

26 / / / /

010719

- 1 Q On how many occasions did you provide security for him?
- 2 A Twice.
- 3 Q And do you remember the dates?
- 4 A Not really. I know it was twice.
- 5 Q How long apart was it?
- 6 A I can't recall, you know, probably a week, two weeks
- 7 in between, you know.
- 8 Q Do you recall what night of the week it was that you
- 9 provided security?
- 10 A No, I do not.
- 11 Q The first time that you were guarding Joshua, was he in
- 12 the intensive care?
- 13 A I'm not sure, because the first time he was in bed and
- 14 I don't know if it was in intensive care or any other
- 15 room. All I know is at that time he was in bed, just
- 16 came out of an operation or something.
- 17 Q The second time that you had him, was he out of bed in
- 18 a different room?
- 19 A He was out of bed and we were playing games.
- 20 Q Was that the same room that you were in the second time
- 21 as you were --
- 22 A I can't recall that, sir.
- 23 Q The second time that you were Josh, were you also
- 24 watching television?
- 25 A Somewhat.
- 26 Q Was the television on?

0-10770

1 A The television was on, yes, and we were playing games.

2 Q You were playing a card game?

3 A Yes, I was.

4 Q And basically the things that you were doing with Josh  
5 was trying just to keep him amused and make the time go  
6 by quickly for him?

7 A Yeah, and build up his spirit type thing.

8 Q Had you received any instructions not to have news about  
9 the case on television?

10 A No, I did not.

11 Q Had you received any instructions not to discuss the case  
12 with Josh?

13 A No, I did not.

14 Q On that particular evening on the news, did Kevin Cooper's  
15 picture appear on the screen?

16 A Yes, it did.

17 Q When Kevin Cooper's picture appeared on the screen, did  
18 Joshua make a comment?

19 A Yes, he did.

20 Q What was that comment?

21 MR. KOCHIS: Objection, hearsay.

22 THE COURT: Mr. Negus?

23 MR. NEGUS: This is one of the withheld pieces of  
24 information.

25 THE COURT: Withheld from whom? No reports or any-  
26 thing about it?

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1 MR. NEGUS: Reports were not made until May the 15th  
2 when Mr. Simo read about this in the paper and called Mr.  
3 O'Campo.

4 THE COURT: All right. Overruled.

5 Q (BY MR. NEGUS:) What did Josh say?

6 A He stated that that was not the guy who did it. The  
7 three Mexicans did it.

8 Q Did he say anything else about the three Mexicans?

9 A Yes. He stated that three Mexicans in a white pickup  
10 truck, possibly with a camper shell.

11 Q When Josh said that's not the guy that did it, was Kevin  
12 Cooper's picture on the television screen?

13 A Yes, it was.

14 Q Did you attempt to communicate this information to anybody?

15 A Yes, I did.

16 Q Who did you make contact with?

17 A I called the desk in the sheriff's office and requested  
18 to talk to Detective O'Campo.

19 Q Why did you try and get O'Campo?

20 A Well, because he had been there a couple of times and he  
21 was -- I thought he was handling the case, so I went to  
22 call him to let him know about this information.

23 Q By the way, do you remember what shift you were working?

24 A It was a swing shift, from 4:00 on, 5:00 o'clock, right  
25 in there.

26 Q Until about midnight?

010722

1 A Right in that area, yes.

2 Q When you got ahold of Mr. O'Campo, did you relay to him  
3 the information that you've relayed here in court?

4 A Yes, I did. First when I called the station he was not in,  
5 and I had him call me at the hospital, and which he did.  
6 And then I relayed that information.

7 Q Did Mr. O'Campo make any comment when you relayed the  
8 information?

9 A He stated something to the effect that, you know, he knew  
10 about the three Mexicans that had been in there prior  
11 looking for a job or something.

12 Q Did he describe anything about -- did he tell you anything  
13 about what he thought, why he thought Joshua said that?

14 A No. He said it could have been, you know, the trauma.  
15 Maybe we don't know. But the last people that were there  
16 were the Mexicans were there that he can remember.

17 Q Did you have any other contact with -- did Mr. O'Campo  
18 ever recontact you?

19 A No, he didn't.

20 Q Did anybody else ever recontact you from the sheriff's  
21 department?

22 A No.

23 Q In May of this year, did you read an article in the Sun  
24 Telegram about the testimony of a nurse in the hospital?

25 A Yes, I did.

26 Q When you read that article, did you again call Mr. O'Campo?

1 A Yes, I did.

2 Q And did you remind him of that particular conversation?

3 A Yes, I did.

4 Q And at that point in time, did he ask you to come down  
5 to the homicide department to --

6 A Yes, he did.

7 Q And you gave him a report at that particular point in  
8 time?

9 A Yes, I did.

10 Q In that report you relayed again essentially the same  
11 information that you relayed here in court today?

12 A Basically, yes.

13 MR. NEGUS: I have nothing further.

14

15 CROSS EXAMINATION

16 BY MR. KOCHIS:

17 Q Mr. Simo, the day that Mr. Cooper's picture came on the  
18 television set, did you take any notes of any conversation  
19 you may have had with Joshua Ryen?

20 A No, I didn't.

21 Q Did you ask him any questions about his statements?

22 A No, I didn't.

23 Q Was it that day or another day that you called Detective  
24 O'Campo and tried to reach him the first time?

25 A That was the same day.

26 Q And the day which Detective O'Campo returned your call,

0-1-07-4



1 was that the same day or another day?

2 A It was the same day.

3 Q Do you remember what you told Detective O'Campo over  
4 the telephone?

5 A Vaguely, yes, I do.

6 Q What did you tell Detective O'Campo?

7 A Well, I stated that we were playing Uno with Josh and at  
8 that time the T.V. was going and they were saying about  
9 the Kevin Cooper case, and his picture came on. And at  
10 that time he stated that that wasn't the guy that did it.  
11 So I, you know, said, "What do you mean?" He said, "The  
12 three Mexicans did it in the white pickup truck with the  
13 camper shell."

14 And at that time I didn't say anything further, and  
15 I just waited until the game was over and I went down  
16 to the phone and called the station and requested  
17 Detective O'Campo to call me.

18 Q That is what you recall happening. Is that what you  
19 told Detective O'Campo?

20 A Yes.

21 MR. KOCHIS: I have nothing else.

22

23 REDIRECT EXAMINATION

24 BY MR. NEGUS:

25 Q Mr. Simo, what's your rank in the reserves?

26 A I'm a lieutenant right now.

1 Q Were you ever instructed to prepare a report about this  
2 event?

3 A Not until I -- in May, that's when I talked to him and  
4 he took the report.

5 Q Once you had passed on the information to homicide, did  
6 you feel that whatever follow up would be necessary  
7 that they would take care of that?

8 A The first time or the second time?

9 Q The first time.

10 A Yes.

11 MR. NEGUS: Thank you. Nothing further.

12 MR. KOCHIS: I have no further questions.

13 THE COURT: Thank you very much.

14 MR. NEGUS: I think we're ready to go back to  
15 Mr. Ogino.

16  
17 C R A I G O G I N O, having been previously duly sworn,  
18 resumed the stand and testified further as follows:

19 THE COURT: Just resume the chair, sir. You're  
20 still under oath to tell the truth.

21 And would you state your name for the record again.

22 THE WITNESS: Yes, Your Honor. My name is Craig  
23 Ogino.

24 THE COURT: Please continue.

25 MR. NEGUS: Could I have just a second? I just  
26 received some reports. I'd like to glance through them.

01-0077-29

3-1

1 MR. KOCHIS: I would like to have a moment to look  
2 at my additional photographs, your Honor.

3 THE COURT: All right.

4  
5 CROSS-EXAMINATION RESUMED

6 BY MR. KOCHIS:

7 Q Mr. Ogino, directing your attention to an exhibit which  
8 has been marked for this hearing as H-291, does this  
9 appear to be a Xerox copy of a portion of the green  
10 sheets that involve the collection of evidence in the  
11 Hughes-Ryen homicides?

12 A Yes.

13 Q And is the way that document functions essentially that  
14 the date at which a particular item is collected and  
15 the person who collected it appears in the document?

16 A Yes.

17 Q As well as the laboratory identification number that is  
18 assigned to each piece of evidence that is removed from  
19 a particular location?

20 A Yes, that's correct.

21 Q For example, on the pages that have the numbers 1708  
22 and 1709 on them on this Exhibit H-291, is there a  
23 list of the two items, items G-1 and G-2, which you  
24 and Mr. Gregonis collected on June the 6th near the  
25 Ryen home?

26 A Yes.

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3-2

1 Q And was item G-2 a possible blood stain in the roadway  
2 east of the home?

3 A Yes.

4 Q Directing your attention to a photograph which has been  
5 marked for identification as H-50, does the area in  
6 which you collected the blood stain appear in that  
7 photograph or not?

8 A Yes, it does.

9 Q And can you indicate with a circle and the initial "B"  
10 for "blood" the approximate location that the stain  
11 was at when you collected it?

12 A (Complying.)

13 Q Can you put a circle around that "B"?

14 A Okay.

15 Q And likewise does the area at which you collected G-1  
16 the piece of gauze, also appear on that photograph?

17 A Yes.

18 Q Could you place a "G" and a circle at that approximate  
19 location?

20 A May I refer to my notes for a second?

21 Q Yes, you may.

22 A Okay.

23 Q Then do pages 1709 and 1710 indicate the approximate  
24 33 separate pieces of evidence that you and Mr. Stockwell  
25 removed from the Lease home, the 2991 residence, on  
26 June the 7th and June the 8th?

00107700

3-3

- 1 A Yes.
- 2 Q And is it fair to say that with the possible exception  
3 of item 15-J, every item that was removed from the  
4 Lease home was packaged separately?
- 5 A Yes, that's correct.
- 6 Q And each item was assigned a separate identification  
7 number?
- 8 A Yes.
- 9 Q On the 8th of June, did you take a sample of blood from  
10 a beer can at the Identification Bureau in addition to  
11 the sample that you took from the hatchet?
- 12 A Yes.
- 13 Q Directing your attention to two photographs which have  
14 been marked for identification as H-183 and H-184, do  
15 you see the Gold Olympia beer cans in those photographs?
- 16 A Yes.
- 17 Q Is that the same type of beer can by type -- I mean  
18 brand, color, size -- that you took the same off of <sup>sample</sup>  
19 in the Identification Bureau on the 8th of June?
- 20 A Yes.
- 21 Q Did you likewise collect an empty beer can of the same  
22 color and type in the field between the Lease home and  
23 the Ryen home?
- 24 A Yes.
- 25 Q Do you recall which day that was on?
- 26 A Not offhand, no, I don't.

0107799

3-4

- 1 Q Likewise, do pages 1712 and 1713 reflect the approximate  
2 26 pieces of evidence that were removed from the Ryen  
3 station wagon by yourself and Mr. Stockwell on the  
4 11th of June?
- 5 A Yes.
- 6 Q And was each one of those pieces of evidence packaged  
7 separately?
- 8 A Yes.
- 9 Q Were they each assigned a separate laboratory  
10 identification number?
- 11 A Yes.
- 12 Q On the 9th of June, two days prior to that date, did you  
13 collect some tobacco from Old English Road?
- 14 A Yes.
- 15 Q And on the 10th of June, did you in fact take and  
16 collect most of the garbage, the trash that you found  
17 at the Ryen home on Old English Road?
- 18 A Yes.
- 19 Q Do pages 1713 -- Does page 1713 reflect the approximate  
20 seven items that were collected from the Ryen vehicle on  
21 the 12th of June, 1983, by yourself and Mr. Stockwell?
- 22 A Yes.
- 23 Q Directing your attention to page 1711 of that particular  
24 exhibit and two items of evidence, L-3 and L-4, was one  
25 of those beer cans the empty can that you in fact  
26 collected from the field between the Lease home and the

010730

3-5

- 1 Ryen home?
- 2 A Yes.
- 3 Q And would that have been L-3?
- 4 A Yes.
- 5 Q Directing your attention to a diagram which has been  
6 marked for identification as H-306, do you recognize  
7 what that is a Xerox copy of?
- 8 A Yes.
- 9 Q Does that appear to be a Xerox copy of a diagram you  
10 made the night that the Ryen home was luminoled?
- 11 A I personally did not make this diagram, no.
- 12 Q Do you recognize whose writing it is?
- 13 A Yes.
- 14 Q Whose writing is it?
- 15 A Dave Stockwell's.
- 16 Q And are there marks on certain areas of the hallway as  
17 to where you personally saw luminol reactions on that  
18 particular night?
- 19 A Yes.
- 20 Q And do those marks correspond to the locations in the  
21 hallway at which you saw the luminol reactions?
- 22 A Yes.
- 23 Q Starting at the top, could you number the reactions  
24 1 through 3, the reactions on the floor?
- 25 I'm sorry. Have I made myself clear or not?
- 26 A No.

