

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

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

UNITED STATES OF AMERICA .  
 .  
 v. .  
 . September 19, 2012  
 JEFFREY R. MACDONALD, . Wilmington, NC  
 Defendant/Movant .  
 . . . . .

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

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

APPEARANCES:

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P R O C E E D I N G S

8:59 A.M.

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(DEFENDANT PRESENT.)

THE COURT: GOOD MORNING. PLEASE BE SEATED. LET ME SEE COUNSEL JUST FOR A SECOND, PLEASE.

(BENCH CONFERENCE ON THE RECORD.)

THE COURT: YOUR CLIENT -- THE PROBLEM HERE IS I DON'T KNOW WHAT I'M DEALING WITH. IN OTHER WORDS, I'VE GOT ABSOLUTELY NO KNOWLEDGE OF WHAT THE ISSUE IS.

I THOUGHT ABOUT MAYBE HAVING MR. LEONARD MAKE A PROFFER TO ME HERE AT THE BENCH AS TO WHAT THE SITUATION IS. ON THE OTHER HAND, THAT WOULD JUST CONFUSE THINGS FURTHER.

I HAVE READ *SWIDLER* AND I'VE READ A NUMBER OF OTHER THINGS. I'M INCLINED TO THINK THE PRIVILEGE APPLIES. THAT'S WHAT I SO HOLD.

MR. WIDENHOUSE: CAN WE JUST GET THAT ON -- WELL, I GUESS IT'S ON THE RECORD.

THE COURT: YES, I'LL GET IT ON THE RECORD.

MR. WIDENHOUSE: OKAY.

THE COURT: THANK YOU.

(BENCH CONFERENCE CONCLUDED.)

THE COURT: COUNSEL, I'VE LOOKED INTO THE QUESTION OF PRIVILEGED COMMUNICATION. AS YOU KNOW, THE SUPREME COURT HAS DEALT WITH THIS ISSUE TO SOME EXTENT, AND I THINK THE ATTORNEY-CLIENT PRIVILEGE SURVIVES THE DEATH OF THE CLIENT, AND I SO RULE. AND IN DOING SO, I AM FOLLOWING *SWIDLER VS.*

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1 *BERLIN*, A SUPREME COURT CASE TO WHICH YOU ARE BOTH AWARE.

2 THANK YOU, COUNSEL.

3 MR. WIDENHOUSE: YOUR HONOR, I JUST WANT TO MAKE  
4 SURE THE RECORD REFLECTS THAT WE WERE ASKING YOU TO BREACH OR  
5 WAIVE THE PRIVILEGE BASED ON OUR CLIENT'S FIFTH AND SIXTH  
6 AMENDMENT DUE PROCESS AND COMPULSORY PROCESS RIGHTS TO PRESENT  
7 A DEFENSE. I JUST WANT TO MAKE SURE THE RECORD REFLECTS THE  
8 BASIS FOR OUR MOTION.

9 THE COURT: WELL, I UNDERSTAND. AND, OF COURSE, I  
10 THINK IT'S -- THE QUESTION OF PRIVILEGE HAS BEEN DEBATED MANY,  
11 MANY TIMES, BUT I THINK FOR THE MOST PART IN COMMON LAW IT  
12 SURVIVES, AND THE SUPREME COURT SO HELD IN *SWIDLER*, AND I  
13 THINK THAT THEIR REASONING IS CORRECT. THANK YOU.

14 DO YOU HAVE ANY FURTHER EVIDENCE, MR. WIDENHOUSE?

15 MR. WIDENHOUSE: NO, YOUR HONOR.

16 THE COURT: ALL RIGHT. MR. BRUCE, ARE YOU READY TO  
17 GO FORWARD?

18 MR. WIDENHOUSE: WELL, I GUESS, I JUST WANT TO MAKE  
19 SURE ALL THE EXHIBITS THAT WE'VE TENDERED IN THE NOTEBOOKS ARE  
20 PART OF THE EVIDENCE AS A WHOLE.

21 THE COURT: SURE. NOW, MR. BRUCE, DO YOU WANT TO  
22 MAKE AN OPENING STATEMENT?

23 MR. BRUCE: NO, NOT A FORMAL OPENING STATEMENT, YOUR  
24 HONOR, EXCEPT TO PREVIEW HOW WE'RE GOING TO PRESENT THE  
25 EVIDENCE.

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1 WE HAVE A NUMBER OF WITNESSES TO CALL, AND THEN WE  
2 WANT TO, DURING THAT AND PERHAPS RIGHT AFTER THAT, JUST CALL  
3 THE ATTENTION TO THE COURT BY WAY OF PUBLICATION OF SOME OF  
4 THE EXHIBITS THAT ARE IN THE RECORD.

5 THE COURT: ALL RIGHT, SIR.

6 MR. BRUCE: AND THEN WE'RE HOPEFUL THAT THE COURT  
7 WILL ALLOW A CLOSING ARGUMENT.

8 THE COURT: YES, I WILL.

9 MR. BRUCE: OKAY.

10 THE COURT: I'M GOING TO ALLOW YOU ALSO TO FILE  
11 BRIEFS ON THE ISSUES.

12 MR. BRUCE: OKAY. BUT THE CRYING NEED FOR US IN THE  
13 CLOSING ARGUMENT IS ENOUGH TIME FOR MR. MURTAGH TO -- BECAUSE  
14 WE'RE NOT PRESENTING ANY EVIDENCE ON THE UNSOURCED HAIR CLAIM.  
15 IT'S ALL IN THE RECORD. IT'S STIPULATED TO. BUT WE FEEL IT  
16 WOULD BE HELPFUL TO HAVE HIM, BY WAY OF ARGUMENT, WALK THE  
17 COURT THROUGH THE KEY EXHIBITS AND AFFIDAVITS.

18 THE COURT: WELL, I READ YOUR BRIEF ON THAT ISSUE  
19 VERY CAREFULLY AND I FRANKLY THOUGHT THERE MIGHT BE FURTHER  
20 EVIDENCE ON THAT POINT, BUT WE'LL GO FORWARD AT THIS TIME.

21 MR. BRUCE: OKAY.

22 THE COURT: ALL RIGHT, SIR.

23 MR. BRUCE: OUR FIRST WITNESS IS FRANK MILLS.

24 THE COURT: FRANK WHO? I'M SORRY.

25 MR. BRUCE: FRANK MILLS.

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1 THE COURT: THANK YOU.

2 **FRANK MILLS, GOVERNMENT WITNESS, SWORN**

3 D I R E C T E X A M I N A T I O N 9:05 A.M.

4 BY MS. COOLEY:

5 Q. GOOD MORNING, MR. MILLS.

6 A. GOOD MORNING.

7 Q. IF YOU WOULD, PLEASE STATE YOUR FULL NAME FOR THE COURT  
8 AND EXPLAIN TO US YOUR FORMER OCCUPATION.

9 A. MY NAME IS FRANK MILLS, AND I WAS AN FBI AGENT FROM 1962  
10 UNTIL I RETIRED IN 1990.

11 Q. 1990?

12 A. YES.

13 Q. AND I'LL ASK YOU TO JUST SPEAK INTO THAT MICROPHONE --

14 A. OKAY.

15 Q. -- SO THAT WE CAN MAKE SURE TO GET IT ON THE RECORD. AND  
16 DURING YOUR TIME WITH THE FBI, HOW WERE YOU EMPLOYED WITH  
17 THEM?

18 A. HOW WAS I EMPLOYED?

19 Q. IN WHAT CAPACITY DID YOU WORK FOR THE FBI?

20 A. I WAS A SPECIAL AGENT, INVESTIGATOR.

21 Q. WHERE DID YOU MOSTLY WORK?

22 A. MOST OF THE TIME IN SOUTH CAROLINA, AND I WAS ASSIGNED TO  
23 GREENVILLE, SOUTH CAROLINA.

24 Q. AND WERE YOU ASSIGNED TO GREENVILLE IN 1979?

25 A. YES, I WAS.

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1 Q. AND IN 1979, DID YOU HAVE OCCASION TO COME INTO CONTACT  
2 WITH HELENA STOECKLEY?

3 A. I DID.

4 Q. AND WAS THAT AS PART OF YOUR EMPLOYMENT WITH THE FBI?

5 A. IT WAS.

6 Q. AND HOW DID THAT COME ABOUT?

7 A. I RECEIVED A TELEPHONE CALL, I BELIEVE ON THE 13TH OF  
8 AUGUST OF THAT YEAR, FROM THE U.S. ATTORNEY'S OFFICE IN  
9 RALEIGH, NORTH CAROLINA, TELLING ME THAT JUDGE DUPREE HAD  
10 ISSUED A MATERIAL WITNESS BENCH WARRANT FOR HELENA STOECKLEY'S  
11 ARREST AND THAT WAS FOLLOWED UP BY A TELETYPE FROM THE FBI  
12 OFFICE THAT SAME NIGHT.

13 Q. MAY I HAVE GOVERNMENT EXHIBIT 2001, PLEASE? MR. MILLS,  
14 I'M SHOWING YOU GOVERNMENT EXHIBIT 2001. IF WE COULD ZOOM IN  
15 AT THE TOP. AND IF YOU COULD JUST LET US KNOW WHERE THIS  
16 ORIGINATED FROM AND WHERE THE TELETYPE CAME IN?

17 A. THE TELETYPE CAME FROM THE CHARLOTTE DIVISION AND IT WENT  
18 TO THE COLUMBIA DIVISION, WHICH WAS MY HEADQUARTERS CITY.

19 (GOVERNMENT EXHIBIT NUMBER 2001  
20 WAS IDENTIFIED FOR THE RECORD.)

21 Q. AND WHAT WAS IT IN REFERENCE TO?

22 A. THE JEFFREY ROBERT MACDONALD CASE OUT OF CHARLOTTE.

23 Q. AND IF YOU COULD SCROLL DOWN. DO YOU SEE THERE IN THE  
24 SECOND -- I'M SORRY, BACK UP TO PAGE ONE, SECOND PARAGRAPH, UP  
25 INCLUDING THE NEXT PART, PLEASE. THANK YOU. THE ONE THAT

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1 SAYS RE: CHARLOTTE. CAN YOU READ STARTING THERE, PLEASE.

2 A. THE NEXT PARAGRAPH?

3 Q. STARTING AT THE TOP THERE.

4 A. OKAY. RE: CHARLOTTE TELCALL TO FRANK -- TO S.A. FRANK  
5 MILLS, COLUMBIA, AUGUST 10, 1979. TRIAL OF CAPTIONED SUBJECT  
6 CURRENTLY IN PROCESS AND DEFENSE BEGAN PRESENTING EVIDENCE ON  
7 AUGUST 13, 1979.

8 ON AUGUST 13, 1979, U.S. DISTRICT JUDGE FRANKLIN  
9 DUPREE, EASTERN DISTRICT OF NORTH CAROLINA, RALEIGH, NORTH  
10 CAROLINA, SIGNED A MATERIAL WITNESS BENCH WARRANT AT THE  
11 REQUEST OF THE DEFENSE FOR THE ARREST OF HELENA STOECKLEY,  
12 ALSO KNOWN AS HELENA WORLIE STOECKLEY, HELENA STOECKLEY --  
13 WERLE STOECKLEY, HELENA POSTER, DIRECTING THAT SHE BE BROUGHT  
14 FORTHWITH BEFORE THE U.S. DISTRICT COURT, EASTERN DISTRICT OF  
15 NORTH CAROLINA, RALEIGH, NORTH CAROLINA. AND I NEED YOU TO  
16 SCROLL IT.

17 Q. OKAY. AND CAN I ASK YOU, WOULD THAT BE POSSIBLE THAT  
18 THAT SAYS HELENA FOSTER INSTEAD OF POSTER? I KNOW IT'S A  
19 LITTLE BLURRY GIVEN IT'S AN OLD DOCUMENT.

20 A. YES, IT COULD BE. I DON'T KNOW.

21 Q. AND THEN CONTINUING. I THINK YOU LEFT OFF WITH SINCE HER  
22 TESTIMONY.

23 A. DIRECTING THAT SHE BE BROUGHT FORTHWITH BEFORE THE U.S.  
24 DISTRICT COURT, EASTERN DISTRICT OF NORTH CAROLINA, RALEIGH,  
25 NORTH CAROLINA, SINCE HER TESTIMONY IS MATERIAL TO THIS TRIAL

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1 AND IT HAS BECOME IMPRACTICAL TO SECURE HER PRESENCE BY --

2 Q. NEXT PAGE, PLEASE.

3 A. -- BY SUBPOENA. WARRANT ORDERS THAT SHE IS TO BE  
4 DETAINED UNTIL SHE IS DISCHARGED BY THE COURT. WARRANT IS  
5 ISSUED PURSUANT TO TITLE 18 U.S. SECTION 3149.

6 BENCH WARRANT WAS ISSUED UPON SWORN AFFIDAVIT SIGNED  
7 BY DEFENSE COUNSEL BERNARD L. SEGAL, AUGUST 13TH, 1979,  
8 TESTIFYING SHE IS A NECESSARY WITNESS AND EFFORTS BY THE  
9 DEFENSE TO LOCATE HER HAVE BEEN FRUITLESS.

10 ASSISTANT UNITED STATES ATTORNEY JAMES BLACKBURN,  
11 EASTERN DISTRICT OF NORTH CAROLINA, RALEIGH, NORTH CAROLINA,  
12 REQUESTS UPON HER APPREHENSION THAT SHE BE INTERVIEWED  
13 CONCERNING PREVIOUS STATEMENTS SHE HAS MADE INDICATING THAT  
14 SHE MAY HAVE PARTICIPATED IN THE MURDER OF THE SUBJECT'S WIFE  
15 AND TWO CHILDREN AT THEIR FORT BRAGG, NORTH CAROLINA,  
16 APARTMENT DURING THE EARLY HOURS -- EARLY HOURS FEBRUARY 17TH,  
17 1970; HOWEVER, DUE TO HEAVY DRUG USE, SHE CANNOT RECALL  
18 WHETHER OR NOT SHE WAS INVOLVED. SHE HAS MADE THESE  
19 STATEMENTS TO INDIVIDUALS BOTH IN THE FAYETTEVILLE, NORTH  
20 CAROLINA AREA AND IN THE NASHVILLE, TENNESSEE -- AND IN  
21 NASHVILLE, TENNESSEE.

22 SHE HAS BEEN HOSPITALIZED IN MENTAL INSTITUTIONS ON  
23 SEVERAL OCCASIONS AND APPARENTLY IS UNSTABLE AND A HEAVY DRUG  
24 USER.

25 STOECKLEY IS DESCRIBED AS A WHITE FEMALE BORN JUNE

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1 THE 3RD, 1950, UNCONFIRMED, APPROXIMATELY FIVE FEET FOUR  
2 INCHES TALL, 150 POUNDS, HEAVY BUILD, BROWN HAIR, REPORTEDLY  
3 HAS A SMALL TATTOO ABOVE ONE OF HER BREASTS.

4 COLUMBIA, AT WALHALLA, SOUTH CAROLINA, WILL LOCATE  
5 AND APPREHEND STOECKLEY AND ADVISE THE CHARLOTTE DIVISION.  
6 BENCH WARRANT IN POSSESSION OF U.S. MARSHAL, EASTERN DISTRICT  
7 OF NORTH CAROLINA, RALEIGH, NORTH CAROLINA. SUTEL RESULTS --  
8 IT'S SUBMIT TELEGRAM RESULTS OF INVESTIGATION IMMEDIATELY.

9 IN VIEW OF STOECKLEY'S KNOWN DRUG USE AND MENTAL  
10 INSTABILITY CAUTION SHOULD BE USED IN APPREHENDING.

11 Q. NOW, YOU SAID SUTEL. WHAT IS THAT? WHAT DOES THAT MEAN  
12 TO YOU?

13 A. SUBMIT TELETYPE.

14 Q. AND WAS THE TELETYPE A COMMON WAY THAT YOU COMMUNICATED  
15 IN THE FBI IN 1979?

16 A. YES, IN SITUATIONS WHERE WE NEEDED IMMEDIATE  
17 COMMUNICATION.

18 Q. AND DID YOU, IN FACT, APPREHEND HER PURSUANT TO THE  
19 WARRANT IN THIS TELETYPE?

20 A. I DID.

21 Q. OKAY. AND WHERE DID YOU FIRST LOCATE MS. STOECKLEY?

22 A. I BELIEVE THAT WE HAD A -- WE WERE TOLD THAT SHE WAS  
23 LIVING WITH HER HUSBAND, PARAMOUR, BOYFRIEND, ERNEST DAVIS.  
24 AND I BELIEVE WE HAD A ROUTE ADDRESS OUT OF WALHALLA,  
25 POSSIBLY, SOUTH CAROLINA, WHERE HE WAS.

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1           AND ON THE DAY FOLLOWING THE TELETYPE, I HAD ANOTHER  
2 AGENT IN THE OFFICE, TOM DONOHUE, GO WITH ME, AND WE WENT TO  
3 THE POST OFFICE THERE BECAUSE WE DIDN'T KNOW WHERE THE ROUTE  
4 WAS AND WE GOT DIRECTIONS TO WHERE THE ROUTE ADDRESS WAS. AND  
5 THEN, FROM THERE, WE PROCEEDED TO THE ADDRESS, WHICH WAS A  
6 TRAILER.

7 Q.     IT WAS A TRAILER YOU SAID?

8 A.     YEAH.

9 Q.     OKAY. AND DID YOU, IN FACT, LOCATE HELENA STOECKLEY AT  
10 THAT ADDRESS?

11 A.     WE DID. WHEN WE GOT THERE, ERNEST DAVIS CAME OUT OF THE  
12 TRAILER AND SHE REMAINED IN THE TRAILER. AGENT DONOHUE STAYED  
13 WITH DAVIS AND I WENT IN AND FOUND HELENA AND WE DID COME  
14 OUTSIDE AND I IMMEDIATELY ADVISED HER WHAT IT WAS ALL ABOUT.

15 Q.     WHAT YOU WERE THERE FOR?

16 A.     YEAH.

17 Q.     OKAY. NOW, AFTER YOU LOCATED HER, YOU AND SPECIAL AGENT  
18 DONOHUE, DID YOU ARREST HER AND TAKE HER WITH YOU?

19 A.     I DID.

20 Q.     OKAY. NOW, DID MR. DAVIS COME WITH YOU AT THAT POINT?

21 A.     NO, I WOULDN'T -- WE WOULDN'T HAVE DONE THAT.

22 Q.     AND WHY WOULDN'T YOU HAVE DONE THAT? WHY WOULDN'T THAT  
23 BE PERMITTED?

24 A.     WELL, AS I RECALL, I TOLD MR. DAVIS WHERE WE WERE GOING.  
25 WE KNEW WHERE WE WERE GOING TO TAKE HER. AND I TOLD HIM, I

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1 SAID THAT IF HE WANTED TO SEE HER HE COULD MAKE ARRANGEMENTS  
2 WITH THE PICKENS COUNTY JAIL AND PROBABLY GO VISIT HER THAT  
3 NIGHT.

4 Q. DID YOU --

5 A. BUT TO DRIVE HER AND HIM TOGETHER IN THE BUREAU CAR WOULD  
6 NOT HAVE BEEN APPROPRIATE.

7 Q. WOULD NOT HAVE BEEN APPROPRIATE?

8 A. NO.

9 Q. AND WHY WOULD THAT HAVE NOT BEEN APPROPRIATE?

10 A. WELL, IT JUST WOULD HAVE CREATED A POSSIBLE VOLATILE  
11 SITUATION.

12 Q. AND WHEN YOU SAY A POSSIBLE VOLATILE SITUATION, WOULD  
13 THAT BE FOR ANY LAW ENFORCEMENT OFFICER?

14 A. OH, YES. I MEAN, HER ARREST, THAT'S TRAUMATIC. AND TO  
15 HAVE THE FIVE OF US IN THE CAR TOGETHER RIDING TO THE JAIL  
16 WOULDN'T HAVE BEEN A GOOD THING.

17 Q. THE FIVE OF YOU OR THE FOUR OF YOU?

18 A. THE FIVE -- EXCUSE ME, I'LL GET MY NUMBERS STRAIGHT. THE  
19 FOUR OF US, RIGHT.

20 Q. JUST MAKING SURE I'M NOT LEAVING ANYBODY OUT.

21 A. NO, THAT'S IT.

22 Q. AND SO WHEN YOU ARRESTED HER, WHERE DID YOU TAKE HER?

23 A. WE WENT TO THE PICKENS COUNTY JAIL.

24 Q. FROM WALHALLA?

25 A. YES.

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1 Q. AND THAT TAKES ABOUT HOW LONG?

2 A. THIRTY, 40 MINUTES, I WOULD THINK.

3 Q. OKAY. NOW, ARE YOU FAMILIAR WITH THE DISTANCE BETWEEN  
4 WALHALLA AND CHARLESTON?

5 A. YES, ROUGHLY.

6 Q. ABOUT HOW LONG WOULD IT TAKE TO GET FROM CHARLESTON TO  
7 WALHALLA OR VICE VERSA?

8 A. PROBABLY FOUR AND A HALF HOURS.

9 Q. FOUR AND A HALF HOURS?

10 A. YEAH.

11 Q. AND IF I COULD HAVE GOVERNMENT EXHIBIT NUMBER 2104.2.

12 I'M SHOWING YOU WHAT IS A MAP OF THE GREENVILLE, SOUTH  
13 CAROLINA AREA. DOES THAT LOOK FAMILIAR TO YOU?

14 A. YES, IT DOES.

15 (GOVERNMENT EXHIBIT NUMBER 2104.2

16 WAS IDENTIFIED FOR THE RECORD.)

17 Q. OKAY. AND IF YOU COULD -- DO YOU SEE WALHALLA ON THIS  
18 MAP?

19 A. (WITNESS NODS HEAD.)

20 Q. AND IF YOU COULD JUST TOUCH THE SCREEN AND CIRCLE WHERE  
21 YOU SEE WALHALLA.

22 A. HERE.

23 Q. SO, THERE WHERE YOU'VE MADE THOSE RED MARKS?

24 A. IT'S JUST SOUTHWEST OF PICKENS.

25 Q. I'M SORRY. CAN YOU SPEAK INTO THE MICROPHONE, PLEASE?

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1 A. I'M SORRY. SOUTHWEST OF PICKENS.

2 Q. OKAY. AND THEN YOU ALSO SEE PICKENS?

3 A. YES, I DO.

4 Q. IS THAT CIRCLED THERE IN RED?

5 A. IT IS.

6 Q. AND SO THE DISTANCE BETWEEN WALHALLA AND PICKENS THAT  
7 WE'RE LOOKING AT ON THIS MAP, YOU SAID IT WOULD TAKE ABOUT 35  
8 TO 40 MINUTES?

9 A. APPROXIMATELY.

10 Q. AND IF I COULD HAVE GOVERNMENT EXHIBIT 2104, PLEASE. AND  
11 IF WE COULD ZOOM IN ON THE -- THANK YOU. AND ON THE TOP HALF  
12 OF THAT, PLEASE.

13 NOW, CAN YOU SEE ON THIS MAP THE AREA THAT WE WERE  
14 JUST REFERRING TO OR --

15 A. YES.

16 Q. -- IS IT TOO SMALL? DO YOU NEED ME TO BLOW IT UP SOME  
17 MORE FOR YOU?

18 A. I CAN SEE IT.

19 Q. OKAY. AND GENERALLY WHERE IS THAT?

20 A. ON THE LEFT OF THE SCREEN. I'M TOUCHING PICKENS NOW AND  
21 WALHALLA --

22 Q. OKAY. YOU'RE TOUCHING PICKENS.

23 A. -- WOULD BE RIGHT THERE --

24 Q. OKAY.

25 A. -- AT HIGHWAY 178.

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1 (GOVERNMENT EXHIBIT NUMBER 2104  
2 WAS IDENTIFIED FOR THE RECORD.)

3 Q. MR. MILLS, CAN YOU PULL THAT MIC AROUND SO THAT WE CAN  
4 MAKE SURE TO GET ALL OF THIS ON RECORD?

5 A. ALL RIGHT.

6 Q. THANK YOU. OKAY. AND DO YOU ALSO SEE -- CAN WE BACK OUT  
7 ON THAT JUST A LITTLE BIT? DO YOU ALSO SEE WERE CHARLOTTE IS  
8 LOCATED ON THIS MAP?

9 A. YES, I DO.

10 Q. OKAY. AND WHERE IS THAT, IF YOU COULD INDICATE?

11 A. I THINK IT'S HERE.

12 Q. WE'RE GOING TO BLOW IT UP JUST A LITTLE BIT.

13 A. OKAY. CHARLOTTE IS RIGHT HERE.

14 Q. OVER THERE IN THE UPPER RIGHT-HAND CORNER?

15 A. CORRECT.

16 Q. AND ARE YOU AWARE OF ABOUT THE DISTANCE BETWEEN PICKENS  
17 AND CHARLOTTE, ROUGHLY?

18 A. MAYBE TWO HOURS.

19 Q. AND YOU SAY YOU TOOK HER TO PICKENS -- THANK YOU. YOU  
20 CAN TAKE IT OFF THE SCREEN. YOU SAY YOU TOOK HER TO PICKENS  
21 COUNTY JAIL. WHY DID YOU NOT TAKE HER TO GREENVILLE?

22 A. GREENVILLE HAD BEEN A FEDERALLY APPROVED JAIL FACILITY  
23 AND THEY WERE HAVING A DISCUSSION BETWEEN THE LOCAL  
24 AUTHORITIES AND THE MARSHAL'S OFFICE OVER HOW MUCH MONEY THEY  
25 WOULD CHARGE TO HOUSE A PRISONER AND THAT HAD NOT BEEN

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1 RESOLVED. SO, IT WAS TAKEN OFF THE FEDERALLY APPROVED --  
2 TEMPORARILY TAKEN OFF THE FEDERALLY APPROVED FACILITY LIST AND  
3 PICKENS WAS THE NEAREST FEDERALLY APPROVED FACILITY.

4 Q. AND ON THE WAY TO PICKENS, YOU SAID THAT THE PEOPLE IN  
5 THE CAR WERE YOU, SPECIAL AGENT DONOHUE AND HELENA STOECKLEY,  
6 IS THAT CORRECT?

7 A. CORRECT.

8 Q. AND DID YOU INTERVIEW HER AS PER THE TELETYPE?

9 A. YES, I DID.

10 Q. AND WHAT DID SHE TELL YOU?

11 A. I ASKED HER IF SHE WOULD TALK TO ME ABOUT THE MACDONALD  
12 SITUATION AND SHE SAID SHE WOULD. SHE TOLD ME THAT SHE WAS,  
13 AND HAD BEEN FOR A NUMBER OF YEARS, A VERY HEAVY DRUG USER.  
14 SHE SAID SHE WAS TAKING DAILY, SMOKING POT AND OTHER DRUGS  
15 INCLUDING HALLUCINATORY DRUGS. SHE SAID SHE REMEMBERS THE  
16 NIGHT OF THE MURDER BECAUSE OF THE PRESS IN THE PAPER THE NEXT  
17 DAY. SHE TOLD ME THAT SHE HAD, IN FACT, NOT ONLY USED DRUGS,  
18 BUT SHE HAD ALSO SOLD DRUGS, MOSTLY MARIJUANA. AND SHE SAID,  
19 IN FACT, SHE HAD SOLD DRUGS TO DOCTORS IN THE  
20 FAYETTEVILLE/FORT BRAGG AREA, BUT SHE SAID NOT MACDONALD.

21 AND SHE SAID THAT SHE KNEW THIS BECAUSE ON THE DAY  
22 FOLLOWING THE MURDER SITUATION, OR SHORTLY AFTER THAT, HIS  
23 PAPER WAS IN THE PAPER -- HIS PICTURE WAS IN THE PAPER AND SHE  
24 OBSERVED IT AND SAID I'VE NEVER SEEN HIM BEFORE.

25 SHE SAID THAT SHE DID RECALL THE NIGHT IN QUESTION

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1 AND SHE SAID, AS EVERY NIGHT, SHE WAS USING DRUGS. SHE  
2 RECALLS IT WAS APPROXIMATELY SHORTLY BEFORE MIDNIGHT OR ABOUT  
3 MIDNIGHT THAT SHE MET A FRIEND WHO WAS ALSO A DRUG USER, AN  
4 ENLISTED MAN AT FORT BRAGG, WHOSE NAME, I THINK, WAS GREG  
5 MITCHELL. AND MITCHELL GAVE HER A, QUOTE, HIT, UNQUOTE, OF  
6 MESCALINE. AND SHE SAID FROM THAT POINT ON SHE SAID SHE  
7 DIDN'T REMEMBER ANYTHING. IT LIKE PUT HER OUT.

8 AND SHE SAID THE NEXT THING SHE REMEMBERED WAS THE  
9 FOLLOWING MORNING AND SHE SAID SHE COULDN'T REMEMBER IF IT WAS  
10 THAT DAY OR THE NEXT DAY THAT -- I SHOULD BACKTRACK HERE --  
11 THAT DETECTIVE BEASLEY, PRINCE BEASLEY, FROM THE FAYETTEVILLE  
12 POLICE DEPARTMENT CONTACTED HER ABOUT THE MURDERS.

13 LET ME ADD THAT SHE ALSO HAD TOLD ME PREVIOUSLY THAT  
14 SHE WAS AN INFORMANT FOR THE FAYETTEVILLE POLICE DEPARTMENT  
15 AND PRINCE BEASLEY WAS AN OFFICER ON, I BELIEVE, WHAT WAS THE  
16 JOINT DRUG TASK FORCE IN THE FAYETTEVILLE AREA, AND THAT HE  
17 OPERATED HER AS AN INFORMANT. AS A MATTER OF FACT, SHE SAID  
18 THAT SHE WAS HIS INFORMANT FROM THE TIME SHE WAS 15 YEARS OLD.  
19 AND I THINK SHE WAS 27 WHEN WE ARRESTED HER.

20 AND AFTER THAT, SHE SAID THAT SHE HAD CONTACTED  
21 BEASLEY THE NEXT DAY AND JUST BASICALLY COULD NOT REMEMBER  
22 WHAT HAD HAPPENED THE PREVIOUS NIGHT.

23 Q. DID SHE ALSO MENTION SPEAKING TO A CID OFFICER NAMED  
24 MANN?

25 A. YES. MAHON OR MANN, YES.

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- 1 Q. NOW, WHERE DID THIS INTERVIEW TAKE PLACE?
- 2 A. MY INTERVIEW?
- 3 Q. YOUR INTERVIEW OF HELENA STOECKLEY.
- 4 A. IN THE CAR ON THE WAY FROM WALHALLA TO PICKENS COUNTY.
- 5 Q. OKAY. AND WHO DRIVING?
- 6 A. ALSO, WHAT SHE -- I MIGHT ADD, TOO, THAT AT THE TIME OF
- 7 THIS INCIDENT SHE WAS, IN FACT, LIVING IN FAYETTEVILLE.
- 8 Q. AT THE TIME?
- 9 A. AT THE TIME OF THE MURDER SHE WAS LIVING IN FAYETTEVILLE.
- 10 Q. NOT WALHALLA?
- 11 A. NO. NO, SHE WAS LIVING IN FAYETTEVILLE AND HAD -- I
- 12 THINK SHE TOLD ME SHE HAD TWO FEMALE ROOMMATES, BUT DID NOT
- 13 WANT TO TELL ME WHO THEY WERE.
- 14 Q. AND DURING YOUR INTERVIEW WITH HER IN THE CAR, WHO WAS
- 15 DRIVING?
- 16 A. DONOHUE.
- 17 Q. SO, YOU WERE NOT DRIVING AND INTERVIEWING?
- 18 A. NO.
- 19 Q. AND DID ANYONE ELSE RIDE IN THE CAR WITH THE TWO OF YOU?
- 20 A. NO, JUST THE THREE OF US; DONOHUE, MYSELF AND HELENA.
- 21 Q. AND WAS THERE ANY DEPUTY U.S. MARSHAL PRESENT WHEN YOU
- 22 ARRESTED HELENA STOECKLEY?
- 23 A. NO, THERE WASN'T.
- 24 Q. OR WHEN YOU TRANSPORTED HER?
- 25 A. NO.

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1 Q. OR AT PICKENS WHEN YOU COMMITTED HER?

2 A. NO.

3 Q. IF I COULD HAVE GOVERNMENT EXHIBIT 2003. AND PURSUANT TO  
4 THE REQUEST ON THE FIRST TELETYPE THAT WE LOOKED AT,  
5 GOVERNMENT EXHIBIT 2001, DID YOU THEN SEND A TELETYPE OR  
6 SOMEHOW COMMUNICATE THE RESULTS OF YOUR INTERVIEW BACK TO  
7 RALEIGH?

8 A. YES.

9 Q. OKAY. AND WHAT DID YOU DO?

10 A. WELL, I SENT THIS TELETYPE THAT I'M LOOKING AT HERE DATED  
11 AUGUST 15TH, '79, FROM COLUMBIA TO CHARLOTTE. AND IN IT I SAY  
12 THAT HELENA STOECKLEY WAS ARRESTED ON -- AT EIGHT -- I CAN'T  
13 READ THE TIME. IT'S NOT LEGIBLE, THE TIME HERE.

14 (GOVERNMENT EXHIBIT NUMBER 2003  
15 WAS IDENTIFIED FOR THE RECORD.)

16 Q. OKAY.

17 A. SOMETIME AT OCONEE COUNTY BY SPECIAL AGENTS OF THE FBI  
18 WITHOUT INCIDENT. SHE WAS INCARCERATED AT THE PICKENS COUNTY  
19 JAIL. THE U.S. MAGISTRATE AND U.S. MARSHAL GREENVILLE WERE  
20 IMMEDIATELY NOTIFIED.

21 AND I SAY THAT STOECKLEY WAS INTERVIEWED FOLLOWING  
22 HER ARREST AND SUBSTANCE OF THE INTERVIEW WAS FURNISHED BY  
23 TELEPHONE CALL FROM SPECIAL AGENT MILLS TO ASSISTANT UNITED  
24 STATES ATTORNEY IN FAYETTEVILLE, NORTH CAROLINA, AND TO THE  
25 FBI IN RALEIGH, NORTH CAROLINA.

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1 Q. SO, IN ADDITION TO THE TELETYPE, DID YOU ALSO CALL IN THE  
2 INFORMATION THAT YOU GOT FROM HELENA?

3 A. THAT'S CORRECT.

4 Q. OKAY. AND DO YOU KNOW AN INDIVIDUAL BY THE NAME OF JIMMY  
5 BRITT?

6 A. NO, I DON'T.

7 Q. SO, HE WAS NOT WITH YOU AT ANY POINT DURING ANY OF THIS?

8 A. NO.

9 Q. NOW, ONCE YOU ARRIVED AT THE PICKENS COUNTY JAIL WITH  
10 HELENA, WHAT DID YOU AND SPECIAL AGENT DONOHUE DO?

11 A. WELL, WE WOULD HAVE BOOKED HER INTO THE JAIL. I BELIEVE  
12 WE PROBABLY CALLED THE JAIL ON THE WAY AFTER THE ARREST TO LET  
13 THEM KNOW WE WERE COMING. AND THEN WE WOULD HAVE BOOKED HER  
14 INTO THE JAIL.

15 Q. NOW, WHEN SOMEONE IS BOOKED INTO A JAIL, ARE THEY  
16 FINGERPRINTED?

17 A. YES.

18 Q. MAY I HAVE GOVERNMENT EXHIBIT 2006, PLEASE? AND I'M  
19 SHOWING YOU HERE GOVERNMENT EXHIBIT 2006. WHAT'S THE NAME ON  
20 THIS FINGERPRINT CARD?

21 A. HELENA WORLIE STOECKLEY.

22 (GOVERNMENT EXHIBIT NUMBER 2006  
23 WAS IDENTIFIED FOR THE RECORD.)

24 Q. AND WHAT'S THE DATE THAT THESE PRINTS WERE TAKEN?

25 A. THE DATE WAS 8/14/79.

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1 Q. AND IS THAT THE DAY THAT YOU ARRESTED HER?

2 A. YES.

3 Q. OKAY. AND DOES IT LIST THE CHARGE OR THE REASON WHY SHE  
4 WAS BEING PRINTED?

5 A. YES, IT DOES. MATERIAL WITNESS.

6 Q. IF I MAY HAVE GOVERNMENT EXHIBIT 2007? AND IS THIS ALSO  
7 A FINGERPRINT CARD?

8 A. YES, IT IS.

9 Q. IS IT A DIFFERENT FINGERPRINT CARD?

10 A. IT'S A DIFFERENT FINGERPRINT CARD, BUT IT'S OF THE SAME  
11 PERSON.

12 (GOVERNMENT EXHIBIT NUMBER 2007  
13 WAS IDENTIFIED FOR THE RECORD.)

14 Q. OKAY. SAME DATE?

15 A. I'M SORRY?

16 Q. IS IT FROM THE SAME DATE?

17 A. YES.

18 Q. OKAY. AND WHAT WAS THE LOCATION THAT THE CARD WAS TAKEN?

19 A. (NO RESPONSE.)

20 Q. DOES IT LIST IT UNDERNEATH HER NAMES?

21 A. OH, YEAH. OH, YES, IT DOES. YEAH. RIGHT. IT WAS --  
22 IT'S BLOCK STAMPED PICKENS COUNTY SHERIFF'S OFFICE.

23 Q. AND IS THAT ALSO FOR A MATERIAL WITNESS THAT'S A FEDERAL  
24 PRISONER?

25 A. YES, IT IS.

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1 Q. AND DOWN IN THE MIDDLE OF THE PRINTS, IS THERE A NOTATION  
2 THERE ABOUT --

3 A. ONE OF THE FINGERPRINTS IS MISSING. AND I THINK IT SAYS  
4 LEFT THUMB, I BELIEVE. AND THE FINGERPRINT WAS NOT TAKEN IN  
5 THIS BLOCK BECAUSE THERE'S A NOTATION STATING THAT THE LEFT  
6 THUMB WAS IN A CAST.

7 Q. NOW, WHEN YOU COMMIT SOMEONE TO THE PICKENS COUNTY JAIL  
8 OR IN YOUR EXPERIENCE, DID YOU ALSO HAVE TO FILL OUT A  
9 COMMITMENT FORM?

10 A. YES.

11 Q. IF I COULD HAVE GOVERNMENT EXHIBIT 2064. NOW, I'M  
12 SHOWING YOU A COMMITMENT FORM. IT'S FORM 102. IS THERE A  
13 NAME AS TO WHO WAS BEING COMMITTED ON THIS FORM?

14 A. YES, THERE IS.

15 Q. AND WHO IS IT THAT'S BEING COMMITTED?

16 A. HELENA WORLIE STOECKLEY.

17 Q. AND WHAT'S THE DATE OF THAT COMMITMENT?

18 A. 8/14/79.

19 Q. AND THE LOCATION?

20 A. PICKENS, SOUTH CAROLINA.

21 (GOVERNMENT EXHIBIT NUMBER 2064

22 WAS IDENTIFIED FOR THE RECORD.)

23 Q. SO, IS THAT THE DATE THAT YOU COMMITTED HER TO PICKENS?

24 A. THAT'S CORRECT.

25 Q. NOW, WHO SIGNED AND FILLED OUT THIS COMMITMENT FORM, DO

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1 YOU KNOW?

2 A. MY ASSOCIATE, TOM DONOHUE, THE OTHER AGENT THAT  
3 ACCOMPANIED ME THAT DAY.

4 Q. OKAY. AND DO YOU RECOGNIZE HIS SIGNATURE ON THIS FORM?

5 A. YES, I DO.

6 Q. AND, AGAIN, DOES IT NOTE WHAT SHE'S BEING CHARGED WITH?

7 A. YES, IT DOES. MATERIAL WITNESS.

8 Q. AND ABOUT WHAT TIME WAS THIS COMMITMENT FORM FILLED OUT?

9 A. 6:32 P.M.

10 Q. AND JUST AS THERE IS A COMMITMENT FORM, IS THERE ALSO A  
11 RELEASE FORM FOR A PRISONER FROM BEING -- WHEN THEY'RE BOOKED  
12 INTO THE JAIL?

13 A. YES, THERE IS.

14 Q. MAY I HAVE GOVERNMENT EXHIBIT 2066? AND THIS IS THE  
15 RELEASE FORM FOR HELENA STOECKLEY. WHAT IS THE DATE OF THIS  
16 RELEASE FORM?

17 A. OH, THE FOLLOWING DAY, 8/15/79.

18 (GOVERNMENT EXHIBIT NUMBER 2066  
19 WAS IDENTIFIED FOR THE RECORD.)

20 Q. OKAY. AND WHAT IS THE NAME OF THE INDIVIDUAL WHO SHE WAS  
21 RELEASED INTO THE CUSTODY OF?

22 A. SHE WAS RELEASED TO VANOY KENNEDY, DEPUTY U.S. MARSHAL.

23 Q. DO YOU KNOW VERNOY KENNEDY?

24 A. YES, I DO.

25 Q. OKAY.

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1 A. YES.

2 THE COURT: I'M SORRY. WHAT WAS THE NAME AGAIN?

3 THE WITNESS: VANOY, V-A-N-O-Y, KENNEDY.

4 THE COURT: THANK YOU.

5 BY MS. COOLEY:

6 Q. IS IT VERNOY, V-E-R-N-O-Y?

7 A. YES, YOU'RE RIGHT. I'M SORRY. EXCUSE ME.

8 MADAM CLERK: I'M SORRY, WE'RE HAVING A HARD TIME  
9 HEARING YOU. LET'S TRY THAT.

10 THE WITNESS: OKAY. THAT'S CORRECT. NO, I  
11 MISPELLED IT. IT'S V-E-R-N-O-Y. IT'S VERNOY.

12 BY MS. COOLEY.

13 Q. AND DID YOU KNOW HIM -- HOW DID YOU KNOW HIM AT THE TIME?

14 A. I KNEW HIM WHEN HE WAS A DEPUTY WITH THE GREENVILLE  
15 COUNTY SHERIFF'S OFFICE SOME YEARS PRIOR TO BECOMING A MARSHAL  
16 AND THEN HE BECAME A DEPUTY UNITED STATES MARSHAL AND I KNEW  
17 HIM ALL THROUGH THAT TIME. WE WORKED IN THE SAME FEDERAL  
18 BUILDING IN GREENVILLE TOGETHER.

19 Q. AND WHAT IS HIS PHYSICAL DESCRIPTION?

20 A. HE'S A BLACK MALE, PROBABLY SIX FOOT TWO, MEDIUM BUILD,  
21 BACK THEN ABOUT MY AGE, BACK THEN.

22 Q. BACK THEN ABOUT YOUR AGE?

23 A. YEAH.

24 Q. OKAY. THANK YOU. AND DURING THE ENTIRE TIME THAT YOU  
25 WERE WITH HELENA STOECKLEY ON AUGUST 14TH OF 1979, DID SHE

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1 EVER CONFESS TO ANYTHING REGARDING THE MACDONALD MURDERS TO  
2 YOU?

3 A. NO, SHE DID NOT.

4 Q. NOW AS A PART OF YOUR DUTY AS A LAW ENFORCEMENT OFFICER  
5 WITH THE FBI, AFTER TAKING AN INTERVIEW LIKE YOU DID WITH  
6 HELENA STOECKLEY, WOULD YOU MEMORIALIZE THAT IN SOME WAY?

7 A. YES.

8 Q. AND HOW WOULD YOU DO THAT?

9 A. WELL, WE HAD A RULE, WE WOULD WRITE UP THE RESULTS OF THE  
10 INTERVIEW OR ARREST OR COMBINATION OF THE TWO WITHIN A FIVE  
11 DAY PERIOD OF THE INCIDENT.

