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DURHAM 471-3528

CHAPEL HILL 933-3754
PITTSBORO 542-3374

My whole--maybe I was trained wrong, but



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Filed 03/30/2006 Case 3:75-cr-00026-F Document 131-4 Page 3 of 40 duty to represent fully their clients occasionally 1 interpose objections to questions. 2 I verily anticipate, in view of the past 3 performances in this trial, that that will be repeated before you leave the stand. 5 I ask you, please, at the end of every 6 question to wait until--and see whether or not there is 7 an objection. If there's not, go ahead and answer it; 8 and if there is, don't say anything until I can rule on 9 it. 10 Thank you. THE WITNESS: 11 BY MR. SEGAL: 12 Now, in regard to the artist's rendition of 13 the man that you have up there in front of you, when 14 that particular drawing was shown to Ms. Stoeckley, did 15 she indicate in any physical way a reaction to that 16 drawing? 17 OBJECTION. MR. BLACKBURN: 18 SUSTAINED. THE COURT: 19 BY MR. SEGAL: 20 Did she indicate in any way that she knew 21 the person depicted there? 22 MR. BLACKBURN: OBJECTION. 23 THE COURT: I will OVERRULE that. 24 BY MR. SEGAL: 25



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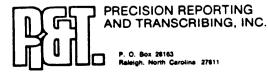
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Helena's.

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At whose request were you there in the

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FURTHER PROCEEDINGS 12:00 Noon 1 2 (The following proceedings were held in 3 the presence of the jury and alternates.) THE COURT: Any further evidence 5 for the Defendant? 6 MR. SEGAL: I am ready to call the 7 next witness. 8 THE COURT: Call him. 9 Charles Underhill, MR. SEGAL: 10 please. 11 MR. BLACKBURN: Your Honor, while we are 12 waiting, may we approach the Bench? 13 THE COURT: By all means. 14 THE CLERK: Mr. Underhill, you have 15 been previously sworn. You may just go around and 16 take a seat on the witness stand. 17 BENCH CONFERENCE 18 19 At this time, we would MR. BLACKBURN: 20 request, based on the examination of this previous 21 witness, that the Court instruct counsel for the 22 Defendant not to ask questions that he knows objections 23 are going to be sustained. 24 25 All right, I will so THE COURT:



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sworn, was examined and testified further as follows:)

EXAMINATION

BY MR. SEGAL:



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12:02 p.m.



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Q Would you tell us under what circumstances you came to meet her--you know, when and where and how that took place?

A Well, I met her at the corner of Belmont

Boulevard and Portland Avenue in the latter part of

September, 1970, in a ladies' shoe store named Bonnie

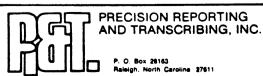
Hudgins. Bonnie and Helena were in the store whenever

I walked in, and this is the first time I ever saw her.

Bonnie Hudgins, the lady that owned the store, introduced

me to her.

Q Did you know where Helena Stoeckley lived at



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C	ase 3:75-cr-00026-F Document 131-4 Filed 03/30/2006 Page 14 of 40 "No, go away." I said, "I am going to go down and
2	get Bonnie and Jane to see if they can't talk to you
3	or just see what is wrong with you or whatever, you
4	know, the problem is." She said, "No, don't get Bonnie.'
5	She said, "I will let you in." She came to the door
6	and let me in, still crying, and sat down on the side
7	of her bed. Her bedroom was right in the very front
8	of this particular apartment, and just sobbing, just
9	like as if maybe a member of her family had just got
10	run over or something very drastically (sic) had
11	happened even to her best friend or something.
12	I asked her, I said, "What in the Lord's
13	world is wrong with you?"
14	MR. BLACKBURN: Your Honor, we would
15	OBJECT to anything the witness may have said.
16	THE COURT: I assume that he does not
17	propose to say what she said. If you do, then don't
18	say it.
19	BY MR. SEGAL:
20	Q Did you find out from her what was the
21	matter with her at that time?
22	A No, sir; I didn't find out at that time just
23	exactly what had her upset or what she was crying about:

exactly what had her upset or what she was crying about;

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at this time, no, sir, I did not.