010731

3-6

1 Q For the record, I'm going to place a number "1" above  
2 the reaction at the north end of the hallway and  
3 number "2" as we move south and number "3" at the  
4 bottom portion.

5 Directing your attention to the mark at the number "1"  
6 location, did you see a positive luminol reaction at that  
7 location?

8 A Yes.

9 Q What type of pattern was it?

10 A It appeared to be somewhat similar to a shoe impression.

11 Q Footwear impression?

12 A Yes.

13 Q Is it possible for you to diagram the impression that  
14 you saw?

15 A I remember a pattern on one of those two, referring to  
16 number "1" or number "2", that was fairly distinct.  
17 However, I'm not sure which one it was.

18 Q Directing your attention to the blank piece of paper  
19 which we have marked for this hearing as H-301, could  
20 you diagram the pattern that you saw on either "1" or  
21 "2"?

22 A Yes.

23 Q Is it correct to say at this point you can't recall  
24 whether that pattern was at the location "1" or "2"?

25 A Yes, that's correct.

26 Q Did the patterns of "1" and "2" appear to be similar or



3-7

- 1 dissimilar at the time you saw them?
- 2 A One of those I couldn't see any distinct pattern in.
- 3 Q Could you write a "1/2" above that pattern?
- 4 A (Complying.)
- 5 Q The two impressions that are placed at the location
- 6 marked number "3" on this particular Exhibit H-306,
- 7 were either of those impressions of a discernable
- 8 pattern to you?
- 9 A Yes.
- 10 Q One or both?
- 11 A I don't recall. I know at least one was.
- 12 Q Are you able to diagram the pattern?
- 13 A Yes.
- 14 Q Using the reverse side of 301, could you diagram the
- 15 pattern you saw at the location on Exhibit 306 as
- 16 number "3"?
- 17 A (Complying.)
- 18 Q And can you place a number "3" above that?
- 19 A (Complying.)
- 20 Q Was that pattern consistent with the pattern you saw at
- 21 the number "1" and number "2" locations, or did it
- 22 differ?
- 23 A I didn't take distinct measurements, so I couldn't give
- 24 you a very good answer.
- 25 Q Directing your attention to the exhibit which has been
- 26 marked for this hearing as H-305, did you recognize

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3-8

1        what that is a diagram of?

2        A    Yes.

3        Q    Do you know who prepared that diagram?

4        A    Yes.

5        Q    Who did?

6        A    I did.

7        Q    When did you prepare it?

8        A    The night I went out to the Lease house to luminol it.

9                                (No omissions.)

10

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1 Q And is that a sketch of portions of the Lease residence  
2 that you luminololed?

3 A Yes.

4 Q Have you indicated on the diagram in any fashion the  
5 portions of the residence that reacted with the luminol?

6 A Yes.

7 Q How have you done that?

8 A I believe on the original it's marked in red, and there  
9 are also what appear to be shoe tracks and other patterns  
10 which reacted.

11 Q For example, did you diagram the bedroom in which the  
12 blankets and the bedding were found?

13 A Yes.

14 Q And is Exhibit S-30 a photograph of a portion of that  
15 bedroom?

16 A Yes.

17 Q And is that the bedroom you were led to believe had  
18 recently been vacated by the female hired hand?

19 A Yes.

20 Q Did you refer to that as the southeast or northeast  
21 bedroom?

22 A The northeast, I believe.

23 Q Can you place an N/E in the bedroom that would indicate  
24 on the diagram which bedroom that is?

25 A (The witness complies.)

26 Q And then on the diagram did you circle the approximate

0-1-0-7-5-5

1 area on the floor in front of the closet in which you  
2 saw the luminol reaction?

3 A Yes.

4 Q And was there a bathroom and shower outside that bedroom?

5 A Yes.

6 Q And did you refer to that as the northeast bathroom or  
7 the southeast bathroom, or how did you refer to it?

8 A Southeast bathroom.

9 Q Can you place S/E in that area?

10 A (The witness complies.)

11 Q There was a shower in that bathroom?

12 A Yes.

13 Q And was that the shower in which Lieutenant Bellomy found  
14 the latent footprint?

15 A Yes.

16 Q Is that an area that after the footprint was lifted you  
17 and Mr. Stockwell luminoled?

18 A Yes.

19 Q Then did you diagram in the small shower stall certain  
20 areas of which there was a positive luminol reaction?

21 A Yes.

22 Q And did you also indicate that there was a positive  
23 luminol reaction in the sink of that particular bathroom?

24 A Yes.

25 Q Then could you circle in orange the marks on the diagram  
26 that indicate the impressions that were found in the

00-107799

1 hallway leading from that bedroom to the bathroom that  
2 were consistent with shoe wear impressions?

3 A (The witness complies.)

4 Q Other than those two rooms, were there positive luminol  
5 reactions in other portions of the house?

6 A Yes.

7 Q Which portions?

8 A There was a southwest bedroom just west of the front  
9 entrance of the house.

10 Q Is that bedroom located on your diagram?

11 A Yes.

12 Q Could you put the S/W inside that room?

13 A (The witness complies.)

14 Q And did you in fact make some notes on your diagram  
15 that would indicate where you received the luminol  
16 reactions in that particular room?

17 A Yes.

18 Q And can you circle those as well in orange?

19 A (The witness complies.)

20 Q Directing your attention to the green blanket that is  
21 depicted in S-30, does that also appear to be the same  
22 blanket that was assigned the laboratory identification  
23 number of J-13 in the laboratory report dated June 14th?

24 A Yes.

25 MR. KOCHIS: Your Honor, would this be a convenient  
26 place to take the recess?

1 THE COURT: Sure. We'll take the morning recess.

2 (Recess.)

3 Q (BY MR. KOCHIS:) Mr. Ogino, directing your attention  
4 again to Exhibit H-291, and specifically Pages 2104 and  
5 2105, are those the portions of the report that reflect  
6 the results of the luminol on the Lease residence,  
7 the Ryen residence, and the station wagon?

8 A Yes.

9 Q In all three of those endeavors, did both you and Mr.  
10 Stockwell participate?

11 A Yes.

12 Q And on Page 2105, do both your signatures appear?

13 A Yes.

14 Q Is there a reason why both your signatures appear behind  
15 the section on the luminol results as opposed to the  
16 signatures simply of the person who may have applied  
17 the mist spray?

18 A Yes.

19 Q What's the reason?

20 A Any time two criminalists work together, we both sign  
21 the final report. However, the final report is not  
22 always prepared by both criminalists.

23 Q Now, in this particular case you made some attempts to  
24 take photography of the luminol results; is that correct?

25 A Yes.

26 Q Prior to the time you took the pictures, you consulted

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1 with a person in your laboratory about what procedure  
2 to use; is that correct?

3 A Yes.

4 Q And who is that person?

5 A Craig Rasmussen.

6 Q And you yourself have photographed luminol prior to the  
7 time you were involved in this case; is that correct?

8 A Yes.

9 Q What advise<sup>C</sup>, if any, did Mr. Rasmussen give you on how  
10 to photograph luminol reactions?

11 A He gave us advise<sup>C</sup> as to what exposure to start with.

12 Q Did you follow that advise<sup>C</sup> in this particular case?

13 A Yes.

14 Q And did you also use the knowledge that you had gained  
15 in your own experiences in the past in attempting to  
16 photograph luminol?

17 A Yes.

18 Q Does Page 711 under the K item reflect the footwear  
19 impressions that were lifted by yourself and Mr. Stockwell  
20 on the 8th of June from the Lease residence?

21 A Yes.

22 Q And are those the K-3, K-4, and K-5 items?

23 A Yes.

24 Q Were you present when those impressions were photographed  
25 by anyone prior to the time you and Mr. Stockwell tried  
26 to lift them?

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- 1 A Yes.
- 2 Q Was that someone from the identification unit, or was  
3 that someone from the crime lab?
- 4 A I remember Rick Roper being there from the identification  
5 bureau.
- 6 Q Directing your attention to the Ryen home, the sink  
7 within the master bathroom, when you removed the trap  
8 of that sink did you have the opportunity to look at any  
9 water which may have been in that trap?
- 10 A Yes.
- 11 Q Was there any discolored water in the trap when you saw  
12 it?
- 13 A No.
- 14 Q Was that the reason you did not seize the water in the  
15 trap when you removed the trap?
- 16 A Yes.
- 17 Q Likewise, the three pair of pants that you saw in the  
18 Lease residence which you tested for blood which are  
19 depicted in Photograph H-266, did the negative reaction  
20 you received in the test for the presence of blood enter  
21 into your decision to seize those pants?
- 22 A Yes.
- 23 Q If the reaction would have been positive, would you have  
24 seized the pants?
- 25 A Yes.
- 26 Q Do you have any knowledge of approximately how long the

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1 bulb portion of a hair follicle remains on a hair for  
2 purposes of serological testing?

3 A From personal experience, I do, yes.

4 Q Approximately how long does that item remain on human  
5 hair?

6 A For the purposes of serological testing?

7 Q Yes.

8 A I've placed the bulb and sheath in an electrophoresis  
9 gel and ran Group I enzymes on a hair that was plucked  
10 from my own head and have gotten results. However, I have  
11 waited 24 hours and tried the same experiment, and I never  
12 have been able to get any types off of the sheath or  
13 bulb.

14 Q Will the bulb itself dry up and fall off the hair  
15 follicle if it sits for a certain period of time?

16 A It will dry. I'm not sure if it will fall off.

17 Q Returning again to the condition of the Ryen home, did  
18 the carpet in the home appear to have been worn?

19 A Yes.

20 Q Was that simply the carpet in the master bedroom or  
21 carpet in other portions of the house?

22 A Other portions of the house.

23 Q Was the kitchen when you say it in a state of disarray?

24 A Yes.

25 Q Was the sink, for example, full of dishes which appeared  
26 not to have been washed?

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1 A Yes.

2 Q Did there appear to be sacks of groceries and food items  
3 which had not been put away?

4 A Yes.

5 Q Did you see in any room other than the master bedroom,  
6 the master bathroom of the Ryen home drops of blood on  
7 the floor that would have been consistent with a bleeding  
8 person moving in those portions of the house?

9 A No.

10 Q For example, did you see any drops of blood on the floor  
11 in the living room of the Ryen home?

12 A No.

13 Q In the trophy room of the Ryen home?

14 A No.

15 Q On the floor of the kitchen in the Ryen home?

16 A No.

17 Q On the floor in the dining area of the Ryen home?

18 A No.

19 Q Did you see drops of blood on the floor of any of the  
20 bedrooms in the Ryen home other than the master bedroom?

21 A No.

22 Q Did the absence of that type of evidence affect the  
23 manner in which you processed the rest of the house?

24 A I'm not sure I understand your question.

25 Q If you would have found drops of blood on the floor in  
26 the living room of the Ryen home, would that have allowed

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1       you to draw any inference?

2       A    Yes.

3       Q    What type of inference would that have allowed you to  
4       draw?

5       A    That there might have been activity in the living room.

6       Q    If that additional piece of evidence had been present,  
7       would you have perhaps spent more time in the living  
8       room of the Ryen master bedroom than you did?

9       A    Yes.

10      Q    Did I say living room of the master bedroom or living  
11      room of the Ryen home?

12           MR. NEGUS: I think you said master bedroom. I  
13      wasn't paying attention.

14      Q    (BY MR. NEGUS:) If you had seen those types of blood  
15      drops on the floor of the living room in the Ryen home,  
16      might that have caused you to spend more time in the  
17      living room than you did?