12 Q. AND WAS THAT COMMONLY REFERRED TO AS A 302?

13 A. YES, IT WAS.

14 Q. MAY I HAVE GOVERNMENT EXHIBIT 2002, PLEASE? DID YOU  
15 CREATE A 302 FOR YOUR INTERVIEW WITH HELENA STOECKLEY ON  
16 AUGUST 14TH, 1979?

17 A. I DID.

18 Q. AND I WANT YOU TO TAKE A LOOK AT THIS DOCUMENT. DO YOU  
19 SEE YOUR NAME HERE ON THIS DOCUMENT?

20 A. I DO.

21 Q. OKAY. AND DO YOU RECOGNIZE WHAT THIS DOCUMENT IS?

22 A. YES, I DO.

23 Q. WHAT DO YOU RECOGNIZE IT TO BE?

24 A. THE RESULTS OF MY ARREST AND INTERVIEW OF HELENA ON THAT  
25 DAY, THE 14TH.

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1 (GOVERNMENT EXHIBIT NUMBER 2002  
2 WAS IDENTIFIED FOR THE RECORD.)

3 Q. NOW, WAS IT A MULTI-PAGE DOCUMENT?

4 A. I THINK SO. I'VE ONLY GOT ONE HERE, BUT I THINK THERE'S  
5 ANOTHER PAGE OR TWO.

6 Q. CAN WE SCROLL THROUGH THE REST OF THE PAGES?

7 A. I'M SORRY? OH. YEAH, A THREE PAGE DOCUMENT.

8 Q. OKAY. AND BACK TO THE FIRST PAGE, IF YOU WOULD. NOW, IS  
9 YOUR NAME ON THIS FIRST PAGE?

10 A. YES, IT IS.

11 Q. AND THERE'S SOME WRITING THERE AND WHAT IS THAT -- BY  
12 YOUR NAME, WHAT IS THAT ABOUT?

13 A. SOME WRITING AT THE BOTTOM?

14 Q. UH-HUH.

15 A. WELL, WE WOULD OKAY -- WE WOULD INITIAL THE 302 AFTER IT  
16 WAS PRODUCED TO VERIFY THAT IT WAS ACCURATE.

17 Q. AND WAS THAT STANDARD PROCEDURE AT THE TIME?

18 A. YES.

19 Q. STILL STANDARD PROCEDURE, PRESUMABLY?

20 A. YES.

21 Q. AND WHAT IS THE DATE THAT YOU COMPLETED THIS 302 OR WHAT  
22 IS THE DATE, RATHER, EXCUSE ME, THAT THE 302 WAS COMPLETED IN  
23 REFERENCE TO THE INTERVIEW?

24 A. I THINK --

25 Q. LET ME REPHRASE THAT.

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1 A. -- THAT WOULD BE AUGUST 27TH.

2 Q. AND WHAT WAS THE DATE OF THE INTERVIEW THAT YOU WERE  
3 WRITING ABOUT?

4 A. THE 14TH.

5 Q. AND IF WE COULD START AT THE TOP WITH PARAGRAPH ONE.

6 A. OKAY.

7 Q. IF YOU WOULD JUST READ TO US WHAT YOU WROTE.

8 A. HELENA WORLIE STOECKLEY, ALSO KNOWN AS GYPSY, WAS  
9 ARRESTED BY SPECIAL AGENTS MILLS AND DONOHUE IN A TRAILER  
10 LOCATED OFF HIGHWAY 24, OAKWAY COMMUNITY, OCONEE COUNTY. SHE  
11 WAS IMMEDIATELY ADVISED OF THE IDENTITY OF THE ARRESTING  
12 AGENTS AND THAT THE ARREST WAS BASED ON A MATERIAL WITNESS  
13 BENCH WARRANT ISSUED ON AUGUST 13TH, 1979, BY U.S. DISTRICT  
14 JUDGE FRANKLIN DUPREE, EASTERN DISTRICT OF NORTH CAROLINA,  
15 RALEIGH, NORTH CAROLINA. STOECKLEY WAS LIVING AT THE ABOVE  
16 RESIDENCE WITH ERNEST T. DAVIS, WHO'S PERMANENT RESIDENCE IS  
17 -- AND THAT'S BLANKED OUT -- WALHALLA, SOUTH CAROLINA.  
18 STOECKLEY ADVISED THAT SHE WAS AGREEABLE TO TALKING TO THE FBI  
19 CONCERNING ANY INFORMATION SHE MAY HAVE REGARDING THE MURDER  
20 OF COLETTE S. MACDONALD AT FORT BRAGG, NORTH CAROLINA, IN  
21 1970.

22 Q. AND IF YOU'LL CONTINUE.

23 A. STOECKLEY ADVISED THAT AT THE TIME OF THE MURDER SHE WAS  
24 RESIDING ON CLARK STREET AT MARRAMOUNT HILL, FAYETTEVILLE,  
25 NORTH CAROLINA. SHE WAS LIVING IN AN APARTMENT WITH TWO OTHER

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1 GIRLS WHOSE NAMES SHE DID NOT CARE TO MENTION. SHE ADVISED  
2 THAT SHE WAS A HEAVY USER OF DRUGS AT THAT TIME AND DAILY  
3 SMOKED POT, DROPPED ACID, USED HEROIN AND OPIATE DERIVATIVES.  
4 SHE ADVISED THAT SHE WAS AN INFORMANT FOR THE LOCAL  
5 AUTHORITIES IN DRUG MATTERS AND WAS ALSO DEALING IN DRUGS  
6 HERSELF. SHE ADVISED THAT SHE HAD SOLD DRUGS TO SEVERAL  
7 DOCTORS IN THE FAYETTEVILLE, NORTH CAROLINA AREA, MOSTLY POT.  
8 SHE STATED THAT SHE HAD SEEN PHOTOGRAPHS OF DR. MACDONALD  
9 AFTER HIS COURT MARTIAL SUBSEQUENT TO THE MURDER, AND SHE FELT  
10 THAT SHE HAD NEVER SEEN HIM BEFORE. SHE WAS CERTAIN -- SHE  
11 STATED THAT SHE IS CERTAIN THAT SHE NEVER SOLD ANY DRUGS TO  
12 DR. MACDONALD PERSONALLY. SHE ADVISED THAT DURING THIS TIME  
13 HE WAS UNDER -- SHE WAS UNDER TREATMENT AT WOMACK ARMY  
14 HOSPITAL ON FORT BRAGG. SHE STATED THAT IN TRAVELLING FROM  
15 THE WOMACK HOSPITAL TO HER RESIDENCE, SHE WOULD PASS BY THE  
16 CASTLE DRIVE APARTMENTS, WHICH SHE UNDERSTOOD WERE THE  
17 APARTMENTS WHERE DR. MACDONALD AND -- WERE THE APARTMENTS  
18 OCCUPIED BY DR. MACDONALD AND HIS FAMILY. SUBSEQUENT TO THE  
19 MURDER, SHE ADVISED THAT SHE COULD NEVER FIGURE OUT HOW MANY  
20 -- HOW ANY BAND OF HIPPIES, AS ALLEGED BY DR. MACDONALD, COULD  
21 HAVE WALKED THROUGH AN OFFICERS BARRACKS SECTION OF FORT  
22 BRAGG, INASMUCH AS THERE ARE NUMEROUS MILITARY POLICE PATROLS  
23 PATROLLING THE AREA REGULARLY.

24 CONTINUE?

25 Q. YES, PLEASE.

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1 A. SHE ADVISED FURTHER THAT AT THE SAME -- YOU NEED TO GO  
2 UP.

3 Q. THE NEXT PAGE, PLEASE. IF YOU COULD START UP AT THE TOP.

4 A. OKAY. APPROXIMATE TIME THAT SHE AND SOME OF HER FRIENDS  
5 WERE INVOLVED IN -- AT THAT TIME -- AT THAT APPROXIMATE TIME,  
6 SHE AND SOME OF HER FRIENDS WERE INVOLVED IN WITCHCRAFT.

7 STOECKLEY ADVISED THAT ON THE DAY PRECEDING THE  
8 MURDER, SHE HAD HEAVILY USED VARIOUS TYPES OF DRUGS. SHE  
9 RECALLS AT APPROXIMATELY MIDNIGHT, AN ENLISTED MAN NAMED GREG  
10 MITCHELL APPEARED AS -- DESCRIBED AS A WHITE MALE, ATTACHED TO  
11 FORT BRAGG, CAME TO HER APARTMENT AND MET HER OUTSIDE THE  
12 APARTMENT. SHE STATED THAT HE WAS ALONE AT THE TIME AND HE  
13 GAVE HER A HIT OF MESCALINE. THIS DRUG COMPLETELY KNOCKED HER  
14 OUT TO THE POINT THAT SHE HAS ABSOLUTELY NO RECOLLECTION OF  
15 ANY ACTIVITY OF HERS FOR THE REST OF THE NIGHT. SHE ADVISED  
16 THAT THE NEXT THING THAT SHE CAN REMEMBER WAS THAT ON THE DAY  
17 OF THE MURDER OR THE DAY FOLLOWING THE MURDER, SHE WAS PICKED  
18 UP FOR QUESTIONING BY FAYETTEVILLE POLICE -- BY THE  
19 FAYETTEVILLE POLICE DEPARTMENT. SHE BELIEVES THAT SHE WAS  
20 INTERROGATED BY AN OFFICER -- BY OFFICER BEASLEY. SHE RECALLS  
21 GIVING BEASLEY A NUMBER OF DIFFERENT STORIES AS TO WHERE SHE  
22 WAS DURING THE TIME OF THE MURDERS. SHE STATED THAT HER  
23 REASON FOR DOING THIS WAS THAT SHE FELT THAT A LIE WOULD BE  
24 MORE BELIEVABLE THAN IF SHE WAS TO TELL THE TRUTH WHICH WAS  
25 THAT SHE SIMPLY WAS SO HIGH ON DRUGS THAT SHE HAD NO

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1 RECOLLECTION OF WHERE SHE WAS OR WHAT SHE WAS DOING.

2 Q. AND IF YOU'LL CONTINUE.

3 A. OKAY. APPROXIMATELY FOUR TO SIX WEEKS LATER, SHE WAS  
4 CONTACTED BY A CID OFFICER NAMED MAHON. SHE STATED THAT HE  
5 WAS -- THAT HE INTERROGATED HER CONCERNING THE MURDER AND AT  
6 THAT TIME, SHE TOLD HIM THAT SHE SIMPLY DID NOT KNOW WHERE SHE  
7 WAS OR WHAT SHE WAS DOING. SHE STATED THAT SHE MAY HAVE TOLD  
8 HIM THAT BECAUSE SHE DID NOT KNOW WHETHER OR NOT -- LET ME  
9 START AGAIN. SHE STATED THAT SHE MAY HAVE TOLD HIM THAT --  
10 MAY HAVE TOLD HIM THAT SHE DID NOT KNOW WHETHER OR NOT SHE  
11 COMMITTED THE MURDERS BECAUSE SHE HAD NO IDEA OF HER  
12 ACTIVITIES THAT NIGHT. AT THAT TIME, SHE WAS ASKED TO TAKE A  
13 POLYGRAPH EXAMINATION BUT WAS AFRAID TO DO SO. SHE ADVISED  
14 THAT THE REASON SHE DID NOT WANT TO TAKE A POLYGRAPH WAS  
15 BECAUSE SHE WAS A HEAVY USER OF DRUGS AND SHE HAD HEARD THAT  
16 POLYGRAPH OPERATORS COULD OBTAIN ANY RESULTS THEY WANT,  
17 PARTICULARLY WITH REGARD TO DRUG USERS.

18           SOMETIME THEREAFTER, SHE LEFT THE FAYETTEVILLE,  
19 NORTH CAROLINA AREA AND WAS ACCEPTED ON A CONDITIONAL BASIS  
20 INTO AQUINAS COLLEGE, NASHVILLE, TENNESSEE. SHE STATED THAT  
21 WHILE SHE WAS ATTENDING THIS COLLEGE SHE WAS ARRESTED FOR  
22 DRUGS. FOLLOWING HER ARREST, SHE WAS AGAIN QUESTIONED  
23 CONCERNING THE MURDER IN FAYETTEVILLE BY FAYETTEVILLE POLICE  
24 OFFICER BEASLEY AND CID AGENT MAHON. SHE STATED THEY TRAVELED  
25 TO NASHVILLE TO INTERVIEW HER. SHE STATED SHE HAD WORKED OUT

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1 A DEAL WITH MAHON WHERE SHE WOULD HAVE THE LOCAL DRUG -- WHERE  
2 HE WOULD HAVE THE LOCAL DRUG CHARGES DROPPED IF SHE WOULD  
3 AGREE TO A POLYGRAPH EXAMINATION. SHE AGREED TO DO SO. SHE  
4 STATED THAT THE POLYGRAPH EXAMINATION WAS GIVEN TO HER OVER A  
5 TWO DAY PERIOD. SHE RECALLED THAT THE FIRST DAY SHE WAS SO  
6 HIGH DRUGS THAT THERE WAS NO POSSIBILITY OF OBTAINING AN  
7 ACCURATE POLYGRAPH EXAMINATION. SHE STATED THAT SHE DOES NOT  
8 KNOW THE OUTCOME OF THIS POLYGRAPH EXAMINATION.

9           STOECKLEY ADVISED THAT SHE HONESTLY DOES NOT KNOW  
10 WHAT SHE DID THE NIGHT -- THAT NIGHT, THE NIGHT OF THE  
11 MURDERS, AND THEREFORE, COULD NOT CATEGORICALLY STATE THAT SHE  
12 WAS NOT INVOLVED IN THE MURDER. SHE STATED THAT SHE HAS HAD A  
13 RECURRING DREAM SINCE THE MURDER IN WHICH SHE IS PICTURED AS  
14 BEING DRESSED IN BLACK, WITH A CANDLE IN HER HAND, AND THE  
15 WORDS APPEARING ON A WALL OF WHATEVER ROOM SHE IS IN WITH THE  
16 INSCRIPTION ACID IS GROOVY, KILL THE PIGS. SHE STATED IN THIS  
17 DREAM, SHE DOES NOT SPECIFICALLY SEE BODIES OR ANYONE BEING  
18 KILLED OR ANYTHING OF THIS NATURE. SHE STATED THAT THIS DREAM  
19 COULD VERY WELL BE BASED ON THE INFORMATION THAT SHE HAD READ  
20 IN THE NEWSPAPER ACCOUNTS OF THE MURDER.

21 Q.    THANK YOU. AND NOW JUST TO ORIENT US TO TIME AND PLACE  
22 OF THIS STATEMENT, THIS WAS TAKEN IN THE CAR ON THE 14TH OF  
23 AUGUST, BEFORE SHE GOT TO RALEIGH FOR THE TRIAL, IS THAT  
24 RIGHT?

25 A.    THAT'S CORRECT.

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1 Q. NOW, HAVE YOU HAD OTHER OCCASIONS TO COME INTO CONTACT  
2 WITH HELENA STOECKLEY AFTER THAT, TAKING THAT STATEMENT FROM  
3 HER?

4 A. PROBABLY TWO OR THREE.

5 Q. OKAY. AND DID SHE EVER, DURING THOSE ENCOUNTERS, EVER  
6 GIVE YOU A VERSION THAT DIFFERED FROM WHAT YOU SPOKE WITH HER  
7 ABOUT IN THE CAR?

8 A. NO, GENERALLY SHE SAID THE SAME THING EVERY TIME I TALKED  
9 TO HER.

10 Q. DID YOU HAVE OCCASION TO INTERVIEW HER ON SEPTEMBER 10TH  
11 OF 1981, WITH SPECIAL AGENT BUTCH MADDEN?

12 A. I DID.

13 Q. AND AT THAT POINT IN TIME WERE YOU ABLE TO HAVE A  
14 CONVERSATION WITH HER REGARDING HER INTERACTION WITH DEFENSE  
15 INVESTIGATORS TED GUNDERSON AND PRINCE BEASLEY?

16 A. YES. I WAS -- BUTCH MADDEN HAD CONTACTED ME. HE WAS IN  
17 RALEIGH AND HE WANTED TO COME DOWN TO OUR AREA IN SOUTH  
18 CAROLINA AND INTERVIEW HER.

19 AND THE TWO OF US WENT OUT AND WE DID TALK TO HER.  
20 AND AT THAT TIME SHE TOLD US THAT, AS SHE DID IN ALL OF THESE  
21 SUBSEQUENT CONVERSATIONS, HER MAIN IDEA WAS SHE WAS VERY  
22 UNHAPPY WITH THE PRIVATE INVESTIGATORS.

23 BY THIS TIME, I THINK POLICE OFFICER BEASLEY, I  
24 GUESS, HAD RETIRED AND WAS A PRIVATE INVESTIGATOR. AND THE  
25 OTHER PRIVATE INVESTIGATOR WAS TED GUNDERSON, WHO WAS A

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1 RETIRED FBI ACTING SPECIAL AGENT IN CHARGE FROM LOS ANGELES.  
2 AND THEY HAD HAD NUMEROUS CONTACTS WITH HER AND, IN FACT, THEY  
3 HAD FLOWN HER OUT TO CALIFORNIA.

4 AND AS I RECALL, ON ONE OCCASION, ONE OF -- I THINK  
5 PROBABLY BEASLEY BROUGHT A FELLOW WITH HIM WHO WAS A GENTLEMAN  
6 BY THE NAME OF BOST, B-O-S-T. AND I BELIEVE HE WAS AN AUTHOR  
7 WHO WAS GOING TO WRITE A BOOK ABOUT THE WHOLE MACDONALD  
8 SITUATION. AND ALSO THERE WAS TALK ABOUT WHAT HER CUT OF THE  
9 REVENUE OR THE ROYALTIES WOULD BE, A CERTAIN PERCENTAGE, AND  
10 THIS SORT OF THING.

11 AND I BELIEVE I RECALL THAT SHE SAID THAT SHE DIDN'T  
12 WANT TO TALK TO ANYBODY UNTIL SHE HAD THIS WHOLE THING BEHIND  
13 HER. AND AT SOME POINT GUNDERSON SAID HE WAS GOING TO FLY TO  
14 WASHINGTON, D.C., AND OBTAIN TOTAL IMMUNITY FROM PROSECUTION  
15 FOR HER.

16 ON ANOTHER OCCASION, I THINK PART OF ONE OF THE  
17 CONVERSATIONS, ONE OF EITHER -- PROBABLY BEASLEY, BUT I DON'T  
18 REMEMBER IF IT WAS HIM OR MAHON, BROUGHT A REPORTER FROM THE  
19 *WASHINGTON POST* DOWN TO SOUTH CAROLINA, I BELIEVE, AND SHE  
20 INTERVIEWED OR HE INTERVIEWED HELENA STOECKLEY. AND THAT WAS  
21 BASICALLY WHAT THE WHOLE THRUST OF EVERYTHING WAS.

22 Q. OKAY. AND DURING THAT CONVERSATION, DID SHE ALSO SPEAK  
23 WITH YOU ABOUT HER FEELINGS REGARDING HER INTERACTIONS WITH  
24 PRINCE BEASLEY AND TED GUNDERSON?

25 A. YES. SHE WAS NOT HAPPY WITH IT. SHE THOUGHT THAT SHE

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1 WAS BEING HARASSED. AS A MATTER OF FACT, ON THE FIRST  
2 INTERVIEW WHEN I WENT OUT WITH BUTCH MADDEN, THE AGENT FROM  
3 NORTH CAROLINA, SHE FURNISHED US WITH A COPY OF A LETTER I  
4 BELIEVE THAT WHAT SHE SAID WAS AN ALMOST EXACT DUPLICATE OF  
5 THE LETTER SHE HAD SENT TO GUNDERSON, WHICH STATED, IN EFFECT,  
6 STAY AWAY FROM ME AND I DON'T WANT ANYTHING MORE TO DO WITH  
7 YOU.

8 Q. AND DO YOU ALSO RECALL AN INCIDENT OR A TIME, RATHER, IN  
9 WHICH -- IN 1982, I BELIEVE, THAT YOU WERE TAKING SOME FORMS  
10 BY FOR HELENA TO SIGN AT SOME POINT?

11 A. YES, VAGUELY.

12 Q. AND DO YOU RECALL WHAT THOSE FORMS WERE ABOUT OR WHY YOU  
13 WERE THERE ON THAT PARTICULAR OCCASION?

14 A. HONESTLY, I DON'T. I KNOW -- I'VE SEEN THAT IT'S -- IT  
15 WAS TO GET HER TO SIGN A RELEASE, BUT I HONESTLY DON'T RECALL  
16 WHAT THE RELEASE WAS ALL ABOUT.

17 Q. I ALSO WANT TO TALK WITH YOU ABOUT THE DEATH  
18 INVESTIGATION OF HELENA STOECKLEY. DID YOU COME INTO  
19 INFORMATION AS PART OF YOUR INVESTIGATION REGARDING HER DEATH?

20 A. I DID.

21 Q. WHO PROVIDED THAT INFORMATION TO YOU?

22 A. I'M NOT SURE HOW I FIRST HEARD ABOUT IT, BUT I CONTACTED  
23 A DETECTIVE IN SENECA, NORTH CAROLINA -- I MEAN, SENECA, SOUTH  
24 CAROLINA. I THINK HIS NAME WAS BROCK. I'M NOT SURE.

25 Q. OKAY. AND WHAT WAS THE NATURE OF THAT CONTACT?

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1 A. THE NATURE OF THE CONVERSATION WAS I THINK I HEARD THAT  
2 SHE HAD -- THAT SOMEHOW OR ANOTHER I HAD HEARD THAT SHE HAD  
3 DIED AND I CONTACTED HIM. AND HE TOLD ME THAT, YES, HE SAID  
4 THAT -- AND I DON'T RECALL THE DATE, I'M GOING TO SAY IT WAS  
5 JANUARY 14TH, 1983 -- THAT HE HAD BEEN IN HIS OFFICE IN  
6 SENECA AT THE POLICE DEPARTMENT AND HE RECEIVED A PHONE CALL  
7 FROM THE CARETAKER OF AN APARTMENT COMPLEX IN SENECA, THAT  
8 THEY HAD FOUND A BODY IN A ROOM.

9 SO, HE IMMEDIATELY WENT OVER THERE. AND I REMEMBER  
10 HIM SAYING IT WAS LIKE 1:00 IN THE AFTERNOON WHEN HE GOT THE  
11 CALL AND HE GOT TO THE APARTMENT ABOUT 1:10. AND THEY WENT IN  
12 THE APARTMENT, AND THE FIRST THING HE NOTICED WAS A VERY FOUL  
13 ODOR. AND HE LOOKED IN AND THERE WAS A DECOMPOSING FEMALE  
14 BODY IN THERE AND HE IMMEDIATELY CONTACTED THE CORONER AND THE  
15 EMS AND, YOU KNOW, WHATEVER -- EVERYBODY HE COULD THINK OF, I  
16 GUESS.

17 AND BY THE TIME HE GOT OUT OF THE ROOM A NEIGHBOR OR  
18 SOMEONE THAT WAS LIVING IN THE AREA SAID DID YOU FIND A LITTLE  
19 BABY IN THE ROOM AND HE SAID NO. AND HE WENT BACK IN AND THEN  
20 HE DID FIND A BABY ALIVE AND HE SAID ALERT, LAYING FACE UP --  
21 A MALE BABY LAYING FACE UP UNDER A CRIB IN THE ROOM. AND BY  
22 THIS TIME HE KNEW WHO -- YOU KNOW, FROM THE RECORDS HE KNEW  
23 WHOSE ROOM IT WAS AND HE KNEW IT WAS HELENA STOECKLEY.

24 Q. OKAY. AND AT THAT POINT IN TIME, DID HE KNOW HOW LONG  
25 SHE HAD BEEN IN THERE?

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1 A. NO. HE KNEW THAT IT WAS A DECOMPOSING BODY AND HE DID  
2 SOME SORT OF CHECK OF NEIGHBORS AND IT WAS PROBABLY FIVE OR  
3 NINE DAYS, SOMETHING OF THAT NATURE, THAT THE LAST PERSON HAD  
4 ACTUALLY SEEN HER OUTSIDE THE APARTMENT.

5 Q. IF I COULD HAVE APPENDIX ONE TO THE GOVERNMENT'S RESPONSE  
6 TO THE MOTION FOR NEW TRIAL AS CONTAINED IN THE JOINT APPENDIX  
7 TO THE APPEAL FROM THE 1985 ORDER, VOLUME ONE, PAGE 988,  
8 PLEASE. 988, I'M SORRY. THANK YOU.

9 MR. MILLS, IF YOU COULD TELL ME, AT THE TOP OF THIS  
10 DOCUMENT, DO YOU SEE WHAT TYPE OF DOCUMENT I'M SHOWING YOU?

11 A. YES. IT'S AN AUTOPSY REPORT.

12 Q. AND WHO IS IT AN AUTOPSY REPORT FOR?

13 A. OF HELENA DAVIS.

14 Q. AND WHAT'S THE DATE ON THIS AUTOPSY, THAT SHE WAS  
15 AUTOPSIED?

16 A. AUTOPSIED ON 8/15, AND THEY FIXED THE TIME -- THE DATE OF  
17 DEATH AT -- DID I SAY -- I MEAN, JANUARY 15TH, IF THAT'S NOT  
18 WHAT I SAID, THAT'S THE TIME OF THE AUTOPSY, AND THEY FIXED  
19 THE TIME THAT SHE DIED AS JANUARY 9TH, 1983.

20 Q. AND IF WE COULD HAVE THE BOTTOM CHART OF THIS PAGE. AND  
21 DOES THE AUTOPSY INDICATE THE MANNER OF DEATH?

22 A. PROBABLE CAUSE OF DEATH IS A TYPE OF PNEUMONIA AND  
23 CONTRIBUTORY EFFECTS WERE CIRRHOSIS OF THE LIVER.

24 Q. AND WAS IT RULED A NATURAL DEATH?

25 A. NATURAL DEATH, CORRECT.

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1 MS. COOLEY: IF I MAY HAVE ONE MOMENT, YOUR HONOR?

2 THE COURT: CERTAINLY.

3 (PAUSE.)

4 MS. COOLEY: I HAVE NO FURTHER QUESTIONS, YOUR  
5 HONOR.

6 THE COURT: CROSS.

7 MR. WIDENHOUSE: THANK YOU, YOUR HONOR.

8 C R O S S - E X A M I N A T I O N 9:47 A.M.

9 BY MR. WIDENHOUSE:

10 Q. IS IT STILL AGENT MILLS?

11 A. NO, I RETIRED IN 1990.

12 Q. CONGRATULATIONS ON THAT.

13 A. THANK YOU.

14 Q. I HOPE YOU'RE ENJOYING RETIREMENT. YOU MENTIONED THAT  
15 THERE WAS AN INTERVIEW IN OCTOBER OF MS. STOECKLEY, IS THAT  
16 RIGHT, AN OCTOBER INTERVIEW?

17 A. IS THIS -- ARE YOU REFERRING TO THE ONE WHERE BUTCH  
18 MADDEN, THE AGENT, CAME DOWN FROM NORTH CAROLINA?

19 Q. YES.

20 A. YES, THAT'S CORRECT.

21 Q. IS THERE A 302 OF THAT INTERVIEW?

22 A. I DON'T HAVE ONE.

23 Q. DO YOU KNOW WHETHER ONE WAS MADE OR YOU JUST DON'T  
24 RECALL?

25 A. WELL, YEAH, I'M CERTAIN I WOULD HAVE MADE ONE.

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1 Q. OKAY. YOU JUST DON'T HAVE IT?

2 A. NO, SIR.

3 Q. SO, YOU'RE TESTIFYING FROM MEMORY OR HAVE YOU SEEN IT  
4 LATELY?

5 A. I SAW IT LATELY.

6 Q. SO, YOU USED IT TO REFRESH YOUR --

7 A. YES.

8 Q. -- RECOLLECTION ABOUT THAT PARTICULAR INTERVIEW?

9 A. THAT'S RIGHT.

10 Q. NOW, YOU'RE AWARE THAT THE KILLINGS IN THE MACDONALD  
11 HOUSE OCCURRED IN 1970?

12 A. YES, SIR.

13 Q. AND THAT WAS NINE YEARS BEFORE YOU ARRESTED MS.  
14 STOECKLEY?

15 A. YES, THAT'S CORRECT.

16 Q. AND AT THE TIME OF THE KILLINGS, SHE WAS CONSIDERED A  
17 SUSPECT. I THINK THAT'S WHAT SHE TOLD YOU?

18 A. YES.

19 Q. AND YOU PUT IT IN YOUR REPORT THAT SHE HAD BEEN  
20 INTERVIEWED?

21 A. RIGHT, THE POLICE DEPARTMENT WENT OUT AND INTERVIEWED  
22 HER. THAT'S CORRECT.

23 Q. OKAY. AND DR. MACDONALD HAD AN ARTICLE 32 HEARING,  
24 MILITARY TRIBUNAL, ARE YOU AWARE OF THAT?

25 A. NO.

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1 Q. OKAY. SO, YOU WOULDN'T BE AWARE THAT SHE WAS CONSIDERED  
2 A SUSPECT AS A RESULT OF THE ARTICLE 32 INQUIRY?

3 A. NO.

4 Q. YOU JUST WOULDN'T HAVE -- OKAY.

5 A. I'M JUST NOT FAMILIAR WITH THAT.

6 Q. ALL RIGHT. BUT SHE WAS QUESTIONED BY DETECTIVE BEASLEY  
7 AND I BELIEVE YOU SAID, IS IT, AGENT MAHON?

8 A. I THINK THAT'S RIGHT. I'VE NEVER MET THE GENTLEMAN.

9 Q. OKAY.

10 A. HE WAS A CID AGENT.

11 Q. CID?

12 A. YES.

13 Q. OKAY. AND THEY -- BUT THEY BOTH QUESTIONED STOECKLEY  
14 SHORTLY AFTER THE KILLINGS OCCURRED?

15 A. THAT'S CORRECT.

16 Q. SHE TOLD YOU THAT?

17 A. YES.

18 Q. AND IF I COULD TAKE -- I BELIEVE -- IF I COULD TAKE YOU  
19 TO PAGE TWO OF THE 302 THAT YOU DID OF YOUR INTERVIEW OF MS.  
20 STOECKLEY, AND I BELIEVE THAT'S WHERE YOU RECORDED THAT SHE  
21 TOLD YOU SHE MAY HAVE BEEN INVOLVED IN THE MURDER?

22 A. YEAH, I DON'T HAVE THE -- THERE WE GO. YOU SAID PAGE  
23 TWO?

24 Q. I THINK IT'S ON PAGE TWO.

25 A. I HAVE PAGE ONE HERE. OKAY.

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1 Q. WELL, SHE TOLD YOU -- YOU WROTE DOWN THERE AT THE END OF  
2 THE FIRST PARAGRAPH THAT SHE LIED TO OFFICER OR DETECTIVE  
3 BEASLEY BECAUSE SHE THOUGHT A LIE WOULD BE MORE BELIEVABLE  
4 THAN TELLING THE TRUTH?

5 A. YEAH, SHE SAID THAT A LIE WOULD BE MORE BELIEVABLE THAN  
6 TO TELL THE TRUTH, WHICH WAS THAT SHE SIMPLY WAS SO HIGH ON  
7 DRUGS SHE COULDN'T REMEMBER ANYTHING.

8 Q. ALL RIGHT. AND IF I COULD TAKE YOU TO THE NEXT PAGE OF  
9 THAT DOCUMENT, THE LAST -- THE FIRST FULL PARAGRAPH, DO YOU  
10 SEE THAT, WHERE THE HIGHLIGHTED PORTION IS?

11 A. NO. I NEED TO GO -- YOU NEED TO SCROLL DOWN OR UP. I  
12 GUESS SCROLL UP. I'M ON THE LAST PARAGRAPH NOW.

13 Q. THAT'S WHERE I WANT YOU --

14 A. OH, OKAY.

15 Q. -- THE LAST PARAGRAPH. I'M SORRY.

16 A. OKAY.

17 Q. AND DO YOU SEE THE HIGHLIGHTED PORTION?

18 A. YES, I DO.

19 Q. AND COULD YOU READ THAT FOR US?

20 A. SURE. STOECKLEY ADVISED THAT SHE HONESTLY DOES NOT KNOW  
21 WHAT SHE DID THAT NIGHT, AND THEREFORE, CANNOT CATEGORICALLY  
22 STATE THAT SHE WAS NOT INVOLVED IN THE MURDER. SHE STATED  
23 THAT SHE HAS HAD A RECURRING DREAM SINCE THE MURDER IN WHICH  
24 SHE IS PICTURED AS BEING DRESSED IN BLACK WITH A CANDLE IN HER  
25 HAND, WITH THE WORDS APPEARING ON A WALL OF WHATEVER ROOM SHE

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1 IS IN WITH THE INSCRIPTION ACID IS GROOVY, KILL THE PIGS. SHE  
2 STATED THAT THIS DREAM --

3 Q. THAT'S FINE.

4 A. IN THIS DREAM SHE DOES NOT SPECIFICALLY SEE BODIES OR  
5 ANYONE BEING KILLED OR ANYTHING OF THAT NATURE. IS THAT --

6 Q. YES.

7 A. OKAY.

8 Q. BUT SHE TELLS YOU -- SHE TOLD YOU SHE COULD NOT  
9 CATEGORICALLY STATE SHE WAS NOT INVOLVED IN THE MURDER?

10 A. THAT'S CORRECT.

11 Q. THAT'S ACCURATE --

12 A. THAT'S --

13 Q. -- OF WHAT SHE TOLD YOU THAT NIGHT?

14 A. THAT'S ACCURATE, YES, SIR.

15 Q. CAN YOU TELL ME ABOUT HOW FAR PICKENS IS FROM GREENVILLE?

16 A. PROBABLY 40 MINUTES. MILES, I WOULD SAY, 25 MILES OR  
17 SOMETHING LIKE THAT.

18 Q. AND I'M NOT FROM SOUTH CAROLINA.

19 A. RIGHT.

20 Q. IS PICKENS A SMALL TOWN, WHEREAS, GREENVILLE WOULD BE  
21 CONSIDERED A CITY?

22 A. YES.

23 Q. AND IF SOMEBODY WERE COMING TO THAT AREA OF SOUTH  
24 CAROLINA FROM, SAY, RALEIGH, NORTH CAROLINA -- ARE YOU  
25 FAMILIAR WITH RALEIGH?

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1 A. YES, I AM.

2 Q. IT'S A PRETTY GOOD WAYS?

3 A. YES.

4 Q. IF THEY WERE GOING TO THAT AREA, DO YOU THINK IT WOULD BE  
5 -- THEY'RE HEADED TO PICKENS, THEY MIGHT SAY I'M GOING TO  
6 GREENVILLE?

7 A. NO.

8 Q. IF THEY WERE TRYING TO TELL SOMEBODY WHERE THEY WERE  
9 GOING WHO DIDN'T HAVE FAMILIARITY WITH SOUTH CAROLINA?

10 A. I DON'T THINK I WOULD. I WOULD JUST SAY TAKE 85 TO  
11 GREENVILLE AND TAKE 178 FROM GREENVILLE TO PICKENS OR WHATEVER  
12 ROAD IT IS.

13 Q. OKAY. SO, YOU WOULD GO TO GREENVILLE FROM RALEIGH -- YOU  
14 PROBABLY WOULD GO TO GREENVILLE FROM RALEIGH TO GET TO  
15 PICKENS? TAKE 85 TO GREENVILLE?

16 A. IT'S 85 AND 85 GOES -- IS THE MAIN ROAD GOING SOUTHEAST,  
17 WEST, IN SOUTH CAROLINA.

18 Q. OKAY. I UNDERSTAND. THANKS. AND I BELIEVE YOU  
19 TESTIFIED YOU DIDN'T DO THE TRANSPORT OF MS. STOECKLEY FROM  
20 PICKENS --

21 A. NO.

22 Q. -- TO RALEIGH?

23 A. THAT'S CORRECT.

24 Q. WEREN'T INVOLVED WITH THAT AT ALL?

25 A. NO.

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1 Q. AND YOU DON'T KNOW WHO DID THE TRANSPORT. YOU JUST KNOW  
2 THERE'S A CARD THAT SAYS VERNON KENNEDY TOOK HER FROM THE --  
3 OUT OF THE PICKENS COUNTY JAIL?

4 A. I CAN'T SAY THAT BECAUSE I WAS IN DAILY CONTACT WITH  
5 VERNON KENNEDY. I MEAN, HE WAS IN THE NEXT OFFICE TO ME. AND  
6 WHETHER WE HAD THAT CONVERSATION, I DON'T RECALL, BUT I  
7 WOULDN'T BE SURPRISED IF HE DIDN'T TELL ME HE TOOK HER UP  
8 THERE, BUT I DON'T -- I DON'T RECALL.

9 Q. YOU DON'T KNOW. ALL YOU KNOW IS THAT CARD SHOWS HE TOOK  
10 HER OUT OF THE PICKENS COUNTY JAIL?

11 A. THAT'S CORRECT.

12 Q. AND YOU WEREN'T IN THE CAR THAT WENT TO NORTH CAROLINA --

13 A. NO, SIR.

14 Q. -- WITH HELENA STOECKLEY?

15 A. NO, SIR.

16 MR. WIDENHOUSE: CAN I HAVE A MOMENT, YOUR HONOR?

17 THE COURT: CERTAINLY.

18 (PAUSE.)

19 MR. WIDENHOUSE: THANK YOU, YOUR HONOR. NO FURTHER  
20 QUESTIONS.

21 THE COURT: CROSS.

22 MS. COOLEY: NO REDIRECT, YOUR HONOR.

23 THE COURT: YOU MAY STEP DOWN.

24 THE WITNESS: THANK YOU.

25 MS. COOLEY: YOUR HONOR --

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1 THE WITNESS: NOW, I GOT THE MIC THEN.

2 MS. COOLEY: -- IF WE MAY RELEASE MR. MILLS?

3 THE COURT: I'M SORRY?

4 MR. WIDENHOUSE: NO OBJECTION.

5 MS. COOLEY: MAY WE RELEASE MR. MILLS FROM HIS  
6 SUBPOENA?

7 THE COURT: YES, MA'AM.

8 MS. COOLEY: THANK YOU.

9 MR. BRUCE: YOUR HONOR, BEFORE I CALL THE NEXT  
10 WITNESS, I WOULD LIKE TO CALL THE COURT'S ATTENTION TO AN  
11 EXHIBIT THAT'S IN THE RECORD AND READ SOME PORTIONS OF IT.  
12 THIS WITNESS IS DECEASED. AND IT IS GOVERNMENT EXHIBIT 2010  
13 IN THIS PROCEEDING. I'VE PUT IT UP ON THE SCREEN.

14 THE COURT: THANK YOU.

15 MR. BRUCE: AS YOU CAN SEE IT SAYS SWORN STATEMENT  
16 OF VERNON KENNEDY, 23RD DAY OF AUGUST, 2006, COMMENCING AT  
17 APPROXIMATELY 10:30 A.M. GO TO THE NEXT PAGE, PLEASE.

18 MR. WIDENHOUSE: WELL, YOUR HONOR, I DON'T WANT TO  
19 INTERRUPT MR. BRUCE, BUT JUST FOR THE RECORD I'M GOING TO  
20 OBJECT UNDER THE CONFRONTATION CLAUSE IF HE'S GOING TO PUT IT  
21 INTO EVIDENCE WITHOUT THE WITNESS.

22 THE COURT: LET ME SEE YOU, COUNSEL.

23 (BENCH CONFERENCE ON THE RECORD.)

24 THE COURT: I'M GOING TO OVERRULE YOUR OBJECTION,  
25 BUT I WANT YOU TO UNDERSTAND WHAT'S SAUCE FOR THE GOOSE IS

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1 SAUCE FOR THE GANDER THROUGHOUT THIS HEARING.

2 MR. WIDENHOUSE: I UNDERSTAND.

3 THE COURT: THANK YOU.

4 MR. WIDENHOUSE: I JUST HAVE A CONFRONTATION RIGHT  
5 THEY DON'T HAVE.

6 THE COURT: WELL, I MEAN --

7 MR. WIDENHOUSE: AND ALL I'M DOING IS TRYING TO  
8 PROTECT THE RECORD.

9 THE COURT: SURE. SURE. THANK YOU.

10 MR. BRUCE: WELL, MAY I SAY SOMETHING FOR THE  
11 RECORD? OUR POSITION IS, IN ADDITION TO THE EVIDENCE AS A  
12 WHOLE STANDARD, THE CONFRONTATION CLAUSE IS NOT APPLICABLE AT  
13 THIS TYPE OF A HEARING. IT'S A TRIAL RIGHT FOR A CRIMINAL  
14 TRIAL. THANK YOU.

15 THE COURT: LET'S GO FORWARD. THANK YOU.

16 (BENCH CONFERENCE CONCLUDED.)

17 THE COURT: THANK YOU, COUNSEL. I OVERRULE THE  
18 OBJECTION.

19 MR. BRUCE: ON PAGE TWO OF THE EXHIBIT, YOUR HONOR,  
20 IT STATES THAT THE QUESTIONING ATTORNEYS ARE JOHN STUART  
21 BRUCE, BRIAN M. MURTAGH, ATTENDING IS ROBERT D. SCOTT, FBI,  
22 COLUMBIA DIVISION, GREENVILLE R.A.

23 I'M NOT GOING TO READ THE WHOLE EXHIBIT, BUT I'VE  
24 SELECTED SOME PORTIONS. IF WE GO TO -- EXCUSE ME, YOUR HONOR,  
25 I PICKED UP THE WRONG -- I HAD A HIGHLIGHTED COPY AND I PICKED

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1 UP THE WRONG ONE.

2 (PAUSE.)

3 MR. BRUCE: MOVE TO 2010.6, WHICH IS PAGE SIX OF THE  
4 SWORN STATEMENT AND GO TO LINE 13.

5 (PAUSE.)

6 MR. BRUCE: GO TO LINE 13 THROUGH THE BOTTOM OF THE  
7 PAGE.

8 AND DO YOU REMEMBER APPROXIMATELY HOW MANY DEPUTY  
9 U.S. MARSHALS THERE WERE HERE AT THAT TIME? JUST  
10 APPROXIMATELY, I DON'T NEED AN EXACT NUMBER.

11 ANSWER: THREE WERE STATIONED IN GREENVILLE.  
12 HOWEVER, THERE WERE NOT ALWAYS THREE ON -- ON DUTY HERE AT ALL  
13 TIMES BECAUSE THERE WERE TIMES WHEN SOME OF THE MARSHALS WOULD  
14 BE ASSIGNED TO OTHER DISTRICTS OR ASSIGNED TO OTHER DUTIES.

15 QUESTION: WERE YOU THE ONLY AFRICAN-AMERICAN DEPUTY  
16 U.S. MARSHAL IN GREENVILLE AT THAT TIME?

17 ANSWER: I WAS.

18 QUESTION: ALL RIGHT. NOW, HOW DID YOU FIND OUT  
19 ABOUT YOUR ASSIGNMENT TO GO PICK UP A PRISONER, A FEMALE  
20 PRISONER, IN PICKENS?

21 ANSWER: I FOUND IT OUT THROUGH MY SUPERVISOR. MY  
22 SUPERVISOR WAS ADVISED BY OUR COLUMBIA HEADQUARTERS THAT THIS  
23 PERSON NEEDED TO BE TRANSPORTED.