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Did you have a conversation with her, Q



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Bonnie Hudgins.

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Did Helena Stoeckley eventually move away



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Q As a result of anything that you learned in that conversation, did you locate or find out where Helena Stoeckley was living?

A Yes, sir; I talked to her on the telephone in Daytona Beach, Florida.

You talked with Helena Stoeckley in Daytona?



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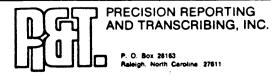
1 1	ase 3:75-cr-00026-F A	Document 131-4 Filed 03/30/2006 Page 18 of 40 Yes, sir; certainly did.
2	Ö	And about what year was that?
3	А	That was in '74.
4	Q	Did you have occasion to talk to her some
5	other time	after that?
6	A	No, sir; I never have.
7	Ó	Did you have occasion to see her last week
8	here in thi	s courthouse?
9	А	Yes, sir; I did.
10	Q	And where was that?
11	A	Well, just right on the seventh floor here
12	in one of t	them rooms back there, room numberwhatever
13	I said woul	ld be a guess.
14	Q	Now, did you have occasion to see Helena
15	Stoeckley t	this weekend outside of the courthouse?
16	А	Yes, sir; I certainly did.
17	Q	All right, when was the first time you came
18	in contact	with Helena Stoeckley this weekend?
19	А	I guess it was Saturday, about 1:00 o'clock.
20	Q	In the morning or afternoon?
21	A	In the afternoonp.m.
22	Q	And where did you see Ms. Stoeckley?
23	A	When I first saw her, she wasit looks like
24	an old Trav	velodge motel. It's been renamed.
25	Q	It was here in downtown Raleigh?



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СК. 5

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the people who committed the MacDonald murders.



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د''ع # ي ع them that in court," she offered the explanation of why she was afraid to say it in here. Now she testified here when she was a witness that she did not know where she was or what happened that night or who she was with.

She has made this statement. She has said that she knew the names. We are entitled to impeach her on that, Your Honor. Nothing could be more central to her testimony than her claim she didn't know where she was or what happened at the MacDonald house.

This man was with her at her request. I want these questions as preliminary. They are foundational that he wasn't there on some unreasonable basis-because she was in fear. He will also testify she was not under the influence of drugs, that she was sober when she said these things.

I think it is about time we were allowed to get to that issue in this case.

MR. BLACKBURN: Your Honor, we would OBJECT totally on the grounds: one, it is already clear that she has been with the Defense team and the Defense witnesses all weekend. We know that she, as you said this morning, has gone all over the lot on these things. We don't think what happened or who assaulted her is relevant. This goes right back to what you ruled this



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MR. BLACKBURN: Regardless of whether she said this yesterday, from her testimony that you read from her it is clear that she said before that she knew who did it and another time she said she only suspected that she knew who did it. This goes right back-flipflopping back and forth.

She has testified in court. It is a matter of her own credibility.

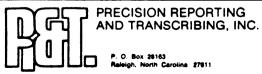
MR. SEGAL: I thought that part of the basis of Your Honor's excluding the statements made to Gaddis was you were not certain in your mind at that time whether she was under the influence of drugs or not or whether what her condition was.

Now, this witness—we will question him on this thing, but I was only trying to lay my first step foundation as to why he was with her—her fear. That is critical to explain why a witness has withheld information. If she lives in fear, that explains her equivocation. That explains why she vacillates a little bit. But here, knowing why she is in this town, the explanation has to do with the Government, Your Honor, as to why she is afraid to make her statement and they don't want to hear that.



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THE COURT: Members of the jury,

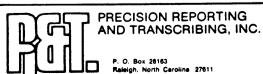
we have another one of these knotty evidentiary questions that has come up. We let you go Friday afternoon so you would not have to be cooped up while they were being decided, but another one of a similar kind--not the same one, but a similar kind--has come up.'

So I am going to let you retire a little early today and come back today at 2:30, while we go into this battle here that has arisen.

Let me say that while it may appear to you that there is a lot of foot dragging in this case, these things are important; and when points are raised, they are doing so in the discharge of their duties and responsibilities to leave no stone unturned because the case is important.