18      A    Yes.

19      Q    Was the absence of that type of evidence -- for example,  
20      the blood drops on the floor -- the absence of that in  
21      the living room, did that allow you to make an  
22      inference as to whether or not a bleeding person walked  
23      through the living room?

24      A    Yes.

25      Q    What types of inferences, if any, could you draw from  
26      the absence of that information?

1 A That a bleeding person probably did not go in that  
2 area.

3 Q Did you see inside the Lease home on June the 7th a  
4 button on the floor in the bedroom where you found the  
5 bedding that appeared to have stains on it with human  
6 blood?

7 A Yes.

8 Q Was that item seized and packaged separately?

9 A Yes.

10 Q Which identification number was it assigned?

11 A Item J-6 under LR-42376.

12 MR. KOCHIS: If I could have a moment, Your Honor.

13 Q (BY MR. NEGUS:) Mr. Ogino, getting back for a moment to  
14 this theory of reconstruction, I believe you testified  
15 last Thursday that with blood splatter pattern analysis  
16 it is possible at times to determine the point of  
17 origin of the blood; is that correct?

18 A Yes.

19 Q In the Ryen home, in the master bedroom, with the  
20 evidence that you saw -- the blood on the carpet and  
21 the furniture -- are there limits as to what interpreta-  
22 tions you could draw as to the particular movement of a  
23 victim in that room based on splatter pattern analysis  
24 alone?

25 A Yes.

26 Q How are you limited?

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1 A The stain, the pattern itself, is a limiting factor.  
2 There's also the factor of if a blood spatter isn't  
3 directed onto the wall at a fairly straight-on angle,  
4 for example, if the force of gravity takes over, this  
5 will affect the interpretation. And probably the biggest  
6 factor is not knowing whose blood that is.

7 Q When you went to the Ryen scene on the 6th of June of  
8 1983, what questions in your own mind were you going to  
9 attempt to answer from the physical evidence?

10 A I was going there to try to determine, for one, the type  
11 of weapon, possibly anything that would help identified  
12 a suspect, and just generally look at the patterns and  
13 see what I could determine from the blood splatter  
14 patterns.

15 (No omissions.)  
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5-1

1 MR. KOCHIS: Thank you. I have nothing else,  
2 your Honor.

3 THE COURT: Mr. Negus.

4

5 REDIRECT EXAMINATION

6 BY MR. NEGUS:

7 Q Last Thursday, you indicated that you had conducted some  
8 experiments with cast-off patterns from a hatchet; is  
9 that correct?

10 A Yes.

11 Q Was that in connection with a hatchet such as was found  
12 in this particular case which is depicted in photograph  
13 S-26?

14 A No.

15 Q How did you conduct those experiments?

16 A I placed blood on a hatchet and took various arm swings  
17 in front of a white cardboard.

18 Q So you are swinging toward the cardboard?

19 A Yes.

20 Q So you are attempting to find the pattern of blood in  
21 the direction in which, say, the downswing of a hatchet  
22 would be; is that correct?

23 A Down and up.

24 Q Did you also put one behind you for the upswing?

25 A Blood can be cast off either swinging down or also on  
26 the back side. I did both.

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5-2

- 1 Q When you tried to obtain the pattern from the back, was  
2 that by putting it in a vertical manner, your target or  
3 cardboard in a vertical manner behind you?
- 4 A No.
- 5 Q How did you do it?
- 6 A It was also placed in front of me.
- 7 Q You moved your hand up backwards?
- 8 A Yes.
- 9 Q So did you stop at the top of your backswing?
- 10 A I went back as far as I could.
- 11 Q At that point in time, did you have any blood flying  
12 out toward the front of you?
- 13 A On the backswing?
- 14 Q Yes.
- 15 A Yes.
- 16 Q Did you determine whether there was any blood that went  
17 up on the ceiling?
- 18 A There was, yes.
- 19 Q Did you have any way to test those particular patterns?
- 20 A They were on the walls in the Crime Lab.
- 21 Q How about behind you?
- 22 A Blood flew behind me, also.
- 23 Q Did you make any attempt to find out where you could get  
24 the most patterns, ceiling, front, back?
- 25 A What do you mean "most patterns"?
- 26 Q I mean where the majority of the blood flew.

010747

5-3

1 A It was generally in front of me.

2 Q In your experiments, did you get more blood flying off  
3 on the downswing than on the backswing?

4 A It was about the same.

5 Q Are you familiar with a work by a man named Herbert  
6 MacDonell published by the Law Enforcement Assistance  
7 Association in 1971 called Flight Characteristics and  
8 Stain Patterns of Human Blood?

9 A Yes.

10 Q In that particular book, do you recall Mr. MacDonell  
11 talking about the patterns that are obtained from  
12 cast-off blood?

13 A Some, yes.

14 Q Does Mr. MacDonell indicate that in a situation where  
15 you have a backswing and a downswing, most of the blood  
16 will be removed from the weapon on the backswing?

17 A That's possible, but in this particular experiment, I  
18 only applied the blood once and the first swing was a  
19 downswing.

20 Q Why did you design the experiment that way?

21 A I just wanted to visually look at what a cast-off  
22 pattern from a hatchet looked like, both with a forward  
23 swing and a downswing or backswing, rather.

24 Q Did you do any where your first swing was the backswing?

25 A No.

26 Q When you did your experiment, did you hit anything?

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5-4

- 1 A No.
- 2 Q As far as the wounds, that is, interpreting the patterns  
3 that were on the wall of the Ryen master bedroom, your  
4 experiment wouldn't give you much useful information,  
5 would it?
- 6 A In determining the wounds?
- 7 Q No. Looking for cast-off patterns. The experiment  
8 you did would not give you much information as to the  
9 kind of cast-off patterns one might expect to find in  
10 the Ryen master bedroom; is that correct?
- 11 A No, I wouldn't say that's correct.
- 12 Q First of all, if you have a blow from something, a  
13 hatchet or machete or some swinging object and it  
14 connects, isn't it true that most of the cast-off blood  
15 on the downswing is going to end up on the victim?
- 16 A Yes, but the blood is constantly being cast off prior  
17 to the connection between, say, your hatchet and your  
18 object.
- 19 Q Isn't most of that blood going to end up on the victim,  
20 going to travel in the same direction as your hatchet?
- 21 A It's going to travel in the same direction. However, a  
22 lot of that might not land on your victim.
- 23 Q As far as separating blood from hatchets, if you  
24 visualize a hatchet having gone into a victim and  
25 becoming bloodied, being pulled up on a backswing and  
26 being put back down into a victim again, the two

5-5

1 events which are going to cause most of the blood to  
2 fly off are the impact of the hatchet on the victim  
3 and the back of the backswing, correct?

4 A That and a little bit of a front swing, depending on  
5 how fast the hatchet is placed in motion.

6 Q But in a backswing, when you get back to the top, that  
7 jerking, that is, when you stop and your arm goes back  
8 as far as it can go, that causes a large separation  
9 of blood from the hatchet; is that correct?

10 A Oh, yes.

11 Q And that particular pattern is the pattern that one  
12 sees most often on a wall; is that correct?

13 A I wouldn't say most often. I have seen other cast-offs  
14 where that was present or with the blood that was flying  
15 off the hatchet as it was in motion.

16 Q Showing you H-64, does that appear -- Have you ever  
17 seen a cast-off from a weapon like a machete or knife  
18 or hatchet being swung that on the backswing produced  
19 the arc pattern which I will outline in blue on that  
20 particular photograph?

21 A No.

22 Q Have you ever seen the pattern produced by a hatchet  
23 being pulled back on a wall in a backswing an  
24 approximately horizontal manner?

25 A I have seen pictures. I haven't personally seen the  
26 bloodstain.

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5-6

- 1 Q Have you ever seen a picture such as that?
- 2 A Have I ever seen this picture?
- 3 Q No. A picture such as that characterizing a cast-off
- 4 pattern from a backswing of a swinging type.
- 5 A.           (?)
- 6 Q Do you recall in MacDonell's -- well, the book that I
- 7 cited to you, Flight Characteristics of Stain Pattern
- 8 of Human Blood -- is that the standard reference work
- 9 in the field of blood splatter interpretation?
- 10 A It's one article, yes.
- 11 Q Is that the one that's most often referred to in the
- 12 literature?
- 13 A I don't know that.
- 14 Q Is it the one that you relied on?
- 15 A I used it, yes.
- 16 Q In that particular book, do you recall the author
- 17 stating, "Practically no blood will ever be cast off
- 18 from a weapon after the backstroke has been reversed
- 19 and becomes a forward and downward swing. The 'snap'
- 20 or 'whip-like' termination of a backstroke will remove
- 21 blood from an object far more effectively than
- 22 centrifugal forces generated by a subsequent forward
- 23 motion"?
- 24 A Will remove more, but in my experience didn't remove it
- 25 all.
- 26 Q That's because you started with a downswing, right?
- 27 A Yes, I started with a downswing, came back up and

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5-7

- 1       again had a downswing which still cast off blood.
- 2       Q   In terms of the relative volume, was more being removed
- 3       from the backswing than the downswing?
- 4       A   From what I could observe, it was about the same.
- 5       Q   So your experiments would suggest to you an answer
- 6       different than which Mr. MacDonell experienced?
- 7       A   Again, what he is saying is that more blood is going to
- 8       be removed in the stopping motion of the backswing and
- 9       that blood wasn't on the cardboard itself. All I could
- 10      detect was the blood from the centrifugal force of both
- 11      the backswing and the front swing.
- 12      Q   So basically, your experiment just left the blood from
- 13      the backswinging, is that correct?
- 14      A   It wasn't detected on the cardboard, that's correct.
- 15      Q   Because the cardboard wasn't placed in the direction
- 16      that that particular blood could be expected to fly,
- 17      correct?
- 18      A   Yes.
- 19      Q   When you testified at the preliminary hearing, do you
- 20      remember testifying that most of the cast-off blood is
- 21      going to be from a downswing?
- 22      A   I don't remember.
- 23      Q   If you did so testify, that would have been in conflict
- 24      with what Mr. MacDonell said?
- 25      A   What he is saying is most of the blood from the cast-off
- 26      will be from the backswing, the stopping of the

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5-8

1       backswing.

2       Q   Do you remember testifying at the preliminary hearing  
3       that most of the cast off is going to be on the  
4       downswing?

5               MR. NEGUS:  If I could read from Volume 20, page 52,  
6       lines 1 through 11.

7               MR. KOCHIS:  If I could have just a moment, your  
8       Honor?

9                               (No omissions.)

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1 MR. NEGUS: Volume 20, I think -- Volume 23. I'm  
2 sorry.

3 MR. KOCHIS: I found that portion, Your Honor.

4 MR. NEGUS: I should correct myself. It's Volume 23,  
5 Page 52, Lines 1 through 11.

6 Question: Okay. And on what did you base that  
7 assumption on that conclusion? What assumption?

8 Answer: I assumed that the suspect was standing on  
9 the left side of the bed, the victim was on -- lying on the  
10 left side of the bed, and from the cast-off pattern it was  
11 going -- it was coming from top to bottom going from left  
12 to right or from the bottom to top from right to left going  
13 up.

14 Question: Was it the back swing that you saw?

15 Answer: Most of your cast-off is going to be on your  
16 down swing.

17 Q (BY MR. NEGUS:) In --

18 A Can I clarify that?

19 Q Sure.

20 A In your down swing, there's more -- there's more force  
21 on your down swing, and the cast-off that I was referring  
22 to was from centrifugal force.

23 In your back swing, depending on how hard or how  
24 fast your back swing is, you might get the same or  
25 possibly less on your back swing from the pattern that  
26 is from centrifugal force.

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1 Q Showing you H-58, and there's three patterns on that  
2 circled in purple by yourself, I believe, last week,  
3 and putting on next to one of them the letter A, is that  
4 the cast-off pattern that you saw on the dresser?

5 A Yes.

6 Q Okay. Now, you indicated that in your opinion what you  
7 could tell from that was that it was a swinging-type  
8 weapon and it was held in the suspect's left hand; is  
9 that correct?