24 ALL RIGHT. NOW, WERE YOU AWARE AT THE TIME THAT THE  
25 MURDER TRIAL OF JEFFREY MACDONALD WAS GOING ON IN FEDERAL

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1 COURT IN NORTH CAROLINA?

2 ANSWER: I WAS AWARE BECAUSE THIS WAS AN ONGOING  
3 NEWS PRIORITY AT THAT TIME.

4 MOVING FORWARD TO 2010.8 AND LINE 15.

5 QUESTION: THE BOTTOM PART ON -- THE BOTTOM PART ON  
6 EXHIBIT ONE -- THAT'S RIGHT. I'M SORRY, GO UP TO LINE EIGHT.

7 ALL RIGHT. I WANT TO SHOW YOU -- WE LOOKED AT THIS  
8 BEFORE WE GOT STARTED, BUT LET ME SHOW YOU -- IT TO YOU AGAIN.  
9 I'VE MARKED IT AS EXHIBIT ONE FOR TODAY, 8/23/06. IT'S A  
10 XEROX COPY, IS IT NOT, OR A PHOTOCOPY?

11 YES.

12 THE BOTTOM PART ON EXHIBIT ONE IS A COMMITMENT FORM  
13 AND IT'S DATED 8/14/79, AND IT'S SIGNED BY THOMAS DONOHUE,  
14 SPECIAL AGENT, FBI. DO YOU KNOW HIM OR DID YOU KNOW HIM?

15 ANSWER: YES, I KNOW HIM.

16 QUESTION: THE TOP ONE SAYS RELEASE AND IT'S DATED  
17 AUGUST 15TH, 1979, AND IT SAYS THIS PRISONER, HELENA  
18 STOECKLEY, IS BEING TAKEN INTO CUSTODY FOR TRANSFER TO  
19 RALEIGH, N.C. DO YOU SEE THAT?

20 ANSWER: YES.

21 QUESTION: ALL RIGHT. NOW, AT THE BOTTOM IT SAYS --  
22 IT HAS A SIGNATURE LINE.

23 UH-HUH.

24 DO YOU SEE THAT?

25 YES.

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1 IS THAT YOUR SIGNATURE?

2 YES, IT IS.

3 ALL RIGHT. FOR THE RECORD, IT APPEARS TO SAY VERNY  
4 KENNEDY?

5 ANSWER: D-U-S-M.

6 QUESTION: D-U-S-M?

7 ANSWER: DEPUTY U.S. MARSHAL.

8 QUESTION: ALL RIGHT. OKAY. SO, THIS WOULD  
9 DOCUMENT THAT YOU PICKED UP HELENA STOECKLEY AT THE PICKENS  
10 COUNTY JAIL ON AUGUST 15TH, 1979, IS THAT RIGHT?

11 UH-HUH.

12 OKAY. NOW, YOU AND THE FEMALE GUARD PICKED HER UP  
13 AND TRANSPORTED HER WHERE?

14 WE TRANSPORTED TO HER AN INTERSECTION. I BELIEVE IT  
15 WAS A SERVICE STATION AT THE INTERSECTION OF I-85 AND --  
16 INTERSTATE 85 AND INTERSTATE 75 -- I MEAN INTERSTATE 85 AND  
17 77.

18 QUESTION: I-85 AND I-77?

19 ANSWER: RIGHT.

20 AND THAT'S IN CHARLOTTE?

21 ANSWER: YES.

22 MOVING ON TO 2010.11, STARTING AT LINE 24.

23 ALL RIGHT. OKAY. SO, YOU TOOK MS. STOECKLEY TO THE  
24 I-77/I-85 INTERSECTION, IS THAT RIGHT?

25 YES.

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1 AND THERE WAS A PREARRANGED SPOT TO MEET, IS THAT  
2 CORRECT?

3 ANSWER: YES, IT WAS.

4 AND WHO HAD ARRANGED THAT?

5 THAT WAS ARRANGED THROUGH THE COLUMBIA OFFICE. AND  
6 HE HAD -- HE TOLD THE SUPERVISOR HERE IN GREENVILLE, WHO  
7 INSTRUCTED ME WHERE THE MEETING PLACE WAS TO BE.

8 AND THE MEETING PLACE WAS SOME SORT OF ESTABLISHMENT  
9 AT THAT INTERSECTION?

10 NO, IT WAS NOT.

11 QUESTION: WELL --

12 ANSWER: IT WAS JUST A COMMON PLACE THAT WE BOTH  
13 KNEW.

14 ALL RIGHT. OBVIOUSLY, YOU HAD TO EXIT OFF THE  
15 INTERSTATE TO MEET?

16 RIGHT.

17 AND LET'S SKIP DOWN TO THE QUESTION AT LINE 23.

18 OKAY. AND THE MARSHAL THAT -- OR THE DEPUTY MARSHAL  
19 THAT YOU MET WAS SOMEONE FROM THE MARSHAL SERVICE IN THE  
20 EASTERN DISTRICT OF NORTH CAROLINA?

21 ANSWER: THAT'S CORRECT.

22 MOVING ON TO LINE 11.

23 DURING YOUR TRANSPORTATION OF MS. STOECKLEY, DID SHE  
24 SAY ANYTHING ABOUT THE CASE THAT SHE WAS GOING TO BE A WITNESS  
25 IN?

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1           ANSWER: NO. AND IT WAS A STRICT REGULATION OF THE  
2 MARSHAL SERVICE NOT TO DISCUSS THEIR CASE WITH THE MARSHALS OR  
3 ANYONE ELSE IN THE MARSHAL'S PRESENCE. IN OTHER WORDS, IF WE  
4 HAVE A GUARD WHO WAS NOT EMPLOYED BY THE MARSHAL SERVICE, IT  
5 WAS THE MARSHAL'S DUTY TO INSTRUCT THAT PERSON NOT TO DISCUSS  
6 THEIR CASE WITH THE INMATE.

7           QUESTION: OKAY. SO, YOU MADE IT A POLICY NOT TO  
8 DISCUSS THE CASE WITH THE PRISONER THAT YOU WERE TRANSPORTING?

9           ANSWER: I MADE IT A POLICY AND AS FAR AS I'M  
10 CONCERNED IT WAS A REGULATION.

11           MOVE TO 2010.15, WHICH IS EXHIBIT ONE ATTACHED TO  
12 THE SWORN STATEMENT, AND ZOOM IN ON THE TOP PORTION. THIS IS  
13 A RELEASE FORM THAT'S BEEN PREVIOUSLY IDENTIFIED.

14           IT IS ALSO IN THE RECORD AS GOVERNMENT EXHIBIT 2066,  
15 WHICH IS MORE LEGIBLE. SO I'M GOING TO CALL THAT UP AT THIS  
16 TIME. AND THAT'S THE SAME COPY OF THE RELEASE FORM SIGNED BY  
17 VERNON KENNEDY, DUSM, PREVIOUSLY IDENTIFIED BY THE WITNESS  
18 MILLS.

19                           (GOVERNMENT EXHIBIT NUMBERS 2010 AND  
20                           2066 WERE IDENTIFIED FOR THE RECORD.)

21           MR. BRUCE: MAY I HAVE JUST A MOMENT, PLEASE, YOUR  
22 HONOR?

23           THE COURT: YES, SIR.

24                           (PAUSE.)

25           MR. BRUCE: AND THAT COMPLETES THAT. AND NOW I'D

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1 LIKE TO CALL MY NEXT WITNESS WHO IS DENNIS MEEHAN.

2 **DENNIS MEEHAN, GOVERNMENT WITNESS, SWORN**

3 D I R E C T E X A M I N A T I O N 10:05 A.M.

4 BY MR. BRUCE:

5 Q. WOULD YOU STATE YOUR NAME, SIR?

6 A. DENNIS MEEHAN.

7 Q. MR. MEEHAN, WHERE DO YOU CURRENTLY RESIDE?

8 A. RYE, NEW YORK.

9 Q. HOW LONG HAVE YOU LIVED IN RYE?

10 A. TWO YEARS.

11 Q. WHERE ARE YOU FROM ORIGINALLY?

12 A. NEW JERSEY.

13 Q. WERE YOU IN THE MILITARY?

14 A. UNITED STATES NAVY.

15 Q. FOR HOW LONG?

16 A. FOUR YEARS.

17 Q. AFTER THE MILITARY, DID YOU GO INTO LAW ENFORCEMENT?

18 A. NOT DIRECTLY. I WENT TO SCHOOL AND THEN WENT INTO LAW  
19 ENFORCEMENT.

20 Q. AND WHAT WAS YOUR JOB, FIRST JOB IN LAW ENFORCEMENT?

21 A. DEPUTY SHERIFF. DEPUTY SHERIFF.

22 Q. YOU NEED TO GET CLOSER TO THE MIC, PLEASE.

23 A. DEPUTY SHERIFF.

24 Q. WHAT COUNTY?

25 A. MECKLENBURG.

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1 Q. AFTER YOUR EMPLOYMENT THERE, WHAT WAS YOUR NEXT JOB?

2 A. U.S. BUREAU OF PRISONS.

3 Q. HOW LONG WERE YOU WITH BOP?

4 A. TWO YEARS.

5 Q. AND DID YOU SUBSEQUENTLY OBTAIN A POSITION WITH THE  
6 UNITED STATES MARSHAL SERVICE?

7 A. YES.

8 Q. WHAT YEAR WAS THAT?

9 A. 1978.

10 Q. HOW LONG DID YOU SERVE -- YOU WERE A DEPUTY UNITED STATES  
11 MARSHAL, IS THAT RIGHT?

12 A. YES.

13 Q. HOW LONG DID YOU SERVE AS A DEPUTY UNITED STATES MARSHAL?

14 A. TWENTY-THREE YEARS.

15 Q. AND SO YOU RETIRED WHAT DATE?

16 A. IT WAS NOVEMBER OF 2001.

17 Q. DURING THE FIRST FEW YEARS OF YOUR DUTIES AS A DEPUTY  
18 MARSHAL WERE YOU STATIONED IN RALEIGH, NORTH CAROLINA?

19 A. YES.

20 Q. AND DID YOU SUBSEQUENTLY HAVE A MOVE OF YOUR POST OF  
21 DUTY?

22 A. I TRANSFERRED TO ELIZABETH CITY, NORTH CAROLINA.

23 Q. AND HOW MANY YEARS DID YOU SERVE IN ELIZABETH CITY?

24 A. I BELIEVE I WENT UP THERE IN '86 OR '87.

25 Q. AND YOU SERVED THERE UNTIL PRETTY CLOSE TO YOUR

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1 RETIREMENT?

2 A. UNTIL THE LAST YEAR THEN I CAME BACK TO RALEIGH FOR A  
3 YEAR.

4 Q. ALL RIGHT. NOW, I'M GOING TO FOCUS ON THE EARLY YEARS OF  
5 YOUR SERVICE AS A DEPUTY U.S. MARSHAL IN RALEIGH. WHO WAS  
6 YOUR SUPERVISOR?

7 A. EDDIE SIGMON, CHIEF DEPUTY.

8 Q. AND WHO WAS THE UNITED STATES MARSHAL IN 1979?

9 A. HUGH SALTER.

10 Q. WHO GAVE YOU YOUR DUTY ASSIGNMENTS?

11 A. IT CAME DIRECTLY FROM THE CHIEF DEPUTY.

12 Q. THAT WAS?

13 A. EDDIE SIGMON.

14 Q. CHIEF DEPUTY EDDIE SIGMON?

15 A. YES.

16 Q. DO YOU REMEMBER THE -- WELL, WAIT A MINUTE. WAS ONE OF  
17 YOUR DUTIES REGULARLY WITH THE MARSHAL SERVICE TO TRANSPORT  
18 PRISONERS?

19 A. YES.

20 Q. DID THE MARSHALS HAVE -- HOW DID THEY HOUSE THE  
21 PRISONERS, FEDERAL PRISONERS, IN THE EASTERN DISTRICT OF NORTH  
22 CAROLINA AT THAT TIME?

23 A. THEY WERE ALL LOCAL JAILS, CONTRACT JAILS, WE CALLED  
24 THEM.

25 Q. DO YOU REMEMBER THE MACDONALD TRIAL?

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1 A. YES, I DO.

2 Q. DID YOU HAVE DEPUTY MARSHAL DUTIES IN CONNECTION WITH THE  
3 MACDONALD TRIAL GENERALLY?

4 A. YES.

5 Q. AND WHAT WERE THEY?

6 A. WITH THE TRIAL, I WAS ASSIGNED TO JURY SELECTION. AND  
7 THEN PRIOR TO THE TRIAL, I TRANSPORTED PRISONERS.

8 Q. WHO WAS HANDING OUT THE ASSIGNMENTS AS TO WHAT EACH  
9 DEPUTY MARSHAL WAS TO DO DURING THE MACDONALD TRIAL?

10 A. THAT WAS EDDIE SIGMON, CHIEF DEPUTY.

11 Q. NOW, DID THERE COME A TIME WHEN MR. SIGMON ASKED YOU TO  
12 GO ON THE ROAD TO MAKE A TRANSFER OF A PRISONER IN CONNECTION  
13 WITH THE MACDONALD TRIAL?

14 A. YES, HE DID.

15 Q. MAY WE HAVE GOVERNMENT EXHIBIT 2000, AND ENLARGE THE TOP  
16 HALF, IF YOU WOULD. DO YOU KNOW WHAT THIS IS, MR. MEEHAN?

17 A. IT'S A WARRANT FOR ARREST OF A WITNESS.

18 Q. AND WHO IS THE WITNESS?

19 A. HELENA STOECKLEY.

20 (GOVERNMENT EXHIBIT NUMBER 2000

21 WAS IDENTIFIED FOR THE RECORD.)

22 Q. DO YOU RECALL THAT THERE WAS SUCH A WARRANT ISSUED FOR  
23 THE ARREST OF HELENA STOECKLEY DURING THE MACDONALD TRIAL?

24 A. YES.

25 Q. WERE YOU GIVEN ANY ASSIGNMENT IN CONNECTION WITH THE

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1 ARREST OR TRANSPORTATION OF HELENA STOECKLEY?

2 A. YES. YES, I WAS.

3 Q. AND WHAT WAS THAT ASSIGNMENT?

4 A. TO TRANSPORT HER, TRANSFER HER FROM CHARLOTTE, NORTH  
5 CAROLINA, TO RALEIGH, NORTH CAROLINA, WAKE COUNTY JAIL.

6 Q. AND I WANT TO ORIENT THE TIME OF THIS. LET'S PUT UP THE  
7 CALENDAR, WHICH IS EXHIBIT 2362, AND ENLARGE AUGUST, PLEASE.

8 NOW, IF THE INTERVIEWS BY THE PROSECUTION AND  
9 DEFENSE OF HELENA STOECKLEY OCCURRED ON THURSDAY, AUGUST 16TH,  
10 WHAT DAY DID YOU TRANSPORT HER FROM CHARLOTTE?

11 A. IT WAS WEDNESDAY, THE 15TH.

12 Q. WEDNESDAY, AUGUST 15TH?

13 A. YES.

14 (GOVERNMENT EXHIBIT NUMBER 2362  
15 WAS IDENTIFIED FOR THE RECORD.)

16 Q. ALL RIGHT. NOW, WHAT DID MR. SIGMON -- WHAT WERE YOUR  
17 INSTRUCTIONS FROM HIM ABOUT THIS TRANSFER?

18 A. TO TRAVEL TO NORTH CAROLINA -- I MEAN TO CHARLOTTE,  
19 SECURE THE PRISONER, AND THEN RETURN HER TO THE WAKE COUNTY  
20 JAIL.

21 Q. WHAT WAS THE EXACT SPOT IN CHARLOTTE WHERE YOU WERE  
22 SUPPOSED TO MEET?

23 A. IT WAS AT THE INTERSECTION OF I-77 AND I-85.

24 Q. SO, YOU WERE NOT INSTRUCTED TO GO TO A JAIL FACILITY IN  
25 CHARLOTTE OR ANYWHERE TO PICK HER UP?

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1 A. NO. NO.

2 Q. OR TO A U.S. MARSHAL'S OFFICE?

3 A. NO.

4 Q. DID YOU KNOW -- DID YOU EVEN KNOW WHAT JAIL SHE WAS IN  
5 BEGINNING HER DAY ON AUGUST 15TH, 1979?

6 A. THE ONLY THING I KNEW, SHE WAS BEING TRANSPORTED OUT OF  
7 THE DISTRICT OF SOUTH CAROLINA.

8 Q. TO CHARLOTTE?

9 A. TO CHARLOTTE.

10 Q. AND AS FAR AS A MEETING PLACE, WAS THAT ARRANGED BY YOU  
11 OR BY YOUR SUPERIORS?

12 A. I BELIEVE THAT WAS SET UP BY THE CHIEF, THAT WAS  
13 PREDETERMINED.

14 Q. AND WHEN YOU SAY THE CHIEF YOU MEAN EDDIE SIGMON?

15 A. EDDIE SIGMON, YES.

16 Q. ALL RIGHT. NOW, DID YOU TAKE ANYONE WITH YOU TO  
17 CHARLOTTE TO PICK UP HELENA STOECKLEY?

18 A. I TOOK MY WIFE.

19 Q. WHY DID YOU TAKE YOUR WIFE?

20 A. I NEEDED A FEMALE TO ACCOMPANY ME AND WE DID NOT HAVE  
21 FEMALE DEPUTIES. SO, I HIRED HER AS A GUARD MATRON.

22 Q. AND WHEN YOU SAY YOU HIRED HER, DO YOU MEAN THE MARSHAL  
23 SERVICE DID?

24 A. I SELECTED HER, BUT THE MARSHAL SERVICE SANCTIONED IT AND  
25 COMPENSATED HER.

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1 Q. AND THIS WAS BECAUSE IT WAS A FEMALE PRISONER?

2 A. YES.

3 Q. ALL RIGHT. SO, YOU AND YOUR WIFE TRAVELED FROM RALEIGH  
4 TO CHARLOTTE, IS THAT RIGHT?

5 A. RIGHT.

6 Q. AND MAY I HAVE ON THE SCREEN, PLEASE, EXHIBIT 2103.3?  
7 CAN YOU IDENTIFY -- AND WE'LL ENLARGE IT A LITTLE BIT. CAN  
8 YOU IDENTIFY ON THIS EXHIBIT WHERE YOU MADE THE RENDEZVOUS TO  
9 MEET HELENA STOECKLEY?

10 A. IT WAS IN THE VICINITY OF 77 AND I-85.

11 (GOVERNMENT EXHIBIT NUMBER 2103.3  
12 WAS IDENTIFIED FOR THE RECORD.)

13 Q. IF YOU TOUCH THE SCREEN WHERE YOU'RE INDICATING I THINK  
14 IT MIGHT MAKE A MARK.

15 A. THAT WAS --

16 Q. APPROXIMATELY THERE?

17 A. A LITTLE BIT MORE TO THE RIGHT OF THAT.

18 Q. OKAY.

19 A. BUT IN THAT GENERAL VICINITY.

20 Q. ALL RIGHT. THANK YOU. NOW, WHEN YOU GOT TO THE MEETING  
21 POINT, WAS THE PERSON OR THE GROUP THAT YOU WERE MEETING  
22 ALREADY THERE?

23 A. YES, I BELIEVE THEY WERE. YEAH.

24 Q. AND WHO -- IF YOU RECALL, WHO WAS IN THE CAR AS FAR AS  
25 THE CAR YOU MET TRAVELLING FROM SOUTH CAROLINA?

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1 A. IT WAS A MALE DEPUTY MARSHAL AND A FEMALE, I DON'T KNOW  
2 WHETHER SHE WAS -- I DON'T BELIEVE SHE WAS A DEPUTY, I THINK  
3 SHE WAS A GUARD MATRON, AND THEN THE PRISONER STOECKLEY.

4 Q. OKAY. THE ONE THAT YOU SAID WAS THE GUARD MATRON WAS  
5 FULFILLING A SIMILAR ROLE TO YOUR WIFE?

6 A. YES.

7 Q. AND THEN THE PRISONER WAS WHO?

8 A. HELENA STOECKLEY.

9 Q. AND AS FAR AS THE DEPUTY U.S. MARSHAL DOING THE  
10 TRANSPORT, CAN YOU DESCRIBE HIM?

11 A. HE WAS A TALL, BLACK MAN.

12 Q. ALL RIGHT. AND WHAT HAPPENED AFTER YOU MET AT THE PLACE  
13 THERE AT THE INTERSECTION?

14 A. I RECEIPTED FOR THE PRISONER, RETRIEVED THE PAPERWORK,  
15 WE SWITCHED OUT RESTRAINTS, I PLACED HER IN THE CAR AND WE  
16 DEPARTED FOR RALEIGH.

17 Q. AND SO WHO WAS IN THE CAR WHEN YOU DEPARTED FOR RALEIGH?

18 A. MYSELF, MY EX-WIFE AND HELENA STOECKLEY.

19 Q. AND AT THE TIME THE PERSON YOU'RE REFERRING TO AS YOUR  
20 EX-WIFE WAS ACTUALLY YOUR WIFE AT THAT TIME?

21 A. CORRECT. YES.

22 Q. AND WHAT'S HER FIRST NAME?

23 A. JANICE.

24 Q. AND WHERE DID YOU GO AFTER YOU LEFT THE RENDEZVOUS POINT?

25 A. DIRECTLY TO THE WAKE COUNTY JAIL.

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1 Q. IN RALEIGH?

2 A. RALEIGH, YES.

3 Q. MAY WE HAVE GOVERNMENT EXHIBIT 2101.3? AND LET'S ENLARGE  
4 IT A LITTLE BIT. CAN YOU POINT OUT WHERE THE WAKE COUNTY --  
5 DID YOU SAY YOU WENT TO THE WAKE COUNTY SHERIFF'S DEPARTMENT  
6 OR JAIL, IS THAT RIGHT?

7 A. IT WAS A COMBINATION OF A JAIL/COURTHOUSE.

8 Q. CAN YOU POINT IT OUT ON THIS MAP?

9 A. RIGHT THERE. RIGHT THERE. LET'S SEE HERE. WELL, IF YOU  
10 COULD CLEAR IT OFF.

11 Q. OKAY. I SEE. YOU PUT A RED MARK THERE?

12 A. UH-HUH.

13 Q. AND I NOTICED THAT THAT'S ON THE -- WHERE YOUR RED MARK  
14 IS IS ON SALISBURY STREET?

15 A. YES. YES.

16 (GOVERNMENT EXHIBIT NUMBER 2101.3

17 WAS IDENTIFIED FOR THE RECORD.)

18 Q. SO, THAT'S THE APPROACH YOU MADE WHEN YOU WERE DELIVERING  
19 OR PICKING UP PRISONERS AT THE WAKE COUNTY COURTHOUSE?

20 A. YES, YOU'D COME DOWN SALISBURY AND THEN TAKE A LEFT INTO  
21 THE FACILITY.

22 Q. AND CAN YOU SORT OF DESCRIBE THE WAY THE FACILITY WORKED  
23 WHEN YOU TURNED LEFT INTO IT?

24 A. IT WAS UNDERGROUND PARKING AND THE JAIL ENTRANCE WAS IN,  
25 I'D CALL IT, THE BASEMENT AREA. THEY HAD A PARKING LOT AND

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1 SALLY PORT WHERE YOU BROUGHT THE PRISONERS IN.

2 Q. HAD YOU PICKED UP PRISONERS OR DELIVERED PRISONERS TO THE  
3 WAKE COUNTY JAIL MANY TIMES BEFORE?

4 A. YES. YES.

5 Q. WAKE COUNTY HAD A CONTRACT WITH THE MARSHALS?

6 A. YES.

7 Q. NOW, WHEN YOU ARRIVED WITH YOUR PRISONER, DID YOU SEE  
8 ANYONE HANGING AROUND?

9 A. THERE WAS A WHITE MALE ON THE -- RIGHT ON THE CORNER  
10 ACROSS THE PARKING LOT.

11 Q. AND DID HE TRY TO APPROACH YOU WITH YOUR PRISONER?

12 A. HE DID.

13 Q. AND WHAT DID YOU DO ABOUT THAT?

14 A. TOLD HIM TO STEP BACK.

15 Q. DID YOU -- AND WHAT WAS THE REASON THAT YOU DID THAT?

16 A. IT WOULD HAVE BEEN A BREACH OF SECURITY. I DIDN'T KNOW  
17 WHO HE WAS.

18 Q. DID YOU SEE HIM LATER?

19 A. THAT DAY?

20 Q. THAT DAY OR ANY DAY.

21 A. I DON'T BELIEVE SO.

22 Q. ALL RIGHT. DID YOU SEE HIM IN THE BOOKING AREA AT ALL?

23 A. I DON'T RECALL.

24 Q. ALL RIGHT. DID YOU TAKE THE PRISONER TO THE BOOKING  
25 AREA?

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1 A. TOOK HER IN THE FACILITY, TOOK HER UP TO THE FIFTH FLOOR,  
2 THAT'S WHERE THE JAIL WAS.

3 Q. ALL RIGHT. DID YOU -- ABOUT WHAT TIME OF DAY DID YOU  
4 ARRIVE AT THE WAKE COUNTY JAIL?

5 A. I'D SAY SOMEWHERE BETWEEN 4:30 AND 5:00.

6 Q. DID YOU SEE ANY NEWS MEDIA THERE WHEN YOU ARRIVED?

7 A. YES.

8 Q. AND WHERE WERE THEY?

9 A. INITIALLY THEY WERE ON THE GROUND FLOOR AND THEN THEY  
10 MOVED UP TO THE FIFTH FLOOR IN THE BOOKING AREA.

11 Q. AFTER YOU FINISHED BOOKING IN THE PRISONER, WHAT DID YOU  
12 DO?

13 A. I WAS OFF DUTY. WE WENT HOME.

14 Q. SO, YOU AND YOUR WIFE WENT HOME?

15 A. CORRECT.

16 Q. NOW, AFTER YOU GOT HOME, DID YOU HAVE AN OCCASION TO  
17 WATCH THE LOCAL NEWS THAT NIGHT?

18 A. I DID.

19 Q. WHAT DID YOU SEE?

20 A. FILM FOOTAGE OF US BRINGING HER INTO THE FACILITY AND  
21 THEN ALSO FILM FOOTAGE ON THE BOOKING FLOOR.

22 Q. AND BY US YOU MEAN YOU AND YOUR WIFE?

23 A. YES.

24 Q. WAS ANY OTHER DEPUTY U.S. MARSHAL INVOLVED IN THE  
25 TRANSPORT FROM CHARLOTTE TO RALEIGH?

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1 A. NO.

2 Q. JUST YOU?

3 A. MYSELF AND THE OTHER DEPUTY FROM SOUTH CAROLINA.

4 Q. AND HE BROUGHT HER FROM SOUTH CAROLINA TO CHARLOTTE, IS  
5 THAT RIGHT?

6 A. TO CHARLOTTE, YES.

7 Q. SO, INVOLVING THE TRANSFER OF HELENA STOECKLEY ON AUGUST  
8 15TH, 1979, NO DEPUTY U.S. MARSHAL FROM RALEIGH WENT TO SOUTH  
9 CAROLINA?

10 A. NO, NOT THAT I KNOW OF.

11 Q. NOW, ARE YOU AWARE -- LET'S PUT THE CALENDAR BACK UP FOR  
12 A MOMENT. THAT'S 2362. ARE YOU AWARE THAT HELENA STOECKLEY  
13 WAS TRANSFERRED FROM THE WAKE COUNTY JAIL TO THE FEDERAL  
14 BUILDING ON AUGUST 16TH, THURSDAY?

15 A. YES.

16 Q. AND DO YOU KNOW WHO MADE THAT TRANSPORT?

17 A. IT WAS JIM BRITT AND GERALDINE HOLDEN.

18 Q. LET'S GO BACK TO THE MAP, EXHIBIT 2101.3. WE'LL ENLARGE  
19 IT A LITTLE BIT. NOW, AS I UNDERSTAND YOUR TESTIMONY, YOU DID  
20 NOT TRANSFER HELENA STOECKLEY FROM THE WAKE COUNTY JAIL TO THE  
21 FEDERAL BUILDING, IS THAT RIGHT?

22 A. NO.

23 Q. BUT YOU HAVE TRANSFERRED MANY PRISONERS FROM THE WAKE  
24 COUNTY JAIL TO THE FEDERAL BUILDING IN RALEIGH?

25 A. YES.

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1 Q. COULD YOU TRACE WITH YOUR FINGER, AS BEST YOU CAN, THE  
2 ROUTE THAT YOU WOULD TAKE WHEN YOU WOULD DEPART WAKE COUNTY  
3 SHERIFF'S DEPARTMENT AND WERE TRAVELING TO TAKE A PRISONER TO  
4 THE FEDERAL BUILDING.

5 A. YOU WOULD EXIT THE JAIL, TAKE A LEFT ON SALISBURY, TAKE A  
6 RIGHT ON DAVIE, COME ACROSS TO BLOODWORTH, AND THEN UP TO THE  
7 FEDERAL BUILDING.

8 Q. OKAY. SO, CAN YOU COUNT THE NUMBER OF BLOCKS THAT WOULD  
9 BE? THERE'S A PARTIAL BLOCK RIGHT AFTER YOU TURN.

10 A. YEAH.

11 Q. THEN COUNT THE OTHER BLOCKS.

12 A. INCLUDING THE FEDERAL BUILDING?

13 Q. YES.

14 A. SIX.

15 Q. SO, THAT WOULD BE A SIX BLOCK TRIP TO MAKE THAT PRISONER  
16 TRANSPORTATION?

17 A. YES.

18 Q. THANK YOU.

19 MR. BRUCE: IF WE COULD, MADAM CLERK, PRESERVE THAT  
20 AND WE'LL CALL IT 2101.3A.

21 (GOVERNMENT EXHIBIT NUMBER 2101.3A  
22 WAS IDENTIFIED FOR THE RECORD.)

23 MADAM CLERK: YES, SIR.

24 MR. BRUCE: THANK YOU.

25 BY MR. BRUCE:

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1 Q. NOW, LET ME SHOW YOU AN EXHIBIT, GOVERNMENT EXHIBIT 2074.  
2 AND IF YOU CAN -- OKAY, WE GOT RID OF THE RED MARK. DO YOU  
3 SEE THIS TO BE A COPY OF A NEWS ARTICLE FROM THE *RALEIGH NEWS*  
4 & *OBSERVER* ON FRIDAY, AUGUST 17TH, 1979?

5 A. YES.

6 Q. AND DO YOU SEE THE PHOTOGRAPH IN THE -- ON THE RIGHT-HAND  
7 SECTION?

8 A. YES.

9 Q. DO YOU RECOGNIZE THE PEOPLE IN THAT PHOTOGRAPH?

10 A. THE ONE IN THE FOREFRONT, THE FEMALE, IS HELENA  
11 STOECKLEY. THE MALE BEHIND HER IS JIM BRITT. THE OTHER MALE  
12 IN THE BACKGROUND IS EITHER HER HUSBAND OR HER BOYFRIEND.

13 (GOVERNMENT EXHIBIT NUMBER 2074  
14 WAS IDENTIFIED FOR THE RECORD.)

15 Q. IS THAT THE SAME PERSON THAT YOU SAW APPROACH YOU ON  
16 AUGUST 15TH, 1979, AT THE WAKE COUNTY JAIL WHEN YOU WERE  
17 DELIVERING HELENA STOECKLEY THERE?

18 A. AS BEST I RECALL, YES.

19 THE COURT: ARE YOU REFERRING TO THE -- NOT TO MR.  
20 BRITT, BUT THE OTHER PERSON?

21 MR. BRUCE: I'M SORRY. LET ME BE MORE PRECISE.

22 BY MR. BRUCE:

23 Q. THE FIRST PERSON IN THE FOREGROUND IS HELENA STOECKLEY,  
24 IS THAT RIGHT?

25 A. YES.

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1 Q. ALL RIGHT. WHO'S THE SECOND PERSON?

2 A. THE SECOND PERSON IS JIMMY BRITT.

3 Q. AND HE WAS A DEPUTY U.S. MARSHAL?

4 A. CORRECT.

5 Q. AND HE'S WEARING A COAT AND TIE?

6 A. YES.

7 Q. ALL RIGHT. THE PERSON IN THE LEFT-HAND PART OF THE  
8 PICTURE IN THE BACKGROUND, TELL WHAT YOU KNOW ABOUT HIM.

9 A. HE WAS AT THE JAIL WHEN WE PULLED IN.

10 Q. AND YOU BELIEVE HER TO BE -- BELIEVE HIM TO BE A  
11 BOYFRIEND OR A HUSBAND OF HELENA STOECKLEY?

12 A. AT THAT TIME, I DID.

13 Q. OKAY.

14 A. THIS SAYS FIANCE.

15 Q. OKAY. THE CAPTION SAYS FIANCE?

16 A. I BELIEVE SO.

17 Q. YES. OKAY. NOW, A QUESTION ABOUT THIS PICTURE. CAN YOU  
18 TELL WHERE IT WAS TAKEN?

19 A. IT'S THE ENTRANCE TO THE LOADING DOCK OF THE FEDERAL  
20 BUILDING IN RALEIGH.

21 Q. IS THAT -- IN 1979, WAS THAT THE LOADING DOCK THAT YOU  
22 WERE USING TO TRANSPORT PRISONERS IN AND OUT?

23 A. YES.

24 Q. NOW, CAN YOU TELL FROM WHAT'S INDICATED IN THE PHOTOGRAPH  
25 ARE THE PEOPLE COMING INTO THE BUILDING OR OUT OF THE

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1 BUILDING?

2 A. THEY'RE COMING OUT OF THE BUILDING.

3 Q. AND HOW CAN YOU TELL THAT?

4 A. YOU CAN SEE HOW THE RAILING SLANTS DOWN.

5 Q. AND SO GOING DOWN IS COMING OUT?

6 A. YES.

7 Q. NOW, LET'S PUT THE WHOLE PICTURE UP AGAIN, PLEASE. AND  
8 DO YOU SEE THE DATE ON THE NEWSPAPER?

9 A. 17TH.

10 Q. NOW, ON THE 15TH, THAT'S THE DAY YOU BROUGHT HELENA  
11 STOECKLEY FROM CHARLOTTE TO THE WAKE COUNTY JAIL, IS THAT  
12 RIGHT?

13 A. THE 15TH?

14 Q. WEDNESDAY, THE 15TH. I'M JUST --

15 A. YES. YES.

16 Q. -- ASKING.

17 A. YES.

18 Q. OKAY. HELENA STOECKLEY DID NOT -- IS IT TRUE THAT HELENA  
19 STOECKLEY DID NOT GO TO THE FEDERAL BUILDING ON WEDNESDAY,  
20 AUGUST 15TH?

21 A. ON THE 15TH, NO.

22 Q. SHE DID NOT?

23 A. NO.

24 Q. SO, THIS PICTURE DEPICTED IN 2074 COULD NOT HAVE BEEN  
25 TAKEN ON WEDNESDAY, AUGUST 15TH?

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1 A. NO.

2 Q. AND YOU KNOW THAT WHY?

3 A. BECAUSE I WAS MOVING HER FROM CHARLOTTE TO WAKE COUNTY.

4 Q. THANK YOU.

5 THE COURT: CROSS. WELL, LET'S --

6 MR. BRUCE: I'M SORRY, I HAVE A FEW MORE QUESTIONS.

7 THE COURT: I'M SORRY. GO AHEAD.

8 MR. BRUCE: I'M SORRY.

9 BY MR. BRUCE:

10 Q. DID YOU WORK WITH DEPUTY U.S. MARSHAL JIMMY BRITT DURING  
11 YOUR TIME IN RALEIGH?

12 A. THERE WERE TIMES I WORKED WITH HIM.

13 Q. AND WHAT KIND OF RELATIONSHIP DID YOU HAVE WITH HIM?

14 A. IT WAS A WORKING RELATIONSHIP.

15 Q. BASED ON YOUR OBSERVATION OF HIM AS A FELLOW DEPUTY, WHAT  
16 KIND OF RELATIONSHIP DID JIM BRITT HAVE WITH HIS SUPERVISORS?

17 A. THERE WAS TENSION BETWEEN THEM.

18 Q. CAN YOU ALSO -- DID YOU HAVE AN INCIDENT WITH JIMMY BRITT  
19 CONCERNING A TAPE RECORDER AND A CUBICLE?

20 A. YES, I DID.

21 Q. CAN YOU EXPLAIN THAT TO US, PLEASE?

22 A. I RECEIVED A HANDHELD TAPE RECORDER FROM OUR HEADQUARTERS  
23 OFFICE AND THAT WAS INTENDED FOR ONE OF THE INSPECTORS EITHER  
24 -- I CAN'T REMEMBER WHETHER IT WAS THE ENFORCEMENT OR THE  
25 WITNESS INSPECTOR. AND I WAS TESTING IT, DOING A

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1 RECORD/PLAYBACK, AND DEPUTY BRITT CAME AROUND OUT OF HIS  
2 CUBICLE AND HE WANTED TO KNOW WHAT I WAS DOING AND WHAT THIS  
3 THING WAS AND WHAT IT WAS ALL ABOUT. AND I EXPLAINED IT TO  
4 HIM. HE TOLD ME TO GET RID OF IT AND DON'T TURN IT ON OR  
5 WORDS TO THAT EFFECT.

6 Q. NOW, IN YOUR EXPERIENCE WITH TRANSPORTING PRISONERS WHO  
7 ARE WITNESSES TO BE INTERVIEWED, HAVE YOU EVER SAT IN ON AN  
8 INTERVIEW WHEN THE PRISONER WITNESS IS BEING INTERVIEWED BY AN  
9 ASSISTANT UNITED STATES ATTORNEY?

10 A. MYSELF, NO, NEVER.

11 MR. BRUCE: NO FURTHER QUESTIONS, YOUR HONOR.

12 THE COURT: WELL, WE'RE GOING TO TAKE OUR RECESS  
13 TILL 10:45.

14 (RECESS TAKEN FROM 10:29 A.M., UNTIL 10:46 A.M.)

15 (DEFENDANT PRESENT.)

16 THE COURT: PLEASE BE SEATED. WE'LL CONTINUE.

17 YOU'RE STILL UNDER OATH, MR. MEEHAN. THE WITNESS IS WITH YOU,  
18 MR. WIDENHOUSE.

19 MR. WIDENHOUSE: THANK YOU, YOUR HONOR.

20 C R O S S - E X A M I N A T I O N 10:46 A.M.

21 BY MR. WIDENHOUSE:

22 Q. NOW, MR. MEEHAN, WE'VE KNOWN EACH OTHER BACK WHEN NEITHER  
23 ONE OF US HAD WHITE HAIR, DIDN'T WE?

24 A. YOU'RE RIGHT.

25 Q. IF I CAN HAVE GOVERNMENT EXHIBIT 2003? AND COULD YOU

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1 LOOK AT THE LAST PARAGRAPH? WE'LL PULL IT UP FOR YOU AND I  
2 THINK IT'S HIGHLIGHTED ON PAGE TWO. AND COULD YOU READ THE  
3 HIGHLIGHTED PARAGRAPH THERE FOR ME?

4 A. ON AUGUST 15TH, 1979, U.S. MARSHAL JOE NEELEY, GREENVILLE  
5 S.C., ADVISED THAT THE SUBJECT HAD BEEN TRANSPORTED DIRECTLY  
6 FROM THE PICKENS COUNTY JAIL TO RALEIGH, N.C., ON AUGUST -- IT  
7 APPEARS TO BE A 15 OR A 13, 1979.

8 Q. ALL RIGHT. AND IF I UNDERSTOOD YOUR DIRECT, YOU SAID  
9 THAT CHIEF DEPUTY SIGMON HAD DIRECTED YOU TO GO TO CHARLOTTE  
10 AND PICK UP HELENA STOECKLEY?

11 A. CORRECT.

12 Q. AND THAT'S WHAT YOU DID?

13 A. YES.

14 Q. AND YOU MET AT SOME PREARRANGED LOCATION AT THE  
15 INTERSECTION OF I-85 AND I-77?

16 A. THAT'S CORRECT.

17 Q. DO YOU REMEMBER WHAT THE PREARRANGED LOCATION WAS?

18 A. IT WAS A PARKING LOT, EITHER A HOWARD JOHNSON OR A  
19 SHONEY'S.

20 Q. AND THEN YOU BROUGHT HER BACK TO THE WAKE COUNTY JAIL?

21 A. DIRECTLY BACK, YES.

22 Q. AND YOU CHECKED HER INTO THE WAKE COUNTY JAIL? YOU SAW  
23 HER BOOKED IN?

24 A. I BOOKED HER IN.

25 Q. ALL RIGHT. AND THEN YOU DIDN'T HAVE ANY CONTACT WITH HER

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1 AGAIN ON THE 15TH?

2 A. NO.

3 Q. SO, IT'S POSSIBLE SOMEBODY ELSE COULD HAVE TRANSPORTED  
4 HER AFTER YOU HAD HER BOOKED IN THE JAIL OVER TO THE WAKE  
5 COUNTY -- THE FEDERAL BUILDING, YOU JUST DIDN'T DO IT?

6 A. ON THE 15TH?

7 Q. YES.

8 A. THE DAY I MOVED HER?

9 Q. YES.

10 A. I HIGHLY DOUBT THAT.

11 Q. OKAY. BUT ALL YOU KNOW FOR SURE IS YOU DIDN'T MOVE HER?

12 A. NO, I DID NOT.

13 Q. AND WHAT KIND OF -- DO YOU REMEMBER WHAT KIND OF CAR YOU  
14 TOOK WHEN YOU -- DID YOU TAKE YOUR PERSONAL CAR FROM --

15 A. NO, IT WAS A GOVERNMENT CAR.

16 Q. OKAY. AND DO YOU HAVE A RECEIPT? IS THAT A LOG BOOK?  
17 WOULD THAT CAR HAVE BEEN LOGGED OUT TO TAKE IT TO CHARLOTTE?

18 A. NOT LOGGED OUT DIRECTLY, BUT IT WOULD HAVE BEEN ON MY  
19 DAILY LOG AT THE TIME.

20 Q. OKAY. SO, YOU DON'T HAVE TO SIGN THE CAR OUT?

21 A. NO. NO.

22 Q. BUT IT WOULD BE ON YOUR LOG?

23 A. YES.

24 Q. AND DO YOU HAVE A COPY OF YOUR LOG?

25 A. NO, I DON'T.

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1 Q. IF I CAN HAVE THE PICTURE THAT YOU LOOKED AT -- THAT HE  
2 LOOKED AT ON DIRECT. I THINK IT'S THE NEWSPAPER ARTICLE. CAN  
3 YOU TELL ME AGAIN WHERE YOU THINK THAT LOCATION IS? DID YOU  
4 SAY THAT'S THE LOADING DOCK AT THE FEDERAL BUILDING?

5 A. THAT'S WHAT IT APPEARS TO ME, YES.

6 Q. AND ARE PEOPLE GOING INTO THE FEDERAL BUILDING?

7 A. FROM THIS PICTURE, IT APPEARS LIKE THEY'RE EXITING THE  
8 BUILDING.

9 Q. OKAY. AND WOULD IT BE COMMON PRACTICE FOR A CIVILIAN WHO  
10 WASN'T UNDER -- IN UNITED STATES MARSHAL'S CUSTODY TO BE THAT  
11 CLOSE COMING OUT OF THE COURTHOUSE WITH AN ESCORTED PRISONER?

12 A. THAT SHOULDN'T HAVE HAPPENED.

13 Q. SO, LOOKING AT THAT PICTURE, I TAKE IT, YOU THINK THAT  
14 LOOKS UNUSUAL TO YOU?

15 A. TO ME, YES.

16 Q. AND OTHER THAN THE FACT THAT THE PICTURE APPEARS TO HAVE  
17 BEEN PUBLISHED IN THE *NEWS & OBSERVER* ON AUGUST 17TH, DO YOU  
18 KNOW WHEN THE PICTURE WAS MADE?