Then you say additionally that you are really not wasting all this much time because except for the matters which were handled in your absence Friday afternoon, and the rulings which had been made subsequent to that, you were perhaps looking about two days of testimony in the face, which you will not have to hear now.

So, it is not--I just say this by way of letting you know that it is not a waste of time. It is important. So I am going to let you retire now and go



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Federal Rules of Evidence, the Court will permit this witness now to be examined on voir dire as to the admissibility of the evidence, as to which there has been an Offer of Proof here in the bench conference.

BY MR. SEGAL:

- All right, Mr. Underhill?
- Yes, sir. Α
- Let's go back if we may to the first motel you saw Ms. Stoeckley at on Sunday. Now, when you saw there, you say she had a black eye?



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¢	Case 3:75-cr-00026-F Document 131-4 Filed 03/30/2006 Page 30 of 40		
1	I run in there, and she had fell. She told me she		
2	had fell in the bathroom.		
3	Anyway, she just bled all over the bed, and		
4	it had dripped from the bathroom to the bed.		
5	Q Did you question her about that injury		
6	whether she'd got it by falling or whether it happened		
7	some other way?		
8	A Well, she told me she fell, and she was in		
9	there by herself at this particular time. She was by		
10	herself. There was no one else in there with her.		
11	And sheyou knowI didn't question her		
12	about her falling, because she had a couple of things		
13	she was trying to rinse out on the shower-tub, you know,		
14	and so		
15	THE COURT: (Interposing) Where was		
16	she bleeding from?		
17	THE WITNESS: From the nose, sir.		
18	BY MR. SEGAL:		
19	Q Now, let me ask you, did she move later on		
20	that afternoon to the Hilton Inn down at the corner of		
21	Hillsborough?		
22	A Yes, sir, she did.		
23	Q And do you know why she moved out there?		
24	A Well, the lady from the motel said that she		
25	didn't want her staying there any longer.		



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Q All right, sir, she then moved out because the management asked her to leave that motel?

A Well, after this maid brought this to her attention, he and her was in the swimming pool and she had on a full-length shirt and a pair of cut-off jeans and he had on a pair of cut-off jeans and no shirt. Now, I was not there to see any of this, but the lady told me that it appeared that he was ducking her under the water and holding her under the water—this Ernest was.

MR. SEGAL: (Interposing) Your

Honor, I really resent the Government's suggestion—
we are trying to lay a foundation of the context—that

Mr. Murtagh has to carry on like this is ridiculous.

THE COURT: How is he carrying on?

MR. SEGAL: I think leaning back and laughing about the witness' testimony. If I were a witness, I would resent it very much being dragged into Court and being made to come back---

THE COURT: (Interposing) All right, now, look, you just sit down and ask your questions.

That hasn't anything to do with it. There is no jury here. The rules of evidence don't apply, and I will let

Case 3:75-cr-00026-F Document 131-4 Filed 03/30/2006 Page 33 of 40 you ask your questions, but that is it.

MR. SEGAL: I appreciate that, Your Honor. I want it understood that one rule still applied even when the jury was not still here and that was a rule called decorum, and I resent the treatment of a witness being laughed at.

not observed any decorum which was unprofessional, and
I think you are mistaken to say so. I think you are
reading more into it than it was. Go ahead with your
questions.

BY MR. SEGAL:

Q Ms. Stoeckley went over to the Hilton Inn.

Did you take her over there or do you know who took

her over there?

A Well, I rode in the vehicle that Ms. Rowder drove over there, which Helena Stoeckley and I were both in the vehicle. I went because Helena asked me to go.

Q Why did she want you along, Mr. Underhill?

A Well, she told Ms. Rowder that she trusted me and that she would feel much safer if I was in the near whereabouts. As possible—the adjoining room, if possible, would even be better—she felt more safer (sic) if I was around.



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another story.

I did not hear it the THE COURT:

first time. You have got a what?



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She said she would not because it would

She was talking about the names of the Q persons who killed the MacDonald family when she was saying that she could name three people?

> Α She did not say identically as these three



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Q Let's just take Ms. Zillioux, for example?

A Oh, she was not there Saturday---

MR. SEGAL:

(Interposing) Pardon me.



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Downtowner, over to the motel, the Journey's End, where



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