10 A Possibly, yes.

11 Q And you couldn't tell anything else besides that?

12 A You could also tell direction of the swing --

13 Q Which direction --

14 A -- possibly.

15 Q Which direction was the swing?

16 A Well, the cast-off's from right to left.

17 Q So that would have placed the person doing the swinging  
18 closer to the bed and the person being swung at closer  
19 to the sliding glass windows; is that correct?

20 A I couldn't say that.

21 Q It's a down swing, correct? Is that what you said?

22 A Well, again, it's hard to say. If it's a down swing,  
23 with tremendous force, yes. And it also possibly could  
24 be a back swing.

25 Q So you can't tell whether it's a down swing or a back  
26 swing, then?

0-107555

2 Q Can you tell anything about the distance that the swinging  
3 weapon was from the dresser?

5 Q What are those limits of "some what"?

8 Q Okay. So that particular pattern is pretty tight,  
9 correct?

11 Q I mean, we're dealing with the whole pattern, maybe,  
12 as shown on Exhibit A, something like six to nine inches?

14 Q Well, the length from one end to the other as shown just  
15 on the photograph, what you can see on the photograph,  
16 that's like six to nine inches; is that a ballpark  
17 estimate?

19 Q Could you trace -- could you show where on the larger  
20 photograph H-57 that pattern was? Here. I'm giving  
21 you again a purple pen.

23 Q Well, do you remember just from your memory and from  
24 using the photograph could you indicate on there?

26 THE COURT: Are you waiting for his answer?



1 MR. NEGUS: Yes.

2 THE WITNESS: I've marked it.

3 Q (BY MR. NEGUS:) So you're indicating that on the actual  
4 dresser itself there would be much more than shown on  
5 the photograph H-58; is that correct?

6 A Yes.

7 Q Would you agree that the portion that's shown on the  
8 actual photograph H-58, not leaving aside the whole  
9 pattern, is approximately six to nine inches or six to  
10 ten inches?

11 A No.

12 Q How far away from the dresser, approximately, would the  
13 weapon that produced that have been?

14 A I don't know.

15 Q Can you put it within -- can it be placed within, like,  
16 orders of magnitude like six inches, a foot, five feet?

17 A I've never done anything like this, so I couldn't tell  
18 you.

19 Q Is that sort of information something which is scientific-  
20 ally knowable that somebody with more experience than  
21 yourself would be able to make that determination?

22 A If they have done experiments to determine how various  
23 patterns look at different distances from an object,  
24 that's possible.

25 Q If that is a back swing, would the direction of the  
26 pattern on the dresser indicate that the person was

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1       doing a downward back swing?

2   A    If it was a back swing, yes.

3   Q    Can you tell whether or not the weapon that produced  
4       that particular pattern was being held veritically,  
5       horizontally, or somewhere in between?

6   A    I don't understand your question.

7   Q    Well, can you tell from just the pattern whether the  
8       person that was doing the back swing was swinging it  
9       back so that the weapon was in a vertical position --  
10      that is, parallel to the line of a person's body -- or  
11      whether the weapon was in a horizontal position?

12   A    It appears to be more horizontal.

13   Q    From that can you make inferences as to approximately  
14      how far off the floor the weapon was when it was being  
15      swung?

16   A    Again, without knowing how far away from the dresser  
17      the weapon was, I couldn't make that determination.

18   Q    But assuming that you had a more experienced blood  
19      splatter pattern person that could make that determination,  
20      then that more experienced person could likewise make an  
21      estimate as to how far away from the dresser the weapon  
22      was?

23           MR. KOCHIS:  Objection, that would call for  
24      speculation.

25   Q    (BY MR. NEGUS:)  How far off the floor the weapon was?

26           MR. KOCHIS:  Same objection.

1 THE COURT: Counsel, we're permitting wide latitude  
2 on inferences and opinions. And we've gone through a lot  
3 of this already. So he may answer.

4 THE WITNESS: I don't know what someone else could  
5 do.

6 Q (BY MR. NEGUS:) Is that scientifically knowable just  
7 based on scientific principles?

8 A To determine how high the weapon was?

9 Q Right. If you can determine how far away from the  
10 dresser the weapon was, can you determine the direction-  
11 ality at which the blood was arriving on the dresser,  
12 could you then likewise determine the height from which  
13 it came?

14 A I don't know how accurately you could do that.

15 Q Could you make an estimate?

16 A I have no idea.

17 Q Well, blood travels in geometric patterns called  
18 parabolas, right?

19 A Yes.

20 Q And if you know the angle at which it hit and how far  
21 away it started, you can determine where on the parabola  
22 it would have been; is that right?

23 A No, because you have a force of gravity interfering  
24 with the angle at which it hits.

25 Q The force of gravity is what makes it fly in a parabola,  
26 right?

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1 A Yes.

2 Q And you know the shape of the parabola more or less,  
3 right?

4 A That's where I think your problem is. You don't know  
5 the shape of the parabola.

6 Q Can you also make inferences as to velocity that the  
7 blood was traveling when it hit the dresser?

8 A In some cases, yes.

9 Q Can you in that particular case?

10 A Which spot are you talking about?

11 Q The cast-off pattern on the dresser.

12 A Well, in this case it's obviously traveling, because  
13 it's hitting at an angle.

14 Q Right. But I mean --

15 THE COURT: Excuse me, Counsel. Let's break it for  
16 the noon recess at this time.

17 MR. NEGUS: Okay.

18 THE COURT: I forgot that I had an appointment.

19 We'll resume at 1:30.

20 (Whereupon the noon recess was taken at

21 12:04 p.m.)  
22  
23  
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1 SAN BERNARDINO, CALIFORNIA, MONDAY, JUNE 25, 1984

2 1:30 O'CLOCK P.M.

3 DEPARTMENT NO. 10

HON. RICHARD C. GARNER, JUDGE

4  
5 (Appearances as heretofore noted.)

6  
7 (Craig Ogino, having been on the witness  
8 stand at the time of the noon recess,  
9 resumed the stand and testified further  
10 as follows:)

11  
12 REDIRECT EXAMINATION RESUMED

13 BY MR. NEGUS:

14 Q One can, if one knows and does experiments, calculate  
15 the velocity at which the blood is hitting a surface  
16 like a dresser; is that correct?

17 A That might be possible, yes.

18 THE COURT: Counsel, you are about to conclude the  
19 testimony on velocity of blood casts?

20 MR. NEGUS: Well, I think we have a fair amount more  
21 to go about it.

22 Your Honor, if you want to strike Mr. Kochis' direct  
23 or whatever you call it testimony of Mr. Ogino today --

24 THE COURT: But you have gone far beyond that,  
25 Counsel.

26 MR. NEGUS: I have not. This is just strictly --

7-2

1 I have it noted as to line and page as to what we are  
2 talking about. Mr. Kochis asked Mr. Ogino a series of  
3 questions as to, "Is this all you can know", and he said  
4 "yes", and I don't think that's true, and I think -- I'm  
5 perfectly willing to strike the testimony and not go into  
6 it if --

7 THE COURT: He asked a couple of questions to make  
8 a button and then you ask four hours to sew a suit around it. ☆

9 Let's conclude it without taking more than another  
10 five minutes on that point. It's cumulative. It's beyond  
11 the point of the probative effect outweighing the prejudicial  
12 value.

13 MR. NEGUS: I would move to strike from Mr. Kochis'  
14 testimony --

15 THE COURT: I'm not going to strike any of the  
16 answers brought out on his examination, Counsel. Okay.  
17 Your questions are likewise argumentative. I'm going to  
18 preclude you from any of them unless you get going on it.

19 Let's go, but don't take much longer with it.

20 Q (BY MR. NEGUS) Mr. Ogino, from the velocity of blood,  
21 the angle and from the angle of impact, can you then  
22 calculate the approximate shape of the pattern?

23 A I'm not sure if that's possible.

24 Q At the preliminary hearing, do you recall testifying  
25 that this particular pattern appeared to you to be a  
26 downswing that is shown in photographs H-57 and H-58?

7-3

1 THE COURT: This particular pattern appeared what?

2 MR. NEGUS: Appeared to be a downswing.

3 THE WITNESS: I don't recall what I said at the  
4 preliminary hearing.

5 Q (BY MR. NEGUS) What about that particular pattern  
6 appears to you to show that it's a left-handed person --  
7 excuse me -- a person with a weapon in their left hand?

8 A By the position of the splatter and also the position  
9 of various items of furniture.

10 Q Could you elaborate?

11 A I took some assumptions into consideration.

12 Q What were your assumptions?

13 A That the victim was on or near the bed.

14 Q Okay. Any other assumptions?

15 A No.

16 Q Why did you make the assumption that the victim was on  
17 or near the bed?

18 A Because that's where the majority of the blood appeared  
19 to be.

20 Q If that is in fact a downswing, the place where the  
21 blow impacted would have had to have been closer to  
22 the sliding glass doors than the bed; is that correct?

23 A Unless this is cast-off from the backswing.

24 Q We are saying if that's in fact a downswing, if it's  
25 cast off centrifugally from a downswing, then the  
26 area of impact is going to be closer to the sliding

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7-4

1 glass doors than to the bed; is that right?

2 A Could be possible that whoever was struck was directly  
3 in front of the dresser, also.

4 Q In either case, if it's a downswing, it would be more  
5 consistent with a right-handed person than a left-  
6 handed person; is that correct?

7 Excuse me. More consistent with a person with the  
8 striking instrument in their right hand than a person  
9 with the striking instrument in their left hand?

10 A Assuming what, again?

11 Q That it's a downswing.

12 A And what else?

13 Q That's it.

14 A Unless you assume where the victim is standing or the  
15 position of the victim, I can't see how you could say  
16 that.

17 Q The direction of the blood -- The direction the blood  
18 is traveling when it hits the dresser is going from  
19 right to left, correct?

20 A Yes.

21 Q So if that's cast-off from a downswing, then the  
22 swinging object is going to be moving likewise down  
23 from right to left; is that correct?

24 A That's possible, yes.

25 Q Is there any other rational explanation if it's a  
26 downswing?

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7-5

1 A Well, whoever had this particular instrument might be  
2 able to make this by a downswing which goes from, say,  
3 his head down past to the left of his hip.

4 Q Like that (indicating)?

5 A Yes. Bent over is more realistic.

6 Q So the way a person with the object in their left hand  
7 would have had to make a downswing would have been very  
8 awkward; is that correct?

9 A In a nonstanding position, yes.

10 Q And that particular pattern, again, like approximately  
11 four feet off the floor?

12 A I don't know.

13 Q Do you remember the height of the dresser, approximately?

14 A No.

15 Q How many different cast-off patterns did you see on  
16 that dresser?

17 A I believe possibly two.

18 Q In the same general areas?

19 A Yes.

20 MR. NEGUS: Your Honor, I would like to read from  
21 page --

22 THE COURT: Volume first, please.

23 MR. NEGUS: 23, lines 21 through page 52, line 24.  
24 That would exclude lines 1 through 11 on page 52, which I  
25 have already read.

26 MR. KOCHIS: Which page?

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7-6

1 MR. NEGUS: Volume 23, page 50, 21, through 52, 24.  
2 MR. KOCHIS: I have that.  
3 MR. NEGUS: (Reading):  
4 "Q You indicated there were two  
5 different cast-off patterns that you  
6 saw?  
7 "A There were. I wouldn't say  
8 they were different. I would call them  
9 two cast-off patterns.  
10 "Q Okay. Where were they from?  
11 Did they appear to be from two different  
12 blows?  
13 "A Well, every time you bring back  
14 a hatchet, you are going to cause  
15 cast-off patterns.  
16 "Q Okay. Where did you see those?  
17 "A Again, they were on the dresser.  
18 "Q Were both of them on the dresser?  
19 "A Yes, sir.  
20 "Q Were they both visible in the  
21 photographs I showed you?  
22 "A Not very visible, no.  
23 "Q Could you tell anything from  
24 those patterns about which hand the  
25 weapon was held in?  
26 "A Well, if I could make some

7-7

1           assumptions, I might be able to.

2           "Q   What assumptions would you

3           have to make?

4           "A   Where the suspect was standing

5           and where the victim was lying.