19 A. WHEN THAT PICTURE WAS TAKEN?

20 Q. YES.

21 A. NO.

22 MR. WIDENHOUSE: THANK YOU. THAT'S ALL I HAVE, YOUR  
23 HONOR.

24 THE COURT: ANYTHING FURTHER, MR. BRUCE?

25 MR. BRUCE: NO FURTHER QUESTIONS, YOUR HONOR.

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1 THE COURT: ALL RIGHT. YOU MAY STEP DOWN. CALL  
2 YOUR NEXT WITNESS.

3 MR. BRUCE: MAY THIS WITNESS BE EXCUSED?

4 MR. WIDENHOUSE: NO OBJECTION.

5 THE COURT: YES, SIR.

6 MR. BRUCE: THE GOVERNMENT CALLS EDDIE SIGMON. I'M  
7 SORRY, I'VE GOT THE WRONG ORDER, YOUR HONOR. JANICE MEEHAN.

8 **JANICE MEEHAN, GOVERNMENT WITNESS, SWORN**

9 D I R E C T E X A M I N A T I O N 10:52 A.M.

10 BY MS. COOLEY:

11 Q. GOOD MORNING, MS. MEEHAN

12 A. GOOD MORNING.

13 Q. IF YOU COULD PLEASE SPELL YOUR LAST NAME FOR THE COURT  
14 REPORTER.

15 A. M-DOUBLE E-H-A-N.

16 Q. AND WHERE DO YOU CURRENTLY LIVE?

17 A. RALEIGH, NORTH CAROLINA.

18 Q. AND WERE YOU LIVING IN RALEIGH IN 1979?

19 A. YES.

20 Q. AND AT THAT TIME WERE YOU MARRIED TO DENNIS MEEHAN?

21 A. YES, I WAS.

22 Q. AND HOW WAS HE EMPLOYED DURING 1979?

23 A. HOW WAS HE EMPLOYED?

24 Q. WHO DID HE WORK FOR?

25 A. OH. THE UNITED STATES MARSHAL SERVICE.

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1 Q. AND AT SOME POINTS OR AT SOME TIMES DURING HIS EMPLOYMENT  
2 WITH THE MARSHAL SERVICE, WOULD YOU HAVE OCCASION TO RIDE WITH  
3 HIM?

4 A. YES.

5 Q. HOW WOULD THAT COME ABOUT?

6 A. IF THEY DIDN'T HAVE A FEMALE, I THINK THEY CALLED THEM  
7 MATRONS, TO HELP TRANSPORT A FEMALE PERSON. I DON'T KNOW  
8 WHETHER YOU'D CALL THEM PRISONERS OR NOT.

9 Q. IF IT WAS A FEMALE IN CUSTODY?

10 A. YES. THANK YOU.

11 Q. SURE. AND WERE YOU PAID FOR THIS POSITION?

12 A. I BELIEVE I WAS, YES. IT'S BEEN A LONG TIME.

13 Q. AND DO YOU REMEMBER THE TIME IN 1979, DURING THE  
14 MACDONALD TRIAL?

15 A. YES.

16 Q. AND DO YOU REMEMBER YOUR EX-HUSBAND WORKING PARTS OF THE  
17 MACDONALD TRIAL?

18 A. YES.

19 Q. DID YOU EVER HAVE OCCASION TO GO WITH HIM TO TRANSPORT A  
20 PRISONER RELATED TO THAT TRIAL?

21 A. YES.

22 Q. OKAY. AND DO YOU REMEMBER WHO THAT PERSON WAS?

23 A. HELENA STOECKLEY.

24 Q. DO YOU REMEMBER WHERE IT WAS THAT YOU WENT WITH HIM TO  
25 GET HER?

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1 A. I DON'T REMEMBER THAT. I DO REMEMBER THAT IT WAS LIKE A  
2 PARKING LOT BECAUSE I REMEMBER, YOU KNOW, PEOPLE WALKING.

3 Q. AND ABOUT HOW LONG -- DID YOU LEAVE FROM RALEIGH?

4 A. YES.

5 Q. ABOUT HOW LONG DID IT TAKE YOU TO GET TO THIS LOCATION  
6 FROM RALEIGH?

7 A. MAYBE TWO, THREE HOURS. I REALLY DON'T RECALL THAT TO BE  
8 REAL SPECIFIC.

9 Q. AND DID YOU GO AND COME IN THE SAME DAY?

10 A. PARDON ME?

11 Q. DID YOU GO PICK UP THE PRISONER AND COME BACK TO RALEIGH  
12 IN THE SAME DAY?

13 A. YES.

14 Q. AND CAN YOU DESCRIBE -- WELL, YOU SAID THAT WHERE YOU  
15 PICKED THIS PERSON UP WAS A PARKING LOT?

16 A. YES.

17 Q. WHERE WAS IT IN RELATION TO THE HIGHWAY?

18 A. I DON'T REALLY REMEMBER, BUT I DON'T THINK IT WAS FAR  
19 OFF.

20 Q. AND WHO DID YOU PICK HER UP FROM, IF YOU CAN RECALL?

21 A. I AM ASSUMING TWO FEDERAL MARSHALS.

22 Q. DO YOU REMEMBER WHO IT WAS EXACTLY THAT YOU PICKED HER UP  
23 FROM?

24 A. NAME-WISE, NO.

25 Q. AND ON THE RIDE BACK TO RALEIGH, AFTER PICKING HER UP --

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1 A. YES.

2 Q. -- WHO ALL WAS IN THE CAR?

3 A. DENNIS, HELENA AND MYSELF.

4 Q. THERE WAS NO ONE ELSE IN THE CAR WITH YOU?

5 A. NO.

6 Q. AND DID YOU TALK AT ALL ON THE RIDE BACK?

7 A. NO. SHE --

8 Q. DID -- GO AHEAD.

9 A. SHE KIND OF MUMBLED, BUT YOU COULDN'T -- I COULDN'T  
10 REALLY HEAR HER OR ANYTHING.

11 Q. DID YOU TALK TO HER AT ALL ABOUT HER INVOLVEMENT IN THE  
12 MACDONALD TRIAL?

13 A. NO.

14 Q. AND WHEN YOU GOT BACK TO RALEIGH, WHERE DID YOU TAKE HER?

15 A. TO THE JAIL.

16 Q. AND UPON ARRIVAL AT THE JAIL, WAS THERE ANYONE THERE?

17 A. YES, I DO REMEMBER A SHORT FELLOW RUNNING -- YOU KNOW,  
18 RUNNING OUT TOWARD THE CAR.

19 Q. TOWARDS THE CAR THAT YOU WERE IN?

20 A. TOWARD, YEAH, THE CAR THAT WE WERE IN.

21 Q. DO YOU REMEMBER WHETHER HE WAS WHITE, BLACK?

22 A. I WANT TO SAY -- I KNOW HE WAS WHITE AND HE HAD DARK  
23 HAIR. I DO REMEMBER THAT.

24 Q. WAS THERE ANYONE ELSE WAITING THERE AT THE JAIL WHEN YOU  
25 ARRIVED?

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1 A. I DIDN'T SEE ANYONE ELSE.

2 Q. DID YOU EVER SEE ANY MEMBERS OF THE MEDIA?

3 A. OF THE WHAT?

4 Q. MEDIA.

5 A. WHEN WE -- YES. WHEN WE WENT UPSTAIRS, THERE WAS MEDIA  
6 THERE.

7 Q. AND HOW DO YOU RECALL THAT THERE WAS MEDIA?

8 A. BECAUSE I -- IT WAS ACTION NEWS, I BELIEVE, 11 AND, YOU  
9 KNOW, THEY HAD CAMERAS AND ALL THAT STUFF. THAT'S WHAT I  
10 REMEMBER.

11 Q. DID YOU SEE YOURSELF LATER ON THE NEWS?

12 A. YES.

13 Q. YOU SAID YOU THOUGHT IT WAS ACTION 11?

14 A. ELEVEN.

15 MS. COOLEY: I HAVE NO FURTHER QUESTIONS, YOUR  
16 HONOR.

17 THE COURT: CROSS.

18 MR. WIDENHOUSE: THANK YOU, YOUR HONOR.

19 C R O S S - E X A M I N A T I O N 10:57 A.M.

20 BY MR. WIDENHOUSE:

21 Q. MS. MEEHAN, DO YOU RECALL WHAT KIND OF VEHICLE YOU AND  
22 YOUR HUSBAND --

23 A. IT WAS A CROWN VICTORIA, I'M ALMOST POSITIVE, BECAUSE  
24 THAT'S WHAT THEY DROVE.

25 Q. OKAY. SO, IT WAS NOT A PERSONAL VEHICLE, IT WAS A

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1 MARSHAL'S CAR?

2 A. RIGHT. RIGHT. RIGHT.

3 Q. AND DO YOU RECALL WHETHER THERE WAS AN EXCHANGE OF  
4 PAPERWORK WHEN YOU ALL GOT MS. STOECKLEY?

5 A. WELL, THEY WENT TO THE SIDE, I DO REMEMBER THAT, AND  
6 WHAT, YOU KNOW, THEY WERE DOING OVER THERE I REALLY DIDN'T PAY  
7 ANY ATTENTION TO TO SAY. I REMEMBER LEAVING I HAD TO SIGN  
8 FROM THE JAIL SOMETHING.

9 Q. YOU SIGNED SOMETHING AT THE WAKE COUNTY JAIL --

10 A. YEAH.

11 Q. -- WHEN YOU GOT BACK TO RALEIGH?

12 A. (WITNESS NODS HEAD.)

13 Q. OKAY. DO YOU REMEMBER ANYTHING ABOUT THE PEOPLE THAT YOU  
14 GOT HELENA STOECKLEY FROM WHEN YOU ARRIVED IN CHARLOTTE AT THE  
15 PARKING LOT?

16 A. I DO REMEMBER ONE OF THE MEN WAS A BLACK MAN AND THE  
17 OTHER WAS A WHITE MAN.

18 Q. OKAY. SO IT WAS TWO MEN. AND YOUR RECOLLECTION IS ONE  
19 BLACK AND ONE WHITE?

20 A. YES.

21 MR. WIDENHOUSE: THANK YOU, YOUR HONOR. NO FURTHER  
22 QUESTIONS.

23 THE COURT: ANY REDIRECT?

24 MS. COOLEY: IF I MAY HAVE ONE MOMENT, YOUR HONOR.

25 (PAUSE.)

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1 MS. COOLEY: YES. THANK YOU, YOUR HONOR.

2 R E D I R E C T E X A M I N A T I O N 10:59 A.M.

3 BY MS. COOLEY:

4 Q. MS. MEEHAN, JUST ONE QUESTION. WHEN YOU PICKED HELENA  
5 STOECKLEY UP FROM THE INDIVIDUALS IN CHARLOTTE, DO YOU RECALL  
6 WHETHER THERE WAS A MATRON WITH THEM TO TRANSPORT HER?

7 A. DO I REMEMBER WHAT?

8 Q. IF YOU RECALL WHETHER THERE WAS A MATRON, A FEMALE ALSO  
9 HELPING IN TRANSPORT LIKE YOU WERE DOING?

10 A. NO, I JUST SORT OF GLANCED OVER THERE. IT WASN'T LIKE I  
11 WAS WATCHING EVERYTHING OR ANYTHING.

12 Q. SO, YOU JUST DON'T RECALL?

13 A. NO, I DON'T.

14 MS. COOLEY: THANK YOU. NO FURTHER QUESTIONS, YOUR  
15 HONOR.

16 THE WITNESS: THANK YOU.

17 THE COURT: YOU MAY STEP DOWN.

18 THE WITNESS: THANK YOU.

19 THE COURT: DO YOU HAVE ANYTHING FURTHER?

20 MR. WIDENHOUSE: NO RECROSS, YOUR HONOR.

21 MS. COOLEY: YOUR HONOR, MAY MS. MEEHAN BE RELEASED  
22 FROM HER SUBPOENA?

23 MR. WIDENHOUSE: NO OBJECTION.

24 THE COURT: YES, MA'AM, SHE'S RELEASED.

25 MS. COOLEY: THANK YOU, YOUR HONOR.

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1 MR. BRUCE: THE GOVERNMENT CALLS NOW EDDIE SIGMON.

2 **EDDIE R. SIGMON, GOVERNMENT WITNESS, SWORN**

3 D I R E C T E X A M I N A T I O N 11:00 A.M.

4 BY MR. BRUCE:

5 Q. WOULD YOU STATE YOUR NAME, PLEASE?

6 A. EDDIE SIGMON.

7 Q. AND WHERE DO YOU CURRENTLY RESIDE?

8 A. SIR?

9 Q. WHERE DO YOU CURRENTLY -- I'M SORRY, LET ME GET THE  
10 MICROPHONE. WHERE DO YOU CURRENTLY RESIDE?

11 A. CARY, NORTH CAROLINA.

12 Q. ARE YOU RETIRED?

13 A. I AM.

14 Q. AND FROM WHAT PROFESSION DID YOU RETIRE?

15 A. I WAS THE CHIEF DEPUTY U.S. MARSHAL FOR THE EASTERN  
16 DISTRICT OF NORTH CAROLINA.

17 Q. CAN YOU OUTLINE YOUR LAW ENFORCEMENT CAREER PRIOR TO  
18 BECOMING A DEPUTY U.S. MARSHAL?

19 A. I STARTED IN LAW ENFORCEMENT WITH THE CATAWBA COUNTY  
20 SHERIFF'S DEPARTMENT IN 1954.

21 Q. AND WHAT STATE WAS THAT?

22 A. CATAWBA COUNTY.

23 Q. CATAWBA COUNTY. AND WHEN DID YOU GO WITH THE MARSHAL  
24 SERVICE?

25 A. I WAS SWORN IN SEPTEMBER THE 21ST, 1959.

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1 Q. '59. AND WHERE WAS YOUR FIRST POST OF DUTY?

2 A. RALEIGH.

3 Q. YOU STAYED IN RALEIGH YOUR WHOLE CAREER?

4 A. I DID.

5 Q. AND WHEN DID YOU BECOME THE CHIEF DEPUTY UNITED STATES  
6 MARSHAL?

7 A. I THINK THE MONTH WAS JUNE. THE YEAR WAS 1965.

8 Q. AND WHO WAS THE U.S. MARSHAL AT THAT TIME?

9 A. B. RAY COHOON.

10 Q. AND SO YOU SERVED AS CHIEF DEPUTY UNITED STATES MARSHAL  
11 FROM THAT TIME UNTIL WHEN?

12 A. UNTIL MY RETIREMENT, DECEMBER THE 31ST, 1984.

13 Q. WERE YOU RECOGNIZED UPON YOUR RETIREMENT?

14 A. I WAS.

15 Q. TELL US ABOUT THAT.

16 A. THE DIRECTOR OF THE MARSHAL SERVICE INDICATED TO ME OR  
17 TOLD ME IN A LETTER THAT I WAS THE LONGEST SERVING CHIEF  
18 DEPUTY THAT'S EVER BEEN IN THE MARSHAL SERVICE.

19 Q. AND YOU GOT A LETTER TO THAT EFFECT?

20 A. I DO.

21 Q. NOW, IN YOUR CAPACITY AS CHIEF DEPUTY UNITED STATES  
22 MARSHAL, YOU SUPERVISED ALL OF THE OTHER DEPUTIES IN THE  
23 DISTRICT, EASTERN DISTRICT OF NORTH CAROLINA?

24 A. YES.

25 Q. AND YOU WORKED -- THE UNITED STATES MARSHAL IS AN

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1 APPOINTED POLITICAL POSITION, IS THAT RIGHT?

2 A. YES.

3 Q. AND SO YOU SERVED THROUGH VARIOUS ADMINISTRATIONS OF  
4 APPOINTED UNITED STATES MARSHALS?

5 A. YES.

6 Q. AND WAS THERE A TIME WHEN YOU SERVED AS ACTING UNITED  
7 STATES MARSHAL?

8 A. YES.

9 Q. WHEN WAS THAT?

10 A. I'M NOT SURE OF THE DATE. I THINK IT WAS 1974. CHIEF  
11 JUDGE ALGERNON BUTLER APPOINTED ME UNDER ORDER TO FINISH THE  
12 TERM OF A FORMER MARSHAL.

13 Q. NOW, IS ONE OF THE DUTIES OF THE UNITED STATES MARSHAL  
14 SERVICE TO TRANSPORT PRISONERS TO AND FROM COURT?

15 A. YES.

16 Q. AND DID YOU OVERSEE THAT OPERATION WHILE YOU WERE CHIEF  
17 DEPUTY?

18 A. YES.

19 Q. WERE YOU SERVING AS CHIEF DEPUTY DURING THE TRIAL OF  
20 *UNITED STATES V. MACDONALD* IN 1979?

21 A. YES.

22 Q. DO YOU RECALL THAT?

23 A. REPEAT.

24 Q. DO YOU RECALL THE TRIAL?

25 A. I'M SORRY, JOHN, I STILL --

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1 Q. LET ME WITHDRAW THAT AND GO TO THE NEXT ONE. DURING THE  
2 TRIAL, DID YOU HAVE THE RESPONSIBILITY OF HANDING OUT  
3 ASSIGNMENTS FOR WHAT THE DEPUTY U.S. MARSHALS WERE GOING TO  
4 DO?

5 A. YES.

6 Q. AND AMONG THOSE DEPUTIES THAT YOU WERE GIVING ASSIGNMENTS  
7 TO WAS DENNIS MEEHAN?

8 A. YES.

9 Q. JIM BRITT?

10 A. YES.

11 Q. AND THERE WERE OTHERS, OF COURSE?

12 A. YES.

13 Q. WILLIAM SESSIONS, I BELIEVE?

14 A. REPEAT, PLEASE.

15 Q. CAN YOU GIVE US SOME OF THE OTHER NAMES OF THE DEPUTIES  
16 THAT WERE WORKING FOR YOU DURING THE MACDONALD CASE?

17 A. WELL, LEE TART, FRANK SESSOMS, DENNIS MEEHAN, AL MARTIN  
18 AND WE ALSO HAD SOME EXTRA HELP FROM OUT IN THE DISTRICT  
19 DURING THE TRIAL.

20 Q. AND THE U.S. MARSHAL AT THAT TIME WAS WHO?

21 A. HUGH SALTER.

22 Q. BUT YOU WERE THE ONE GIVING OUT THE DAY-TO-DAY  
23 ASSIGNMENTS, IS THAT RIGHT?

24 A. YES.

25 Q. DID YOU BECOME AWARE THAT THERE WAS A NEED TO TRANSPORT

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1 HELENA STOECKLEY FROM SOUTH CAROLINA TO RALEIGH, NORTH  
2 CAROLINA, DURING THE TRIAL?

3 A. I HAD KNOWLEDGE THAT HE HAD -- SHE HAD BEEN ARRESTED IN  
4 SOUTH CAROLINA AND THAT SHE WOULD BE TRANSPORTED TO RALEIGH.

5 Q. CAN WE LOOK AT GOVERNMENT EXHIBIT 2000?

6 A. OKAY.

7 Q. CAN YOU TELL US WHAT THAT IS?

8 A. BASICALLY, IT'S AN ORDER TO MOVE HELENA STOECKLEY FROM  
9 SOUTH CAROLINA TO THE EASTERN DISTRICT OF NORTH CAROLINA.

10 Q. IT'S A WARRANT FOR HER ARREST, IS THAT RIGHT?

11 A. SIGNED BY THE HONORABLE JUDGE FRANK DUPREE.

12 (GOVERNMENT EXHIBIT NUMBER 2000

13 WAS IDENTIFIED FOR THE RECORD.)

14 Q. OKAY. SO, IT WOULD BE YOUR RESPONSIBILITY TO WORK OUT  
15 THE TRANSPORTATION?

16 A. TO MAKE THE ASSIGNMENT, YES.

17 Q. AND IN COOPERATION WITH THE UNITED STATES MARSHALS IN THE  
18 DISTRICT OF SOUTH CAROLINA WHERE SHE WAS BEING HELD?

19 A. YES.

20 Q. NOW, ON THE SUBJECT OF TRANSPORTING FEMALE PRISONERS  
21 GENERALLY, WAS THERE A POLICY THAT THERE HAD TO BE A FEMALE  
22 MATRON ACCOMPANY THE DEPUTY U.S. MARSHAL?

23 A. YES.

24 Q. AND DID YOU HAVE ANY FEMALE DEPUTIES AT THAT TIME?

25 A. NO.

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1 Q. SO, WHAT TYPE OF ARRANGEMENTS WOULD YOU MAKE TO HAVE A  
2 MATRON?

3 A. IF I HAD A DEPUTY THAT HAD A WIFE AVAILABLE, I WOULD  
4 CHOOSE THEM.

5 Q. AND DID YOU ALSO HAVE ON OCCASION A CLERICAL PERSON WHO  
6 WAS A FEMALE SERVE AT VARIOUS PRISONER TRANSPORTATIONS?

7 A. YES.

8 Q. AND WHO WAS THAT?

9 A. WE WOULD SWITCH AROUND, MAYBE WHOEVER WAS AVAILABLE.

10 Q. AND WAS ONE OF THEM GERALDINE HOLDEN?

11 A. YES.

12 Q. ALL RIGHT. NOW, DO YOU SPECIFICALLY RECALL WHO YOU  
13 ASSIGNED TO TRAVEL FROM RALEIGH TO GO PICK UP HELENA  
14 STOECKLEY?

15 A. IT'S BEEN SO LONG, I CANNOT DO THAT UNLESS I HAD THE  
16 RECORDS.

17 Q. ALL RIGHT. IF THE TWO CHOICES WERE DENNIS MEEHAN AND HIS  
18 WIFE OR JIM BRITT AND GERALDINE HOLDEN, WHICH DO YOU THINK YOU  
19 WOULD HAVE CHOSEN?

20 A. I WOULD HAVE SENT THE DEPUTY WHO HAD A WIFE AVAILABLE TO  
21 GO WITH HIM.

22 Q. AND WHY IS THAT?

23 A. WELL, I NEED MY CLERICAL PEOPLE IN THE OFFICE TO PERFORM  
24 THEIR DUTIES.

25 Q. AND WAS GERALDINE HOLDEN A VALUABLE CLERICAL EMPLOYEE IN

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1 THE OFFICE?

2 A. SHE WAS.

3 Q. NOW, HAD YOU EVER ASSIGNED DENNIS MEEHAN TO PICK UP A  
4 PRISONER ALONG WITH HIS WIFE, JANICE MEEHAN, PRIOR TO THIS  
5 TIME?

6 A. I COULDN'T BE DEFINITE ABOUT THAT, BUT I WOULD ANSWER  
7 YES.

8 Q. OKAY. NOW, WHAT WAS THE -- WHEN THE DEPUTY U.S. MARSHALS  
9 WERE TRANSPORTING PRISONERS DURING YOUR SUPERVISION, WHAT WAS  
10 THE POLICY ON INTERROGATING THE PRISONER ABOUT THE CASE  
11 INVOLVED?

12 A. WELL, TO MY KNOWLEDGE, THERE WAS NO POLICY FOR A DEPUTY  
13 TO INTERROGATE A PRISONER.

14 Q. WOULD YOU WANT THE DEPUTY TO DO THAT DURING THE PRISONER  
15 TRANSPORTATION?

16 A. NO.

17 Q. NOW, IF A DEPUTY U.S. MARSHAL HAPPENED TO OVERHEAR A  
18 CONFESSION OF SOMEBODY IN CONNECTION WITH A MURDER TRIAL, WHAT  
19 WOULD BE THEIR DUTY?

20 A. WELL, I WOULD CERTAINLY HOPE, SINCE I'M THEIR SUPERVISOR,  
21 THAT THEY WOULD COME AND TELL ME ABOUT IT.

22 Q. AND WAS ANY SUCH THING REPORTED TO YOU IN CONNECTION WITH  
23 HELENA STOECKLEY?

24 A. NO.

25 Q. AND TO YOUR KNOWLEDGE, WAS ANY SUCH THING REPORTED TO

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1 MARSHAL HUGH SALTER ABOUT HELENA STOECKLEY?

2 A. NO. IF IT WAS, I'M SURE HE WOULD HAVE CONSULTED WITH ME.

3 Q. NOW, I WANT TO ASK YOU ABOUT -- YOUR RELATIONSHIP WITH  
4 JIMMY BRITT WAS ONE OF SUPERVISOR TO SUBORDINATE, IS THAT  
5 RIGHT?

6 A. YES.

7 Q. AND DO YOU KNOW ABOUT HOW LONG YOU SUPERVISED JIMMY BRITT  
8 AS A DEPUTY U.S. MARSHAL?

9 A. I DON'T REMEMBER WHEN JIM CAME TO WORK IN OUR OFFICE. I  
10 THINK HE WAS THERE WHEN I WAS ELEVATED TO CHIEF DEPUTY. AND  
11 IF THAT IS THE CASE, I WOULD HAVE SUPERVISED HIM FROM THAT  
12 TIME UNTIL I RETIRED.

13 Q. AND HOW WOULD YOU CHARACTERIZE HIM AS AN EMPLOYEE?

14 A. AN ATTENTION SEEKER.

15 Q. DO YOU RECALL AN INCIDENT -- LEARNING OF AN INCIDENT  
16 INVOLVING A FISTFIGHT OR A DISTURBANCE BETWEEN HIM AND ANOTHER  
17 U.S. DEPUTY MARSHAL?

18 A. I HEARD ABOUT IT.

19 Q. TELL US WHAT YOU KNOW ABOUT IT.

20 A. I'M NOT SURE WHERE I GOT THE INFORMATION. I THINK IT WAS  
21 FROM A POLICE OFFICER IN CARY THAT TOLD ME ABOUT IT BECAUSE IT  
22 HAPPENED IN THE CITY LIMITS OF CARY IN THE VICINITY OF SOUTH  
23 HILLS MALL.

24 Q. AND WHAT HAPPENED PURSUANT TO YOUR UNDERSTANDING?

25 A. WELL, THE ONLY THING HE TOLD ME, HE ASKED ME IF I KNEW

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1 HIM AND I SAID YES, AND HE KIND OF FILLED IN AS TO WHAT TOOK  
2 PLACE.

3 Q. AND WHAT WAS THAT?

4 A. THAT THERE WAS AN ENGAGEMENT BETWEEN THE TWO OVER A  
5 FEMALE.

6 Q. AND THIS WAS JIMMY BRITT AND ANOTHER DEPUTY U.S. MARSHAL?

7 A. ROGER MULLIS.

8 Q. AND DID YOU AND THE MARSHAL HAVE TO TAKE ANY PERSONNEL  
9 ACTION?

10 A. WELL, I WAS RETIRED AT THAT TIME.

11 Q. OH, YOU WERE RETIRED?

12 A. YES.

13 Q. OKAY.

14 A. ROGER MULLIS TOOK MY PLACE WHEN I RETIRED.

15 Q. OKAY. NOW, LET ME GO BACK TO WHEN YOU STILL WERE WORKING  
16 AS THE CHIEF DEPUTY U.S. MARSHAL. DO YOU RECALL AN INCIDENT  
17 INVOLVING SOME EXCESS OVERTIME CLAIMED BY JIMMY BRITT?

18 A. YES.

19 Q. TELL US ABOUT THAT.

20 A. JIMMY BRITT AND ANOTHER DEPUTY HAD BEEN ON A PRISONER  
21 TRIP AND THEY RETURNED TO RALEIGH ON A SATURDAY AFTERNOON AND  
22 FOR SOME REASON I WAS AT THE WAKE COUNTY JAIL ALSO. I  
23 PROBABLY GOT A CALL TO COME UP ABOUT SOMETHING. AND I WAS  
24 THERE WHEN THEY RETURNED. AND WHEN I RECEIVED THEIR DAILY  
25 WORKSHEETS, IT CAUGHT MY EYE THAT THEY WERE CHARGING MORE

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1 OVERTIME THAN THEY WERE ENTITLED TO.

2 Q. AND WHAT DID YOU DO ABOUT IT?

3 A. I DISALLOWED IT.

4 Q. AND DID YOU TELL JIMMY BRITT THAT YOU HAD DONE THAT?

5 A. OH, YES, I HAD A CONVERSATION WITH HIM.

6 Q. HOW DID HE TAKE IT?

7 A. WELL, I KIND OF JOKED WITH HIM. TO MAKE SURE THAT I WAS  
8 CORRECT, I WENT OVER TO THE JAIL AND CHECKED THE COMMITMENT  
9 PAPERS WITH THE JAIL. AND, OF COURSE, THEY HAD THE RIGHT TIME  
10 ON THEM. AND I THINK I TOLD HIM, I SAID, YOU OUGHT TO HAVE  
11 BEEN A LITTLE BIT SMARTER.

12 Q. NOW, SUBSEQUENT TO THAT TIME, DID JIM BRITT FILE A  
13 COMPLAINT ABOUT YOU?

14 A. YES.

15 Q. CAN YOU TELL US ABOUT THE CIRCUMSTANCES OF THAT?

16 A. I'LL TELL YOU WHAT I FOUND OUT ABOUT IT. I WOULD HAVE  
17 LIKED TO HAVE KNOWN MORE. I UNDERSTAND THAT THIS TOOK PLACE  
18 AT THE HOLIDAY INN MOTEL IN NEW BERN. AND I WAS TOLD THAT  
19 THEY WERE ALL DRINKING, HAVING A PARTY, AND THEY FABRICATED A  
20 STORY AND IT WAS SERIOUS ENOUGH THAT IT HAD TO BE  
21 INVESTIGATED. AND IT WAS INVESTIGATED BY THE CHIEF  
22 INVESTIGATOR FOR INTERNAL AFFAIRS FOR THE MARSHAL SERVICE AND  
23 THEY ALSO ASSIGNED TWO FBI AGENTS TO THE INVESTIGATION FROM  
24 THE GREENSBORO OFFICE.

25 Q. AND WHAT WAS THE GIST OF THE STORY THEY HAD FABRICATED?

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1 A. THAT I HAD ACCEPTED \$100 FROM AN ATTORNEY IN  
2 FAYETTEVILLE, STEVE NIMOCKS, FOR SERVING A PROCESS TO STOP THE  
3 OVERSEAS SHIPMENT OF A YOUNG SOLDIER THAT IN SOME WAY WAS  
4 CONNECTED WITH THE NEW YORK STOCK EXCHANGE, AND THIS TOOK  
5 PLACE ABOUT 4:00 A.M. IN THE MORNING.

6 Q. AND WAS IT TRUE?

7 A. THE ALLEGATION?

8 Q. THE ALLEGATION.

9 A. ALL THREE INVESTIGATORS RULED IT WAS NOT TRUE.

10 Q. AND, OF COURSE, YOU KNOW IT TO BE FALSE YOURSELF?

11 A. SIR?

12 Q. YOU ALSO YOURSELF KNOW THAT IT WAS FALSE?

13 A. I CERTAINLY DID.

14 Q. DID YOU EVER HAVE ANY BLEMISHES ON YOUR RECORD WITH THE  
15 UNITED STATES MARSHAL?

16 A. I DID NOT.

17 Q. LET'S PUT UP EXHIBIT 2101.3. CAN YOU SEE THAT, MR.  
18 SIGMON? WE'RE GOING TO ENLARGE IT A LITTLE BIT.

19 A. YES.

20 Q. DID THE MARSHAL SERVICE HAVE A CONTRACT WITH THE WAKE  
21 COUNTY JAIL TO HOUSE PRISONERS?

22 A. YES.

23 Q. AND ON OCCASION, DID DEPUTY MARSHALS HAVE TO TRANSPORT  
24 PRISONERS FROM THE WAKE COUNTY JAIL TO THE FEDERAL BUILDING IN  
25 RALEIGH?

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1 A. YES.

2 Q. AND DOES THAT MAP DEPICT THE RELATIONSHIP OF THE LOCATION  
3 BETWEEN THOSE TWO BUILDINGS?

4 A. YES.

5 (GOVERNMENT EXHIBIT NUMBER 2101.3  
6 WAS IDENTIFIED FOR THE RECORD.)

7 Q. IN YOUR EXPERIENCE, ABOUT HOW LONG WOULD IT TAKE TO  
8 TRANSPORT A PRISONER FROM THE WAKE COUNTY JAIL TO THE FEDERAL  
9 BUILDING IN RALEIGH?

10 A. WELL, FROM THE TIME THEY PUT THEM IN A CAR TILL THEY GOT  
11 TO THE FEDERAL BUILDING, I WOULD SAY, CONSIDERING TRAFFIC, NO  
12 MORE THAN TEN MINUTES.

13 Q. COULD BE LESS?

14 A. COULD BE LESS.

15 Q. NOW, JEFFREY MACDONALD WAS FOUND GUILTY BY THE JURY, IS  
16 THAT RIGHT?

17 A. YES.

18 Q. AND PRIOR TO THAT TIME HE WAS NOT IN CUSTODY, IS THAT  
19 RIGHT? I MEAN DURING THE TRIAL.

20 A. AS WELL AS I CAN REMEMBER, HE WAS NOT.

21 Q. AND SO HE HAD TO BE TAKEN INTO CUSTODY AFTER THE GUILTY  
22 VERDICT, IS THAT RIGHT?

23 A. YES.

24 Q. AND IN THOSE DAYS THE SENTENCING OCCURRED RIGHT AFTER THE  
25 GUILTY VERDICT, IS THAT RIGHT?

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1 A. RIGHT.

2 Q. SO, HE WAS FOUND GUILTY BY THE JURY AND SENTENCED ON THE  
3 SAME DAY?

4 A. YES.

5 Q. AND DID YOU HAVE THE RESPONSIBILITY OF MAKING THE  
6 ARRANGEMENTS FOR THE TRANSPORTATION OF JEFFREY MACDONALD AFTER  
7 HIS CONVICTION?

8 A. AFTER I LEARNED THAT THE JURY HAD RETURNED A VERDICT, I  
9 IMMEDIATELY CALLED THE BUREAU OF PRISONS IN WASHINGTON AND GOT  
10 PERMISSION TO TRANSPORT HIM TO BUTNER.

11 Q. WHERE THERE WAS A FEDERAL PRISON?

12 A. THAT'S CORRECT.

13 Q. AND YOU GOT THE PERMISSION?

14 A. I DID.

15 Q. AND WHO DID THE TRANSPORTATION OF JEFFREY MACDONALD FROM  
16 RALEIGH, THE FEDERAL BUILDING IN RALEIGH, TO THE BOP FACILITY  
17 AT BUTNER?

18 A. HUGH SALTER, FRANK SESSOMS AND MYSELF.

19 Q. SO, THE U.S. MARSHAL, THE CHIEF DEPUTY AND ANOTHER DEPUTY  
20 MARSHAL NAMED FRANK SESSOMS?

21 A. CORRECT.

22 Q. AND THERE'S ACTUALLY A PICTURE THAT SHOWS THAT SOMEWHERE.  
23 HAVE YOU SEEN IT?

24 A. I DON'T KNOW IF I HAVE OR NOT.

25 Q. OKAY. NOW, DID JIMMY BRITT HAVE ANYTHING WHATSOEVER TO

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1 DO WITH THE TRANSPORTATION OF JEFFREY MACDONALD FOLLOWING HIS  
2 CONVICTION?

3 A. NO.

4 Q. DID YOU ASK HIM TO HAVE ANYTHING TO DO WITH IT?

5 A. NO.

6 Q. SO, HE WOULD HAVE NO OCCASION TO HAVE HANDCUFFED JEFFREY  
7 MACDONALD?

8 A. I WOULD HAVE NOT HAVE?

9 Q. NO. JIMMY BRITT WOULD NOT HAVE IS MY QUESTION.

10 A. I REALLY CAN'T ANSWER THAT QUESTION. I'M SURE SOMEBODY  
11 TOOK HIM IN CUSTODY IN THE COURTROOM AND PROBABLY WALKED HIM  
12 INTO THE MARSHAL'S OFFICE, WHICH WAS ON THE SAME FLOOR.

13 Q. NOW, I WANT TO SHOW YOU ANOTHER EXHIBIT, 2089. AND LET'S  
14 HIGHLIGHT -- THIS HAS PREVIOUSLY BEEN DISCUSSED. IT'S AN  
15 ADDENDUM TO AN AFFIDAVIT SIGNED BY JIMMY BRITT. LET'S FOCUS  
16 IN ON THE LAST PARAGRAPH ON THAT PAGE. I'M GOING TO READ THIS  
17 PARAGRAPH ALOUD AND THEN I'M GOING TO ASK YOU SOME QUESTIONS.

18 SHE WAS RELEASED ON AUGUST 17TH, AS A MATERIAL  
19 WITNESS BY JUDGE DUPREE. A SUBPOENA WAS ISSUED, WHICH I  
20 SERVED ON MS. STOECKLEY, AND SHE WAS ADMONISHED BY THE COURT  
21 TO APPEAR WHEN AND IF SHE WAS AGAIN CALLED AS A WITNESS. THIS  
22 WAS DONE OUTSIDE THE PRESENCE OF THE JURY AS JUDGE DUPREE  
23 DISMISSED THE JURY AT APPROXIMATELY 1:00 P.M. I THEN TOOK MS.  
24 STOECKLEY TO A MOTEL IN RALEIGH CALLED THE JOURNEY'S END.

25 ON SUNDAY, AUGUST 19TH, SOMEONE CALLED JUDGE DUPREE

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1 AT HIS HOME AND TOLD HIM THAT SHE AND HER BOYFRIEND ERNEST  
2 WERE FIGHTING AND THE MANAGER WANTED THEM REMOVED FROM THE  
3 MOTEL.

4 CHIEF DEPUTY U.S. MARSHAL EDDIE SIGMON CALLED ME AT  
5 MY RESIDENCE AND ASKED ME TO GO TO THE JOURNEY'S END AND CHECK  
6 MS. STOECKLEY OUT OF THE MOTEL AND TO REGISTER HER AT THE  
7 HOLIDAY INN ON HILLSBOROUGH STREET, RALEIGH, N.C., WHICH I  
8 DID.

9 NOW, ONCE A MATERIAL WITNESS HAS BEEN RELEASED FROM  
10 CUSTODY AND BECOMES A WITNESS UNDER SUBPOENA, DO THE U.S.  
11 MARSHALS DO ANY TRANSPORTATION OF HER?

12 A. NO.

13 Q. SO, YOU DID NOT INSTRUCT JIMMY BRITT TO TAKE MS.  
14 STOECKLEY TO THE JOURNEY'S END MOTEL?

15 A. I WOULD HAVE NO AUTHORITY TO DO ANYTHING.

16 Q. AND DID YOU CALL JIMMY BRITT OVER THE WEEKEND, SUNDAY,  
17 AUGUST 19TH, AND TELL HIM TO GO TO THE JOURNEY'S END MOTEL AND  
18 CHECK MS. STOECKLEY OUT AND TAKE HER TO THE HOLIDAY INN?

19 A. NO.

20 Q. LET'S GO TO THE NEXT PAGE, PLEASE. LET'S ZOOM IN ON THE  
21 LAST PARAGRAPH, PLEASE. MR. SIGMON, I'M GOING TO READ THIS  
22 PARAGRAPH; HUGH SALTER, U.S. MARSHAL, ASKED ME TO GO TO THE  
23 U.S. MARSHAL'S OFFICE AND SEE MS. REDDICK AND THAT SHE WOULD  
24 GIVE ME A CHECK FOR FOUR DAYS OF SUBSISTENCE. HE ASKED ME TO  
25 CASH THE CHECK AND GO TO THE BUS STATION AND PURCHASE MS.

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1 STOECKLEY A ONE-WAY TICKET TO CHARLESTON, SOUTH CAROLINA, IN  
2 WHICH I DID, AND FOR ME TO GO TO THE HOLIDAY INN, HILLSBOROUGH  
3 STREET, RALEIGH, AND CHECK HER OUT OF THE HOTEL AND TAKE HER  
4 TO THE BUS STATION AND MAKE SURE SHE GOT ON THE BUS AND GIVE  
5 HER THE BALANCE OF HER SUBSISTENCE. THIS WAS ON AUGUST 20TH,  
6 1979, AND I HAVE NOT SEEN OR HEARD FROM HER SINCE.

7 NOW, IF HELENA STOECKLEY WAS IN CUSTODY, KEPT IN THE  
8 JAIL UP UNTIL FRIDAY, AUGUST THE 17TH, AND THEN RELEASED,  
9 WOULD THERE BE ANY SUBSISTENCE THAT SHE WAS OWED?

10 A. UNLESS SOMEBODY ISSUED US A VOUCHER TO ISSUE A CHECK --

11 Q. AND IF THE --

12 A. -- WOULD BE THE ONLY WAY THAT WE WOULD ISSUE A CHECK SUCH  
13 AS HE DESCRIBES.

14 Q. AND IF THE SUBPOENA FOR HER PRESENCE WAS ISSUED BY A  
15 DEFENDANT WHO WAS NOT INDIGENT AND WAS PAYING HIS OWN DEFENSE  
16 EXPENSES, THE MARSHALS WOULD HAVE NO ROLE IN PAYING THE  
17 WITNESS, IS THAT RIGHT?

18 A. WE'D STILL HAVE TO HAVE A VOUCHER FROM SOMEBODY.

19 Q. AND THEY COULDN'T -- THEY DIDN'T HAVE THE AUTHORITY TO  
20 GIVE YOU A VOUCHER IF THEY WERE PAYING FOR THEIR OWN  
21 WITNESSES, WOULD THEY?

22 A. NO.

23 Q. DO YOU HAVE ANY KNOWLEDGE OF MR. SALTER ASKING JIMMY  
24 BRITT TO BUY A ONE-WAY TICKET FOR HELENA STOECKLEY OUT OF  
25 TOWN?

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1 A. I HAVE NO KNOWLEDGE, BUT I HAVE AN OPINION.

2 Q. WHAT'S YOUR OPINION?

3 A. THAT HE WOULD NOT.

4 Q. WOULD THAT BE OUTSIDE THE MARSHAL SERVICE REGULATIONS?

5 A. CERTAINLY WOULD.

6 MR. BRUCE: NO FURTHER QUESTIONS, YOUR HONOR.

7 THE COURT: CROSS.

8 MR. BRUCE: OH, I'M SORRY. I'M SORRY. MAY I HAVE  
9 JUST A MOMENT, PLEASE?

10 THE COURT: YES, SIR.

11 (PAUSE.)

12 MR. BRUCE: NO FURTHER QUESTIONS.

13 THE COURT: CROSS.

14 MR. WIDENHOUSE: THANK YOU, YOUR HONOR.

15 C R O S S - E X A M I N A T I O N 11:26 A.M.

16 BY MR. WIDENHOUSE:

17 Q. JUST A COUPLE OF QUESTIONS, MR. SIGMON. I BELIEVE YOU  
18 TESTIFIED ON DIRECT THAT YOU DON'T RECALL WHO WAS ASSIGNED TO  
19 GO GET MS. STOECKLEY?

20 A. IN SOUTH CAROLINA?

21 Q. YES.

22 A. I DO NOT, NOT UNLESS I WOULD HAVE THE DEPUTY'S DAILY  
23 WORKSHEET.

24 Q. AND YOU SAID THAT YOU WOULD NOT WANT A DEPUTY TO  
25 INTERROGATE SOMEONE THAT THEY WERE TRANSPORTING, IS THAT

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1 CORRECT?

2 A. IT'S THE POLICY OF THE MARSHAL SERVICE. WE ARE NOT AN  
3 INVESTIGATIVE AGENCY.

4 Q. BUT IF SOMEBODY JUST TALKED OPENLY, THERE WOULD BE NO WAY  
5 FOR THE TRANSPORTING DEPUTY TO NOT HEAR IT IF IT WAS SPOKEN  
6 LOUDLY ENOUGH, WOULD THERE?

7 A. NO. THAT'S CORRECT.

8 Q. BUT THE POLICY IS THEY'RE NOT SUPPOSED TO INITIATE AND  
9 ASK QUESTIONS?

10 A. CORRECT.

11 Q. OKAY. NOW, YOU MENTIONED THIS INCIDENT WHERE YOU WERE  
12 APPARENTLY FALSELY ACCUSED OF TAKING A HUNDRED DOLLARS FOR  
13 SOME SORT OF THING YOU DID WITHIN THE SCOPE OF YOUR DUTIES AS  
14 A MARSHAL.

15 A. IT WAS TO SERVE AN ORDER THAT --

16 Q. YES. AND DID I UNDERSTAND YOU CORRECTLY THAT THERE WERE  
17 A NUMBER OF PEOPLE THAT WERE SITTING AROUND MAKING UP THAT  
18 ACCUSATION?

19 A. I WAS TOLD THAT IT WAS DEPUTY BRITT, DEPUTY TART,  
20 ATTORNEY STEVE NIMOCKS --

21 Q. SO, WHAT -- I THOUGHT I MISUNDERSTOOD YOU.

22 A. -- AND A FORMER DEPUTY BY THE NAME OF JIM DAVIS, WHO HAD  
23 BEEN SEPARATED FROM THE MARSHAL SERVICE.

24 Q. OKAY. AND THE INCIDENT THAT YOU DESCRIBED IN CARY, WHERE  
25 THERE WAS AN ALTERCATION BETWEEN TWO MARSHALS, WAS THAT AFTER

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1 HOURS, OFF DUTY?

2 A. FOR THE TWO DEPUTIES THAT WAS INVOLVED?

3 Q. YES.

4 A. I DO NOT KNOW WHAT TIME IT TOOK PLACE. I WOULD ASSUME IT  
5 WOULD HAVE BEEN AFTER HOURS, BUT I DON'T KNOW.

6 Q. OKAY. AND YOU WENT THERE BECAUSE YOU WERE CALLED ABOUT  
7 IT?

8 A. OH, NO, I DID NOT GO THERE.

9 Q. OH, YOU JUST HEARD ABOUT IT?

10 A. I WAS JUST ACCIDENTALLY TOLD ABOUT IT.

11 Q. OKAY. ALL RIGHT. AND THAT WAS AFTER YOU RETIRED?

12 A. YES, SIR.

13 Q. I KNOW IT'S A LONG TIME AGO. DO YOU RECALL IF YOU SENT  
14 SOMEBODY TO SOUTH CAROLINA TO PICK UP MS. STOECKLEY?

15 A. I'M SURE I DIRECTED SOMEBODY, YES.

16 Q. AND IT WOULD BE TO GO TO SOUTH CAROLINA IS YOUR  
17 RECOLLECTION?

18 A. I'LL CLARIFY THAT SOMEWHAT. IT MATERIALIZED THAT SOME  
19 DEPUTIES OUT OF SOUTH CAROLINA WOULD TRANSPORT MRS. STOECKLEY  
20 TO CHARLOTTE AND A RENDEZVOUS WOULD BE MADE THERE.

21 Q. OKAY. AND IS THAT YOUR RECOLLECTION?

22 A. YES.

23 MR. WIDENHOUSE: THANK YOU, YOUR HONOR. NO FURTHER  
24 QUESTIONS.

25 THE COURT: ANYTHING FURTHER?

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1 MR. BRUCE: NOTHING FURTHER, YOUR HONOR.

2 THE COURT: NICE TO SEE YOU, MR. SIGMON. YOU MAY  
3 STEP DOWN.

4 MR. BRUCE: YES, THIS WITNESS IS EXCUSED.

5 THE COURT: YES, SIR.

6 MR. WIDENHOUSE: NO OBJECTION.

7 MR. BRUCE: AND THE NEXT WITNESS WE'D LIKE TO CALL  
8 IS MR. BILL BERRYHILL.

9 **WILLIAM I. BERRYHILL, JR., GOVERNMENT WITNESS, SWORN**

10 D I R E C T E X A M I N A T I O N 11:30 A.M.

11 BY MR. BRUCE:

12 Q. STATE YOUR NAME, PLEASE.

13 A. I'M WILLIAM I. BERRYHILL, JR.

14 Q. MR. BERRYHILL, ARE YOU RETIRED?

15 A. YES, I AM.

16 Q. WHAT DID YOU DO IN YOUR CAREER BEFORE YOU RETIRED?

17 A. I WAS A FORMER CHIEF UNITED STATES MARSHAL FOR THE  
18 EASTERN DISTRICT OF NORTH CAROLINA.

19 Q. AND HOW LONG DID YOU SERVE IN THAT POSITION?

20 A. ABOUT 18 AND A HALF YEARS.

21 Q. BEGINNING WHEN?

22 A. DECEMBER OF 1981 UNTIL, I THINK, APRIL OF 1999.

23 Q. AND DURING THAT TIME YOU WERE THE CEO, SO TO SPEAK, OF  
24 THE UNITED STATES MARSHALS FOR THE EASTERN DISTRICT OF NORTH  
25 CAROLINA?

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1 A. THAT'S CORRECT.

2 Q. AND DID YOU HAVE A CHIEF DEPUTY WORKING UNDER YOUR  
3 SUPERVISION?

4 A. YES, SIR, I HAD SEVERAL.

5 Q. WHO WAS THE FIRST CHIEF DEPUTY THAT SERVED UNDER YOU?

6 A. THE FIRST CHIEF DEPUTY WAS MR. EDDIE SIGMON.

7 Q. AND HE WAS ALREADY CHIEF DEPUTY WHEN YOU BECAME U.S.  
8 MARSHAL?

9 A. THAT'S CORRECT.

10 Q. AND HOW LONG DID HE CONTINUE TO SERVE IN THAT CAPACITY  
11 UNDER YOUR SUPERVISION?

12 A. WELL, IT WAS FOR A GOOD WHILE. I DON'T REMEMBER THE  
13 EXACT NUMBER OF YEARS, BUT IT WAS SEVERAL YEARS.

14 Q. AND DID YOU FIND HIM TO BE A CAPABLE CHIEF DEPUTY?

15 A. ONE OF THE VERY BEST I EVER HAD.

16 Q. NOW, HOW MANY -- APPROXIMATELY HOW MANY DEPUTY U.S.  
17 MARSHALS SERVED UNDER YOU IN THOSE FIRST FEW YEARS THAT YOU  
18 WERE U.S. MARSHAL?

19 A. WELL, THE FIRST FEW YEARS I SUPPOSE I HAD ABOUT 15  
20 DIFFERENT MARSHALS. WHEN I RETIRED, I HAD ABOUT 21.

21 Q. AND WAS ONE OF THE ONES THAT SERVED -- WAS SERVING AS A  
22 DEPUTY U.S. MARSHAL WHEN YOU BECAME U.S. MARSHAL JIMMY BRITT?

23 A. YES, HE WAS.

24 Q. AND DID YOU GET TO KNOW HIM AS AN EMPLOYEE IN YOUR  
25 MARSHAL'S OFFICE?

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1 A. I KNEW HIM EXCEEDINGLY WELL.

2 Q. AND HOW WOULD YOU DESCRIBE HIM AS A DEPUTY U.S. MARSHAL?

3 A. I WOULD SAY HE WAS A VERY MARGINAL EMPLOYEE. I FOUND  
4 JIMMY BRITT TO BE RATHER LARGE IN EGO AND RATHER SMALL WHEN IT  
5 CAME TO VERACITY.

6 Q. SO, DID YOU HAVE PROBLEMS WITH HIM WHEN HE WAS UNDER YOUR  
7 SUPERVISION?

8 A. CONSTANTLY.

9 Q. WERE YOU SERVING AS U.S. MARSHAL WHEN THERE WAS AN  
10 ALTERCATION BETWEEN HIM AND ANOTHER DEPUTY U.S. MARSHAL IN  
11 CARY?

12 A. I WAS SERVING AS MARSHAL, YES, SIR.

13 Q. TELL ME WHAT YOU LEARNED ABOUT THAT.

14 A. I WAS NOT A WITNESS TO IT. IT HAPPENED OUTSIDE THE  
15 OFFICE. I SIMPLY OVERHEARD THAT THERE WAS SOME POTENTIAL  
16 FISTICUFFS AND THAT THE CARY, NORTH CAROLINA, POLICE  
17 DEPARTMENT ARRIVED ON SCENE AND BROKE UP THE ALTERCATION.

18 Q. AND WHO WAS THE ALTERCATION BETWEEN?

19 A. IT WAS BETWEEN JIM BRITT AND MY CHIEF DEPUTY AT THE TIME,  
20 MR. ROGER MULLIS.

21 Q. OKAY. AND DO YOU KNOW WHAT THEY WERE FIGHTING OVER?

22 A. THEY WERE FIGHTING OVER A RELATIONSHIP WITH A LADY IN MY  
23 OFFICE.

24 Q. AND WHO WAS THAT?

25 A. THAT WAS NANCY BRITT.

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1 Q. OF COURSE, HER NAME WASN'T BRITT AT THE TIME, IS THAT  
2 RIGHT?

3 A. NO, I CAN'T REMEMBER EXACTLY, COUNSELOR.

4 Q. OKAY.

5 A. EXCUSE ME. YOU'RE RIGHT. SHE MARRIED -- WELL, EXCUSE  
6 ME. NO, I CANNOT REMEMBER HER LAST NAME AT THE TIME. IT WAS  
7 NOT BRITT.

8 Q. DID THIS CAUSE SOME PERSONNEL PROBLEMS IN YOUR OFFICE?

9 A. A GREAT DEAL. LOTS OF OFFICE DISCORD. YOU CAN IMAGINE  
10 MY CHIEF DEPUTY AND ANOTHER DEPUTY BOTH VYING FOR THE  
11 AFFECTIONS, SO TO SPEAK, OF A LADY IN MY OFFICE.

12 I FINALLY HAD TO PUT A STOP TO IT. I INVITED ALL  
13 THREE PARTIES INTO MY OFFICE AND TOLD THEM TO CEASE AND DESIST  
14 OR I WOULD HAVE TO REPORT THEM TO NATIONAL HEADQUARTERS.

15 Q. ALL RIGHT. NOW, DID YOU EVER -- HOW WOULD YOU SAY --  
16 CHARACTERIZE JIMMY BRITT'S RELATIONSHIP WITH CHIEF DEPUTY  
17 EDDIE SIGMON?

18 A. TROUBLESOME. EDDIE WAS CONTINUING TO HAVE VARIOUS FORMS  
19 OF DISCORD AND TROUBLE WITH DEPUTY BRITT.

20 Q. NOW, DID THERE COME A TIME WHEN JIMMY BRITT TRANSFERRED  
21 FROM THE U.S. MARSHAL'S OFFICE IN RALEIGH TO ANOTHER LOCATION?

22 A. YES, HE DID. HE TRANSFERRED DOWN TO OUR TRAINING  
23 FACILITY IN GLYNCO, GEORGIA.

24 Q. DID YOU ENCOURAGE THAT TRANSFER?

25 A. YES, I DID.

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1 Q. WHY?

2 A. FOR THE GOOD OF THE OFFICE. BECAUSE OF THE DISCORD THAT  
3 HAD GONE ON THERE, I FELT IT WOULD BE BEST IF HE LEFT THE  
4 EASTERN DISTRICT OF NORTH CAROLINA.

5 Q. AND DID HE DO SO?

6 A. HE DID.

7 Q. DID THERE COME A TIME WHEN HE RETURNED TO THE OFFICE?

8 A. YES, HE DID, PRIOR TO HIS RETIREMENT.

9 Q. AS BEST YOU CAN RECALL, ABOUT HOW LONG WAS HE OUT OF  
10 RALEIGH AND DOWN AT GLYNCO?

11 A. I DON'T RECALL THAT IT WAS TOO LONG. HE HAD SOME HEALTH  
12 PROBLEMS WHILE HE WAS DOWN THERE AND THEN LATER RETURNED TO  
13 RALEIGH. IT'S BEEN AWHILE AGO. I DON'T REMEMBER THE PRECISE  
14 DATES.

15 Q. DID YOU HAVE OCCASION TO SPEAK TO ANYONE AT GLYNCO ABOUT  
16 HOW HE HAD -- WHETHER THERE HAD BEEN ANY PROBLEMS WHEN HE HAD  
17 BEEN DOWN THERE?

18 A. NO, SIR, I DON'T RECALL SPEAKING TO ANYONE SPECIFICALLY.

19 Q. DO YOU HAVE ANY INFORMATION THAT CAME TO YOUR ATTENTION  
20 WHILE YOU WERE SUPERVISING JIMMY BRITT OR AFTER ABOUT HIS  
21 ALCOHOL USE?

22 A. I ONLY HEARD ABOUT IT. THIS WAS AFTER HIS RETIREMENT.  
23 VARIOUS DEPUTIES AND VARIOUS OTHER PEOPLE INFORMED ME THAT HE  
24 HAD AN ALCOHOLIC PROBLEM, BUT I NEVER WITNESSED IT MYSELF.

25 Q. NOW, DO YOU RECALL WHEN JIMMY BRITT RETIRED FROM THE U.S.

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1 MARSHAL'S SERVICE?

2 A. YES, SIR.

3 Q. AND WAS HE SERVING IN RALEIGH AT THAT TIME?

4 A. YES, HE WAS.

5 Q. AND AS THE DATE OF HIS RETIREMENT WAS APPROACHING, DID  
6 YOU HAVE ANY DISCUSSIONS ABOUT A POSSIBLE RETIREMENT CEREMONY?

7 A. YES, I DID. I INVITED JIMMY INTO THE OFFICE, AS I DID  
8 EVERY EMPLOYEE WHO WAS GETTING READY TO RETIRE, AND I ASKED  
9 THEM TO TELL ME WHAT SORT OF RETIREMENT CELEBRATION THEY WOULD  
10 LIKE TO HAVE. WE NORMALLY DID TWO THINGS, WE EITHER LET THEM  
11 INVITE FELLOW WORKERS INTO THE OFFICE FOR A CELEBRATION OR WE  
12 PICKED OUT A LOCAL RESTAURANT AND WENT THERE AND HAD LUNCH  
13 AND THEY WERE ABLE TO INVITE THEIR FRIENDS TO THAT.

14 I INVITED JIM IN BECAUSE WE NEEDED TIME TO MAKE  
15 THOSE ARRANGEMENTS AND HE SIMPLY TOLD ME THAT HE DID NOT WANT  
16 ANY SORT OF RETIREMENT CELEBRATION. HE SIMPLY WANTED TO PUT  
17 HIS HAT ON AND WALK OUT THE DOOR.

18 I SAID, JIM THIS IS A ONCE IN A LIFETIME OPPORTUNITY  
19 FOR YOU, ARE YOU SURE YOU DO NOT WANT ANY SORT OF RETIREMENT  
20 CELEBRATION? AND HE SAID, ABSOLUTELY NOT, SIR. AND I SAID,  
21 JIMMY, PLEASE THINK ABOUT THIS BECAUSE THIS IS YOUR LAST  
22 OPPORTUNITY. I'M ASKING YOU SO THAT WE CAN DO FOR YOU WHAT  
23 YOU'VE WORKED FOR AND EARNED. AND HE SAID, NO, SIR, I SIMPLY  
24 WANT TO PUT MY HAT ON AND WALK OUT THE DOOR AND HAVE NO  
25 RETIREMENT CELEBRATION WHATSOEVER.

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1 SO, AT THAT POINT, HE LEFT MY OFFICE AND I TURNED TO  
2 MY CHIEF DEPUTY AND I SAID, WELL, THAT SETTLES THAT. WE'LL  
3 HAVE NO RETIREMENT FOR DEPUTY BRITT.

4 Q. OKAY. AND WHEN THE RETIREMENT DAY ACTUALLY CAME, WHAT  
5 DID HAPPEN?

6 A. WELL, I WAS ON THE WAY -- I HAD TRAVELED TO GREENSBORO,  
7 NORTH CAROLINA, FOR THE WEDDING OF MY OLDEST SON. AND WHEN I  
8 CHECKED INTO THE MOTEL ON THAT FRIDAY, THERE WAS A MESSAGE  
9 WAITING FOR ME TO CALL THE OFFICE IMMEDIATELY.

10 I CALLED THE OFFICE. I GOT MY CHIEF DEPUTY, DWIGHT  
11 RICH, ON THE TELEPHONE AND HE SAID, MARSHAL, WE'VE GOT A  
12 PROBLEM. AND I SAID, WHAT IS IT, SIR? HE SAID, DEPUTY BRITT  
13 WALKED INTO MY OFFICE THIS MORNING -- THIS IS HIS LAST DAY --  
14 AND SAID THAT HE HAD CHANGED HIS MIND AND THAT HE GOT ON THE  
15 TELEPHONE LAST NIGHT AND STARTED INVITING COURT PERSONNEL TO A  
16 RETIREMENT WITHIN OUR OFFICE TODAY. HE'S INVITED THE JUDGES,  
17 THE MAGISTRATES, THE HEAD OF ALL THE LAW ENFORCEMENT AGENCIES,  
18 EVERYBODY HE HAD WORKED WITH IN THE SYSTEM, AND HE SAYS HE  
19 WANTS TO HAVE A RETIREMENT PARTY.

20 AND I SAID, DWIGHT, FIND DEPUTY BRITT AND TELL HIM,  
21 NO, SIR, IT IS NOT GOING TO HAPPEN. HE HAD HIS CHANCE. HE  
22 TURNED IT DOWN. I CANNOT HAVE JUDGES AND MAGISTRATES AND LAW  
23 ENFORCEMENT HEADS WALKING INTO MY OFFICE AND I AM NOT THERE AS  
24 MARSHAL TO GREET THEM. IT WOULD NOT BE PROPER. IT WOULD NOT  
25 BE PROTOCOL. AND TELL HIM THAT HE HAD HIS CHANCE AND HE

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1 TURNED IT DOWN, AND THERE WILL BE NO RETIREMENT PARTY FOR HIM  
2 INSIDE OUR OFFICE.

3 (PAUSE.)

4 Q. DO YOU RECALL THAT SOME EVIDENCE RELATED TO THE MACDONALD  
5 CASE WAS ACTUALLY STORED IN YOUR LOCKUP ON THE SEVENTH FLOOR?

6 A. YES, SIR. I WAS NOT MARSHAL AT THE TIME, BUT AT THE END  
7 OF THE '79 TRIAL THE FBI NEEDED TO SECURE THAT EVIDENCE AND  
8 THEY ARRANGED WITH THE MARSHAL AT THAT TIME TO STORE IT IN OUR  
9 JUVENILE HOLDING CELL UNDER LOCK AND KEY. I INHERITED THAT  
10 EVIDENCE WHEN I BECAME MARSHAL.

11 Q. AND WAS THAT A LITTLE BIT OF A PROBLEM FOR YOU?

12 A. IT WAS A BIG PROBLEM IN A WAY. WE HARDLY EVER USED THE  
13 JUVENILE CELL, BUT THE EVIDENCE WAS STORED THERE, AND WHENEVER  
14 THE INSPECTORS FROM WASHINGTON WOULD COME DOWN TO DO A REVIEW  
15 OF MY OFFICE, THEY WOULD ALWAYS MENTION THE FACT THAT THAT  
16 EVIDENCE WAS IN OUR HOLDING CELL WHEN IT SHOULD NOT BE.

17 I EVENTUALLY CONTACTED THE FBI. I THINK I EVEN  
18 WROTE A MEMORANDUM TO MR. MURTAGH. AND EVENTUALLY WE GOT THE  
19 BUREAU TO REMOVE THAT EVIDENCE AND MOVE IT DOWN THE HALL INTO  
20 ANOTHER ROOM THEY RENTED UNDER LOCK AND KEY.

21 Q. ALL RIGHT. SO, FOR MANY YEARS THE EVIDENCE REMAINED  
22 THERE IN YOUR UNITED STATES MARSHAL'S OFFICE ON THE SEVENTH  
23 FLOOR OF THE FEDERAL BUILDING?

24 A. THAT'S CORRECT.

25 Q. AND DURING THAT TIME, JIM BRITT HAD AN OFFICE IN THAT

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1 SAME OFFICE?

2 A. THAT'S CORRECT.

3 Q. SO, HE WOULD HAVE HAD ACCESS TO IT?

4 A. NO, SIR. THERE WAS ONLY ONE PERSON WHO HAD A KEY TO THAT  
5 DOOR AND THAT WAS CHIEF DEPUTY EDDIE SIGMON.

6 Q. OKAY. AND WAS IT IN A CELL WHERE YOU COULD SEE THROUGH  
7 TO LOOK AT IT WITHOUT EVEN UNLOCKING IT?

8 A. YEAH, YOU COULD SEE IT. YES, SIR.

9 Q. NOW, ARE YOU AWARE THAT JIM BRITT ENTERED AN ALCOHOL  
10 TREATMENT PROGRAM AT ONE POINT AFTER HIS RETIREMENT?

11 A. I HEARD SOMETHING ABOUT THAT, BUT I WAS NEVER FULLY AWARE  
12 OF IT.

13 MR. BRUCE: THANK YOU. NO FURTHER QUESTIONS.

14 THE COURT: CROSS.

15 MR. WIDENHOUSE: MAY I HAVE JUST A MOMENT, YOUR  
16 HONOR?

17 (PAUSE.)

18 MR. WIDENHOUSE: I DON'T HAVE ANY QUESTIONS, YOUR  
19 HONOR. THANK YOU.

20 THE COURT: BILL, IT'S NICE TO SEE YOU AGAIN.

21 THE WITNESS: YES, SIR. THANK YOU, SIR.

22 THE COURT: YOU MAY STEP DOWN.

23 MR. BRUCE: COULD THIS WITNESS BE RELEASED?

24 MR. WIDENHOUSE: NO OBJECTION.

25 THE COURT: YES.

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1 MS. COOLEY: YOUR HONOR, THE GOVERNMENT WOULD CALL  
2 MADDIE REDDICK.

3 **MADDIE REDDICK, GOVERNMENT WITNESS, SWORN**

4 D I R E C T E X A M I N A T I O N 11:46 A.M.

5 BY MS. COOLEY:

6 Q. GOOD MORNING, MS. REDDICK.

7 A. GOOD MORNING.

8 Q. I'M GOING TO ASK YOU TO PULL THAT MICROPHONE A LITTLE BIT  
9 CLOSER TO YOU SO WE CAN MAKE SURE TO HEAR YOU. THANK YOU. IF  
10 YOU WOULD, PLEASE, SPELL YOUR LAST NAME FOR THE COURT  
11 REPORTER.

12 A. R-E-D-D-I-C-K.

13 Q. AND, MS. REDDICK, ARE YOU CURRENTLY EMPLOYED?

14 A. RETIRED.

15 Q. RETIRED. WHERE DID YOU RETIRE FROM?

16 A. THE UNITED STATES MARSHAL'S OFFICE.

17 Q. AND HOW LONG DID YOU WORK FOR THE MARSHALS?

18 A. THIRTY YEARS.

19 Q. WHEN DID YOU START WORKING THERE?

20 A. I FIRST STARTED TO WORK FROM 1952 TO 1954, THEN I WAS OUT  
21 FOR ABOUT 18 MONTHS, AND CAME BACK IN 1956 AND RETIRED IN  
22 1984.

23 Q. AND SO YOU HAD THE PLEASURE OF SERVING WITH SEVERAL  
24 DIFFERENT U.S. MARSHALS, IS THAT RIGHT?

25 A. YES.

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1 Q. AND DURING YOUR TENURE AT THE MARSHAL'S SERVICE, WHAT  
2 WERE YOUR JOB DUTIES?

3 A. I WAS SUPERVISOR ADMINISTRATIVE ASSISTANT OF OFFICE WORK,  
4 ADMINISTRATIVE WORK.

5 Q. OKAY. AND IN THAT CAPACITY, WHAT TYPES OF THINGS WERE  
6 YOU IN CHARGE OF?

7 A. I WAS IN CHARGE OF -- I WAS CALLED THE DISBURSING OFFICER  
8 AT THAT TIME. I WROTE ALL THE CHECKS FOR SALARIES FOR THE  
9 UNITED STATES ATTORNEY'S OFFICE, FOR THE UNITED STATES  
10 DISTRICT JUDGE'S OFFICE, FOR THE UNITED STATES PROBATION  
11 OFFICE AND FOR THE UNITED STATES MARSHAL'S OFFICE, WITNESSES,  
12 JURORS, SALARIES.

13 Q. SO, AT THAT TIME ALL OF THE SALARIES WERE PAID --

14 A. LOCALLY.

15 Q. -- FROM THE MARSHAL'S OFFICE?

16 A. YES, OUT OF THE MARSHAL'S OFFICE IN RALEIGH.

17 Q. AND THAT'S NO LONGER THE CASE, IS THAT RIGHT?

18 A. I UNDERSTAND NOT.

19 Q. AND IS IT FAIR TO SAY THAT YOU KNEW THE INS AND OUTS OF  
20 THE MARSHAL'S OFFICE PRETTY WELL?

21 A. YES.

22 Q. AND THAT WHEN A NEW MARSHAL WOULD TAKE OFFICE, YOU WOULD  
23 HELP THEM ADAPT AND ACCLIMATE TO THE DIFFERENT DUTIES THAT  
24 NEEDED TO BE PERFORMED WITHIN THE OFFICE?

25 A. YES.

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1 Q. AND SOMETIMES YOU EVEN HAD TO TRAIN THEM, IS THAT FAIR TO  
2 SAY?

3 A. I DID THE BEST I COULD HELPING THEM WHEN THEY CAME IN,  
4 YES.

5 Q. AND YOU WERE WORKING IN THE MARSHAL'S OFFICE DURING THE  
6 MACDONALD TRIAL, IS THAT RIGHT?

7 A. YES.

8 Q. AND DID YOU KNOW JIM BRITT?

9 A. YES.

10 Q. DID YOU WORK WITH HIM FOR AWHILE IN THE OFFICE?

11 A. I DID.

12 Q. AND DURING THAT TRIAL, DO YOU EVER RECALL JIM BRITT  
13 COMING TO YOU AND ASKING FOR A SUBSISTENCE CHECK FOR A  
14 WITNESS, HELENA STOECKLEY?

15 A. I DO NOT REMEMBER WRITING THAT CHECK, BUT LET ME SAY  
16 THIS, IF I WROTE THAT CHECK IT WOULD HAVE BEEN HIGHLY UNUSUAL  
17 BECAUSE NORMALLY I DIDN'T WRITE ANY WITNESS CHECK WITHOUT THEM  
18 BEING RELEASED BY THE UNITED STATES ATTORNEY'S OFFICE AND  
19 BRINGING DOWN TO ME A DISCHARGE WITNESS FORM.

20 Q. SO, MOST OF THE WITNESSES THAT YOU DEALT WITH WERE U.S.  
21 ATTORNEY'S OFFICE WITNESSES?

22 A. THAT'S CORRECT.

23 Q. AND SO IF I UNDERSTAND CORRECTLY, THE PROCESS WAS THE  
24 U.S. ATTORNEY'S OFFICE WOULD PROVIDE A FORM THAT WOULD COME TO  
25 YOU?

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1 A. YES.

2 Q. AND THEN FROM THAT FORM YOU WOULD ISSUE THE CHECKS, IS  
3 THAT RIGHT?

4 A. THAT'S CORRECT.

5 Q. NOW, LET ME ASK YOU A LITTLE BIT MORE ABOUT THAT PROCESS.  
6 IF A WITNESS CAME INTO THE COURTHOUSE ON A MATERIAL WITNESS  
7 WARRANT, HOW WOULD THEIR SUBSISTENCE BE PROVIDED?

8 A. THEY WEREN'T PROVIDED ANY SUBSISTENCE UNTIL THEY WERE  
9 RELEASED.

10 Q. AND IS THAT BECAUSE THEY WERE HOUSED IN THE JAIL?

11 A. IF THEY WERE HOUSED IN JAIL, THEY DIDN'T GET PAY BECAUSE  
12 WE WERE CONTRACTED WITH THE UNITED STATES BUREAU OF PRISONS TO  
13 -- WE HAD CONTRACT JAILS, COUNTY JAILS, AND WAKE COUNTY JAIL  
14 WAS ONE OF THEM. SO, IF THEY WERE IN JAIL, I DIDN'T PAY THEM  
15 ANY SUBSISTENCE BECAUSE I PAID DIRECTLY FROM THE BUREAU OF  
16 PRISONS' ACCOUNT, NOT FROM THE WITNESS ACCOUNT, FOR A WITNESS  
17 BEING INCARCERATED.

18 Q. SO, IF A WITNESS WAS IN JAIL, THEY DIDN'T RECEIVE MONEY,  
19 YOU PAID SEPARATELY TO THE FACILITY THAT WAS HOUSING THEM?

20 A. THAT IS CORRECT.

21 Q. AND THEN WITH RESPECT TO THE U.S. ATTORNEY'S OFFICE, IF  
22 THE U.S. ATTORNEY'S OFFICE ISSUED SUBPOENAS FOR A WITNESS,  
23 THEN ISSUED THE CORRECT PAPERWORK TO YOU, WOULD YOU ALSO BE IN  
24 CHARGE OF ISSUING THE CHECKS TO THOSE WITNESSES?

25 A. YES.

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1 Q. AND IT WORKED SIMILARLY WITH JURORS, IS THAT RIGHT?

2 A. YES. WELL, NOW, THE JURORS' CHECKS, THEY CAME TO ME FROM  
3 THE UNITED STATES DISTRICT CLERK'S OFFICE.

4 Q. AS OPPOSED TO THE U.S. ATTORNEY'S OFFICE?

5 A. THAT'S CORRECT.

6 Q. NOW, WITH A DEFENSE WITNESS, IF A WITNESS WAS PLACED  
7 UNDER SUBPOENA BY THE DEFENSE ATTORNEY, WOULD YOU HAVE ANY  
8 INVOLVEMENT IN THE MARSHAL'S OFFICE IN ISSUING ANY CHECKS FOR  
9 SUBSISTENCE TO THAT WITNESS?

10 A. NO. THEY WERE PAID BY THE DEFENSE.

11 Q. AND SO IN THE MACDONALD TRIAL YOU WOULD NOT HAVE BEEN  
12 RESPONSIBLE FOR ISSUING CHECKS TO ANY WITNESSES UNDER DEFENSE  
13 SUBPOENA AT THAT TIME?

14 A. NO.

15 Q. NOW, YOU SAID YOU RETIRED IN 1984, IS THAT RIGHT?

16 A. A LONG TIME AGO. THAT'S CORRECT.

17 Q. AND WHERE HAVE YOU BEEN SINCE THEN?

18 A. I LIVE IN YOUNGSVILLE, NORTH CAROLINA, WHICH IS 20 MILES  
19 NORTH OF RALEIGH NEAR WAKE FOREST.

20 Q. NOW, WHEN YOU WERE AT THE MARSHAL'S OFFICE, YOU MENTIONED  
21 YOU KNEW JIM BRITT. DID YOU ALSO KNOW GERALDINE HOLDEN?

22 A. YES.

23 Q. AND DID YOU REMAIN IN CONTACT WITH HER AFTER YOU RETIRED?

24 A. YES, GERRY HAD BEEN A FRIEND. SHE FIRST WORKED IN THE  
25 UNITED STATES ATTORNEY'S OFFICE AND THEN SHE MARRIED A MAN

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1 FROM YOUNGSVILLE AND THEY LIVED IN YOUNGSVILLE FOR AWHILE  
2 BEFORE THEY MOVED TO RALEIGH. SO, I HAD KNOWN GERRY FOR MANY  
3 YEARS.

4 SHE STARTED IN THE UNITED STATES ATTORNEY'S OFFICE  
5 AND THEN HER HUSBAND HAD A STROKE AND SHE HAD TO STAY HOME FOR  
6 A NUMBER OF YEARS. AND AFTER HER HUSBAND DIED, SHE CAME TO  
7 THE UNITED STATES MARSHAL'S OFFICE AND WORKED AND WAS THERE.

8 Q. AND DID YOU WORK WITH HER AT THE MARSHAL'S OFFICE?

9 A. YES, I DID.

10 Q. AND DID SHE ALSO RETIRE FROM THE MARSHAL'S OFFICE AT SOME  
11 POINT?

12 A. YES.

13 Q. AND DID YOU KEEP UP WITH HER AFTER THAT?

14 A. NO, I DID NOT.

15 Q. DID YOU HAVE OCCASION TO LEARN OF HER WELL BEING FROM  
16 TIME TO TIME?

17 A. YES, I DID. AND AFTER SHE -- SHE LIVED IN RALEIGH, BUT  
18 SHE HAD TWO DAUGHTERS AND THEY WERE BOTH LIVING IN THE  
19 MOREHEAD AREA. SO, SHE MOVED TO MOREHEAD TO BE NEAR HER TWO  
20 DAUGHTERS AND I NEVER SAW HER AFTER SHE MOVED TO MOREHEAD.

21 Q. DID YOU HAVE OCCASION TO GO TO HER FUNERAL?

22 A. I DID GO TO HER FUNERAL BECAUSE SHE WAS BURIED AT MY HOME  
23 IN RALEIGH, AND SO I WAS AT HER FUNERAL.

24 Q. AND LEADING UP TO HER FUNERAL, WERE YOU AWARE THAT SHE  
25 WAS IN DECLINING HEALTH?

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1 A. YES. I HAD BEEN DOWN TO THE BEACH AND RAN INTO HUGH  
2 SALTER, THE UNITED STATES MARSHAL WITH US ON TWO DIFFERENT  
3 OCCASIONS, AND HE TOLD ME THAT GERRY WAS IN A NURSING -- A  
4 REST HOME FACILITY IN MOREHEAD AT THAT TIME.

5 Q. AND DO YOU REMEMBER ABOUT WHAT YEAR THAT WAS?

6 A. THAT WAS -- YEAH, THAT WAS IN MID-2005, SOMETHING LIKE  
7 THAT, '06.

8 Q. AND AT SOME POINT AFTER YOU RETIRED, DO YOU RECALL  
9 GETTING A PHONE CALL FROM JIM BRITT?

10 A. YES.

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

12 A. AROUND 2004.

13 Q. OKAY. AND WHAT WAS THE NATURE OF THAT PHONE CALL?

14 A. HE WANTED TO KNOW IF I KNEW WHERE GERRY WAS LIVING, AND I  
15 HAD NOT TALKED TO JIM BRITT IN A NUMBER OF YEARS, AND I SAID,  
16 YES, JIM, I DO, BECAUSE I HAD TALKED TO HUGH SALTER AND I TOLD  
17 HIM THAT SHE WAS IN MOREHEAD IN A REST HOME THERE.

18 Q. AND DID YOU TELL HIM ANYTHING ABOUT WHY SHE WAS THERE,  
19 ABOUT HER HEALTH?

20 A. I TOLD HIM WHAT I JUST SAID TO YOU, THAT SHE WAS THERE TO  
21 BE NEAR HER TWO DAUGHTERS.

22 Q. AND WAS THAT A REGULAR THING FOR YOU TO HAVE HEARD FROM  
23 JIM BRITT?

24 A. NO. I WAS VERY SURPRISED WHEN I HEARD FROM JIM. I HAD  
25 NOT TALKED TO JIM IN A NUMBER OF YEARS.

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1 Q. AND WAS THAT THE ONLY TIME YOU EVER HEARD FROM HIM ON THE  
2 PHONE?

3 A. I BELIEVE SO.

4 MS. COOLEY: IF I MAY HAVE ONE MOMENT, YOUR HONOR?

5 THE COURT: YES, MA'AM.

6 (PAUSE.)

7 MS. COOLEY: I HAVE NO FURTHER QUESTIONS FOR MS.

8 REDDICK.

9 THE COURT: CROSS.

10 MR. WIDENHOUSE: THANK YOU, YOUR HONOR.

11 C R O S S - E X A M I N A T I O N 11:54 A.M.

12 BY MR. WIDENHOUSE:

13 Q. MS. REDDICK, IF A WITNESS HAD A COURT APPOINTED ATTORNEY,  
14 WOULD THERE BE AN OCCASION THAT YOU MIGHT CUT A SUBSISTENCE  
15 CHECK IN THAT SITUATION, IF THE WITNESS WERE NOT IN CUSTODY?

16 A. YES, OCCASIONALLY, RARELY, BUT THAT COULD HAPPEN. YES.

17 Q. THAT WOULD BE A SITUATION WHERE IT MIGHT HAPPEN?

18 A. IF IT WERE AN INDIGENT WITNESS AND DIDN'T HAVE  
19 SUBSISTENCE, YES, THEY WOULD HAVE AUTHORIZED IT.

20 MR. WIDENHOUSE: THANK YOU. NO FURTHER QUESTIONS,  
21 YOUR HONOR.

22 THE COURT: ANYTHING FURTHER?

23 MS. COOLEY: NO, YOUR HONOR.

24 THE COURT: THANK YOU, MS. REDDICK. WE'RE GOING TO  
25 TAKE A RECESS TILL 1:30.

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1 (LUNCHEON RECESS FROM 11:56 A.M., UNTIL 1:30 P.M.)  
2 (DEFENDANT PRESENT.)

3 THE COURT: GOOD AFTERNOON, EVERYONE. PLEASE BE  
4 SEATED AND WE'LL CONTINUE. MR. BRUCE.

5 MR. BRUCE: YOUR HONOR, BEFORE I PROCEED WITH THE  
6 NEXT WITNESS, WE HAVE SIX WITNESSES REMAINING IN OUR CASE AND  
7 THE LAST WITNESS THAT WE EXPECT TO CALL SOMETIME TOMORROW  
8 MORNING IS JOE MCGINNISS.

9 AND AT PAGE 43 OF THE PRETRIAL ORDER, THE MOVANT HAS  
10 AN OBJECTION TO HIS TESTIMONY THAT, AT LEAST AS FAR AS I KNOW,  
11 THEY'RE STILL MAINTAINING. AND WE PREPARED A BRIEF ON THAT  
12 ISSUE AND WE WOULD LIKE TO HAND IT UP AT THIS TIME.

13 THE COURT: WHAT'S THE OBJECTION?

14 MR. WIDENHOUSE: IT'S REALLY OUTSIDE THE SCOPE OF  
15 THE EVIDENCE AS A WHOLE.

16 THE COURT: I BEG YOUR PARDON. THE COURT OF APPEALS  
17 WAS VERY -- EXPRESSED THAT WE EXAMINE EVERYTHING.

18 MR. WIDENHOUSE: I UNDERSTAND.

19 THE COURT: IT'S GOING TO BE ADMITTED.

20 MR. BRUCE: OKAY. SO, THERE'S NO MORE OBJECTION TO  
21 THE WITNESS' TESTIMONY, IS THAT RIGHT?

22 MR. WIDENHOUSE: NO.

23 THE COURT: THANK YOU.

24 MR. BRUCE: THANK YOU. BEFORE WE PROCEED WITH THE  
25 NEXT WITNESS, MR. MURTAGH IS GOING TO PUBLISH SOME EXHIBITS

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1 THAT ARE IN THE RECORD FOR THE COURT'S REVIEW.

2 THE COURT: ALL RIGHT, SIR.

3 MR. MURTAGH: GOOD AFTERNOON, YOUR HONOR. IF WE  
4 COULD HAVE ON THE SCREEN 2040 -- OH, I'M SORRY, EXCUSE ME --  
5 2039.1.

6 YOUR HONOR, IF I MAY DIRECT THE COURT'S ATTENTION TO  
7 2039.1, IT IS A RECORDS TRANSMITTAL AND RECEIPT AND IT'S  
8 ADDRESSED TO THE FEDERAL RECORDS CENTER IN EAST POINT,  
9 GEORGIA, AND IT'S FROM THE UNITED STATES MARSHAL, EASTERN  
10 DISTRICT OF NORTH CAROLINA, AND THE TRANSFERRING AGENCY  
11 LIAISON PERSON IS NANCY W. BRITT, U.S. MARSHALS.

12 AND, YOUR HONOR, IF I COULD DIRECT YOUR ATTENTION --  
13 AND I COULD EXPLAIN THIS FORM, IF YOUR HONOR WOULD LIKE, AS TO  
14 HOW IT WORKS. MAY I DO THAT, YOUR HONOR?

15 (GOVERNMENT EXHIBIT NUMBER 2039.1  
16 WAS IDENTIFIED FOR THE RECORD.)

17 THE COURT: YES, SIR, PLEASE. THANK YOU.

18 MR. MURTAGH: YOUR HONOR, AS I UNDERSTAND THE  
19 PROCESS, AN AGENCY, WHEN IT SENDS ITS RECORDS TO THE FEDERAL  
20 RECORD CENTER, PREPARES THIS RECORDS TRANSMITTAL AND RECEIPT  
21 FORM LISTING WHAT THEY'RE SENDING. AND THEN IT GOES TO THE  
22 FEDERAL RECORDS CENTER AND THE FEDERAL RECORDS CENTER ASSIGNS  
23 AN ACCESSION NUMBER FOR THE RECORDS THAT HAVE BEEN LISTED ON  
24 THE TRANSMITTAL FORM, AND THEN SENDS THAT BACK TO THE  
25 CONTRIBUTING AGENCY SO THAT IN THE FUTURE WHEN THE AGENCY

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1 WANTS TO GET ITS RECORDS BACK, IT LOOKS AT ITS OWN FORM, THE  
2 ACCESSION NUMBER, AND ASKS THE FEDERAL RECORDS CENTER, PLEASE  
3 GIVE US WHATEVER. SO, THE FORM IS DESIGNED TO GO OUT AS A  
4 TRANSMITTAL RECORD AND COME BACK AS A MEANS OF RETRIEVING THE  
5 RECORDS.

6 SO, YOUR HONOR, IF I COULD DIRECT YOUR ATTENTION TO  
7 THE COLUMN SORT OF TOWARDS THE -- JUST TO THE RIGHT OF THE  
8 CENTER OF THE FORM, DISPOSAL AUTHORITY. AND WHAT'S STATED  
9 THERE IS NI-527-00-3, DESTROY AFTER, AND WHAT WAS ORIGINALLY  
10 TYPED IS 55 YEARS, ALL RIGHT, AND THE 55 HAS BEEN CROSSED OUT  
11 AND 25 YEARS, SEE ATTACHMENT, HAS BEEN WRITTEN IN, OKAY?

12 AND IF WE COULD -- AFTER YOUR HONOR HAS HAD A CHANCE  
13 TO LOOK AT THAT.

14 THE COURT: ALL RIGHT, SIR.

15 MR. MURTAGH: OKAY. IF WE COULD PULL UP 2039.4.  
16 YOUR HONOR, THIS FORM IS ENTITLED REQUEST FOR RECORDS  
17 DISPOSITION AUTHORITY, AND IT WAS -- IT'S FROM THE UNITED  
18 STATES MARSHAL'S SERVICE, AND THE NAME OF THE PERSON WITH WHOM  
19 TO CONFER IS ROBERT GOEWEY, G-O-E-W-E-Y. THAT'S IN BOX NUMBER  
20 FOUR. AND IF YOU GO DOWN TO THE -- AND THIS FORM IS DATED 1/5  
21 -- I'M SORRY. DATE RECEIVED IS 6/30/2000. AND THEN WHAT  
22 COMES BACK APPARENTLY IS A CHANGE. IF YOU LOOK AT DISPOSITION  
23 TEMPORARY FOR FELONY INVESTIGATIVE FILES -- AND, YOUR HONOR, I  
24 NEGLECTED TO MENTION THAT ON THE PREVIOUS EXHIBIT 2039, THE  
25 RECORDS THAT WERE BEING SENT DOWN WERE CRIMINAL WARRANT FILES

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1 LISTED ALPHABETICALLY. OKAY? SO, THERE'S BEEN -- IF YOU LOOK  
2 AT 2039.4, WHICH WAS THE ATTACHMENT THAT CAME BACK TO 2039,  
3 THE DISPOSITION AUTHORITY, PAPER FILES ARE DESTROYED AFTER 25  
4 YEARS. ALL RIGHT?