6           "Q   What assumptions did you make?

7           Did you in fact -- "

8           I will start again on line 17.

9           "Q   What assumptions did you make?

10          You in fact did make a conclusion that

11          the cast-off patterns that you saw were

12          from a left-handed person; is that true?

13          "A   I said could possibly be.

14          "Q   Okay. What assumptions did you

15          make in making that statement?

16          "A   Well, let me back up. I did not

17          say it could have been from a left-handed

18          person. I said it could have been caused

19          by an instrument using the left hand."

20          Then skipping what I have already read, lines 1

21          through 11, picking up on line 12.

22          "Q   Those were downswings that you

23          were looking at?

24          "A   Yes.

25          "Q   So what you were seeing was a

26          downswing coming close to the -- well, you --

7-8

1 Well, you --

2 "A Close to the dresser.

3 "Q Closer to the dresser and coming  
4 into the victim lying on the bed?

5 "A Yes. That's assuming what I  
6 just told you, though.

7 "Q Assuming the position of the  
8 suspects and the victims?

9 "A Yes. It could have been caused  
10 by a right-handed, or a weapon in the  
11 right hand. However, it just seems  
12 awkward to me to make that same pattern  
13 with the right hand."

14 Q (BY MR. NEGUS) In Mr. MacDonell's book, does he  
15 explain how to tell whether or not, for example, a  
16 swinging weapon being held in the left hand is being  
17 held by a left-handed person or a right-handed person?

18 A There are indications whether the instrument with blood  
19 on it is in the left or right hand.

20 Q Let's take for the sake of argument assuming that one  
21 can tell that the instrument is in the left hand of an  
22 individual, does Mr. MacDonell give you indications  
23 that would enable you to tell whether the instrument  
24 is in the left hand of a left-handed person or left  
25 hand of a right-handed person?

26 A I'm not sure.

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7-9

1 Q Are you yourself able to make that determination?

2 A I don't believe I could, no.

3 (No omissions.)

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1 Q Showing you Photograph H-133, Mr. Kochis last week asked  
2 you whether or not any of those clothes that were depicted  
3 in that photograph were lying on the floor.

4 Directing your attention now to a black plastic bag  
5 that's seated back there, was that black plastic bag  
6 still in place when you arrived?

7 A I don't remember.

8 Q Were there any items stacked in boxes around the periphery  
9 of the room when you arrived?

10 A I don't think so.

11 Q Showing you Photograph H-138 and circling in blue certain  
12 items, do you remember seeing those particular items  
13 in the master bedroom?

14 A I believe I saw a notebook, which looks like this plastic  
15 notebook in this picture, but I don't remember it being  
16 stacked up like that.

17 Q Did you ever inspect any clothing in that bedroom to see  
18 whether or not they had drops of blood on them?

19 A Yes.

20 Q Which clothing was that?

21 A I was looking for blood on the clothing inside the  
22 closets.

23 Q Any other clothing?

24 A I don't recall.

25 Q Did you find any on the clothing in the closets?

26 A I'm not sure. I believe there was some on -- it was a

1 continuation of a pattern on some shoes, I think, or  
2 lower portions of pant legs.

3 Q Was that in the closet in those pictures depicted behind  
4 the body, the position of Doug Ryen, or the closet that's  
5 over in the northeast corner?

6 A The closet near Doug Ryen.

7 Q Showing you H-79, can you see in there the area where  
8 you saw the blood?

9 A I don't recall exactly.

10 Q Is there any difference in significance as far as  
11 evidence is concerned in an assault case or homicide  
12 case between hair which has fallen out and hair which  
13 has been plucked out?

14 A What do you mean by difference?

15 Q Are those two things of the same evidentiary weight, or  
16 is one more likely to be significant than the other?

17 A In what sort of circumstances?

18 Q If you were to find, for example, hair that was plucked  
19 out on the floor of the Ryen bedroom, would that be of  
20 more significance than hair that would have fallen out?

21 A More significance as far as what?

22 Q Is it more likely to, for example, aid you either to  
23 reconstruct what happened during the crime or to give  
24 you a clue as to the identity of an assailant?

25 A There is more information in a hair that's been plucked  
26 versus a hair that's fallen out.

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- 1 Q What additional information is there?
- 2 A Well, you actually have the sheath and the root, and in  
3 hairs that have fallen out a lot of times the root has  
4 either shriveled or possibly fallen off of the hair.
- 5 Q We've used three different terms, I think. We've used  
6 root, sheath, and bulb. What's the difference between  
7 those three, if any?
- 8 A Well, a sheath is an actual coating around the bulb or  
9 root of the hair. It's actually visible.
- 10 Q So bulb and root mean the same thing?
- 11 A As far as I'm testifying today, yes.
- 12 Q And then the sheath would be that thing that covers the  
13 root and which is typable for enzymes?
- 14 A Yes.
- 15 Q Then after a period of time the sheath, when the bulb  
16 falls off, does the sheath fall off as well?
- 17 A Not always.
- 18 Q Does that sometimes happen?
- 19 A Usually the sheath remains on the hair. It just dries  
20 up.
- 21 Q In your experience you haven't been able to type sheaths  
22 after they've been -- after the hair's been stored over-  
23 night; is that correct?
- 24 A Yes.
- 25 Q What method have you used to try and prepare the sheaths?  
26 How do you do that? Do you just stick them in --



1 A Just like we prepare the blood samples that we run on  
2 the electrophoresis plates.

3 Q How is that?

4 A You add a reducing agent and place it in the gel.

5 Q Have you read in the literature that other people have  
6 had more luck than you?

7 A Yes.

8 Q When you find hairs on, for example, the floor of this  
9 particular room, would you normally expect to find plucked  
10 hairs?

11 A I wouldn't, no.

12 Q You might very well expect -- you might very well find,  
13 though, hairs that have fallen out, though; is that  
14 correct?

15 A Yes.

16 Q Similarly on the floor of the Ryen master bedroom would  
17 you have expected to find plucked hairs if they did not  
18 emanate from the struggle that had gone on there?

19 A No.

20 Q Was to your knowledge any search undertaken of that  
21 carpet prior to it being moved out to try and find  
22 plucked hairs as opposed to just fallen-out hairs?

23 A I don't know if that was done.

24 Q Wasn't done in your presence?

25 A No.

26 Q Do you think that would have been useful?

- 1 A I couldn't say, due to the nature of that carpet.
- 2 Q The kind of stuff that accumulated on the carpet did not  
3 appear to be hairs that had been pulled out in a struggle;  
4 is that right?
- 5 A Well, I didn't really take a close look at it.
- 6 Q The kind of dirt that accumulates in a house is not  
7 normally plucked hair; is that right?
- 8 A I would say so, yes, that's correct.
- 9 Q It's not infrequent in a struggle for an assailant to  
10 have hair plucked out of their head; is that correct?
- 11 A I don't know. I haven't done any studies on that.
- 12 Q You're taught in your business, though, to look for that  
13 kind of evidence as being significant as possibly a way  
14 of identifying a suspect; is that right?
- 15 A Yes, we look for anything that tries to identify a  
16 suspect.
- 17 Q Last week you indicated that in addition to the stain  
18 that you took from the driveway and the piece of gauze,  
19 you also seized other items from the Ryen house on June  
20 the 6th. What other items were those?
- 21 A No. They were other items. However, they were not --  
22 the only items we picked up on June 6th were those two  
23 items. We did collect other items later on.
- 24 Q You did not see seize every item of evidentiary value  
25 that you saw on June 6th; is that correct?
- 26 A I didn't seize anything that I didn't feel would benefit

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1 this case at the particular time, June the 6th.

2 Q But you didn't -- there were lots of things of evidentiary  
3 value that could have answered various questions  
4 concerning this case which were not seized on June the  
5 6th; is that right?

6 A Yeah, which I found out about at a later date, that's  
7 correct.

8 Q Well, like the blood smears on the doorway from the hall-  
9 way into the living room. That certainly was of  
10 evidentiary value, right?

11 A Possibly, yes.

12 Q And you knew about that on June the 6th, right?

13 A I knew it was there. I didn't know if it was collected  
14 or not.

15 Q Was it possible to -- did you see any of it having  
16 been collected?

17 A I wasn't there when it was collected.

18 Q Did you see any signs on the door when you saw it on  
19 June the 6th that anything had been scraped off of the  
20 door?

21 A I don't recall.

22 Q There were some areas of wall in the Ryen house that you  
23 could tell had not had any samples scraped off; isn't  
24 that correct?

25 A There were a lot of areas which didn't look touched,  
26 that's correct.

010775

1 Q And did you take any samples from those?

2 A No, not on June 6th.

3 Q Not at any time, right?

4 A I believe we did take samples of the smear on the wall  
5 near the entrance to the master bedroom.

6 Q That would have been the hallway. I'm just talking about  
7 in the master bedroom.

8 A I don't believe so.

9 Q You indicated that in order to analyze blood splatter  
10 patterns you have to have a -- from photographs, the  
11 photographs have to be taken at a perpendicular angle to  
12 the wall. Why is that?

13 A This is to help determine the angle at which the stain  
14 hit the wall.

15 Q You make calculations of the angle by measuring the  
16 difference between, amongst other things, the length  
17 and the width of the blood smear?

18 A It's not the difference. It's a ratio -- it's a ratio.

19 (No omissions.)

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9-1

- 1 Q Take measurements of the length and width and compare  
2 them?
- 3 A Yes.
- 4 Q And in order to do that accurately, you have to have a  
5 perpendicular angle; is that correct?
- 6 A Yes.
- 7 Q When you are at the scene attempting to interpret the  
8 blood splatter patterns, is that easier to do to try  
9 and put yourself back and locate the positions from  
10 which the blood emanated than if you have to do it on  
11 paperback in the laboratory?
- 12 A As long as you have the object that the splatter is on,  
13 I don't see any problem with taking it back to the  
14 laboratory.
- 15 Q When you are trying to do these reconstructions, are  
16 you just doing each individual pattern or are you trying  
17 to make sense of them as a whole?
- 18 A Well, first I take each individual pattern.
- 19 Q Then do you try and make sense of it as a whole?
- 20 A If I feel it's possible, yes.
- 21 Q In trying to make sense of it as a whole, isn't it a  
22 lot easier to do that if you are at the scene and you  
23 can see the relationships of the various objects rather  
24 than just the objects themselves?
- 25 A That's probably true, yes.
- 26 Q For example, in making your assumptions about the

9-2

1 cast on the dresser, you were looking at the bed, the  
2 distance between the bed and the window, the distance  
3 between the dresser and the bed and the relationship  
4 of all those things to each other; is that correct?

5 A I took that into consideration, yes.

6 Q Does it also occur that when you do that, that will  
7 direct your attention to evidence whose significance  
8 you may have missed when you were just looking at the  
9 scene before?

10 A That's possible, yes.

11 Q When Mr. Kochis asked you about your conversation with  
12 Sergeant Arthur last December, do you recall whether  
13 you took notes of that conversation?

14 A No, I did not.

15 Q Did you tape record it?

16 A No, sir.

17 Q Have you ever seen any transcript of that particular  
18 conversation?

19 A No.

20 Q Have you ever listened to a tape recording of it?

21 A No, sir.

22 Q You also testified at approximately the same time in  
23 court with a transcriber taking down everything you  
24 said; is that correct?

25 A Yes.

26 Q And was your memory just as accurate in court as it was

9-3

1 within a couple of days when you talked to

2 Sergeant Arthur?

3 A Yes. Wait. Within a couple of days when I talked to  
4 Sergeant Arthur in December?

5 Q Well, you testified about your conversations about more  
6 time on -- in December, is that right, on two different  
7 occasions?

8 A I believe so.

9 Q And it was in that same, within a week of that time  
10 that you also talked to Sergeant Arthur; is that correct?

11 A I think so. I'm not sure.

12 Q Basically when you testified in court about your  
13 conversations about getting more time at the crime  
14 scene and when you talked to Sergeant Arthur, your  
15 memory was equally fresh?

16 A When I testified in court when?

17 Q At the preliminary hearing.

18 A I would say so, yes.

19 Q And you have had an opportunity to review your  
20 testimony at the preliminary hearing on that issue;  
21 is that right?