5 SO, THAT IS APPARENTLY WHAT HAS HAPPENED HERE. THE  
6 MARSHAL SERVICE OR THE RECORD SERVICE -- RECORD CENTER HAS  
7 NOTIFIED THE U.S. MARSHAL YOUR DISPOSITION AUTHORITY HAS  
8 CHANGED.

9 THE NEXT DOCUMENT, YOUR HONOR, I'D ASK THAT OUR  
10 ASSISTANT -- LITIGATION SUPPORT SPECIALIST TO BRING UP IS  
11 2040.

12 AND, YOUR HONOR, THIS IS A SIMILAR RECORDS  
13 TRANSMITTAL AND RECEIPT. THE TRANSFERRING AGENCY LIAISON  
14 OFFICIAL IS NANCY W. BRITT. THE DATE THAT THIS WAS SENT DOWN  
15 TO THE RECORDS CENTER IS 3/15/04 AND THEY'RE FOR, AGAIN,  
16 CRIMINAL WARRANT FILES FOR THE YEAR 2001, LISTED  
17 ALPHABETICALLY. AND IN THE DISPOSAL AUTHORITY, WHAT HAS BEEN  
18 TYPED IN NOW IS NI-527-00-3-IA, DESTROY AFTER 25 YEARS.

19 AND THE FIRST RECORD, 2039, WAS DATED 2/14/02. SO  
20 BY -- I'M SORRY, BY 6/30/04 OR 3/15/04 IT'S -- THE RECORD  
21 DISPOSITION AUTHORITY THAT IS IN EFFECT IS BEING FOLLOWED BY  
22 THE U.S. MARSHAL SERVICE IN RALEIGH.

23 (GOVERNMENT EXHIBIT NUMBERS 2039.4 AND  
24 2040 WERE IDENTIFIED FOR THE RECORD.)

25 THE COURT: YES, SIR.

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1 MR. MURTAGH: THANK YOU, YOUR HONOR.

2 MR. BRUCE: WE'RE READY TO PROCEED WITH OUR NEXT  
3 WITNESS, YOUR HONOR.

4 THE COURT: ALL RIGHT, SIR.

5 MR. BRUCE: WE CALL J. RICH LEONARD.

6 (PAUSE.)

7 THE COURT: I BELIEVE I KNOW THIS MAN.

8 **J. RICH LEONARD, GOVERNMENT WITNESS, SWORN**

9 D I R E C T E X A M I N A T I O N 1:40 P.M.

10 BY MR. BRUCE:

11 Q. WOULD YOU STATE YOUR NAME, PLEASE?

12 A. J. RICH LEONARD.

13 Q. JUDGE LEONARD, HOW ARE YOU EMPLOYED?

14 A. I'M A JUDGE WITH THE UNITED STATES BANKRUPTCY COURT FOR  
15 THE EASTERN DISTRICT OF NORTH CAROLINA.

16 Q. AND HOW LONG HAVE YOU BEEN IN THAT POSITION?

17 A. I JUST HAD A 20TH ANNIVERSARY THIS SUMMER.

18 Q. AND IS IT TRUE THAT YOU USED TO BE A LAW CLERK FOR JUDGE  
19 FRANKLIN T. DUPREE?

20 A. I WAS. I STARTED MY CAREER THERE IN THE FALL OF 1976.

21 Q. COULD YOU JUST GIVE US AN OUTLINE OF YOUR CAREER AFTER  
22 THAT DATE.

23 A. I WAS JUDGE DUPREE'S LAW CLERK FROM SEPTEMBER OF 1976  
24 THROUGH AUGUST OF 1978. I WENT TO PRACTICE LAW WITH THE LAW  
25 FIRM OF SANFORD, ADAMS, MCCULLOUGH AND BEARD IN RALEIGH AFTER

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1 MY CLERKSHIP.

2 I CAME BACK TO THE COURT IN A DIFFERENT CAPACITY, AS  
3 THE CLERK OF THE COURT, ON JULY 6TH, 1979. I HELD THAT  
4 POSITION FOR 13 YEARS. IN 1981, I ALSO BECAME A UNITED STATES  
5 MAGISTRATE JUDGE AND HELD WHAT WAS CALLED A COMBINATION  
6 POSITION UNTIL I TOOK THIS JOB IN 1992.

7 Q. AND ARE YOU APPOINTED FOR A 12 YEAR TERM, IS THAT RIGHT?

8 A. 14 YEAR TERM. I'M IN MY SECOND 14 YEAR TERM.

9 Q. ALL RIGHT. NOW, TAKING YOU BACK TO THE '70S, COULD YOU  
10 EXPLAIN THE COMPOSITION OF THE FEDERAL BENCH IN THIS DISTRICT  
11 BETWEEN '75 AND '79?

12 A. IN 1975, IT WAS A THREE JUDGE COURT WITH JUDGE BUTLER,  
13 JUDGE LARKINS AND JUDGE DUPREE. MY RECOLLECTION, THOUGH, IS  
14 THAT JUDGE BUTLER RETIRED, I BELIEVE IN THE SUMMER OF '75,  
15 AND BECAUSE JUDGE DUPREE'S JUDGESHIP HAD BEEN THIS PECULIAR  
16 ANIMAL KNOWN AS A SPECIAL JUDGESHIP, HIS VACANCY WAS NOT  
17 FILLED. SO, IT REVERTED TO A TWO JUDGE COURT WITH JUDGE  
18 LARKINS AND JUDGE DUPREE, WITH JUDGE LARKINS AS THE CHIEF  
19 JUDGE.

20 Q. ALL RIGHT. AND DID THERE COME A TIME WHEN JUDGE LARKINS  
21 WAS NO LONGER THE CHIEF JUDGE?

22 A. THERE DID. ACTUALLY, IT WAS IN THE SUMMER OF 1979.

23 Q. AND WHO BECAME CHIEF JUDGE THEN?

24 A. JUDGE DUPREE.

25 Q. AND DID THAT CAUSE A CHANGE IN THE LEADERSHIP OF THE

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1 CLERK'S OFFICE?

2 A. IT DID.

3 Q. PLEASE EXPLAIN.

4 A. THE CHANGE WAS THAT MY PREDECESSOR WAS ASKED TO RESIGN  
5 AND I WAS APPOINTED.

6 Q. AND SO THE ONLY ACTIVE JUDGE ON THE BENCH IN THE SUMMER  
7 OF 1979 WAS JUDGE DUPREE?

8 A. I BELIEVE THAT'S RIGHT.

9 Q. AND YOU MENTIONED THE DATE THAT YOU BECAME THE CLERK OF  
10 THE COURT. WAS THERE SOME SIGNIFICANCE --

11 A. MR. BRUCE, WAIT A MINUTE. I'VE GOT SOMETHING WRONG  
12 THERE. ACTUALLY, IN 19 -- I BELIEVE THAT JUDGE LARKINS WAS  
13 STILL ACTIVE IN 1979. IT BECAME A TWO JUDGE COURT, AS I SAID  
14 EARLIER. SO, IT WAS NOT TRUE THAT JUDGE DUPREE WAS THE ONLY  
15 ACTIVE JUDGE.

16 Q. WAS JUDGE LARKINS TAKING A FULL CASE LOAD AT THAT TIME?

17 A. YES, BUT THEY DID A LARGELY GEOGRAPHICAL SPLIT. JUDGE  
18 DUPREE TENDED TO TAKE THE RALEIGH AND FAYETTEVILLE CASES AND  
19 JUDGE LARKINS TOOK THE COASTAL CASES.

20 Q. NOW, YOU MENTIONED THE DATE THAT YOU BECAME CLERK OF  
21 COURT. WAS THERE ANY SIGNIFICANCE TO THAT PARTICULAR DATE?

22 A. I BECAME CLERK OF THE COURT SLIGHTLY EARLIER THAN I  
23 ANTICIPATED BECAUSE DR. MACDONALD'S TRIAL WAS TO START THE  
24 NEXT WEEK AND JUDGE DUPREE FRANKLY WANTED SOMEONE IN THAT  
25 POSITION WHO HE TRUSTED TO MANAGE THE LOGISTICS OF THAT TRIAL.

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1 Q. NOW, TAKING YOU BACK TO YOUR CLERKSHIP, YOU SAID THAT WAS  
2 '76 TO '78?

3 A. THAT'S CORRECT.

4 Q. AND WAS ONE OF YOUR CO-CLERKS JOHN EDWARDS?

5 A. HE WAS, FOR THE SECOND YEAR OF MY CLERKSHIP.

6 Q. OKAY. DO YOU KNOW WHEN HE LEFT?

7 A. HE LEFT IN THE SAME MONTH, IN AUGUST OF 1978. HE LEFT TO  
8 PRACTICE LAW IN NASHVILLE, TENNESSEE, AND WAS THERE FOR  
9 SEVERAL YEARS.

10 Q. SO, HE ONLY SERVED ONE YEAR --

11 A. HE DID.

12 Q. -- AS A CLERK TO JUDGE DUPREE?

13 A. THAT'S RIGHT.

14 Q. WAS THAT UNUSUAL?

15 A. IT WAS UNUSUAL. HE LEFT EARLY BECAUSE HIS WIFE HAD A ONE  
16 YEAR CLERKSHIP WITH ANOTHER JUDGE AND THEY HAD PROCURED DUAL  
17 JOBS IN NASHVILLE, AND HE ASKED JUDGE DUPREE'S PERMISSION TO  
18 LEAVE EARLY SO THEY COULD BOTH START THEIR JOBS  
19 SIMULTANEOUSLY.

20 Q. SO, YOU AND JOHN EDWARDS ESSENTIALLY EXITED TOGETHER  
21 FROM --

22 A. WE EXITED TOGETHER, WITHIN A WEEK OF EACH OTHER, IN  
23 AUGUST OF 1978.

24 Q. SO, WHO WERE JUDGE DUPREE'S LAW CLERKS DURING THE TIME OF  
25 THE JEFFREY MACDONALD TRIAL?

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1 A. STEVE COGGINS WAS JUDGE DUPREE'S LAW CLERK FOR A TWO YEAR  
2 TERM AND HE WAS THERE THE DURATION OF THE TRIAL. JUDGE  
3 DUPREE'S SECOND LAW CLERK, AT THE BEGINNING OF THE TRIAL WAS  
4 WILLIAM PAPPAS. AT SOME POINT DURING THAT TRIAL, AND I  
5 BELIEVE IN EARLY AUGUST, BILL'S TERM ENDED AND JEFFREY HOWARD  
6 CAME AS JUDGE DUPREE'S SECOND LAW CLERK.

7 Q. SO, TO YOUR KNOWLEDGE, WHO DID THE LAW CLERK WORK ON THE  
8 JEFFREY MACDONALD TRIAL?

9 A. CERTAINLY AT THE BEGINNING IT WAS MR. COGGINS, FROM MY  
10 OBSERVATION. I THINK -- BECAUSE MR. PAPPAS WAS TRYING TO  
11 FINISH UP A NUMBER OF OTHER COMPLICATED CIVIL MATTERS THAT  
12 JUDGE DUPREE HAD BEEN WORKING ON DURING HIS TENURE AND WAS NOT  
13 VERY INVOLVED. I THINK WHEN MR. HOWARD CAME THEY SHARED THE  
14 DUTIES.

15 Q. NOW, WHAT WAS YOUR ROLE DURING THE MACDONALD TRIAL?

16 A. ON THE PERIPHERY. I HAD TAKEN OVER A COURT THAT DAY  
17 THAT, TO SAY IT CHARITABLY, HAD NOT BEEN VERY WELL RUN BEFORE  
18 I ARRIVED. I SIGNED ON AS THE ACCOUNTABLE OFFICER FOR ALL THE  
19 BUILDINGS AND PROPERTY AND REGISTRY FUNDS AND PERSONNEL. AND  
20 I WAS WORKING 20 HOURS A DAY TO TRY TO MAKE SENSE OF THAT JOB.

21 MY INVOLVEMENT WITH THE MACDONALD TRIAL WAS TO WORK  
22 OUT THE RULES FOR ACCESS, FOR COURTROOM PARTICIPATION, FOR  
23 MEDIA ACCESS, FOR CONFERENCE ROOMS FOR LAWYERS, FOR CONTROL OF  
24 EXHIBITS, BUT I DON'T THINK I EVER WAS IN THE COURTROOM A  
25 SINGLE MINUTE WHILE THE TRIAL ITSELF WAS ACTUALLY IN PROGRESS.

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1 Q. AND, OF COURSE, IN YOUR POSITION YOU WERE IN A  
2 SUPERVISORY CAPACITY OVER THE DEPUTY CLERKS?

3 A. I WAS. I HAD A VETERAN DEPUTY CLERK NAMED SHIRLEY  
4 RODGERS WHO WAS LARGELY RESPONSIBLE IN THE COURTROOM DURING  
5 THIS TRIAL.

6 Q. ALL RIGHT. LET ME SHOW YOU -- I'M GOING TO PUT UP ON THE  
7 SCREEN AN EXCERPT FROM THE TRIAL TRANSCRIPT, TRIAL DAY 20,  
8 PAGE 13. AND JUST FOR YOUR INFORMATION, TRIAL DAY 20 HAS BEEN  
9 IDENTIFIED AS FRIDAY, AUGUST 17TH, 1979. LET'S JUST HIGHLIGHT  
10 LINE TEN THROUGH 18 -- OR 13, REALLY, THROUGH 18.

11 DO YOU SEE, JUDGE LEONARD, WHERE IT SAYS BY THE  
12 COURT, TAKE A RECESS UNTIL TOMORROW MORNING AT NINE O'CLOCK?

13 A. I DO.

14 Q. AND DO YOU SEE WHERE THE COURT REPORTER HAS ADDED THE  
15 NOTE SAYING THE PROCEEDING WAS ADJOURNED AT 11 -- EXCUSE ME,  
16 1:17 P.M., TO RECONVENE AT 9:00 A.M. ON FRIDAY, AUGUST 17TH,  
17 1979?

18 A. I DO.

19 Q. AND I MISSPOKE. TRIAL DAY 20 IS AUGUST 16TH, 1979. NOW,  
20 DOES THIS INDICATE, THEN, THAT THERE'S GOING TO BE NO MORE  
21 COURT ON THURSDAY, AUGUST 16TH?

22 A. IT DOES SEEM TO.

23 Q. SO, WHAT WOULD BE THE POLICY OF THE COURT AS TO WHAT  
24 HAPPENS WITH THE COURTROOM IN THAT CIRCUMSTANCE DURING A  
25 CRIMINAL TRIAL?

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1 A. IT WOULD HAVE BEEN LOCKED DOWN.

2 Q. AND WHAT'S THE REASON FOR THAT?

3 A. WELL, THE REASON IS WE UNDERSTAND CHAIN OF CUSTODY. AND  
4 IN A SMALLER CASE, THE DEPUTY CLERK MIGHT HAVE REMOVED ALL THE  
5 EXHIBITS AND TAKEN THEM WITH HER BACK TO AN EXHIBIT ROOM, BUT  
6 IN A CASE LIKE THIS WHERE THERE WERE SO MANY DEMONSTRATIVE AND  
7 DOCUMENTARY EXHIBITS, MS. RODGERS EITHER, WITHOUT ANY  
8 EXCEPTION, EITHER WOULD HAVE BEEN IN THE COURTROOM OR HAD HAD  
9 ANOTHER MEMBER OF MY STAFF IN THE COURTROOM WITH THE EXHIBITS  
10 OR THE COURTROOM WOULD HAVE BEEN LOCKED.

11 Q. ALL RIGHT. NOW, LET'S TAKE A LOOK ON THE SCREEN AT  
12 GOVERNMENT EXHIBIT 2077. DO YOU RECOGNIZE THAT AS A FLOOR  
13 PLAN OF THE SEVENTH FLOOR --

14 A. IT SEEMS TO BE A DIAGRAM OF THE SEVENTH FLOOR AS IT  
15 APPEARED THEN. IT'S BEEN ALTERED SINCE THAT TIME.

16 Q. ALL RIGHT. AND DO YOU TAKE NOTE THAT THE FRONT OF THE  
17 BUILDING ON NEW BERN AVENUE IS AT THE TOP OF THE PAGE?

18 A. I DO.

19 Q. ALL RIGHT. WITH THAT ORIENTATION, THEN, CAN YOU POINT  
20 OUT WHERE JUDGE DUPREE'S COURTROOM WAS?

21 A. JUDGE DUPREE'S COURTROOM WOULD HAVE BEEN RIGHT HERE,  
22 COURTROOM ONE.

23 Q. ALL RIGHT. AND THEN CAN YOU ALSO POINT OUT WHERE JUDGE  
24 DUPREE'S CHAMBERS, WHERE HE ACTUALLY HAD HIS DESK AND SO  
25 FORTH?

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1 A. WELL, HIS PRIVATE OFFICE WAS THE CORNER OFFICE HERE.

2 Q. ALL RIGHT. NOW, IS THERE A DOOR OUT INTO THE HALLWAY  
3 FROM THAT OFFICE?

4 A. THERE IS.

5 Q. AND WHAT WAS THE POLICY ON THAT DOOR?

6 A. THAT DOOR WAS CUSTOMARILY LOCKED BECAUSE IT GAVE ACCESS  
7 DIRECTLY INTO HIS PRIVATE OFFICE.

8 Q. NOW, IS THERE A DOOR THAT OPENED FROM THE CORRIDOR ONTO A  
9 LAW CLERK AND LIBRARY AREA?

10 A. THERE IS. AND THIS IS THE WAY THAT VIRTUALLY EVERYONE  
11 WOULD HAVE ENTERED JUDGE DUPREE'S CHAMBERS THROUGH THAT DOOR.  
12 IT WOULD HAVE OPENED INTO, IN THOSE DAYS, A LARGE LIBRARY  
13 WHERE BOTH OF HIS LAW CLERKS HAD WORK STATIONS. AND  
14 CUSTOMARILY, WE WERE THE FIRST GREETERS OF ANYONE WHO ENTERED  
15 HIS CHAMBERS. AND IF SOMEONE WANTED TO SEE THE JUDGE, THEY  
16 WOULD HAVE MOVED TO THE NEXT OFFICE, WHERE THE VERY  
17 FORMIDABLE, MS. ALBUS, HIS SECRETARY, PRESIDED. AND IF YOU  
18 WANTED TO SEE THE JUDGE, YOU EXPLAINED TO MS. ALBUS WHY YOU  
19 WANTED TO SEE THE JUDGE AND SHE WOULD BUZZ HIM AND EXPLAIN  
20 YOUR REQUEST AND EITHER LET YOU IN OR NOT. HE WAS NOT A  
21 FELLOW WITH AN OPEN DOOR POLICY. LAWYERS DIDN'T JUST WANDER  
22 IN AND CHITTY-CHAT WITH HIM IN HIS OFFICE.

23 Q. IN YOUR EXPERIENCE AS LAW CLERK TO JUDGE DUPREE AND AS  
24 CLERK OF COURT, CAN YOU TELL US WHAT WAS HIS POLICY ON  
25 SUBSTANTIVE EX PARTE COMMUNICATION?

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1 A. I THINK ANYONE WHO HAS EVER TRIED A CASE BEFORE ME OR  
2 WORKED WITH ME KNOWS MY COMPLETE AVERSION TO EX PARTE  
3 COMMUNICATIONS AND I LEARNED THAT FROM HIM.

4 I HAVE SEEN HIM MANY A TIME WHEN A LAWYER DRIFTED  
5 FROM POLITE CONVERSATION INTO WHAT MIGHT BE, PERHAPS, AN EX  
6 PARTE COMMUNICATION, HOLD UP HIS HAND AND SAY LET'S NOT TALK  
7 ABOUT THAT. LET'S NOT GO THERE.

8 Q. ALL RIGHT. DID THERE COME A TIME -- LET ME PULL UP A  
9 CALENDAR OF 1979. DID THERE COME A TIME WHEN YOU ENCOUNTERED  
10 JUDGE DUPREE ON A WEEKEND?

11 A. I DID VIRTUALLY --

12 Q. 2362.

13 A. VIRTUALLY EVERY --

14 Q. GO AHEAD.

15 A. VIRTUALLY EVERY WEEKEND. AS I SAID, I WAS WORKING 20  
16 HOURS A DAY, SEVEN DAYS A WEEK TO TRY TO FIGURE OUT WHAT IT  
17 MEANT TO BE THE CHIEF EXECUTIVE OFFICER OF THIS COURT. AND HE  
18 WORKED INVARIABLY ON THE WEEKENDS.

19 SO, THERE WAS A WEEKEND, AND I KNOW IT WAS IN LATE  
20 AUGUST, AND I WAS ENOUGH AWARE OF WHAT WAS GOING ON IN THE  
21 TRIAL TO KNOW THAT THERE HAD BEEN SOME IMPORTANT PROCEEDINGS  
22 THE FEW DAYS BEFORE, AND SAW HIS CAR IN THE LOT SUNDAY  
23 AFTERNOON AND JUST WENT IN TO SAY HELLO.

24 HE HAD BOOKS EVERYWHERE, HE HAD LAW BOOKS -- YOU  
25 KNOW, THIS WAS BEFORE WESTLAW AND LEXIS, WHEN WE USED THE

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1 BOOKS, AND HE HAD LAW BOOKS OPENED EVERYWHERE. AND I SAID,  
2 WHAT ARE YOU WORKING ON? AND HE SAID, WELL, THEY'VE THROWN  
3 SOME THORNY EVIDENTIARY ISSUES AT ME I HAVE TO RULE ON  
4 TOMORROW AND I'M TRYING TO GET TO THE BOTTOM OF IT. THAT WAS  
5 REALLY THE EXTENT OF OUR CONVERSATION.

6 Q. YOU DIDN'T GET INTO THE SUBSTANCE OF IT?

7 A. I DIDN'T. I WASN'T HIS LAW CLERK ANYMORE. HE HAD ABLE  
8 LAW CLERKS. AND, YOU KNOW, ONE OF THE THINGS I LEARNED YEARS  
9 AGO WAS IF JUDGE DUPREE WAS AHEAD OF YOU ON THE RESEARCH,  
10 TALKING TO HIM WAS FRUSTRATING FOR YOU AND NOT VERY HELPFUL  
11 FOR HIM. SO, I DIDN'T GO ANY FURTHER.

12 Q. IS IT YOUR OPINION THAT HE -- THAT WAS THE WEEKEND HE WAS  
13 MULLING THE --

14 A. I KNOW IT WAS BECAUSE I REMEMBER THAT HE HAD -- I  
15 REMEMBER THE RULINGS COMING THE NEXT DAY.

16 Q. THE RULINGS ON THE STOECKLEY --

17 A. ON THE ADMISSIBILITY OF THE STOECKLEY TESTIMONY.

18 Q. ALL RIGHT.

19 A. AND ONE THING I MIGHT ADD, MR. BRUCE, WHICH ESCAPES  
20 EVERYONE WITH TIME, IS THAT IN 1979, THE RULES OF EVIDENCE  
21 WERE LESS THAN THREE YEARS OLD. THEY HAD ONLY BEEN ADOPTED IN  
22 1976.

23 SO, EVIDENCE ISSUES UNDER THE PRECISE WORDING OF  
24 THOSE RULES WAS VERY DIFFICULT BECAUSE THERE WASN'T A LOT OF  
25 PRECEDENT. THERE WASN'T A LOT OF CASE LAW. SO, WE OFTEN

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1 WORKED VERY HARD ON EVIDENCE ISSUES TO BE RIGHT.

2 Q. NOW, IN YOUR EXPERIENCE AS LAW CLERK AND AS CLERK OF  
3 COURT, DO YOU KNOW ANYTHING ABOUT JUDGE DUPREE'S LUNCHTIME  
4 HABITS WHEN HE WAS HOLDING COURT?

5 A. ABSOLUTELY. HE WAS A MAN OF HABIT. HE RARELY CHANGED  
6 HIS ROUTINE. HE TRIED TO RUN HIS COURTROOM WITH CLOCK-LIKE  
7 PUNCTUALITY AND HE WOULD ADJOURN COURT AT ONE O'CLOCK AND HE  
8 KEPT ALL HIS LUNCH SUPPLIES IN A SMALL KITCHENETTE IN HIS  
9 CHAMBERS. HE WOULD COME OUT, HE WOULD MAKE HIS LUNCH, AND  
10 CONVERSATION MIGHT HAVE HAPPENED IN THE FEW MINUTES WHILE HE  
11 MADE HIS LUNCH, BUT THEN HE WOULD TAKE IT BACK INTO HIS  
12 OFFICE, SHUT THE DOOR, AND IF HE HAD AN ISSUE TO WORK ON,  
13 WORK. IF HE DIDN'T, HE WOULD OFTEN TURN ON CLASSICAL MUSIC  
14 AND RELAX FOR A LITTLE WHILE.

15 Q. SO, THERE WAS NOT MUCH SOCIALIZING?

16 A. EXCEPT FOR THE FEW MINUTES WHEN HE WAS MAKING HIS LUNCH,  
17 WHERE WE MIGHT TALK ABOUT WHAT HAD HAPPENED IN THE COURTROOM  
18 THAT MORNING, NO. I WAS THERE FOR A LONG TIME AND I DON'T  
19 EVER RECALL SITTING DOWN IN HIS CHAMBERS AND HAVING LUNCH WITH  
20 HIM.

21 Q. NOW, TRAGICALLY, JUDGE DUPREE DIED. DO YOU RECALL THE  
22 APPROXIMATE DATE OF HIS DEATH?

23 A. I THINK IT WAS 1995.

24 Q. DID YOU HAVE A ROLE OR PEOPLE WORKING UNDER YOU HAVE A  
25 ROLE, JUDGE LEONARD, IN ASSIGNING ROOMS FOR THE MACDONALD TEAM

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1 TO USE DURING THE TRIAL?

2 A. I AM SURE WE DID. I HAVE NO PRECISE -- IT'S BEEN A LONG  
3 TIME, BUT THAT WOULD HAVE CERTAINLY BEEN SOMETHING THAT I OR  
4 SOMEONE WORKING UNDER ME WOULD HAVE DONE IN ANY TRIAL.

5 MR. BRUCE: NO FURTHER QUESTIONS, YOUR HONOR.

6 THE COURT: CROSS.

7 MR. WIDENHOUSE: NO, THANK YOU, YOUR HONOR.

8 THE COURT: THANK YOU VERY MUCH, MR. LEONARD.

9 THE WITNESS: THANK YOU.

10 MR. BRUCE: AND MAY THE JUDGE BE RELEASED?

11 MR. WIDENHOUSE: NO OBJECTION.

12 THE COURT: ALL RIGHT.

13 MR. BRUCE: YOUR HONOR, THE GOVERNMENT CALLS JIM  
14 BLACKBURN.

15 THE COURT: THANK YOU.

16 **JAMES L. BLACKBURN, GOVERNMENT WITNESS, SWORN**

17 D I R E C T E X A M I N A T I O N 1:56 P.M.

18 BY MR. BRUCE:

19 Q. WOULD YOU STATE YOUR NAME, PLEASE?

20 A. JAMES LESLIE BLACKBURN.

21 Q. WHERE DO YOU LIVE, MR. BLACKBURN?

22 A. IN RALEIGH, NORTH CAROLINA.

23 Q. AND HOW LONG HAVE YOU LIVED IN RALEIGH?

24 A. 1969.

25 Q. WHAT IS YOUR CURRENT EMPLOYMENT STATUS?

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1 A. I AM SELF-EMPLOYED.

2 Q. WHAT DO YOU DO?

3 A. WHAT I DO AND HAVE DONE FOR SEVERAL YEARS NOW IS I HOLD  
4 CONTINUING LEGAL EDUCATION SEMINARS FOR LAWYERS AND PARALEGALS  
5 IN NORTH AND SOUTH CAROLINA AND OTHER STATES FROM TIME TO  
6 TIME.

7 I SPEAK ON ETHICS AND PROFESSIONALISM AND MENTAL  
8 HEALTH ISSUES. THESE ARE ALL APPROVED BY THE BARS OF BOTH  
9 STATES. I HAVE SPOKEN IN OTHER STATES AS WELL. JUST MOST  
10 RECENTLY, OKLAHOMA AND KENTUCKY AT THEIR ANNUAL BAR  
11 CONVENTIONS.

12 Q. ALL RIGHT. LET ME GO BACK TO THE BEGINNING OF YOUR  
13 CAREER. WHERE DID YOU GO TO COLLEGE AND LAW SCHOOL?

14 A. I WENT TO WAKE FOREST IN WINSTON-SALEM AND WENT TO LAW  
15 SCHOOL AT THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL.

16 Q. AND WHAT WAS YOUR FIRST JOB OUT OF LAW SCHOOL?

17 A. I WAS AN ASSOCIATE ATTORNEY GENERAL, I BELIEVE, WITH THE  
18 DEPARTMENT OF JUSTICE IN NORTH CAROLINA IN 1969.

19 Q. AND WHAT DID YOU DO AFTER THAT?

20 A. I BECAME AN ASSISTANT U.S. ATTORNEY I BELIEVE IN THE FALL  
21 -- OCTOBER 1977.

22 Q. OKAY. AND WHO WAS THE U.S. ATTORNEY WHEN YOU BECAME AN  
23 ASSISTANT UNITED STATES ATTORNEY?

24 A. GEORGE ANDERSON.

25 Q. AND AS AN ASSISTANT UNITED STATES ATTORNEY, WHAT WERE

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1 YOUR DUTIES?

2 A. WELL, I WAS IN CHARGE -- I WAS THE FIRST ASSISTANT U.S.  
3 ATTORNEY AND I WAS -- WE HAD A SMALL OFFICE THEN, ONLY EIGHT  
4 OR NINE ASSISTANTS. I WAS PRIMARILY IN CHARGE OF THE CRIMINAL  
5 SECTION AND PROSECUTED CASES IN DIFFERENT JURISDICTIONS WITHIN  
6 THE EASTERN DISTRICT OF NORTH CAROLINA.

7 Q. DID THERE COME A TIME WHEN YOU BECAME INVOLVED IN THE  
8 PROSECUTION OF *U.S. V. MACDONALD*?

9 A. YES.

10 Q. AND WHEN WAS THAT?

11 A. I THINK -- I BELIEVE IT WAS THE FALL OF 1977. NOT LONG  
12 AFTER I JOINED THE U.S. ATTORNEY'S OFFICE I WAS ASKED TO GET  
13 INVOLVED IN THAT CASE.

14 Q. BY THE U.S. ATTORNEY?

15 A. YES.

16 Q. AND DID IT EVENTUALLY COME TO TRIAL?

17 A. IT DID.

18 Q. AND WHAT WAS THE TRIAL TEAM?

19 A. THE TRIAL TEAM WAS MYSELF; GEORGE ANDERSON, THE U.S.  
20 ATTORNEY; JACK CRAWLEY, AN ASSISTANT U.S. ATTORNEY; AND BRIAN  
21 MURTAGH, FROM THE U.S. DEPARTMENT OF JUSTICE.

22 Q. ALL RIGHT. AND WHO DID MOST OF THE ACTUAL QUESTIONING OF  
23 WITNESSES AND ARGUMENT?

24 A. WELL, I DID MOST OF THE FACT WITNESSES. BRIAN DID MOST  
25 OF THE TECHNICAL WITNESSES. THAT'S HOW WE DIVIDED IT UP.

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1 Q. ALL RIGHT. NOW, DID THERE COME A TIME DURING THE TRIAL  
2 THAT THE PRESENCE OF HELENA STOECKLEY BECAME AN ISSUE?

3 A. YES.

4 Q. LET'S PUT ON THE SCREEN TRIAL DAY 17, PAGE 86, AND  
5 HIGHLIGHT THE TOP OF THE PAGE. DO YOU SEE, MR. BLACKBURN,  
6 WHERE IT SAYS, SECONDLY, WE HAVE HERE UNDER SUBPOENA?

7 A. YES.

8 Q. WOULD YOU READ THAT, LINE ONE THROUGH 15?

9 A. SECONDLY, WE HAVE HERE UNDER SUBPOENA THE PARENTS OF  
10 HELENA STOECKLEY. WE HAVE BEEN TRYING TO LOCATE HER. IN OUR  
11 EFFORT TO LOCATE HER, WHICH HAS BEEN FUTILE UP UNTIL NOW, WE  
12 HAVE SUBPOENAED THEM AS TO THEIR KNOWLEDGE OF HER WHEREABOUTS.

13 Q. ALL RIGHT. AND YOU CAN CONTINUE READING.

14 A. I'M SORRY.

15 I AM NOT PARTICULARLY ANXIOUS TO MAKE THEM -- I AM  
16 NOT PARTICULARLY ANXIOUS TO MAKE THEM DO NECESSARILY ALL THAT  
17 EXPLANATION ABOUT WHAT THEY DON'T KNOW ABOUT THEIR DAUGHTER  
18 NECESSARILY IN FRONT OF THE CROWD. I JUST HAVE A FEELING,  
19 HAVING TALKED TO THEM -- ON THE OTHER HAND, I DO NEED TO PUT  
20 THEIR TESTIMONY OF RECORD EITHER BEFORE OR AFTER THE LUNCHEON  
21 BREAK AS TO THEIR KNOWLEDGE OR LACK OF KNOWLEDGE OF HER  
22 WHEREABOUTS BECAUSE, IF WE CANNOT FIND HER, AFTER SUCH A  
23 DILIGENT SEARCH, WE WILL SEEK TO HAVE HER DEEMED UNAVAILABLE  
24 FOR THE PURPOSE OF VARIOUS 800 RULES.

25 Q. ALL RIGHT. DO YOU RECALL THAT THE DEFENSE WAS TRYING TO

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1 ESTABLISH HELENA STOECKLEY'S UNAVAILABILITY IN TERMS OF TRYING  
2 TO GET IN HER OUT OF COURT STATEMENTS?

3 A. OH, YES.

4 Q. ALL RIGHT. LET'S GO DOWN TO THE BOTTOM OF THE PAGE. IN  
5 FACT, LET'S GO OVER TO TD-17, 87. WOULD YOU READ WHERE IT  
6 STARTS MR. BLACKBURN?

7 A. YOUR HONOR, MAY I RESPOND TO THAT? I GAVE WADE THIS  
8 MORNING AT 8:30 THE NEWEST ADDRESS WHICH WE HAD. IT MAY BE  
9 THAT ALL OF THIS IS RENDERED ACADEMIC IF THEY DO FIND HER.

10 MR. SEGAL: WE HAVE SOMEONE WORKING ON THAT. I  
11 WOULD SAY THERE IS SOME DIFFICULTY WITH THE ADDRESS THAT WAS  
12 GIVEN. THERE IS SOME PROBLEM WITH WHETHER THAT NUMBER EXISTS.  
13 WE ARE WORKING ON IT. ALL I WANT TO SAY IS THAT WE HAVE AN  
14 OBLIGATION TO MAKE A RECORD AS TO OUR EFFORTS.

15 Q. ALL RIGHT. DID THE UNITED STATES GOVERNMENT ASSIST IN  
16 THE LOCATION -- IN THE LOCATING OF HELENA STOECKLEY?

17 A. I BELIEVE THEY DID.

18 Q. AND SO YOU WERE REPRESENTING THE UNITED STATES  
19 GOVERNMENT, WHICH WAS THE ADVERSARY OF JEFFREY MACDONALD IN  
20 THIS CASE, IS THAT RIGHT?

21 A. CORRECT.

22 Q. AND YET THE GOVERNMENT ACTUALLY LOCATED HELENA STOECKLEY,  
23 THE DEFENSE WITNESS?

24 A. YES.

25 Q. ALL RIGHT. COULD WE LOOK AT EXHIBIT 2000? WOULD YOU

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1 TAKE A LOOK AT THIS DOCUMENT AND TELL US WHAT IT IS.

2 A. IT IS A WARRANT FOR THE ARREST OF A WITNESS.

3 Q. AND WHO IS THE WITNESS?

4 A. HELENA STOECKLEY.

5 Q. AND DO YOU RECALL THIS WARRANT BEING ISSUED DURING THE  
6 TRIAL?

7 A. YES.

8 Q. AND WHAT WERE THE CIRCUMSTANCES?

9 A. WELL, THE CIRCUMSTANCES WERE THAT I THINK SHE HAD BEEN  
10 LOCATED OR THIS MAY HAVE BEEN BEFORE SHE WAS LOCATED, I DON'T  
11 RECALL, AND THAT SHE WAS TO BE ARRESTED AND BROUGHT BACK TO  
12 NORTH CAROLINA TO TESTIFY AS A MATERIAL WITNESS IN THE CASE.

13 Q. OKAY. DID THERE COME A TIME WHEN YOU LEARNED THAT SHE  
14 HAD BEEN ARRESTED ON THIS WARRANT?

15 A. YES.

16 Q. AND HOW DID YOU LEARN THAT, IF YOU RECALL?

17 A. I DON'T RECALL.

18 Q. ALL RIGHT. LET'S GO TO TRIAL DAY 19, PAGE 14. AND IF  
19 YOU WOULD START AT THE END OF LINE 12, WHERE IT SAYS WHAT I  
20 REALLY GOT YOU UP HERE FOR.

21 A. THAT IS NOT TO SAY I WON'T LET EVERYBODY HAVE HIS FULL  
22 SAY. I WILL DO IT IF I CAN. WHAT I REALLY GOT YOU UP HERE  
23 FOR IS TO TALK ABOUT THIS STOECKLEY PROBLEM. I UNDERSTAND  
24 SHE IS IN CUSTODY. I UNDERSTAND THAT SHE CAN BE KEPT LIKE  
25 THAT FOR 72 HOURS WITHOUT BEING LET OUT.

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1           NOW, AS FAR AS FINDING HER AND MAKING HER AVAILABLE  
2 IS CONCERNED, I THINK THE COURT HAS DONE ABOUT ALL IT CAN DO.  
3 I SUGGEST TO YOU THAT YOU OUGHT TO GET YOUR EVIDENCE SO  
4 SCHEDULED AS TO ACCOMMODATE THIS PARTICULAR THING RATHER THAN  
5 RUN THE RISK THE NEXT TIME SHE GOES THAT SHE CAN'T BE FOUND BY  
6 ANYBODY.

7 Q.     KEEP READING.

8 A.     SO, NOW THAT SHE IS AVAILABLE, I THINK THAT MOOTS THE  
9 QUESTION OF WHETHER OR NOT WE CAN TAKE UP SECONDARY EVIDENCE  
10 OF WHAT SHE WOULD HAVE SAID, AND I DON'T THINK IN THIS KIND OF  
11 CASE IF SHE IS AVAILABLE IT OUGHT TO BE DONE. MY FEELING  
12 ABOUT THAT IS THAT, HAVING MADE HER AVAILABLE, THAT YOU MUST  
13 NOW AVAIL YOURSELF OF HER AVAILABILITY.

14 Q.     AND WHAT DOES MR. SEGAL REPLY?

15 A.     I ABSOLUTELY AGREE THAT IT IS OUR DESIRE TO DO THAT. WE  
16 NEED TO KNOW, HOWEVER, YOUR HONOR -- YOU SAY SHE IS IN  
17 CUSTODY. IS SHE IN CUSTODY HERE IN RALEIGH OR IS SHE IN  
18 GREENVILLE?

19           LAW CLERK: SHE IS IN CUSTODY IN GREENVILLE --

20           THE COURT: (INTERPOSING.) GREENVILLE, SOUTH  
21 CAROLINA.

22           LAW CLERK: -- AND THEY ARE READY TO TRANSPORT HER  
23 HERE.

24 Q.     AND WHAT DO YOU SAY AT THAT POINT?

25 A.     PICKENS COUNTY JAIL IS WHAT I HAVE BEEN TOLD.

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1 Q. NOW, THIS CONVERSATION WAS GOING ON AT A BENCH  
2 CONFERENCE, IS THAT RIGHT?

3 A. YES.

4 Q. SO, IT COULDN'T BE HEARD BY ALL PARTIES IN THE COURTROOM?

5 A. THAT'S CORRECT.

6 Q. ALL RIGHT. AND SOMEONE HAD OBVIOUSLY INFORMED YOU OF HER  
7 LOCATION IN THE PICKENS COUNTY JAIL?

8 A. YES.

9 Q. ALL RIGHT. THEN THERE'S A DISCUSSION ABOUT DISTANCES TO  
10 GREENVILLE AND SO FORTH. AND LET'S GO TO THE NEXT PAGE. AND  
11 STARTING WITH I WOULD REQUEST, READ THAT IF YOU WOULD?

12 A. I WOULD REQUEST THAT SHE BE BROUGHT HERE FORTHWITH TO  
13 RALEIGH AND, AS SOON AS SHE IS HERE AND WE HAVE A CHANCE TO  
14 INTERVIEW HER, WE INTEND TO CALL HER AS A WITNESS. THAT IS MY  
15 REQUEST AND IF I CAN BE NOTIFIED --

16 THE COURT: THAT IS ALL WE NEEDED TO KNOW. JUST  
17 TELL THE MAGISTRATE THAT THERE IS NO BOND AND JUST BRING HER  
18 HERE AND MAKE HER AVAILABLE TO DEFENSE COUNSEL.

19 LAW CLERK: HE IS AWAITING WORD FROM OUR OFFICE.

20 DO YOU WANT ME TO CONTINUE?

21 Q. NO. NOW, WAS IT YOUR UNDERSTANDING THAT HELENA STOECKLEY  
22 WAS GOING TO BE BROUGHT THERE FOR A DEFENSE INTERVIEW AND A  
23 PROSECUTION INTERVIEW?

24 A. I AM NOT CERTAIN THAT WE KNEW ABOUT THE INTERVIEW PROCESS  
25 UNTIL THE NEXT MORNING WHEN SHE WAS THERE. WE MAY HAVE KNOWN

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1 THE DAY BEFORE, BUT AT SOME POINT, EITHER THE AFTERNOON BEFORE  
2 OR THAT NEXT MORNING, WE KNEW THAT.

3 Q. OKAY. AND THIS PAGE WE'RE LOOKING AT IS TRIAL DAY 19,  
4 WHICH WOULD BE WEDNESDAY, AUGUST 16TH, 1979. SO, THE NEXT --  
5 I'M SORRY, WEDNESDAY, AUGUST 15TH, 1979. NOW, THE NEXT DAY  
6 WAS COURT SUSPENDED FOR THESE INTERVIEWS TO TAKE PLACE?

7 A. YES.

8 Q. AND THE DEFENSE INTERVIEW WAS FIRST, WAS IT NOT?

9 A. YES.

10 Q. SO, THE PROSECUTION TEAM WAS AT EASE WAITING FOR THE  
11 DEFENSE TO COMPLETE THE INTERVIEW?

12 A. I WOULDN'T SAY WE WERE AT EASE, BUT WE WEREN'T IN THE  
13 COURTROOM.

14 Q. ALL RIGHT. DID THERE COME A TIME WHEN JUDGE DUPREE  
15 CALLED THE PARTIES BACK TO THE COURTROOM?

16 A. YES.

17 Q. AND LET'S GO TO TRIAL DAY 20, PAGE THREE. DO YOU SEE  
18 WHERE IT SAYS AT THE TOP OF THE PAGE 1:00 P.M.?

19 A. YES.

20 Q. AND DO YOU SEE AT LINES TEN THROUGH 17 WHERE THE COURT IS  
21 ASKING FOR A REPORT?

22 A. YES.

23 Q. AND READ LINES 17 THROUGH 22 CONCERNING MR. SMITH'S  
24 REPLY.

25 A. YOUR HONOR, LET ME EXPRESS THE THANKS OF THE DEFENSE FOR

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1 THE COURT'S INDULGENCE AND THE JURY'S INDULGENCE THIS MORNING,  
2 AS WE HAVE HAD AN OPPORTUNITY TO TALK WITH THIS WITNESS WHO  
3 HAS, INDEED, BEEN UNAVAILABLE TO EITHER SIDE FOR A LONG PERIOD  
4 OF TIME.

5 Q. ALL RIGHT. AND READ THE NEXT SENTENCE, IF YOU WOULD.

6 A. WE HAVE ALMOST CONCLUDED OUR DISCUSSIONS WITH THE WITNESS  
7 AND WILL BE IN A POSITION VERY SHORTLY TO TURN THE WITNESS  
8 OVER TO THE GOVERNMENT IF THE GOVERNMENT DESIRES TO TALK WITH  
9 THE WITNESS. WE WILL LEAVE ANY REMARKS TO MR. BLACKBURN.

10 Q. AND THEN THERE'S AN EXCHANGE BETWEEN YOU AND THE JUDGE  
11 THAT THE SUBSTANCE IS THAT YOU DO WANT TO TALK TO THE WITNESS?

12 A. YES. THE JUDGE SAYS WILL IT TAKE ANY PARTICULAR DEGREE  
13 IN EDUCATION IN THE GUESS THAT YOU WOULD WANT TO TALK TO HER  
14 AND I SAID, NO, SIR, I DON'T THINK IT WOULD.

15 Q. OKAY. NOW, LET'S MOVE FORWARD TO PAGE SIX OF TRIAL DAY  
16 20. AND DO YOU SEE DOWN ON LINE 16 THROUGH 20 --

17 A. YES.

18 Q. -- WHERE THE JUDGE EXCUSES THE JURY UNTIL TOMORROW  
19 MORNING AT NINE O'CLOCK?

20 A. YES.

21 Q. DO YOU SEE WHERE IT SAYS JURY EXITS AT 1:08 P.M.?

22 A. YES.

23 Q. NOW, LET'S GO TO TRIAL DAY 20, PAGE 13 -- SORRY, PAGE 12.  
24 PAGE 12. DO YOU SEE AT THE VERY BOTTOM WHERE IT SAYS MR.  
25 BLACKBURN?

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1 A. YES.

2 Q. WOULD YOU READ THAT SENTENCE AND THEN WE'LL MOVE IT OVER  
3 TO THE NEXT PAGE?

4 A. I MIGHT ASK COUNSEL, I KNOW YOU HAVE SAID THAT I COULD  
5 SEE HER SHORTLY, BUT CAN YOU BE MORE SPECIFIC AS TO WHEN  
6 SHORTLY MIGHT COME?

7 MR. SEGAL: I NEED TO DEFINE A COUPLE OF MATTERS,  
8 MR. BLACKBURN, BUT I WOULD SAY BY TWO O'CLOCK. I JUST WANT TO  
9 ADD FOR THE RECORD, YOUR HONOR, THE REQUEST IN REGARD TO  
10 WHETHER MS. STOECKLEY SHOULD BE RELEASED OR NOT WAS THE  
11 REQUEST THAT I CONVEYED AT HER INSTANCE. IT IS NOT  
12 NECESSARILY MY REQUEST, YOUR HONOR.

13 THE COURT: ALL RIGHT. I DIDN'T IDENTIFY YOU WITH  
14 THE REQUEST. YOU WERE JUST COMMUNICATING A REQUEST BY THE  
15 WITNESS AND HER BOYFRIEND.

16 MR. SEGAL: YES, YOUR HONOR.

17 THE COURT: TAKE A RECESS UNTIL TOMORROW MORNING AT  
18 NINE O'CLOCK.

19 Q. AND THEN THE CLERK -- I'M SORRY, THE COURT REPORTER ADDS  
20 A NOTE SAYING WHAT?

21 A. THE PROCEEDING WAS ADJOURNED AT 1:17 P.M., TO RECONVENE  
22 AT 9:00 A.M. ON FRIDAY, AUGUST 17TH, 1979.

23 Q. SO, THERE WAS NO MORE COURT THAT DAY?

24 A. I'M SORRY?

25 Q. THERE WAS NO MORE COURT THAT DAY?

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1 A. THAT'S CORRECT.

2 Q. NOW, DID YOU, IN FACT, HAVE THE WITNESS TURNED OVER TO  
3 YOU BY ABOUT 2:00 P.M. FOR AN INTERVIEW I MEAN?

4 A. YES. YES. YES.

5 Q. OKAY. AND 2:00 P.M. IS CONSISTENT WITH YOUR  
6 RECOLLECTION?

7 A. YES.

8 Q. DO YOU HAVE ANY IDEA HOW THE WITNESS GOT FROM THE SEVENTH  
9 FLOOR, WHERE THE DEFENSE WAS INTERVIEWING HER, TO THE EIGHTH  
10 FLOOR, WHERE THE U.S. ATTORNEY'S OFFICE IS LOCATED?

11 A. NO.

12 Q. LET'S LOOK AT GOVERNMENT EXHIBIT 2080. CAN YOU TELL US  
13 WHAT THAT IS, MR. BLACKBURN?

14 A. I THINK IT'S AN EIGHTH FLOOR FLOOR PLAN OF THE FEDERAL  
15 BUILDING IN RALEIGH.

16 (GOVERNMENT EXHIBIT NUMBER 2080  
17 WAS IDENTIFIED FOR THE RECORD.)

18 Q. OKAY. NOW, WAS THE U.S. ATTORNEY'S OFFICE ON THE EIGHTH  
19 FLOOR --

20 A. YES.

21 Q. -- WHILE YOU WERE WORKING THERE?

22 A. YES. YES.

23 Q. AND JUST FOR ORIENTATION, THE GRAND JURY ROOM IS ALSO ON  
24 THE EIGHTH FLOOR, IS THAT RIGHT?

25 A. YES, IT WAS AT THE OTHER END OF THE HALL I BELIEVE.

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1 Q. JUST INDICATE WITH YOUR HAND, TOUCH WHERE THE GRAND JURY  
2 ROOM IS.

3 A. I THINK RIGHT AROUND THAT LAST AREA, IF I'VE GOT THE  
4 RIGHT --

5 Q. WELL, NOW, NEW BERN AVENUE IS ON THE FRONT AT THE BOTTOM.

6 A. OKAY. THERE WE GO. THE BOTTOM LEFT-HAND PART OF THE  
7 BUILDING OR THE PAGE.

8 Q. I'M SORRY. LET'S SWITCH EXHIBITS TO 2081. I THINK I GOT  
9 THE -- 2082. OKAY. THIS ONE'S MORE CLEAR. NOW, IF YOU WOULD  
10 TAP -- WHAT DOES HE TAP TO GET THAT -- NOW, WOULD YOU MARK ON  
11 THIS EXHIBIT THE LOCATION OF THE GRAND JURY ROOM?

12 A. (WITNESS COMPLIES.)

13 Q. ALL RIGHT. NOW, THE AREA BORDERED IN YELLOW, IS THAT THE  
14 U.S. ATTORNEY'S OFFICE AS IT EXISTED IN 1979?

15 A. YES.

16 Q. ALL RIGHT. NOW, CAN YOU INDICATE BY TOUCHING THE SCREEN  
17 WHERE MR. ANDERSON, THE U.S. ATTORNEY'S OFFICE WAS?

18 A. (WITNESS COMPLIES.)

19 Q. OKAY. AND NOW INDICATE WHERE YOUR OFFICE WAS.

20 A. (WITNESS COMPLIES.)

21 Q. OKAY. THAT WAS YOUR OFFICE AS FIRST ASSISTANT U.S.  
22 ATTORNEY?

23 A. YES.

24 Q. AND OBVIOUSLY THERE'S AN OFFICE BETWEEN THE TWO, AND WHO  
25 SAT THERE?

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1 A. MARIE SMITH. SHE WAS THE ADMINISTRATIVE ASSISTANT TO MR.  
2 ANDERSON.

3 Q. OKAY. IN WHICH OF THESE ROOMS DID THE INTERVIEW OF  
4 HELENA STOECKLEY TAKE PLACE?

5 A. MR. ANDERSON'S OFFICE.

6 Q. OKAY. NOW, DID MR. ANDERSON HAVE A DESK IN THE OFFICE?

7 A. YES.

8 Q. THE RIGHT SIDE OF THE PAGE BEING WEST AND THE BOTTOM OF  
9 THE PAGE BEING NORTH, WHICH WAY WAS HIS DESK FACING?

10 A. HIS DESK WAS FACING OUT THE WINDOWS TOWARDS THE STATE  
11 CAPITOL. I DON'T KNOW. YOU'LL HAVE TO TELL ME THAT  
12 DIRECTION.

13 Q. OKAY. WELL, YOU KNOW WHICH WAY THE STATE CAPITOL WAS, SO  
14 YOU TELL ME.

15 A. IT WENT OUT THAT WAY.

16 Q. ALL RIGHT. SO, IT WAS FACING OUT THAT WAY?

17 A. YES.

18 Q. AND WAS IT ALIGNED SQUARE WITH WALLS OR WAS IT AT AN  
19 ANGLE?

20 A. IT WAS SQUARE WITH THE WALLS.

21 Q. OKAY. NOW, WHO PARTICIPATED IN THE INTERVIEW OF HELENA  
22 STOECKLEY?

23 A. GEORGE ANDERSON WAS THERE. HE SAT BEHIND HIS DESK. I  
24 WAS THERE AND I BELIEVE I SAT IN A CHAIR TO HIS LEFT. AT THAT  
25 TIME, THERE WERE TWO LARGE, OVERSTUFFED CHAIRS AND A SOFA, A

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1 SOFA ALONG THE WALL. HELENA STOECKLEY WAS THERE. BRIAN  
2 MURTAGH WAS THERE. JACK CRAWLEY WAS THERE.

3 Q. OKAY. NOW, YOU SAID MR. ANDERSON WAS SITTING BY HIS DESK  
4 -- I MEAN BEHIND HIS DESK LOOKING OUT. SO, JUST FOR CLARITY,  
5 SINCE PERSON STREET IS WRITTEN ON THERE, WAS HE LOOKING OUT  
6 TOWARDS PERSON STREET?

7 A. YES.

8 Q. OKAY. NOW, WERE THERE ANY PEOPLE OTHER THAN THE  
9 ASSISTANT U.S. ATTORNEYS AND THE U.S. ATTORNEY AND HELENA  
10 STOECKLEY IN THE ROOM DURING THE INTERVIEW?

11 A. NO.

12 Q. ALL RIGHT. WAS THIS A PRETTY IMPORTANT INTERVIEW?

13 A. YES.

14 Q. CAN YOU EXPLAIN WHY?

15 A. WE WERE, I THINK, INTO THE DEFENSE CASE. THE DEFENDANT,  
16 DR. MACDONALD, HAD LONG ALLEGED THAT HIPPIE INTRUDERS HAD  
17 PARTICIPATED IN THE MURDER OF HIS FAMILY.

18 HELENA STOECKLEY WAS KNOWN AS SOMEONE WHO WAS A  
19 PERSON WHO HAD ONCE LIVED IN FAYETTEVILLE, NORTH CAROLINA. WE  
20 KNEW THAT THE DEFENSE WANTED TO USE OUT OF COURT WITNESS  
21 STATEMENTS AS AN EXCEPTION TO THE HEARSAY RULE THAT WOULD, YOU  
22 KNOW, BE POSSIBLE TO BE ADMITTED.

23 IT WAS IMPORTANT TO, I THINK, BOTH SIDES FRANKLY TO  
24 INTERVIEW HER. SINCE SHE WAS A DEFENSE WITNESS ESSENTIALLY  
25 THEY WENT FIRST IN THE MORNING.

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1           AND THEN JUDGE DUPREE, I REMEMBER SAYING WORDS TO  
2 THIS EFFECT, HE DIDN'T WANT ANYBODY TO BE SURPRISED AND SO HE  
3 WAS GOING TO ALLOW BOTH SIDES TO INTERVIEW HER. AND SO WE DID  
4 THAT AFTERNOON.

5           WE THOUGHT THIS WAS AN IMPORTANT INTERVIEW. ALL  
6 WITNESS INTERVIEWS, OF COURSE, ARE IMPORTANT IN A TRIAL, BUT  
7 WE THOUGHT THIS WAS PARTICULARLY SIGNIFICANT.

8 Q.    WELL, IS IT FAIR TO SAY THAT THE MACDONALD DEFENSE WAS  
9 POINTING AT HELENA STOECKLEY AS A PRIME SUSPECT?

10 A.    OH, YES.

11 Q.    AND THE OUT OF COURT STATEMENTS YOU MENTIONED THAT WERE  
12 BEING PROFFERED WERE WITNESSES TO WHOM HELENA STOECKLEY HAD  
13 MADE ADMISSIONS?

14 A.    I THINK THAT DURING THE 1970S SHE WAS SORT OF A VAGABOND,  
15 LIVING IN DIFFERENT LOCATIONS, LIVING WITH DIFFERENT PEOPLE,  
16 AND AT VARIOUS TIMES HAD MADE STATEMENTS THAT WERE -- COULD  
17 BE CONSTRUED AS ADMISSIONS TO THESE PEOPLE. SHE HAD ALSO MADE  
18 OTHER STATEMENTS AS WELL.

19 Q.    AND SO YOU DIDN'T KNOW WHAT SHE WAS GOING TO SAY?

20 A.    THAT'S CORRECT.

21 Q.    ALL RIGHT. WELL, DESCRIBE WHAT HAPPENED AS THE INTERVIEW  
22 BEGAN.

23 A.    I THINK I WAS THE ONE WHO ASKED HER QUESTIONS. MAYBE I  
24 WAS THE ONLY ONE. I DON'T REMEMBER THAT. BUT I DO REMEMBER I  
25 DID ASK HER QUESTIONS.

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1           AND SHE SAT DOWN IN THE CHAIR OPPOSITE ME, ONE OF  
2 THOSE OVERSTUFFED CHAIRS, AND AFTER WE DID THE INTRODUCTIONS,  
3 I SAID WORDS TO THE EFFECT, HELENA, ARE YOU INVOLVED IN THIS  
4 CASE? WERE YOU THERE? DID YOU PARTICIPATE IN THESE MURDERS?  
5 AND SHE SAID TO ME VERY CLEARLY, NO, I DID NOT. I WAS NOT  
6 THERE. THEN SHE SAID TO ME, WORDS TO THE EFFECT, DO YOU HAVE  
7 ANY EVIDENCE THAT I WAS THERE? AND I REMEMBER SAYING BACK TO  
8 HER, NO, HELENA, WE DON'T, EXCEPT FOR SOME OF YOUR OWN  
9 STATEMENTS.

10 Q.   NOW, WAS THAT --

11 A.   AND ONE MORE THING I SAID TO HER AND THAT WAS, WE DON'T  
12 EVEN HAVE YOUR FINGERPRINTS THERE. AND BEYOND THAT, MY MEMORY  
13 IS PRETTY MUCH GONE OF WHAT SHE DID SPECIFICALLY SAY.

14 Q.   BUT YOU CLEARLY REMEMBER THAT FIRST MOMENT WHEN SHE  
15 ANSWERED YOUR FIRST MATERIAL QUESTION?

16 A.   THAT'S CORRECT.

17 Q.   AND CAN YOU DESCRIBE YOUR REACTION WHEN YOU HEARD HER  
18 ANSWER?

19 A.   IT WAS LIKE THE AIR CAME OUT OF A BALLOON, I GUESS. IT  
20 WAS JUST RELIEF AND WE RELAXED. AND THEN WE SPENT TIME, I  
21 SUSPECT, JUST ASKING HER QUESTIONS TO BOLSTER OR SUPPORT OR BE  
22 MORE INQUISITIVE AS TO WHAT SHE MIGHT SAY IF SHE WERE CALLED  
23 TO TESTIFY, WHICH SHE, I THINK, WAS GOING TO BE CALLED TO  
24 TESTIFY.

25 Q.   NOW, DID YOU AT ANY TIME DURING THE INTERVIEW OF HELENA

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1 STOECKLEY THREATEN TO PROSECUTE HER FOR THE MURDERS OF JEFFREY  
2 MACDONALD'S FAMILY?

3 A. NO, I NEVER DID THAT.

4 Q. AND WOULD IT HAVE EVEN BEEN POSSIBLE, IN YOUR VIEW, TO  
5 PROSECUTE HELENA STOECKLEY FOR THOSE MURDERS?

6 A. I HAVE NO IDEA. I WILL TELL YOU THE REASON I SAY IT THAT  
7 WAY IS BECAUSE THE ISSUE OF STATUTE OF LIMITATIONS WAS AT  
8 HAND. I THINK, AT THAT TIME, I'M NOT FOR CERTAIN, BUT I THINK  
9 IT WAS A FIVE YEAR STATUTE OF LIMITATIONS ON THIS SORT OF  
10 THING AND THAT WOULD HAVE PASSED.

11 THE ISSUE OF WHETHER THIS WAS A CAPITAL CASE OR NOT,  
12 THEREBY ESCAPING THE STATUTE OF LIMITATIONS, WE NEVER  
13 RESOLVED.

14 JUDGE DUPREE, I REMEMBER IN SOME PRETRIAL  
15 DISCUSSIONS, I THINK TREATED IT AS THOUGH, BECAUSE HE GAVE  
16 EACH SIDE 20 JURY CHALLENGES, BUT HE -- WE NEVER RAISED THE  
17 ISSUE -- NEITHER SIDE RAISED THE ISSUE OF WHETHER IT WAS A  
18 CAPITAL CASE.

19 Q. OKAY. NOW, TO THE BEST OF YOUR RECOLLECTION,  
20 APPROXIMATELY HOW LONG DID THE INTERVIEW BY THE PROSECUTION OF  
21 HELENA STOECKLEY TAKE?

22 A. I WOULD HAZARD A GUESS OF ABOUT AN HOUR.

23 Q. ALL RIGHT. AND AFTER THE INTERVIEW WAS OVER, THERE WAS  
24 NO MORE COURT, RIGHT?

25 A. THAT'S CORRECT.

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1 Q. AND DID YOU HAVE AN OCCASION LATER THAT DAY TO BUMP INTO  
2 WADE SMITH IN THE BUILDING?

3 A. YES.

4 Q. AND DID YOU AND HE HAVE A CONVERSATION ABOUT THE TWO  
5 INTERVIEWS, THE DEFENSE AND PROSECUTION INTERVIEWS?

6 A. YES.

7 Q. TELL US ABOUT THAT.

8 A. I DON'T RECALL THAT HE TOLD ME ANYTHING, YOU KNOW, ABOUT  
9 THE INTERVIEWS THAT THEY HAD CONDUCTED AND I DON'T KNOW THAT I  
10 ASKED HIM. I DO RECALL TELLING HIM THAT DAY THAT HELENA HAD  
11 TOLD US THAT SHE WAS NOT PRESENT AT THE MACDONALD APARTMENT  
12 AND DID NOT PARTICIPATE IN THE MURDERS AND THAT'S WHAT SHE WAS  
13 GOING TO SAY. I DO REMEMBER TELLING HIM THAT.

14 Q. DID HE INDICATE ANY REACTION TO THAT VIS-A-VIS THE  
15 DEFENSE INTERVIEWS?

16 A. I'M SURE HE DID. I JUST DON'T RECALL WHAT IT WAS.

17 Q. ALL RIGHT. BUT DID HE SAY ANYTHING TO YOU TO THE EFFECT  
18 OF, WELL, WE REALLY GOT SOME GOOD STUFF FROM HER OR ANYTHING  
19 LIKE THAT?

20 A. OH, NO. NO. NO. NO. NO.

21 Q. DID HE SAY TO YOU THAT SHE HAD CONFESSED --

22 A. NO.

23 Q. -- INVOLVEMENT --

24 A. NO.

25 Q. -- DURING THE DEFENSE INTERVIEW?

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1 A. NO.

2 Q. SO, WHEN YOU WENT TO COURT THE NEXT DAY, DID YOU THINK  
3 THAT HELENA STOECKLEY HAD MADE ANY ADMISSIONS TO ANYBODY ON  
4 THE DAY OF THE INTERVIEWS?

5 A. NO. I HAD NO IDEA WHAT SHE WAS GOING TO SAY ON DIRECT  
6 FROM THE DEFENSE.

7 MR. BRUCE: MAY I HAVE JUST A MOMENT, YOUR HONOR?

8 THE COURT: YES, SIR.

9 (PAUSE.)

10 MR. BRUCE: SORRY, YOUR HONOR. I'M READY NOW.

11 BY MR. BRUCE:

12 Q. LET'S PUT UP TD-21, PAGE FIVE. DO YOU SEE, MR.  
13 BLACKBURN, THAT THESE ARE THE PROCEEDINGS FOR FRIDAY, AUGUST  
14 17TH, 1979?

15 A. YES.

16 Q. DO YOU SEE DOWN ON LINE 19, WHERE -- OR 18, WHERE MR.  
17 SEGAL CALLS HELENA STOECKLEY TO THE STAND.

18 A. YES.

19 Q. AND THEN YOU ASK FOR A BENCH CONFERENCE?

20 A. YES.

21 Q. OKAY. LET'S GO OVER TO PAGE SIX, AND READ WHAT YOU SAY  
22 THERE.

23 A. THIS IS THE ONE, OF COURSE, WE ALL TALKED TO YESTERDAY.  
24 I REMEMBER YOU TALKING ABOUT A VOIR DIRE. I KNOW THAT WADE  
25 MENTIONED THIS MORNING THAT SHE HAD COMMENTED ON THE NECESSITY

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1 OF WANTING AN ATTORNEY. I JUST WANTED TO BE SURE BEFORE WE  
2 GOT STARTED HOW WE'RE GOING TO GO.

3 MR. SMITH: I THINK OUR POSITION, JUDGE -- OF  
4 COURSE, WE WILL DO WHATEVER YOUR HONOR WISHES TO DO -- BUT I  
5 FEEL THAT WE WILL JUST GO AHEAD WITH HER IF WE CAN AND SEE  
6 WHAT HAPPENS.

7 MR. BLACKBURN: I THINK THAT IS FINE.

8 THE COURT: WELL, LET'S GO.

9 Q. ALL RIGHT. SO, HERE YOU'RE BRINGING UP THE POSSIBILITY  
10 OF HELENA STOECKLEY HAVING AN ATTORNEY BEFORE SHE TESTIFIES?

11 A. THAT'S CORRECT.

12 Q. AND MR. SMITH, REPRESENTING MACDONALD, SAYS NO, LET'S  
13 JUST GO AHEAD?

14 A. THAT'S CORRECT.

15 Q. ALL RIGHT. NOW, YOU WERE PRESENT, OF COURSE, FOR THE  
16 DIRECT EXAMINATION OF HELENA STOECKLEY?

17 A. I WAS.

18 Q. AND IS IT FAIR TO SAY THAT DURING THAT DIRECT EXAMINATION  
19 SHE WAS NOT GIVING ANY EVIDENCE FAVORABLE TO THE DEFENSE?

20 A. YES, THAT'S FAIR TO SAY.

21 Q. OKAY. LET'S GO FORWARD TO TRIAL DAY 21, PAGE 107. DO  
22 YOU SEE WHERE MR. SEGAL ASKS FOR A BENCH CONFERENCE?

23 A. YES.

24 Q. CAN YOU READ THE REST OF THE PAGE?

25 A. MR. SEGAL: AT THIS TIME, YOUR HONOR, I ASK FOR LEAVE OF

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1 COURT TO TAKE THIS WITNESS AS ON CROSS, BECAUSE SHE IS A  
2 SURPRISE AND HOSTILE WITNESS.

3 I REPRESENT TO THE COURT THAT DURING THE INTERVIEWS  
4 WITH ME AND WITH OTHER PERSONS PRESENT SHE STATED THAT WHEN  
5 SHE LOOKED AT THE PICTURE SHE HAD A RECOLLECTION OF STANDING  
6 OVER A BODY HOLDING A CANDLE, SEEING A MAN'S BODY ON THE  
7 FLOOR.

8 I ALSO MUST SAY, YOUR HONOR, WE ARE NOW DOWN TO THE  
9 BOTTOM FIVE OR SIX CRITICAL THINGS THAT SHE REVEALED  
10 YESTERDAY. I HAVE A FEELING, BASED UPON HER ANSWER TO THIS  
11 ONE NOW, THAT WHEN AND IF I ASK HER IN DIRECT FASHION, THAT I  
12 MAY GET NEGATIVE ANSWERS.

13 I HAD NO ANTICIPATION OF THAT, BECAUSE YESTERDAY  
14 THROUGHOUT THE TIME THAT SHE HAD MADE THESE STATEMENTS, WE  
15 ACCEPTED THEM, DID NOT EXPECT CONTRARY.

16 WE HAVE NOT HAD ANY DIFFERENT STATEMENTS FROM HER  
17 AND WE FEEL THAT WE ARE ENTITLED TO THE PLEA OF SURPRISE AS  
18 WELL AS THE FACT, I THINK, AT THIS POINT -- THE EXTENT OF HER  
19 HOSTILE RELATIONSHIP NOT IN TERMS OF MANNER BUT OF THE  
20 HOSTILITY OF HER INTEREST TO THE DEFENDANT.

21 I AM GOING TO TELL YOUR HONOR THE OTHER THINGS THAT  
22 SHE HAS SAID. WOULD THAT BE APPROPRIATE NOW TO EXPEDITE, OR  
23 SHOULD WE DO IT ONE AT A TIME?

24 THE COURT: WELL, IF IT WILL SAVE ANY TRIPS UP HERE  
25 MAYBE YOU SHOULD TELL US NOW.

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1 MR. SEGAL: SHE HAS ALREADY ACTUALLY SAID SOMETHING,  
2 AND I DID NOT WANT TO RAISE A SURPRISE QUESTION. I WANT TO DO  
3 IT ALL AT ONE TIME. THE PHOTOGRAPH THAT I SHOWED HER OF THE  
4 BEDROOM OF KRISTEN MACDONALD DURING THE INTERVIEW YESTERDAY,  
5 SHE STATED THAT SHE REMEMBERED RIDING THE ROCKING HORSE WHEN  
6 SHE LOOKED AT THE PICTURE.

7 SHE ALSO STATED YESTERDAY SHE REMEMBERED STANDING AT  
8 THE END OF THE SOFA HOLDING A CANDLE. SHE ALSO SAID WHEN SHE  
9 SAW THE BODY OF KRISTEN MACDONALD, THE ONE WHEN SHE WAS  
10 CLOTHED WITH THE BABY BOTTLE, THAT THAT PICTURE LOOKED  
11 FAMILIAR TO HER. THAT SCENE LOOKED FAMILIAR.

12 SHE ALSO SAID WHEN SHE WAS SHOWN THE PHOTOGRAPH OF  
13 COLETTE MACDONALD, THE SAME ONE I SHOWED HER TODAY, THAT SHE  
14 SAID THAT THE FACE IN THAT PICTURE LOOKED FAMILIAR, EXCEPT  
15 THAT THE CHIN WAS BROKEN AND MADE IT A LITTLE HARD.

16 SHE ALSO STATED, AND I'M GOING TO GET TO IT -- SHE'S  
17 GOTTEN TO THE POINT WHERE SHE DOES NOT SOUND LIKE SHE IS GOING  
18 TO COOPERATE FURTHER -- THAT SHE WAS STANDING AT THE CORNER OF  
19 HONEYCUTT ACROSS FROM MELONY VILLAGE. SHE HAS A RECOLLECTION  
20 OF STANDING THERE DURING THE EARLY MORNING HOURS OF FEBRUARY  
21 17TH, 1970. SHE FURTHER STATED YESTERDAY, AND I INTEND TO ASK  
22 HER NOW, THAT SHE HAS A RECOLLECTION OF STANDING OUTSIDE OF  
23 THE HOUSE LOOKING AT HER HANDS AND SAYING, MY GOD, THE BLOOD;  
24 OH MY GOD, THE BLOOD. SHE SAID THAT TOOK PLACE FEBRUARY 17TH,  
25 1970.

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1           THERE ARE WITNESSES TO EACH OF THESE THINGS. I MUST  
2 SAY, YOUR HONOR, THERE WERE PERSONS PRESENT THE ENTIRE TIME  
3 THIS TOOK PLACE.

4           I INTEND TO NOW ASK HER DIRECTLY EACH OF THESE  
5 QUESTIONS. IF SHE REFUSES OR DENIES HER STATEMENT, I ASK FOR  
6 LEAVE TO CONFRONT HER; DID YOU NOT SAY THAT YESTERDAY WHEN YOU  
7 WERE CONFRONTED WITH THESE PHOTOS?

8           IF SHE PERSISTS IN DENYING IT WE WILL OF COURSE  
9 IMPEACH HER AS WE HAVE THE RIGHT TO IMPEACH HER UNDER THE  
10 RULES. ALTHOUGH WE HAVE CALLED HER AS A WITNESS, THERE ARE  
11 RULES TO PERMIT THAT TO BE DONE.

12           WHEN I AM DONE WITH THAT, I INTEND TO TURN HER OVER  
13 FOR CROSS-EXAMINATION.

14 Q.   NOW, MY QUESTION TO YOU IS, DID THESE STATEMENTS THAT MR.  
15 SEGAL WAS MAKING ABOUT WHAT HELENA STOECKLEY HAD ALLEGEDLY  
16 SAID DURING THE DEFENSE INTERVIEW, DID THAT SURPRISE YOU?

17 A.   WELL, YES.

18 Q.   AND SO ON THE NEXT PAGE, TRIAL DAY 21, PAGE 110, WHAT DID  
19 YOU SAY? JUST READ IT.

20 A.   OF COURSE, I WAS NOT THERE WHEN SHE TALKED WITH THE  
21 DEFENSE YESTERDAY, BUT IN HER INTERVIEW WITH THE GOVERNMENT  
22 NONE OF THOSE STATEMENTS WERE MADE. SHE SPECIFICALLY TOLD  
23 US --

24           THE COURT: (INTERPOSING.) DID YOU ASK HER ANY?

25           MR. BLACKBURN: YES, SIR. SHE SPECIFICALLY TOLD US

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1 THAT SHE HAD BEEN SHOWN THE PHOTOGRAPHS AND WE ASKED HER, DID  
2 YOU RECOGNIZE ANY OF THE SCENES IN THOSE PHOTOGRAPHS? THE  
3 ANSWER WAS NO. I ASKED HER HAVE YOU EVER BEEN IN THAT HOUSE?  
4 SHE SAID NO. I SAID DO YOU KNOW ANYTHING ABOUT THAT? NO.  
5 WHO DO YOU THINK DID IT? DR. MACDONALD. YOU KNOW, IT JUST  
6 WENT ONE RIGHT AFTER THE OTHER.

7 Q. NOW, WAS THAT A FAIR SUMMARY, TO THE BEST OF YOUR  
8 ABILITY, OF WHAT HAD GONE ON DURING THE DEFENSE -- STRIKE THAT  
9 -- THE PROSECUTION INTERVIEW THE PREVIOUS DAY?

10 A. YES.

11 Q. LET ME SEE WHERE YOU STOPPED READING. OKAY. NOW, READ  
12 THE NEXT PARAGRAPHS 16 THROUGH 19.

13 A. I DISCUSSED -- I TOLD MR. SMITH LAST NIGHT WHAT SHE TOLD  
14 US. I WAS UNDER THE IMPRESSION TO THIS VERY MOMENT THAT WHAT  
15 SHE TOLD US WAS ESSENTIALLY WHAT SHE TOLD THEM. IT IS --

16 Q. THAT WAS BASED ON YOUR CONVERSATION THE PREVIOUS DAY WITH  
17 WADE SMITH?

18 A. CORRECT.

19 Q. ALL RIGHT. NOW, READ ON.

20 A. IT IS DIFFICULT FOR ME -- YOU KNOW, I AM NOT SAYING THAT  
21 THEY ARE NOT SAYING WHAT SHE SAID. I JUST DON'T KNOW WHICH  
22 WAY IT IS BECAUSE SHE HAS NOT INDICATED ANYTHING TO THE  
23 GOVERNMENT.

24 Q. NOW, READ WADE SMITH'S REPLY, PLEASE.

25 A. MR. SMITH: JUDGE, HERE I THINK IS WHERE WE ARE.

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1 GENERALLY, SHE SAID TO US THE SAME THING AND THAT IS, I DON'T  
2 REMEMBER. BUT IN TWO OR THREE OR FOUR INSTANCES, WHATEVER THE  
3 LIST WOULD REVEAL, SHE SAYS SOMETHING WHICH WOULD GIVE AN  
4 INTERESTING INSIGHT INTO HER MIND.

5 I WOULD SUBMIT THAT WE HAVE A RIGHT TO CROSS HER ON  
6 THOSE. IF SHE DENIES THEM, THEN THEY HAVE A RIGHT TO IMPEACH  
7 HER ON THE STATEMENTS OR SHOW THAT SHE DID NOT SAY ANYTHING  
8 LIKE THAT.

9 THE COURT: I AM NOT GOING TO CROSS THE HOSTILITY  
10 THING UNTIL THERE IS A REASON TO INDICATE IT, BUT I'M GOING TO  
11 ASK THE WITNESS A QUESTION MYSELF.

12 Q. AND DO YOU RECALL THAT JUDGE DUPREE DID ASK HELENA  
13 STOECKLEY SOME QUESTIONS?

14 A. HE DID.

15 Q. AND GO AHEAD AND READ THAT, PLEASE.

16 A. THE COURT: MS. STOECKLEY, HOW LONG DID YOU SPEND  
17 YESTERDAY TALKING TO DEFENSE COUNSEL IN THIS CASE, MR. SEGAL,  
18 MR. SMITH AND OTHERS?

19 THE WITNESS: ABOUT THREE AND A HALF TO FOUR HOURS.

20 THE COURT: DID YOU THEREAFTER TALK TO THE  
21 GOVERNMENT'S ATTORNEYS?

22 THE WITNESS: YES, SIR.

23 THE COURT: HAD YOU EVER SEEN THEM AND TALKED WITH  
24 THEM BEFORE?

25 THE WITNESS: NO, SIR. ONE MEMBER I HAD BEFORE.

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1 Q. ALL RIGHT. KEEP GOING.

2 A. THE COURT: NOW, DID YOU TELL BOTH SIDES THE SAME STORY?

3 THE WITNESS: AS FAR AS I KNOW, YES, SIR.

4 THE COURT: ALL RIGHT, THAT WAS THE QUESTION I WAS  
5 GOING TO ASK.

6 Q. ALL RIGHT. SO, THE DIRECT EXAMINATION RESUMED, IS THAT  
7 RIGHT?

8 A. THAT'S RIGHT.

9 Q. NOW, AS YOU SAT THERE AND LISTENED TO THE DIRECT  
10 EXAMINATION OF HELENA STOECKLEY BY MR. SEGAL, FROM YOUR POINT  
11 OF VIEW AS THE PROSECUTOR, WAS IT GOING WELL?

12 A. IT WAS GOING WELL FOR THE PROSECUTION. IT WASN'T GOING  
13 WELL FOR THE DEFENSE.

14 Q. AND THEN THE WITNESS WAS TENDERED ON CROSS-EXAMINATION?

15 A. YES.

16 Q. LET'S GO TO -- AND YOU HANDLED THE CROSS-EXAMINATION, IS  
17 THAT RIGHT?

18 A. THAT'S RIGHT.

19 Q. LET'S GO TO TRIAL DAY 21, PAGE 141. START AT LINE 19.

20 A. TO YOUR OWN KNOWLEDGE, DID YOU PARTICIPATE IN THE  
21 KILLINGS OF THE MACDONALD FAMILY?

22 NO, SIR.

23 HOW DO YOU FEEL TOWARDS CHILDREN?

24 I LOVE CHILDREN.

25 OF YOUR OWN PERSONAL KNOWLEDGE, DID YOU KILL COLETTE

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1 MACDONALD?

2 NO, SIR.

3 HOW ABOUT KRISTEN?

4 NO, SIR.

5 HOW ABOUT KIMBERLEY?

6 NO, SIR.

7 DID YOU TRY TO KILL DR. MACDONALD?

8 NO, SIR.

9 DO YOU KNOW WHO DID?

10 NO, SIR.

11 DO YOU RECALL EVER BEING IN THE MACDONALD APARTMENT

12 CARRYING A CANDLE?

13 NO, SIR.

14 NOW, I BELIEVE YOU TESTIFIED ON DIRECT --

15 Q. THAT'S ALL RIGHT.

16 A. I'M SORRY.

17 Q. YOU CAN STOP. IS IT FAIR TO SAY THAT THE SUM -- THE LIST  
18 OF QUESTIONS YOU JUST READ AND THE ANSWERS IS A FAIR SUMMARY  
19 OF HER TESTIMONY?

20 A. YES.

21 Q. NOW, LET'S MOVE TO TRIAL DAY 21, PAGE 164. AND IT LOOKS  
22 LIKE YOU'RE ABOUT TO CONCLUDE YOUR CROSS-EXAMINATION. READ  
23 LINES 12 THROUGH 19.

24 A. NOW, WHEN YOU CAME HOME ABOUT 4:30 OR FIVE O'CLOCK THAT  
25 MORNING ON THE 17TH, YOU GOT OUT OF THE CAR, YOU RECALL THAT?

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1 YES, SIR.

2 DID YOU SEE ANY BLOOD ON YOUR HANDS?

3 NO, SIR.

4 DID YOU SEE ANY BLOOD ON YOUR CLOTHES?

5 NO, SIR.

6 MR. BLACKBURN: NO FURTHER QUESTIONS, YOUR HONOR.

7 Q. ALL RIGHT. SO, AS A LITIGATOR AND A PROSECUTOR, DID YOU  
8 FEEL LIKE THAT THAT WENT PRETTY WELL FOR THE PROSECUTION?

9 A. YES, I DID.

10 Q. ALL RIGHT. NOW, LET'S GO TO LATER THAT SAME DAY, TRIAL  
11 DAY 21, 179. AND DO YOU SEE WHERE IT SAYS MR. SEGAL, YOUR  
12 HONOR? WOULD YOU READ THAT, PLEASE, STARTING AT LINE 13?

13 A. YOUR HONOR, COULD WE DISPOSE OF THE ADMINISTRATIVE MATTER  
14 IN REGARD TO THE SUBPOENA THAT I HAVE PREPARED?

15 OH, YES.

16 MR. SEGAL: MAY WE ASK THE MARSHAL TO BRING MS.  
17 STOECKLEY BACK TO THE COURT, PLEASE. IT WILL JUST TAKE A  
18 MOMENT, YOUR HONOR.

19 MS. STOECKLEY ENTERS AT 1:55 P.M.

20 MR. SEGAL: YOUR HONOR, MS. STOECKLEY HAS BEEN  
21 PRESENT IN THE COURT PURSUANT TO A WARRANT OF ARREST ISSUED  
22 FOR HER AS A MATERIAL WITNESS IN THIS MATTER AFTER I HAD FILED  
23 AN AFFIDAVIT WITH THIS COURT AND MADE AN ORAL MOTION IN THAT  
24 REGARD. I BELIEVE AT THIS TIME, IT IS APPROPRIATE TO  
25 DISCHARGE THE WARRANT OF ARREST. IT WOULD EXPIRE, I THINK,

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1 THIS EVENING ANYWAY. HOWEVER, BECAUSE IT IS NOT CERTAIN IN MY  
2 MIND THAT MS. STOECKLEY'S TESTIMONY MAY NOT BE NEEDED FURTHER  
3 IN THIS CASE, AT THIS TIME I AM GOING TO TENDER HER A SUBPOENA  
4 AS A WITNESS, A SUBPOENA TO BE HERE AT TWO O'CLOCK THIS  
5 AFTERNOON. I WILL ASK THAT THEREAFTER SHE CAN BE EXCUSED, AND  
6 I WILL JUST MAKE ARRANGEMENTS TO LOCATE -- I WOULD ASK THE  
7 COURT TO ADVISE MS. STOECKLEY OF THE IMPORTANCE OF HONORING  
8 THE SUBPOENA AND THE FACT THAT THE COURT DOES FULLY EXPECT HER  
9 TO RETURN HERE AS NEEDED PURSUANT TO THE SUBPOENA.

10 THE COURT: WELL, I WILL SAY TO THE WITNESS, MS.  
11 STOECKLEY, FIRST OF ALL, I HOPE YOU WILL UNDERSTAND THAT THE  
12 COURT, WHEN CALLED UPON TO DO SO IN A CASE OF A WITNESS WHO IS  
13 APPARENTLY RELUCTANT TO COME TO COURT OR IS EVADING PROCESS OF  
14 THE COURT, HAD TO, IN THIS INSTANCE, TAKE SOME NECESSARY  
15 ACTION TO INSURE YOUR PRESENCE HERE.

16 Q. ALL RIGHT. YOU CAN STOP. AND I BELIEVE YOU SKIPPED THE  
17 FIRST COUPLE OF SENTENCES AT THE TOP OF THE PAGE STARTING WITH  
18 I AM ALSO GOING.

19 A. I AM ALSO GOING TO TENDER HER THE STATUTORY WITNESS FEES  
20 IN THAT REGARD. MY REQUEST TO THE COURT, THOUGH, IN VIEW OF  
21 THE FACT THAT MS. STOECKLEY HAS FRANKLY STATED THAT SHE DID  
22 NOT WANT TO BE HERE AND THAT SHE WAS SO DIFFICULT TO LOCATE, I  
23 WOULD ASK THE COURT TO ADVISE MS. STOECKLEY OF THE IMPORTANCE  
24 OF HONORING THE SUBPOENA AND THE FACT THAT THE COURT DOES  
25 FULLY EXPECT HER TO RETURN HERE AS NEEDED PURSUANT TO THIS

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1 SUBPOENA.

2 Q. ALL RIGHT. NOW, SKIP DOWN, IF YOU WOULD, TO LINE 20. AT  
3 THE END OF THE LINE IT STARTS WITH WHAT COUNSEL IS TELLING  
4 YOU.

5 A. WHAT COUNSEL IS TELLING YOU, THOUGH, IS THAT CONCEIVABLY  
6 HE MIGHT WANT YOU TO TESTIFY FURTHER AT SOME LATER TIME IN THE  
7 TRIAL, AND IN THAT EVENT, HE IS SERVING YOU WITH A SUBPOENA AT  
8 THIS TIME FOR YOUR CONTINUED APPEARANCE OR AT SUCH TIME AS HE  
9 WILL LET YOU KNOW. OF COURSE, THAT IS THE PROCESS OF THE  
10 COURT AND FAILURE TO COMPLY WITH IT COULD RESULT IN SANCTIONS  
11 OF ONE KIND OR ANOTHER AGAINST YOU, SO YOU WILL UNDERSTAND  
12 THAT.

13 I AM SURE THAT COUNSEL WILL NOT CALL YOU UNLESS HE  
14 FEELS THAT IT'S ESSENTIAL TO THE DEFENSE OF HIS CLIENT, BUT IF  
15 HE DOES, OF COURSE, YOU WILL BE EXPECTED TO COMPLY.