22 A I haven't done so, no.

23 Q You haven't read that part of the transcript?

24 A No, I have not.

25 Q At that time period, that period of time, did  
26 Mr. Forbush ask to make an appointment to talk to you?

9-4

1 A I do recall him asking, yes.

2 Q And did you tell him to come out and see you on a  
3 Saturday?

4 A Yes.

5 Q At the laboratory?

6 A Yes.

7 Q Did you ever see him at the laboratory on Saturday?

8 A No.

9 Q Did you tell Mr. Baird that Mr. Forbush was coming?

10 A I don't recall that.

11 Q Mr. Kochis asked you if you were satisfied with it,  
12 that you would be able to do your reconstruction later  
13 knowing that the items that were being taken out of  
14 the Ryen master bedroom that day and you said yes.

15 At that point in time, did you assume that the  
16 blood on those items would be preserved in such a way  
17 that samples could be taken, if necessary, for  
18 serological typing?

19 A I didn't make that assumption, no.

20 Q In terms of doing the reconstruction that you at least  
21 contemplated doing on June the 6th, would that have  
22 been necessary?

23 A In this particular case, I didn't see that that was  
24 necessary, no.

25 Q You could tell which blood was on the wall was which  
26 victim's just by looking at it?



9-5

- 1 A No, but I don't think you could show exactly how the  
2 person moved throughout the room and the exact position  
3 these victims were in at a particular time by doing  
4 that.
- 5 Q Wouldn't you be able to do a lot better job of it if  
6 you knew whose blood was on the walls than if you  
7 didn't?
- 8 A Again, I don't see how that would be possible. There  
9 is just so much blood in this particular bedroom.
- 10 Q How many crime scene reconstructions as we attempt to,  
11 for example, position the victims at the time they  
12 were injured, have you yourself actually done?
- 13 A Three.
- 14 Q Did any of those involve multiple-victim situations?
- 15 A No.
- 16 Q To your knowledge, has anybody in your laboratory ever  
17 done or attempted a reconstruction which involved  
18 multiple victims?
- 19 A Not to my knowledge.
- 20 Q When blood flies through the air at speeds greater than  
21 25 feet per second, does it fragment?
- 22 A I don't know.
- 23 Q Is there a terminal velocity after which a blood drop  
24 will start to break into smaller pieces?
- 25 A There is a terminal velocity. However, I don't know  
26 if it's going to start breaking into smaller pieces.

010781

9-6

- 1 Q In MacDonell's book and in the Kirk book which we  
2 referred to last week, do they discuss high velocity,  
3 medium velocity and gravitational velocity blood?
- 4 A Yes.
- 5 Q And the gravitational velocity blood will be blood that  
6 is traveling at a speed of 25 feet per second or less;  
7 is that correct?
- 8 A Yes.
- 9 Q Then the medium velocity blood would be blood which  
10 when impacted is smaller than the drop that would be  
11 formed by gravitational blood, but bigger than a  
12 millimeter in diameter; is that correct?
- 13 A You are going to get varying fragmentations of blood  
14 with medium velocity impact.
- 15 Q But generally it's going to vary in size between the  
16 size that you would expect from gravitational would be  
17 smaller, gravitational would be smaller, but they make  
18 a distinction between blood which is smaller than a  
19 millimeter in diameter and larger than a millimeter  
20 in diameter?
- 21 A That's going to depend on the heights.
- 22 Q Do you remember on when it's flying?
- 23 A When it's flying, it's not a diameter. There are three  
24 dimensions to the drop.
- 25 Q But when it's flying as a sphere, right?
- 26 A Yes.

9-7

1 Q The diameter is a sphere? Whichever way you draw it,  
2 it's going to be the same, right?

3 A Generally, yes. It's not a sphere when it's flying in  
4 the air.

5 Q Does MacDonell make a distinction between high velocity  
6 blood of the type that you would expect to find produced  
7 by the impact of a bullet and medium velocity of the  
8 type that you would expect to find from the impact of  
9 something like a baseball bat or a club or ax or  
10 something of that nature?

11 A Yes.

12 Q And does he also say that generally the diameter of  
13 that medium impact blood as it's flying through the  
14 air is going to be greater than a millimeter?

15 A I don't know if he says that or not, but I believe  
16 that's true.

17 Q Directing your attention to H-112, the portion of the  
18 blood that was on the east wall, does all of that  
19 blood appear to you to be medium velocity blood?

20 A I would say medium velocity or less.

21 Q The little drops would certainly be medium velocity,  
22 correct?

23 A It's hard to say. It depends on where it's coming  
24 from.

25 Q Assuming that the small little drops of blood are not  
26 being flung from a normal-type thing you would see in

010707

9-8

1 a crime scene, you would expect that to be medium  
2 velocity blood; is that correct?

3 A That's hard to say.

4 Q Cast-off blood will not travel at a speed in excess of,  
5 for the most part in excess of 25 feet per second; is  
6 that correct?

7 A I don't know.

8 Q Cast-off blood tends to be rather large drops compared  
9 to that which you see on the east wall; is that correct?

10 A No, not always.

11 Q Was that blood on the east wall -- Did that blood on  
12 the east wall appear to you to be cast-off blood?

13 A It's hard to say. I don't know.

14 (No omissions.)

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1 Q The blood when it travels through the air, smaller drops,  
2 such as some of the drops you see on the wall there, can't  
3 travel very far through the air because of air resistance;  
4 is that correct?

5 A Generally larger droplets will travel farther than smaller  
6 droplets, yes.

7 Q Would it be fair to say that those little drops on the  
8 wall would have had difficulty traveling more than three  
9 feet?

10 A I don't know.

11 Q When an object such as a baseball bat or ax or hatchet  
12 or machete or something like that strikes human skin  
13 which is over some hard surface, like a skull, and which  
14 also has already started to bleed beneath the skin,  
15 will it produce a medium velocity splatter in a radial  
16 pattern?

17 A Yes.

18 Q Does the blood on the east wall appear to be consistent  
19 with that to you?

20 A A radial pattern?

21 Q Medium impact blood.

22 A I don't know.

23 Q Have you had any experience in interpreting patterns that  
24 are caused by the impact of objects like baseball bats  
25 or hatchets on human heads?

26 A Only indirectly.

010785

- 1 Q What do you mean by that?
- 2 A I've been to crime scenes where it appeared that the  
3 victim was beaten with a baseball bat which had blood on  
4 it and there were splatters on the wall next to the  
5 victim.
- 6 Q Well, were you able to distinguish those splatters amongst  
7 cast-off, medium impact, and that sort of thing?
- 8 A I was able -- what appeared to me to be medium impact  
9 splatters from the bat, I was able to distinguish.
- 10 Q What about from an ax? Have you ever seen that sort  
11 of pattern from an ax?
- 12 A I don't believe I have, no.
- 13 Q Have you ever in your experience actually had people  
14 point out to you blood that they thought was arterial  
15 blood?
- 16 A Yes.
- 17 Q Did that ever appear to be in the form of the small,  
18 between larger than a millimeter but less than an inch  
19 size drops that appear throughout the photograph H-284?
- 20 A In some cases it was on there, yes.
- 21 Q Was that pointed out to you as being arterial or the  
22 result of a blow that cut the artery?
- 23 A Well, nobody pointed out anything in this photograph to  
24 me.
- 25 Q I'm just asking you of that particular type.
- 26 A Well, in arterial blood you're going to get a spraying

010786

1 where you get various sizes of drops.

2 Q Small drops such as that that are shown are only  
3 produced if blood is accelerated beyond 25 feet per  
4 second; isn't that correct?

5 A I'm not sure if that's a correct statement or not.

6 Q Arterial spraying does not involve the kind of  
7 acceleration that you get, for example, when you strike  
8 an ax into a bloody surface?

9 A As far as the force behind the drop?

10 Q Yes.

11 A I don't know.

12 Q In order to come to a proper opinion as to how much  
13 information can be determined from an analysis of the  
14 south wall in the Ryen master bedroom, would you have to  
15 know that information?

16 A Know what?

17 Q For example, whether those small drops of blood can  
18 only be produced by accelerating the blood at a speed  
19 greater than 25 feet per second. Would you need to know  
20 that in order to interpret it?

21 A Interpret it as far as arterial or not?

22 Q Right, or what caused it.

23 A Well, generally what I do is I look at the overall  
24 pattern. I don't pick out one or two drops.

25 Q Don't you have to be able to understand the whole pattern  
26 in order to make sure that you've analyzed it correctly?

1 A. You have to understand as much as you can.

2 Q. It's possible within a pattern that you're going to  
3 have many different events portrayed in the same  
4 general area; is that correct?

5 A. It's possible, yes.

6 Q. For example, in this particular one you've distinguished  
7 at least two, smearing and arterial; right?

8 A. Yes, and dripping.

9 Q. With greater knowledge you may be able to distinguish  
10 more; is that correct?

11 A. Can you give me an example of what else?

12 Q. Well, if you knew that, for example, a medium impact  
13 blood looked like those little dots, that would help  
14 you to interpret it, wouldn't it?

15 MR. KOCHIS: I'm going to object. I think that  
16 assumes a fact that's not in evidence that that's what they  
17 look like.

18 THE COURT: He's been talking about them.

19 MR. KOCHIS: But he's never agreed completely with  
20 Mr. Negus's statements.

21 MR. NEGUS: I admit he didn't agree. I would be  
22 expecting eventually some day to bring in evidence along  
23 those lines.

24 THE COURT: Counsel, I'll sustain the objection.

25 MR. NEGUS: Well, rather than having to bring him  
26 back at such point in time as I bring in somebody to say that,



2 THE COURT: If you're going to bring in somebody  
3 that's more expert in reconstruction, why didn't you save  
4 our time?

17 If you'll promise me you'll go by my expert and not  
18 his, then I won't do it. Other than that, I don't see any  
19 alternative once Mr. Kochis brings in all the questions  
20 that he asked last Thursday.

23 Ask it again, Mr. Negus.

26 | A. I felt I could, yes.



11-1

1 Q Did you see any signs in the photographs that you  
2 looked at showing you the position of the bodies or  
3 in the room itself, of upset furniture that would  
4 have been disturbed during the course of the struggle?

5 A When I arrived, I didn't see any upset furniture.

6 Q How about in the photographs? Did you see any in the  
7 photographs that you looked at that Mr. Kochis showed  
8 you and which you looked at all along of the inside of  
9 the bedroom before the bodies had been removed?

10 A I noted a phone on the floor.

11 Q Anything else?

12 I will hand you the photographs Mr. Kochis showed  
13 you yesterday.

14 A The sheets appear to be pulled off of the waterbed.

15 Q Let's look at the phone for a second. Showing you  
16 photograph H-142, yesterday you said that that could  
17 have been, the blood on the phone, if you look at the  
18 blood on the phone, that could have been consistent  
19 with blood dripping off of an assailant or with  
20 somebody leaning over the phone and dripping blood;  
21 is that correct?

22 A It's just vertical blood drops.

23 Q The blood from the vertical blood drops, all you can say  
24 is it's falling gravitationally and is hitting the  
25 phone, right?

26 A There also appears to be a smear on the top.

11-2

- 1 Q On the body of the phone or on the receiver?
- 2 A On the body of the phone.
- 3 Q And does there also appear to be a smear on the
- 4 receiver?
- 5 A I can't tell.
- 6 Q I'll circle a couple of areas on this photograph H-142.
- 7 Do you see some reddish-brown substance in the two
- 8 areas that I have circled?
- 9 A Yes.
- 10 Q That's not the color of the phone?
- 11 A No.
- 12 Q Appears to be consistent with a smear on the receiver?
- 13 A It's hard to say. It looks as though it's dripping
- 14 from the force of gravity.
- 15 Q There is a drip there, right?
- 16 A Yes.
- 17 Q But there is also, before you get to the drip, there
- 18 are smears on part of the top. That doesn't look
- 19 like a drip, does it?
- 20 A It's hard to say.
- 21 Q There also appears to be drips shown in the carpet; is
- 22 that right?
- 23 A Yes.
- 24 Q And there also appears to be blood that's coming down
- 25 the side of the waterbed; is that right?
- 26 A Yes.

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11-3

1 Q There are also some drops of blood over on the bottom  
2 of the dresser there, right?

3 A There appears to be, yes.

4 Q Taking all that information together, does it appear  
5 that at least there is a reasonable inference that a  
6 person who was bleeding was reaching for that telephone?

7 A I couldn't say that, no.

8 Q If you assume that the marks on the receiver are smears  
9 and not some sort of drip, would that be a reasonable  
10 assumption?

11 A Well, a smear could be caused by anything. It doesn't  
12 have to be a person's body. It could be the receiver  
13 falling on the floor and then moving across the floor  
14 or falling just brushing up against anything.

15 Q The particular parts of the receiver that have the  
16 smears on them were up; is that right? They are not  
17 touching the floor?

18 A What smear are you talking about?

19 Q The ones I circled.

20 A Yes, that's correct.

21 Q And do they appear to be the kind of smear you might  
22 find from a person's foot?

23 A I don't know.

24 MR. KOCHIS: Your Honor, again, so there is no  
25 confusion on the record, I'm going to object. This witness  
26 has not testified there are smears on that object. The

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11-5

1 of chop wounds to Peggy Ryen, four chop wounds to  
2 Jessica Ryen, eight chop wounds to Doug Ryen, and  
3 eight chop wounds to Chris Hughes?

4 A No.

5 Q Did you attempt to locate such patterns?

6 A I was looking at, when I arrived there, for various  
7 types of patterns that might indicate number of blows,  
8 yes.

9 Q But you didn't finish that process when stuff began to  
10 be moved out, right?

11 A No.

12 Q No, you hadn't finished it, or, no, I'm not right?

13 A No, I hadn't finished.

14 Q One reason that you might not find cast-off blood on  
15 the walls is because of the size of the room, they  
16 may just have all landed on the bed or the carpet;  
17 is that right?

18 A Yes.

19 Q If you make assumptions that Peggy Ryen was facing --  
20 when she was attacked, she was facing in the same  
21 direction as if you stood her up she would be facing  
22 in the photograph now and you had a person with a  
23 swinging object in the left hand, you would expect  
24 to find patterns, cast-off patterns along the western  
25 wall; is that correct?

26 A Where is the assailant?

11-6

- 1 Q He is facing her.
- 2 A Could you say that one more time?
- 3 Q It's possible to make inferences, some inferences about  
4 at least limit the number of possibilities that you  
5 have as far as where the weapon, the swinging weapon  
6 was coming from when it hit Peggy by the absence of  
7 cast-off patterns along the western wall; is that  
8 correct?
- 9 A I'm not sure if you could do that or not.
- 10 Q If a person with an ax in his right hand was -- Let's  
11 just arbitrarily stand Peggy up so she is facing in the  
12 same direction as the orientation of the body.
- 13 Okay. If a right-handed person was attacking her  
14 from behind, you would expect to find cast-off patterns  
15 on the wall if they were striking her repeatedly at  
16 least ten times?
- 17 A If she was standing perfectly still and the assailant  
18 was just swinging away very hard, I would expect that.
- 19 Q And assuming the person with the thing in their left  
20 hand, if they were facing her, you would also expect  
21 that, right?
- 22 A Again, at that distance, he would have to be swinging  
23 awfully hard and she probably wouldn't be moving at all.
- 24 Q It's less than three feet from where Peggy lay to the  
25 furniture and stuff along the western wall; isn't that  
26 correct?

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11-7

1 A Behind the file cabinet.

2 Q There was no cast-off blood on the file cabinet, none  
3 on the phone, none on the shelves, none of that stuff  
4 along the western wall, is that right, that you can see?

5 A No.

6 Q If the struggle with Peggy occurred in that spot and  
7 it was either a right-handed person from behind or  
8 left-handed person from the front, you would expect  
9 to see that kind of pattern; is that right?

10 A If the pattern reached the wall, yes.

11 THE COURT: Are you ready for the recess?

12 MR. KOCHIS: Okay.

13 THE COURT: We will take the afternoon recess.

14 (Whereupon the afternoon recess was taken.)

15 (No omissions.)

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- 1 Q (BY MR. NEGUS:) Looking at H-284, did all of that  
2 blood appear to you come from the same arterial spray?  
3 That is, is it just going back and forth or can you  
4 distinguish different acts amongst it?
- 5 A They're hitting at different directions, if that's what  
6 you mean.
- 7 Q They're also going different heights on the wall?
- 8 A Yes.
- 9 Q For example, the pattern which I am circling in green  
10 and putting the letter A-1 next to, in that particular  
11 pattern the victim would have been to the right of the  
12 place on the wall -- excuse me, to the -- let's go back  
13 to the directions -- to the east of the place on the wall  
14 where that particular pattern appears; is that correct?
- 15 A Yes.
- 16 Q Whereas for that which I have generally circled and  
17 labeled A-2, the person would have been to the west?
- 18 A Well, I don't exactly think you could say the person  
19 would be there. The point of origin of the blood is to  
20 the right of this green circle you just circled labeled  
21 A-2.
- 22 Q The point of origin of the blood, if that's arterial  
23 spraying, by definition of the person who is bleeding,  
24 at least a portion of them would be to the right as well;  
25 is that correct?
- 26 A The portion that's bleeding, yes.

1 Q And other portions, whatever produced the typical spots  
2 of blood that I circled A-3 would have been more or less  
3 directly in front of the spot on the wall; is that  
4 correct?

5 A Some of them are, but there are some that I circled that  
6 I wouldn't say that's true.

7 Q The smaller ones at least would be more or less directly  
8 in front, right?

9 A It's hard to see from the picture.

10 Q The different patterns on the wall appear to be driven  
11 at different forces; is that right? That is, some of  
12 the blood appears to have been propelled faster than  
13 others?

14 A That's hard to say, because some of the blood is actually  
15 going up and it's hitting on the way down, some of the  
16 blood is hitting on the way up. I can't say what force  
17 each of these spots has behind it.

18 Q Is it possible to sequence any of that blood other than  
19 just the drips over the smears?

20 A When you have blood running together, it's very difficult.

21 Q Just taking H-282 and two drops of blood that I have  
22 circled in green and labeled A-4, even though they've  
23 run together it's possible to sequence those two particular  
24 drops; is that correct?

25 A It would be very difficult.

26 Q Let's just consider it a minute. The long, skinny drop

01-07-67

1 is produced by a drop that is falling very close to the  
2 -- closely parallel, almost parallel to the surface of  
3 the wall, correct?

4 A Yes.

5 Q And it hit at the top and then extends itself down to the  
6 little point down at the bottom; is that right?

7 A Yes.

8 Q And when it did that, the point that you see down at the  
9 bottom sort of like a wave sort of broke off from the  
10 initial point of impact and went just over the surface  
11 of the wall so that it finally landed down where you see  
12 the little dot, right?

13 A Yes, that normally happens.

14 Q Had the bigger drop there, the rounder one, been there  
15 first, the little drop would not have continued on,  
16 correct?

17 A I couldn't say that.

18 Q Doesn't the mass of the big drop prevent the little drop  
19 from going on its little path right above the surface  
20 of the wall?

21 A Could have just skimmed the top and then fell right over.

22 Q Over the big drop?

23 A Yes.

24 Q Do you have any experimental knowledge on which to base  
25 that?

26 A No.

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1 Q Have you read anywhere that that's the case?

2 A No.

3 Q The big drop seems to have -- there seems to be a flowing  
4 together there, is that correct, down at the bottom?

5 A It's intersecting with the small drop.

6 Q But it also appears like that at one point in time at  
7 least when they hit the wall they were both still liquid  
8 at one point in time; is that correct?

9 A Yes.

10 Q And at the point in time that -- taking purple, and I'll  
11 label that arrow A-5 -- at that point, at the place where  
12 the curve on the bigger drop that I've labeled A-5 is,  
13 they both, the little drop and the bigger drop, would  
14 both still have to be wet in order for that to occur;  
15 is that right?

16 A I don't know.

17 (No omissions.)

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13-1

1 Q The little drop would have dried within a second or so  
2 because of its small size, within a second or so of  
3 arriving on the wall; is that correct?

4 A I don't know.

5 Q In using physical evidence, in addition to just doing  
6 reconstruction based on physical evidence alone, is it  
7 also possible to evaluate the testimony of or the  
8 statements of eye witnesses to determine whether or not  
9 the positions that the eye witnesses placed people in  
10 at various times are possible?

11 A Yes.

12 Q For example, if Joshua Ryen were to have given  
13 contradictory statements at different times or different  
14 people had contradictory memories of what Joshua Ryen  
15 said about particular movements, could physical evidence  
16 be used to evaluate those contradictory statements?

17 A In some cases, yes.

18 Q In order to do that, would you need to have as much  
19 evidence as you could?

20 A What do you mean by that? There are some cases where  
21 you don't need much evidence to prove that or disprove  
22 the statement.

23 Q Well, if Joshua Ryen were to have stated at one point  
24 in time that he was attacked in the doorway near  
25 Jessica leading into the bedroom or at some other  
26 point in time that he was attacked in the middle of

13-2

- 1 the bedroom, what sort of evidence would you need to  
2 try and evaluate those statements in the context of  
3 this particular scene?
- 4 A You would need any sort of physical evidence that would  
5 indicate where he might have been at that particular  
6 time.
- 7 Q That would be that he -- First of all, you would have  
8 to, in terms of attack, you would have to try and look  
9 for all the different evidences where you might find  
10 Joshua's blood; is that right?
- 11 A That's one, yes.
- 12 Q And then when you found those different, all those  
13 different areas, you would have to try and interpret  
14 the patterns of the blood that you found?
- 15 A Yes.
- 16 Q You would also have to try and have any trace evidence  
17 like cut hair from Joshua which might indicate where he  
18 was attacked, right?
- 19 A That could help, yes.
- 20 Q Was that kind of evidence collected in this case, to  
21 your knowledge?
- 22 A Some of it, yes.
- 23 Q But not all?
- 24 A I don't know.
- 25 Q Mr. Kochis yesterday asked you whether or not by blood  
26 splatter patterns alone you would be able to sequence

13-3

1 the order in which the victims in this particular case  
2 were attacked, and you said not by blood splatter  
3 patterns alone.

4 Would you, with additional physical evidence, be  
5 able to sequence the order in which they were attacked?

6 A In this particular case?

7 Q Yes.

8 A By looking at that house, I don't think it could be.

9 Q Just because it's just too complicated?

10 A No. It's just everything was happening at approximately  
11 the same time. You couldn't sequence events very  
12 easily.

13 Q Well, if you assumed that there was only one suspect,  
14 could you sequence them?

15 A No, I don't think so.

16 Q Not based on any evidence it possibly could have been  
17 done?

18 A From what I saw, it's my opinion no.

19 Q Could you partially sequence it? That is, determine  
20 some people at least were attacked before others?

21 A I would have to say no, not in my opinion.

22 Q If, for example, the blood that was on Peg Ryen's knee  
23 that we talked about last week turned out to be  
24 somebody other than Peg Ryen's, one could begin to  
25 sequence events, could one not?

26 A I don't think so because if you are saying that that

010004



13-4

1 blood on her knee was from a person that was injured  
2 prior to her being hurt, how do you know she wasn't  
3 hurt first? I can't see how you are going to find  
4 that out.

5 Q If from Dr. Root you learned that many of the different  
6 wounds on the different victims would have been enough  
7 to disable them, like one blow, any one of those blows  
8 would have disabled them, that in itself enables you  
9 to make some inference about what they were doing  
10 during the struggle; is that right?

11 Let me ask you this question. Did you see anything  
12 inconsistent with Jessica, Peggy and Christopher all  
13 having been attacked solely in the places where their  
14 bodies were found?

15 A I don't know exactly where their bodies were found at  
16 the time.

17 Q As they are shown in the photographs that we were  
18 looking at.

19 A That would be hard to say, there is so much -- I can't  
20 see how looking at these stains is going to tell you  
21 who was killed first or who was attacked first.

22 Q I didn't ask you that question at this point in time.  
23 What I'm asking you right now is do you know from the  
24 evidence that your laboratory collected or in looking  
25 at those pictures any fact which would suggest -- which  
26 would be inconsistent with Peggy Ryen, Christopher Hughes

010005

13-5

1 and Jessica Ryen all having been attacked in just right  
2 about the same spot where they were found?

3 A There are other blood stains on the floor.

4 Q Let's assume that you were told that -- Of course, your  
5 laboratory didn't collect those other blood stains, did  
6 they?

7 A Which other blood stains?

8 Q Any other stains from the carpet other than those which  
9 are underneath the victims.

10 A They might have collected some. I don't know what  
11 stains you are talking about.

12 Q Isn't it a fact that your laboratory only collected  
13 known samples of blood from the carpet, known samples  
14 of blood in the master bedroom from directly underneath  
15 Jessica, Peggy, Christopher and Doug?

16 A I believe so, yes.

17 Q So then we don't know what all any of these other  
18 stains are; is that correct?

19 A They weren't collected, that's correct.

20 Q So from what you know, is there anything inconsistent  
21 with any of the victims being in no other place than  
22 where they were found?

23 A Again, there are other blood stains on the floor that  
24 might indicate their being in different positions.

25 Q So it could just as well be Josh's for all we know;  
26 isn't that correct?

0100006

13-6

- 1 A Yes, that's correct.
- 2 Q So from the evidence that we have got, there is nothing
- 3 inconsistent with them being in those positions; is
- 4 that right?
- 5 A Could you repeat that last question?
- 6 Q From the information which the laboratory provided us,
- 7 we can't talk about any of the other stains because you
- 8 didn't give us that information, but from what you did
- 9 give us, is there anything you know that's inconsistent
- 10 with them having been attacked and fallen where they
- 11 were first attacked?
- 12 A Just that there is other blood stains around them.
- 13 Q You would like to know what those other blood stains
- 14 are, but if you don't, then there is nothing inconsistent,
- 15 right?
- 16 A Could you repeat that again? I'm getting confused.
- 17 THE COURT: I will sustain the Court's objection.
- 18 It's argumentative.
- 19 Next question.
- 20 Q (BY MR. NEGUS) Generally when a bleeding victim, when
- 21 a victim is bleeding on the carpet, you would expect
- 22 to find a pool of blood in the area in which they were
- 23 bleeding; is that right?
- 24 A If they were lying on the carpet still, yes.
- 25 Q Or standing still?
- 26 A For a long period of time, yes.

010807

13-7

- 1 Q How long is a long period of time?
- 2 A What do you mean by pool of blood?
- 3 (No omissions.)
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- 1 Q Circling a stain on the carpet and labeling it B-1, how  
2 long would that particular stain have taken?
- 3 A I don't know.
- 4 Q If none of the pools of blood that appear on the diagram  
5 except those which are directly touching Peggy were  
6 made by Peggy Ryen, would there be anything inconsistent  
7 with her being attacked exactly where she fell?
- 8 A If the other pooled bloods were inconsistent --
- 9 Q Were not hers.
- 10 A Were not hers? I would say that that probably would be  
11 inconsistent with her being attacked right there.
- 12 Q It would be inconsistent?
- 13 A If these other pooled bloods were not her blood?
- 14 Q Right.
- 15 A That would indicate that she might have been in the areas  
16 where her blood happened to be.
- 17 Q And similarly, if these other pooled bloods were not  
18 Jessica's, would there be anything inconsistent with  
19 her having been attacked right there in the doorway?
- 20 A Yes.
- 21 Q What's that?
- 22 A Same argument, that these pooled bloods that aren't  
23 hers in different parts of the room would indicate that  
24 she might have been in that area.
- 25 Q How does pooled blood which is not Jessica's indicate  
26 Jessica was there?

1 A Wait a second.

2 Q I'm asking you to assume that these pools of blood that  
3 you see around which are not touching any victims are  
4 not Jessica Ryen's.

5 A Oh, okay. I misunderstood. If all those stains are not  
6 from Jessica, that would indicate that she probably was  
7 attacked at that point.

8 Q And similarly the same would apply to Chris Hughes?

9 A Yes.

10 Q If one then makes the assumption that all that other  
11 blood was Joshua's that I've just asked you to assume  
12 was not either Peggy's, Chris's, or Jessica's, and then  
13 one also assumes that the blood on Peggy's knee was  
14 Jessica's, can one then begin to sequence the attack?

15 A Again, how can you determine if Peggy was attacked first  
16 by saying that the blood on the knee is from Jessica?  
17 I don't see any way possible that -- I don't see any way  
18 that that's possible.

19 Q Can one say that Jessica was attacked first if the blood  
20 on Peggy's knee is Jessica's?

21 A No. Peggy could have been attacked first and then  
22 knelt down into the blood of Jessica.

23 Q But if Peggy fell where she -- if Peggy fell where she  
24 was attacked, right, and Jessica fell where she was  
25 attacked, then that would not have been possible. So  
26 I'm asking you to assume that Peggy fell where she was

1        attacked, Jessica fell where she was attacked, and  
2        further assume that the blood on Peggy's knee came from  
3        Jessica.

4            Is it then not possible to at least begin to  
5        sequence the attacks between Jessica and Peggy?

6        A.    Again, I don't see how that's possible.

7            THE COURT:    That's something that I can draw a  
8        conclusion as well as he can, I believe.    It's conjectural,  
9        it's argumentative, it's too time consuming.    Please go into  
10       another matter, if any.

11       Q    (BY MR. NEGUS:)    Mr. Kochis asked you to assume -- he  
12       asked you could you tell based on blood splatter patterns  
13       alone the identity of an assailant, and you said no.

14            Are blood splatter patterns the best physical evidence  
15       that you can find of the identity of an assailant?

16       A.    No.

17       Q    Is there other physical evidence, blood evidence, trace  
18       evidence, that can be used to determine the identity of  
19       the assailant?

20       A.    Yes.

21       Q    Does an analysis of blood splatter patterns help you to  
22       locate that evidence?.

23       A.    Occasionally, yes.

24       Q    Mr. Kochis asked you if evidence other than a fingerprint,  
25       physical evidence other than a fingerprint, could  
26       conclusively determine the identity of an assailant, and

1       you then asked him "could I make up my own evidence?"  
2       And he then asked you another question, could physical  
3       evidence, if you were allowed to -- in some situations  
4       other than fingerprints conclusively determine the  
5       identity of an assailant.

6   A   Yes.

7   Q   Mr. Kochis asked you about some of the answers that you  
8       gave to the questions that I was asking you about, should  
9       a blood sample have been collected from a certain spot  
10      in the room, when we got around to the pictures. Do you  
11      remember that?

12  A   Yes.

13  Q   And you said that -- he asked you what "possibly" meant,  
14      and you said that you might have taken it and you might  
15      not have. If the circumstances which you had taken it  
16      or not taken it had been essentially those which you  
17      defined in your testimony last week, which had to do with  
18      whether or not at the scene that the blood that we were  
19      talking about was actually part of another pattern; is  
20      that what you meant by that?

21  A   Well, that plus I can't tell you what I would have  
22      collected at the scene, because I wasn't there.

23  Q   But we're talking about what you think should have been  
24      collected.

25  A   Yes, that's correct.

26  Q   And so when you said "possibly," that would depend upon



1       whether it's all part of the same pattern or not; is  
2       that correct?

3       A   That was one thing that I was considering, yes.

4       Q   Mr. Kochis asked you about a statement at the Preliminary  
5       Hearing where you said you thought -- Mr. Kochis asked  
6       you: And did you testify at the Preliminary Hearing that  
7       in your opinion they -- meaning Mr. Stockwell and Ms.  
8       Schechter -- collected an adequate number of samples?

9               And you said: I believe so, yes.

10       Do you recall that?

11       A   Yes.

12       Q   Do you recall your testimony at the Preliminary Hearing  
13       along those lines?

14       A   Yes.

15       Q   Have you looked that up in your transcript?

16       A   I remember saying something to that effect.

17       Q   Referring you to Volume 23, Page 76, Lines 19 to 24,  
18       do you have that with you?

19       A   I don't know which volume you're talking about.

20       Q   Allow me. Showing you the indicated reference marked  
21       in purple with a check mark; is that the testimony that  
22       you were referring to?

23       A   Yes.

24       Q   The question that you were asked at the Preliminary  
25       Hearing was: Did you think that what he -- meaning Mr.  
26       Stockwell -- had taken was adequate to do a reconstruction?

1 Did you think that that was adequate to do a  
2 reconstruction, what he had taken?

3 A Yes.

4 Q As far as blood is concerned?

5 A To determine where it came from?

6 Q Well, to determine -- in order to try to do the best  
7 one could do with a crime scene reconstruction of that  
8 particular crime, do you think that Mr. Stockwell took  
9 adequate blood samples?

10 A It was adequate, yes.

11 Q For what purpose?

12 A To determine which one of the -- which types of the  
13 stains he collected would be from which victim or suspect.

14 Q Mr. Stockwell didn't know, did he, where any of the  
15 evidence that he took came from, correct?

16 A Yes.

17 Q So do you think that based on that you could tell, based  
18 on the evidence that Mr. Stockwell collected and Mr.  
19 Gregonis analyzed, that you could tell on Photograph H-213  
20 which of the victims made the stain which I have circled  
21 and marked with a C-1?

22 A If he collected it, yes.

23 Q But did he?

24 A I don't know.

25 Q Do you think that the evidence that Mr. Stockwell collected  
26 was adequate to tell you whose blood was in the various

1 stains that appeared in the Ryen bedroom?

2 A He collected a number of samples, yes.

3 Q Ten, is that right?

4 A I believe it was more than that.

5 Q Ten from the master bedroom; is that correct?

6 A I'm not sure.

7 Q Do you think that ten samples would have been adequate  
8 from the master bedroom?

9 A Personally, if I was at the scene? Is that what you're  
10 asking me, how many I would have collected?

11 Q What do you mean by -- when you say that you think what  
12 Mr. Stockwell has done is adequate, is that because you  
13 don't want to criticize somebody else from your laboratory?

14 A No. I think he did an adequate job.

15 Q What does adequate mean?

16 A He collected enough samples to get a general representa-  
17 tion of bloodstains around the room.

18 Q Do you think he got enough blood to tell you whose blood  
19 any of the blood on the walls was?

20 A No, he didn't collect every single sample in the room.

21 Q Is there any particular wall or any particular pattern  
22 on the wall, based upon Mr. Stockwell's collection, that  
23 you could identify as coming from a particular victim?

24 A I don't know the typing results. I'm sure if you knew  
25 the typing results you could do that.

26 Q Assuming that in the example that I gave you that somewhere

- 1       between the file cabinet and Jessica Jessica's blood was  
2       collected, do you think that would be adequate to tell  
3       you whose blood was circled with the C-1 there?
- 4   A    You can't tell whose blood that is unless you actually  
5       type it.
- 6   Q    Do you think it's adequate if you knew that somewhere,  
7       and didn't know where, between the typewriter and Jessica  
8       Jessica's blood was found, would that be adequate even  
9       to make a reasonable inference as to whose blood is  
10      circled by C-1?
- 11   A    You might be able to make an inference if the stains  
12      near it are Jessica's blood.
- 13   Q    But you don't -- all you know, all you know is that  
14      somewhere -- and you don't know where, Mr. Stockwell  
15      doesn't know where he got it from -- somewhere between  
16      the filing cabinet and the typewriter there and Jessica,  
17      somewhere on that wall, there was a stain from who knows  
18      where that was Jessica's. Would that be enough for you  
19      to make a reasonable inference that C-1 was Jessica's  
20      blood?
- 21   A    Possibly and possibly not.
- 22   Q    What do you mean by that?
- 23   A    Well, it depends where. If it's very close, yes. If  
24      it's not --
- 25   Q    So what I'm telling you is that Mr. Stockwell doesn't  
26      know where he got it from. So based on that lack of

1 knowledge, you couldn't make any inference; is that  
2 correct?

3 A That's correct.

4 MR. NEGUS: I think that's probably as good a place  
5 to stop as any for the day, Your Honor.

6 THE COURT: We'll resume at 9:30 in the morning.

7 (Whereupon the afternoon recess was taken  
8 at 4:00 o'clock p.m.)  
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