16 MR. SEGAL: IS THAT CLEAR, MS. STOECKLEY?

17 MS. STOECKLEY: YES, SIR.

18 MR. SEGAL: DO WE HAVE YOUR WORD THAT YOU WILL  
19 APPEAR AS REQUIRED, MS. STOECKLEY?

20 MS. STOECKLEY: YES, SIR.

21 MR. SEGAL: DO WE HAVE YOUR WORD THAT YOU WILL  
22 APPEAR AS REQUIRED?

23 MS. STOECKLEY: YES, SIR.

24 MR. SEGAL: THANK YOU, YOUR HONOR.

25 Q. ALL RIGHT. THANK YOU. THAT'S ENOUGH. SO, MS. STOECKLEY

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1 WAS GOING TO BE CONTINUING UNDER DEFENSE SUBPOENA SUBJECT TO  
2 RECALL, IS THAT RIGHT?

3 A. THAT'S CORRECT.

4 Q. ALL RIGHT. NOW, DO YOU RECALL AFTER MS. STOECKLEY'S  
5 TESTIMONY -- AND BY THE WAY, THAT TESTIMONY WAS BEFORE THE  
6 JURY, IS THAT RIGHT?

7 A. THAT'S CORRECT.

8 Q. AFTER THAT, DID THE COURT TAKE SOME VOIR DIRE TESTIMONY  
9 OF THE SO-CALLED STOECKLEY WITNESSES?

10 A. YES.

11 Q. CAN YOU EXPLAIN THAT?

12 A. WELL, THE DEFENSE WANTED TO GET INTO EVIDENCE THESE --  
13 WHAT THESE WITNESSES SAID. AND IT ESSENTIALLY WOULD BE  
14 HEARSAY AND WAS TRYING TO DO IT UNDER A RULE, I DON'T RECALL  
15 THE RULE NUMBER, AS AN EXCEPTION TO THE HEARSAY RULE.

16 AND BEFORE THE COURT WOULD ALLOW THEM TO TESTIFY, HE  
17 CONDUCTED AN OUT OF COURT OR OUT OF THE JURY PRESENCE HEARING,  
18 I SUPPOSE, CALL IT A VOIR DIRE. AND THEY -- EACH WITNESS GOT,  
19 YOU KNOW, ON THE STAND AND GAVE DIRECT AND THEN THERE WAS  
20 CROSS-EXAMINATION. CROSS-EXAMINATION WAS, I BELIEVE, BY BRIAN  
21 MURTAGH OF THESE DIFFERENT WITNESSES. AND THEN THE JUDGE TOOK  
22 IT UNDER ADVISEMENT.

23 Q. AND THE PARTIES PRESENTED BRIEFS AND ARGUED THE ISSUE ON  
24 WHETHER THESE HEARSAY STATEMENTS SHOULD BE ADMITTED?

25 A. THAT'S RIGHT.

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1 Q. AND JUDGE DUPREE TOOK IT UNDER ADVISEMENT OVER THE  
2 WEEKEND?

3 A. THAT'S RIGHT.

4 Q. AND TO YOUR KNOWLEDGE, DID ANY OF THE PROSECUTION TEAM  
5 HAVE ANYTHING -- ANY CONTACT WHATSOEVER WITH MS. STOECKLEY  
6 OVER THAT WEEKEND?

7 A. NO.

8 Q. I SUPPOSE YOU WERE SPENDING THE WEEKEND CONTINUING YOUR  
9 TRIAL WORK?

10 A. YES, BECAUSE THE DEFENSE, I THINK, WAS HALFWAY THROUGH OR  
11 TWO-THIRDS OF THE WAY THROUGH THEIR CASE. WE KNEW THAT DR.  
12 MACDONALD WAS GOING TO -- OR WE THOUGHT HE WAS GOING TO  
13 TESTIFY, WHICH HE DID ON THE FOLLOWING THURSDAY AND FRIDAY. I  
14 DON'T RECALL WHO THEIR WITNESSES WERE MONDAY AND TUESDAY AND  
15 WEDNESDAY. BUT WE HAD TO KEEP GOING, YOU KNOW, WITHOUT LET UP  
16 TO BE READY TO GO.

17 Q. DID YOU LEARN ON MONDAY IN COURT THAT THERE HAD BEEN SOME  
18 ACTIVITY WITH REGARD TO MS. STOECKLEY OVER THE WEEKEND?

19 A. YES.

20 Q. DID YOU KNOW ANYTHING ABOUT THAT BEFORE YOU GOT TO COURT  
21 MONDAY?

22 A. NO.

23 Q. SO, NO ONE CALLED YOU OR GOT THE PROSECUTION INVOLVED IN  
24 ANY OF THAT?

25 A. NO.

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1 Q. AND DO YOU KNOW OF ANY INVOLVEMENT OF THE UNITED STATES  
2 MARSHALS IN THOSE ACTIVITIES OVER THE WEEKEND?

3 A. NO.

4 Q. ALL RIGHT. LET'S GO TO TRIAL DAY 22, PAGE 179. DO YOU  
5 SEE WHERE AT LINE THREE THE COURT IS TALKING AND IT STARTS  
6 WITH, OH, I'M GLAD YOU MENTIONED?

7 A. YES.

8 Q. PLEASE READ THAT.

9 A. THE COURT: OH, I'M GLAD YOU MENTIONED THAT BECAUSE I HAD  
10 NEGLECTED, JUST COMPLETELY OVERLOOKED IT, TO TELL YOU, BUT I  
11 WANT YOU TO KNOW THAT AMONG OTHERS CALLED BY HELENA, SHE  
12 CALLED ME TWICE SATURDAY NIGHT STATING THAT SHE WAS LIVING IN  
13 MORTAL DREAD OF PHYSICAL HARM BY BERNARD SEGAL, COUNSEL FOR  
14 THE DEFENDANT, AND THAT SHE WANTED A LAWYER TO REPRESENT HER.

15 I SAID, WELL, NOW, LOOK, I CANNOT TALK TO YOU ABOUT  
16 THIS CASE, BUT SOMEBODY WILL CALL YOU TOMORROW. WHERE WILL  
17 YOU BE? THAT IS THE REASON I KNEW THIS JOURNEY'S END THING.  
18 SHE GAVE ME THE JOURNEY'S END.

19 OF COURSE, WHAT I WANTED TO DO WAS GO TO THE  
20 CRIMINAL JUSTICE ACT TO SEE WHETHER OR NOT I COULD PAY ANY  
21 LAWYER UNDER THESE CIRCUMSTANCES, AND AMAZINGLY I FOUND AN  
22 AMENDMENT TO THE ACT, WHICH IS NOT EVEN IN THE BOUND VOLUME,  
23 WHICH ALLOWS ME TO DO IT FOR A WITNESS WHO IS IN --

24 MR. SMITH: (INTERPOSING.) THAT IS INCREDIBLE.

25 THE COURT: SO I TOLD STEVE COGGINS THEN, I SAID,

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1 FIND ME A LAWYER, AND I THINK HE CALLED EVERYBODY IN THE BOOK  
2 JUST ABOUT, BUT HE FINALLY GOT JERRY LEONARD.

3 LAW CLERK: HAVE YOU EVER TRIED TO FIND A LAWYER ON  
4 SUNDAY AFTERNOON?

5 THE COURT: YOU CAN ALWAYS FIND ME. SEGAL HAS  
6 ALWAYS GOT ME WORKING ON SUNDAY AFTERNOON.

7 MR. MURTAGH: JUDGE, I GUESS WE WON'T HAVE YOUR  
8 TESTIMONY.

9 THE COURT: THANK GOD FOR THAT RULE THAT SAYS THAT I  
10 AM COMPLETELY READ OUT OF THIS ONE.

11 Q. ALL RIGHT. YOU CAN STOP THERE. WAS THAT -- WHEN THAT  
12 HAPPENED IN COURT, WHEN THAT WAS DISCLOSED BY JUDGE DUPREE, IS  
13 THAT THE FIRST YOU KNEW OF IT?

14 A. YES.

15 Q. ALL RIGHT. NOW, JUDGE DUPREE RULED THAT THE OUT OF COURT  
16 STATEMENTS WOULD NOT COME IN, IS THAT RIGHT?

17 A. THAT'S CORRECT.

18 Q. NOW, HELENA STOECKLEY REMAINED AVAILABLE FOR RECALL.  
19 FIRST, LET'S LOOK AT THAT RULING. ACTUALLY, THE DEFENSE  
20 CALLED SOME OTHER WITNESSES TRYING TO GET JUDGE DUPREE TO  
21 CHANGE HIS MIND. DO YOU REMEMBER WENDY ROUDER?

22 A. YES.

23 Q. OKAY.

24 (PAUSE.)

25 ALL RIGHT. LET'S GO BACK TO RIGHT WHERE WE WERE

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1 EXCEPT IT'S TRIAL DAY 22, PAGE 180. DO YOU SEE WHERE AT LINE  
2 TEN MR. MURTAGH SAYS WHAT I AM CONCERNED ABOUT?

3 A. YES.

4 Q. READ THAT TO THE BOTTOM OF THE PAGE, IF WOULD YOU.

5 A. WHAT I AM CONCERNED ABOUT IS THAT THIS PERSON IS VERY  
6 SUSCEPTIBLE TO SUGGESTION. ALL OF HER PAST FRIENDS,  
7 UNDERHILL, ZILLIOUX, I DETECTED BEASLEY WAS HANGING AROUND.

8 THE COURT: MAYBE I CAN SHORTEN THAT FOR YOU. I AM  
9 GOING TO ORDER COUNSEL FOR BOTH SIDES AND ALL OTHER WITNESSES  
10 TO STAY AWAY FROM THIS WOMAN UNTIL THIS THING IS OVER.

11 YOU CAN BRING HER BACK IN HERE AND TESTIFY IF SHE  
12 WANTS TO, BUT I WILL JUST TREAT EVERYBODY ALIKE ABOUT THAT  
13 ONE, THEN WE WON'T HAVE THAT QUESTION TO ARISE.

14 MR. MURTAGH: I BELIEVE SHE IS IN THE WITNESS ROOM.

15 MR. LEONARD: SHE IS IN A SEPARATE WITNESS ROOM FROM  
16 ALL THE OTHERS.

17 Q. NOW, IS THAT JERRY LEONARD?

18 A. YES.

19 Q. ALL RIGHT. AND THEN WHAT DOES THE COURT SAY ON THE NEXT  
20 PAGE?

21 A. OH, YOU'VE GOT HER HERE. BENCH CONFERENCE TERMINATED.

22 Q. ALL RIGHT. SO, IS IT YOUR UNDERSTANDING THAT HELENA  
23 STOECKLEY WAS IN A SEPARATE WITNESS ROOM AVAILABLE FOR RECALL  
24 BY THE DEFENSE?

25 A. YES.

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1 Q. LET'S GO TO TRIAL DAY 25, WHICH WOULD BE THURSDAY, AUGUST  
2 23RD, 1979. START READING WITH WHERE IT SAYS -- WAIT A MINUTE  
3 -- TRIAL DAY 25, PAGE 153. DO YOU SEE WHERE IT SAYS MR.  
4 BLACKBURN AT THE BENCH?

5 A. YES.

6 Q. READ THAT, PLEASE.

7 A. JUDGE, WE HAVE JUST INQUIRED -- I HAVE JUST TALKED TO  
8 WADE. WE WANT TO INQUIRE ON THE SITUATION WITH RESPECT TO  
9 HELENA STOECKLEY, WHETHER OR NOT SHE IS STILL UNDER SUBPOENA  
10 HERE.

11 THE COURT: I KNOW NOTHING ABOUT IT. I KEEP ASKING.  
12 I TOLD THEM LAST NIGHT IF THEY'RE GOING TO USE HER, THEY HAD  
13 BETTER DO IT FIRST THING THIS MORNING OR I WAS GOING TO  
14 RELEASE HER. THEY DIDN'T USE HER SO I ASSUME SHE IS RELEASED,  
15 I DON'T KNOW -- BUT I DON'T KNOW.

16 MR. BLACKBURN: HER LAWYER, JERRY, IS STILL AROUND.

17 THE COURT: I ASKED MR. SEGAL, I SAID, WHAT IS HE  
18 STILL DOING HERE?

19 MR. SMITH: I TALKED TO JERRY LEONARD AT GREAT  
20 LENGTH, YOUR HONOR, THIS MORNING, TALKED TO HIM FOR A LONG  
21 TIME, AND THIS WOMAN CONTINUES TO SAY THINGS THAT TIE HER TO  
22 THIS CASE.

23 I WILL BE FRANK WITH YOUR HONOR, WE HAVE NO PLANS TO  
24 USE HER AT THIS MOMENT, BUT WE HAVE GOT TOO MUCH AT STAKE. IT  
25 IS TOO IMPORTANT A CASE AND SHE'S SAID TOO MUCH FOR US TO

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1 JUST, YOU KNOW, OUT OF HAND SAY, OH, SURE, GO ON, GO AWAY, WE  
2 WILL NEVER SEE YOU AGAIN. GO BACK IN HIDING AND LET THE YEARS  
3 ROLL BY.

4 SHE IS HERE. THE DEFENDANT IS ON THE STAND AND WE  
5 FEEL THAT WE NEED TO BE ABLE TO TALK WITH JERRY AND HAVE HER  
6 AVAILABLE AT LEAST FOR THIS AFTERNOON.

7 THE COURT: WELL, TODAY IS SHORT ANYWAY. GO ON.

8 BENCH CONFERENCE TERMINATED.

9 Q. DOESN'T IT SAY TODAY IS SHOT ANYWAY?

10 A. YES.

11 Q. OKAY. SO, THE DEFENSE WAS ABLE TO KEEP HER AROUND AT  
12 LEAST ONE MORE DAY?

13 A. YES.

14 Q. ALL RIGHT. NOW, LET'S MOVE OVER TO TRIAL DAY NUMBER 26,  
15 WHICH WOULD BE FRIDAY, AUGUST 24TH, 1979, AND THAT'S PAGE 149.  
16 DO YOU SEE WHERE, ON LINE NINE, SOMEONE IS SAYING OTHERWISE,  
17 WE HAVE NO FURTHER EVIDENCE READY TO GO AT THIS TIME?

18 A. YES.

19 Q. ALL RIGHT. CONTINUE READING THERE.

20 A. THE COURT: HOW ABOUT STOECKLEY?

21 MR. SMITH: MAYBE THE GOVERNMENT WOULD LIKE TO CALL  
22 HER.

23 THE COURT: YOU DO NOT?

24 MR. SMITH: AT LEAST AT THIS MOMENT WE DO NOT.

25 THE COURT: WELL, NOW, LISTEN, ENOUGH OF THE THING

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1 IS ENOUGH, WADE. IF YOU'RE GOING TO EVER CALL HER, YOU CALL  
2 HER RIGHT NOW OR I AM GOING TO RELEASE HER FROM HER SUBPOENA.

3 MR. SMITH: JUDGE, I UNDERSTAND WHAT YOU'RE SAYING.  
4 LET ME JUST SAY THIS, THAT WOMAN MADE THE MOST OUTRAGEOUS  
5 STATEMENTS TO A LADY AT THE HOSPITAL WHEN SHE GOT HER NOSE  
6 FIXED THAT YOU HAVE EVER HEARD.

7 Q. ALL RIGHT. NOW, LET'S SKIP TO PAGE 151 AT LINE 17.

8 A. DON'T TELL ME ALL -- THE COURT: (INTERPOSING.) DON'T  
9 TELL ME ALL THAT STUFF. LISTEN, I AM NOT CARING WHETHER HE  
10 WANTS HER CALLED OR NOT. THE ONLY THING I'M CARING ABOUT IS  
11 WHETHER YOU'VE GOT A WITNESS HERE THAT YOU HAVE HAD ALL THE  
12 WHOLE WEEK. I HAVE BEEN PAYING A LAWYER TO SORT OF CADDY FOR  
13 HER AT GOVERNMENT EXPENSE AND I'M AT THE END OF MY ROPE WITH  
14 THAT.

15 MR. SMITH: I WILL SAY, JUDGE, THE DEFENSE DOESN'T  
16 HAVE MUCH MONEY, BUT WE WILL REIMBURSE THE GOVERNMENT FOR ANY  
17 ATTORNEY'S FEES THAT MAY BE REQUIRED TO KEEP HELENA STOECKLEY  
18 HERE UNTIL MONDAY.

19 Q. ALL RIGHT. THANK YOU. SO, HELENA STOECKLEY CONTINUED TO  
20 BE SUBJECT TO RECALL UP UNTIL AT LEAST FRIDAY OF THAT WEEK?

21 A. THAT'S CORRECT.

22 Q. ALL RIGHT. NOW, THE RESULT OF THE TRIAL WAS THAT DR.  
23 MACDONALD WAS CONVICTED?

24 A. YES.

25 Q. AND WHAT WAS HIS SENTENCE?

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1 A. I'M SORRY?

2 Q. DO YOU REMEMBER HIS SENTENCE?

3 A. YES.

4 Q. WELL, TELL US.

5 A. THE SENTENCING TOOK PLACE A SHORT TIME AFTER THE JURY  
6 CAME BACK, I BELIEVE, AND JUDGE DUPREE IMPOSED THREE LIFE  
7 SENTENCES TO RUN CONSECUTIVE.

8 Q. AND DR. MACDONALD WAS TAKEN INTO CUSTODY AT THAT TIME?

9 A. YES.

10 Q. NOW, DID YOU CONTINUE TO WORK ON THE POST-TRIAL PHASES OF  
11 THE MACDONALD CASE, THAT IS, THE APPEAL?

12 A. I DID.

13 Q. AND HOW MUCH LONGER DID YOU STAY WITH THE U.S. ATTORNEY'S  
14 OFFICE AFTER THE MACDONALD TRIAL WAS CONCLUDED?

15 A. IT CONCLUDED AT THE END OF AUGUST OF 1979, AND I STAYED  
16 IN THE UNITED STATES ATTORNEY'S OFFICE TILL THE END OF  
17 SEPTEMBER 1981.

18 Q. AND DID YOU SERVE AS INTERIM OR ACTING U.S. ATTORNEY  
19 DURING SOME OF THAT TIME?

20 A. YES.

21 Q. WHEN WAS THAT?

22 A. THAT, I THINK, WAS -- BEGAN IN MAY 1980. I WAS APPOINTED  
23 BY JUDGE DUPREE.

24 Q. AND THEN THERE CAME A TIME WHEN YOU -- THERE WAS A NEW  
25 U.S. ATTORNEY APPOINTED?

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1 A. YES.

2 Q. AND IS THAT WHEN YOU LEFT THE OFFICE?

3 A. YES.

4 Q. AND WHAT DID YOU DO IN YOUR CAREER AFTER THAT?

5 A. RICK GAMMON, WHO HAD INTERNEED IN THE U.S. ATTORNEY'S  
6 OFFICE MAYBE A YEAR OR TWO BEFORE, AND I HAD BECOME FRIENDS  
7 AND WE OPENED A LAW FIRM TOGETHER IN DOWNTOWN RALEIGH.

8 Q. AND HOW LONG DID YOU AND MR. GAMMON PRACTICE --

9 A. WE STAYED TOGETHER, I GUESS, UNTIL 1984 SOMETIME. THEN I  
10 WENT -- THEN WE SEPARATED. WE SHARED OFFICE SPACE FOR A TIME.  
11 HE WENT TO ANOTHER LAW FIRM EVENTUALLY. I REMAINED IN A SOLO  
12 PRACTITIONER ROLE UNTIL JUNE OF 1987, AND THEN I WENT TO WORK  
13 IN JUNE OF 1987, IN THE RALEIGH OFFICE OF THE LAW FIRM OF  
14 SMITH, HELMS, MULLIS AND MOORE.

15 Q. AND THAT'S A RATHER LARGE LAW FIRM?

16 A. AT THAT TIME, IT WAS THE SECOND LARGEST FIRM IN NORTH  
17 CAROLINA. THE RALEIGH OFFICE WAS NOT THAT LARGE, BUT THE  
18 OFFICE WAS BASED IN GREENSBORO AND CHARLOTTE.

19 Q. NOW, A FEW YEARS AFTER THAT, DID YOU GET INTO SOME  
20 TROUBLE?

21 A. I GOT INTO A LOT OF TROUBLE.

22 Q. CAN YOU TELL ME WHEN THE CONDUCT THAT LED TO YOUR --  
23 WELL, LET ME ASK YOU THIS, DID THE TROUBLE RESULT IN YOUR  
24 DISBARMENT AND CONVICTION OF A CRIME?

25 A. YES.

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1 Q. CAN YOU TELL ME WHEN THE CONDUCT BEGAN THAT RESULTED IN  
2 YOUR DISBARMENT AND CONVICTION OF CRIME?

3 A. THIS IS A GUESS, BUT I WOULD ESTIMATE SOME TIME IN 1991.

4 Q. SO, THAT WOULD HAVE BEEN HOW MANY YEARS AFTER THE  
5 MACDONALD TRIAL?

6 A. ABOUT A DOZEN.

7 Q. AND ABOUT HOW MANY YEARS AFTER YOU LEFT THE U.S.  
8 ATTORNEY'S OFFICE?

9 A. ABOUT TEN.

10 Q. AND WHAT WERE THE CRIMES THAT YOU WERE CONVICTED OF?

11 A. I WAS CONVICTED -- I PLED GUILTY TO ALL COUNTS, WITHOUT  
12 ANY PLEA AGREEMENT, TO A 12 COUNT BILL OF INDICTMENT.

13 Q. AND THAT WAS IN STATE COURT, IS THAT RIGHT?

14 A. YES. YES. AND WADE SMITH AND RICK GAMMON WERE MY  
15 FRIENDS AND LAWYERS. I PLEADED GUILTY TO -- AND I MAY LEAVE  
16 ONE OUT -- BUT EMBEZZLEMENT, OBSTRUCTION OF JUSTICE, I SUSPECT  
17 THERE'S A FRAUD CONVICTION IN THERE SOMEWHERE, AND FORGERY.

18 WHAT I HAD DONE, TO PUT IT IN LAYMAN'S TERMS, WAS TO  
19 MISAPPROPRIATE OR TAKE OVER \$234,000, AT LEAST \$75,000 OF  
20 WHICH WENT TO CLIENTS DIRECTLY, \$56,000 FROM THE LAW FIRM'S  
21 TRUST ACCOUNT, ANOTHER \$26,000 WENT TO THE UNITED STATES  
22 GOVERNMENT AS REIMBURSEMENT ON A CASE. THAT'S WHERE THE  
23 FORGERY CAME IN BECAUSE I -- WE -- THE LAW FIRM WANTED ME TO  
24 PUT A DOCUMENT IN THE FILE, PROMISSORY NOTE, FOR THE CLIENT.  
25 HE WAS OUT OF TOWN AND SO I SIGNED HIS NAME TO THE NOTE AND

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1 PUT IT IN THE FILE. THAT WAS THE FORGERY.

2 THE OTHER MONEY THAT WAS TAKEN WENT INTO MY OWN  
3 ACCOUNT AND OUT OF THAT ACCOUNT I WROTE CHECKS OVER A LONG  
4 PERIOD OF TIME TO VARIOUS CLIENTS, WHICH I HAD GOTTEN BEHIND  
5 ON OR MATTERS THEY THOUGHT THEY DESERVED.

6 I BASICALLY SHOT MY LEGAL CAREER IN THE HEAD AND IT  
7 ENDED ABRUPTLY IN MID-JANUARY OF 1993, I THINK. ACTUALLY, IT  
8 WAS THE 13TH OF JANUARY 1993, WHEN THE LOCAL BANK, BB&T, HAD  
9 BEEN ALERTED THAT THERE WAS A PROBLEM WITH THE TRUST ACCOUNT.  
10 THE LAW FIRM ITSELF IS THE ONE THAT, YOU KNOW, TURNED ALL THIS  
11 INFORMATION IN TO THE STATE BAR.

12 I SAW WADE SMITH LATER THAT DAY. WE TALKED. AND  
13 WITHIN TWO DAYS AFTER THAT, BY THE 15TH OF JANUARY, I HAD  
14 RESIGNED FROM THE LAW FIRM AND HAD MY FIRST MEETING WITH DR.  
15 JEAN SPAULDING, A PSYCHIATRIST IN DURHAM, WHO WAS AT DUKE, AT  
16 THE ADVICE OF WADE SMITH, AND I WOULD SEE HER FOR TWO OR THREE  
17 YEARS.

18 AND SO IN THE FALL OF 1993, OR MAYBE EARLY DECEMBER  
19 OF 1993, I ENTERED -- I THINK IT WAS EARLY DECEMBER OR LATE  
20 NOVEMBER, ENTERED A PLEA IN FRONT OF JUDGE HIGHT IN RALEIGH TO  
21 ALL COUNTS AND THEN I WAS SENTENCED A WEEK LATER.

22 THE SENTENCE THAT I GOT WAS A THREE YEAR SENTENCE.  
23 AND THIS WAS BEFORE STRUCTURED SENTENCING, I THINK, IN NORTH  
24 CAROLINA AT THAT TIME. SO, IT MEANT, ESSENTIALLY, ABOUT A  
25 MONTH FOR A YEAR AT THAT TIME. AND THE JUDGE RECOMMENDED THAT

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1 I BE ENTITLED TO WORK RELEASE.

2 I GOT WORK RELEASE AND I WORKED FOR THE PERSON WHO  
3 GAVE ME MY FIRST JOB AS A LAWYER, SENATOR ROBERT MORGAN, IN  
4 HIS RALEIGH -- DOWNTOWN RALEIGH LAW OFFICE.

5 I WAS HOUSED AT WAKE CORRECTIONAL, I THINK, WHICH  
6 WAS A MINIMUM SECURITY FACILITY, UNTIL EARLY APRIL OF 1994. I  
7 WAS RELEASED ON APRIL THE 6TH. HAD ABOUT THREE HOURS OF  
8 FREEDOM. BECAUSE THERE WAS A PRESS INTEREST IN THE CASE, THEY  
9 DISCOVERED THAT I HAD BEEN RELEASED TOO SOON. AND SO THEY  
10 CALLED AND I HAD MYSELF DRIVEN BACK TO WAKE CORRECTIONAL WHERE  
11 I STAYED ANOTHER THREE WEEKS OR SO.

12 Q. NOW, YOU'VE MENTIONED --

13 A. AND I WANT TO SAY ONE MORE THING SINCE YOU ASKED ME THIS  
14 QUESTION. OVER A LONG, LONG PERIOD OF TIME ALL THAT MONEY WAS  
15 PAID BACK.

16 Q. YOU MENTIONED, WHEN YOU WERE DESCRIBING THESE OFFENSES,  
17 THAT YOU HAD GOTTEN BEHIND ON SOME CASES. WERE CLIENTS MISLED  
18 BY YOU THAT YOU HAD FILED THINGS ON THEIR BEHALF WHEN YOU  
19 REALLY HADN'T?

20 A. YES. YES. YES.

21 Q. AND DID IT ALSO INVOLVE THE FORGING OF SOME JUDGES' NAMES  
22 ON --

23 A. I DID AND --

24 Q. -- SOME ORDERS?

25 A. YES. AND TWO OF THEM WERE FEDERAL JUDGES IN THE EASTERN

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1 DISTRICT OF NORTH CAROLINA. ONE WAS JUDGE BRITT AND THE OTHER  
2 WAS JUDGE DUPREE.

3 Q. ALL RIGHT. AND SO AFTER YOU FINISHED SERVING YOUR TIME,  
4 WHAT DID YOU DO?

5 A. IT'S REALLY HARD FOR AN EX-LAWYER TO GET A JOB. AND SO I  
6 WOULD -- THAT'S ONE OF THE THINGS I TELL LAWYERS IN MY  
7 SEMINARS, DON'T SCREW UP. AND SO I HAD -- I TRIED TO WRITE A  
8 BOOK. IT WASN'T VERY GOOD. AND SO I HAD A FRIEND WHO OWNED  
9 THE 42ND STREET OYSTER BAR IN RALEIGH AND SO I WENT TO HIM --  
10 BECAUSE I USED TO GO THERE TO DINNER A LOT, YOU KNOW. AND SO  
11 I WENT TO HIM. HIS NAME IS BRAD HURLEY. SO, I WENT AND SAID,  
12 BRAD, CAN I HAVE A JOB? HE SAID, WELL, DOING WHAT? I SAID,  
13 WELL, I'D LIKE TO BE A MANAGER. HE SAID, YOU'RE NOT  
14 QUALIFIED. HAVE YOU EVER WORKED IN A RESTAURANT BEFORE? I  
15 SAID, WELL, NO. AND SO HE SAID, COME BACK THIS AFTERNOON. SO  
16 HE GAVE ME A JOB AS A HOST MAKING \$6 AN HOUR.

17 I WAS A HOST FOR SEVERAL WEEKS -- FOR SEVERAL  
18 MONTHS. AND I GOT IN TROUBLE THERE TOO BECAUSE ONE NIGHT I  
19 WAS TAKING THIS COUPLE TO THEIR TABLE AND I ASKED THE LADY  
20 WHEN HER BABY WAS DUE. AND, OF COURSE, SHE TOLD ME SHE WAS  
21 NOT PREGNANT. AND SO I SAID TO HER, WELL, NO MORE HUSH  
22 PUPPIES FOR YOU. AND THAT DIDN'T GO OVER WELL.

23 AND SO THEY MADE ME A WAITER. AND SO I LEARNED TO  
24 WAIT TABLES AND I WAITED TABLES FOR TWO OR THREE YEARS. AND I  
25 THINK I SAW EVERYBODY I EVER KNEW IN MY LIFE AND WAITED ON

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1 EVERYBODY. ONE OF THOSE MOST FREQUENT CUSTOMERS WAS JUDGE  
2 BRITT.

3 THE COURT: WE'LL TAKE A RECESS TILL 3:15.

4 MR. BRUCE: THANK YOU, YOUR HONOR.

5 (RECESS TAKEN FROM 3:00 P.M., UNTIL 3:16 P.M.)

6 (DEFENDANT PRESENT.)

7 THE COURT: PLEASE BE SEATED. WE'LL START RIGHT UP.

8 MR. BLACKBURN, YOU'RE STILL UNDER OATH AND THE WITNESS IS  
9 STILL WITH MR. BRUCE.

10 MR. BRUCE: THANK YOU, YOUR HONOR.

11 BY MR. BRUCE:

12 Q. MR. BLACKBURN, I WANT TO GO BACK A MOMENT --

13 MADAM CLERK: EXCUSE ME, MR. BRUCE, CAN YOU MOVE THE  
14 MICROPHONE? THANK YOU.

15 BY MR. BRUCE:

16 Q. MR. BLACKBURN, I WANT TO GO BACK A MOMENT TO GOVERNMENT

17 EXHIBIT 2082 THAT I HAD YOU MAKE SOME MARKINGS ON BECAUSE I

18 FORGOT TO SAVE IT. SO, VERY QUICKLY, WOULD YOU ORIENT

19 YOURSELF TO THIS DIAGRAM AND PLACE A MARK WHERE THE GRAND JURY

20 ROOM IS OR WAS.

21 A. (WITNESS COMPLIES.)

22 Q. OKAY. NOW, WOULD YOU GO BACK AND MAKE A MARK -- IN FACT,

23 IF YOU COULD MAKE A B WHERE YOUR OFFICE WAS IN 1979.

24 A. (WITNESS COMPLIES.)

25 Q. THAT'S PRETTY GOOD. NOW, CAN YOU MAKE AN A WHERE THE

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1 U.S. ATTORNEY GEORGE ANDERSON'S OFFICE WAS.

2 A. (WITNESS COMPLIES.)

3 Q. THAT'S NOT SO GOOD.

4 A. I'M NOT STUPID.

5 Q. AT ANY RATE, THE OFFICE THAT YOU HAVE MARKED, THAT LAST  
6 MARK, IS WHERE THE INTERVIEW OF HELENA STOECKLEY OCCURRED BY  
7 THE PROSECUTION TEAM?

8 A. YES.

9 Q. CAN YOU READ THE NUMBER, THE ROOM NUMBER?

10 A. I HAVE TO SWITCH GLASSES.

11 Q. ACTUALLY, I THINK WE HAVE A --

12 A. I DON'T KNOW. MAYBE SIX -- 839.

13 MR. BRUCE: OKAY. NOW, I WOULD ASK THE CLERK TO  
14 SAVE THIS AS 2082A.

15 (GOVERNMENT EXHIBIT NUMBER 2082A  
16 WAS IDENTIFIED FOR THE RECORD.)

17 BY MR. BRUCE:

18 Q. AND WHILE WE'RE ON THAT SUBJECT, I BELIEVE YOU TESTIFIED  
19 THAT THERE WERE FIVE PEOPLE IN THE ROOM DURING THE HELENA  
20 STOECKLEY PROSECUTION INTERVIEW, IS THAT RIGHT?

21 A. THAT'S CORRECT.

22 Q. WAS JIMMY BRITT IN THE ROOM?

23 A. NO.

24 Q. IN YOUR EXPERIENCE AS AN ASSISTANT UNITED STATES  
25 ATTORNEY, DID YOU MAKE IT A PRACTICE TO INCLUDE DEPUTY UNITED

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1 STATES MARSHALS IN WITNESS INTERVIEWS?

2 A. TO THE BEST OF MY RECOLLECTION, I HAVE NEVER INTERVIEWED  
3 A WITNESS WITH A DEPUTY U.S. MARSHAL IN THE ROOM.

4 Q. ALL RIGHT. DURING THE MACDONALD TRIAL, DID JIM BRITT  
5 APPROACH YOU WITH ANY CONCERNS?

6 A. NO.

7 Q. DID HE IN THE YEARS FOLLOWING THE MACDONALD TRIAL  
8 APPROACH YOU WITH ANY CONCERNS HE HAD ABOUT THE MACDONALD  
9 TRIAL?

10 A. NO.

11 Q. DID THERE COME A TIME -- WELL, WHEN WE BROKE YOU WERE  
12 DESCRIBING WHAT YOU WERE DOING AFTER YOUR PRISON TIME AND YOU  
13 WERE TALKING ABOUT 42ND STREET OYSTER BAR. AFTER THAT, DID  
14 YOU GET INTO THE WORK YOU'RE DOING NOW?

15 A. THERE WAS AN INTERIM PERIOD WHERE I WORKED FOR ALMOST  
16 FOUR YEARS AS THE ASSISTANT TO THE DIRECTOR OF THE STATE'S  
17 RETIREMENT SYSTEM, NORTH CAROLINA. HARLAN BOYLES AND JACK  
18 PRUITT, WHO AT THAT TIME WAS DIRECTOR OF THE RETIREMENT  
19 SYSTEM, ASKED ME TO WORK THERE IN THAT CAPACITY. SO, I WOULD  
20 DO THAT DURING THE DAY AND OFTENTIMES WORK -- WAIT TABLES AT  
21 NIGHT.

22 I GOT INTO THE WORK THAT I'M DOING NOW BY ACCIDENT  
23 REALLY BECAUSE I HAD WRITTEN A BOOK, WHICH I WANTED TO SELL,  
24 AND SO I WAS SPEAKING TO BAR ASSOCIATION GROUPS AND THEY WERE  
25 GETTING CLE CREDIT FOR IT. AND THEN I FINALLY SOMEHOW FIGURED

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1 OUT THAT, PERHAPS, I COULD DO IT MYSELF AS A PROVIDER AND THE  
2 BAR ALLOWED ME TO DO THAT.

3 Q. ALL RIGHT. NOW, DID THERE COME A TIME WHEN WADE SMITH  
4 APPROACHED YOU ABOUT SOME INFORMATION HE HAD RECEIVED WITH  
5 REGARD TO THE MACDONALD CASE?

6 A. YES.

7 Q. AND APPROXIMATELY WHEN WAS THAT?

8 A. I BELIEVE IT WAS AUGUST OR SEPTEMBER OF 2005.

9 Q. ALL RIGHT. I'M GOING TO PUT SOME EXHIBITS ON THE SCREEN.  
10 THIS IS -- ACTUALLY, IT'S JUST ONE EXHIBIT, I BELIEVE.  
11 GOVERNMENT EXHIBIT 2013.

12 A. YES.

13 Q. AND IT'S IN THE FORM OF AN EMAIL, BUT IT APPEARS TO BE  
14 SIGNED BY YOU, IF YOU GO TO PAGE 2013.2. IS THAT YOUR  
15 SIGNATURE?

16 A. YES.

17 Q. IT APPEARS TO BE A WAIVER?

18 A. YES.

19 (GOVERNMENT EXHIBIT NUMBER 2013  
20 WAS IDENTIFIED FOR THE RECORD.)

21 Q. CAN YOU EXPLAIN HOW THIS CAME ABOUT?

22 A. WADE AND I HAD MET AT STARBUCKS THE FIRST TIME TO DISCUSS  
23 THIS WHEN HE TOLD ME ABOUT IT. HE DIDN'T TELL ME WHO IT WAS,  
24 WHO MADE THESE STATEMENTS, BUT HE SAID TO ME THE GIST OF THE  
25 STATEMENT, WHAT YOU'VE DESCRIBED OR WE'VE TALKED ABOUT THIS

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1 AFTERNOON WITH JIMMY BRITT.

2 BUT HE SAID, JIM, I CAN'T REPRESENT DR. MACDONALD ON  
3 THIS ANYWAY BECAUSE I HAVE A CONFLICT. AND I SAID TO HIM, IF  
4 YOU WILL GIVE ME ONE OF THOSE NAPKINS, I WILL SIGN A WAIVER ON  
5 IT RIGHT NOW. AND HE SAID, NO, DON'T DO THAT RIGHT NOW.

6 AND IT WAS A FEW WEEKS AFTER THAT THAT HE CALLED AND  
7 WANTED TO HAVE LUNCH. WE HAD LUNCH AND DISCUSSED THE WAIVER,  
8 WHICH YOU'VE JUST ENUMERATED AS AN EXHIBIT. IT WENT BACK AND  
9 FORTH BETWEEN THE TWO OF US FOR SEVERAL DAYS AND I SIGNED IT  
10 WITH AN ADDENDUM EMAIL BACK TO HIM AND SIGNED IT.

11 Q. ALL RIGHT. NOW, IT SEEMS THAT -- IF WE CAN ENLARGE THAT  
12 PORTION WHERE THE SIGNATURE IS -- IT LOOKS LIKE THE DATE IS  
13 SEPTEMBER 29TH?

14 A. YES.

15 Q. AND IT LOOKS LIKE IN ADDITION TO SIGNING, YOU INITIALED  
16 THE DATE, IS THAT RIGHT?

17 A. YES.

18 Q. AND THEN THERE'S INITIALS TO THE LEFT, WMS?

19 A. THAT'S WADE SMITH.

20 Q. ALL RIGHT. NOW, IF WE GO ON TO THE NEXT PAGE OF THIS  
21 EXHIBIT, IT LOOKS LIKE IT'S AN EMAIL FROM YOU. CAN YOU  
22 ENLARGE IT?

23 A. DO YOU WANT ME TO READ IT?

24 Q. YES, PLEASE.

25 A. WADE, THANKS FOR THE NOTE OF SEPTEMBER 21, 2005, AND THE

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1 ATTACHED WAIVER REGARDING THE JEFFREY MACDONALD MATTER. AS  
2 YOU KNOW, WE HAVE SPENT A GOOD DEAL OF TIME DISCUSSING THIS  
3 ISSUE OF WAIVER SINCE YOU REPRESENTED ME SOME YEARS AGO AS  
4 WELL AS HAVING BEEN JEFFREY MACDONALD'S LAWYER SINCE AT LEAST  
5 1979.

6 FIRST, LET ME SAY THAT I AGREED TO GIVE YOU A WAIVER  
7 IN THIS MATTER AND WILL SIGN THE ONE THAT YOU HAVE PROPOSED.  
8 MY ONLY CONCERN IS THAT IN THE BODY OF THE NOTE THAT YOU WROTE  
9 TO ME YOU REFERENCED MY CONVERSATIONS WITH HELENA STOECKLEY.

10 THE ONE TIME I HAD A CONVERSATION WITH HELENA  
11 STOECKLEY WAS IN THE OFFICE OF THE UNITED STATES ATTORNEY AT A  
12 COURT APPROVED MEETING THAT WAS ATTENDED BY OTHER COUNSEL FOR  
13 THE GOVERNMENT AT THAT TIME.

14 WHILE I DID TALK WITH MS. STOECKLEY DURING THAT  
15 MEETING, I WANT TO SAY AGAIN IN THIS EMAIL TO YOU, AS I HAVE  
16 DONE IN ALL OUR CONVERSATIONS, THAT AT NO TIME DID I HAVE ANY  
17 CONVERSATION WITH HER OR MAKE ANY STATEMENT TO HER THAT WAS  
18 INAPPROPRIATE, AND SO I WANT TO MAKE SURE THAT BY AGREEING TO  
19 THE WAIVER, I AM NOT AGREEING WITH ANY SUGGESTIONS, HOWEVER  
20 IMPLIED, IN YOUR INITIAL NOTE TO ME THAT THERE WAS ANY  
21 IMPROPRIETY IN ANY OF MY COMMENTS TO HER.

22 I AM AGREEING TO THIS WAIVER WITH YOU BECAUSE I  
23 BELIEVE YOU ARE AN ATTORNEY OF THE UTMOST INTEGRITY AND AN  
24 OUTSTANDING ADVOCATE FOR YOUR CLIENT. I DO NOT WISH TO STAND  
25 IN THE WAY OF YOUR REPRESENTATION OF JEFFREY MACDONALD AND

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1 YOUR OBLIGATION TO REPRESENT YOUR CLIENT TO THE BEST OF YOUR  
2 ABILITY.

3 Q. AND AT SOME POINT DID WADE SMITH ALLOW YOU TO READ A  
4 DRAFT OF SOMETHING THAT THE MACDONALD TEAM WAS PLANNING TO  
5 FILE IN COURT ON THIS?

6 A. YES. HE CALLED ME ONE DAY LATER AND SAID IT WAS READY  
7 AND IF I WISHED TO COME BY HIS OFFICE, YOU KNOW, I COULD DO SO  
8 AND READ IT. AND I DID. HE GAVE ME -- OR HIS SECRETARY GAVE  
9 ME THE AFFIDAVIT AND SOME SUPPORTING DOCUMENTS.

10 I WENT DOWNSTAIRS TO START READING IT AND IT WAS  
11 THEN THAT I RECOGNIZED OR REALIZED FOR THE FIRST TIME THAT THE  
12 PERSON INVOLVED IN THIS WAS JIMMY BRITT. AND I DIDN'T -- I  
13 MAY HAVE READ THE ENTIRE WAIVER. I DON'T KNOW. I DIDN'T READ  
14 ANY OTHER ATTACHED DOCUMENTS.

15 I TOOK ALL THE DOCUMENTS AND WENT BACK UP TO WADE'S  
16 OFFICE, KNOCKED ON THE DOOR AND WENT INSIDE AND SAID HERE IT  
17 IS. HE SAID ARE YOU THROUGH ALREADY? AND I SAID, WELL, I  
18 READ ALL I WANT TO READ. AND WE HAD AN EXTREMELY, EXTREMELY  
19 HEATED DISCUSSION AT THAT POINT IN TIME.

20 Q. IN WHICH YOU EXPRESSED YOUR OPINION THAT YOU DIDN'T THINK  
21 IT WAS TRUE?

22 A. THOSE WERE NOT THE WORDS THAT I USED, BUT I DID TELL HIM  
23 THAT I DID NOT THINK IT WAS TRUE. I WAS VERY STRONG ABOUT  
24 THAT.

25 Q. ALL RIGHT. DID YOU LATER LEARN THAT MR. SMITH HAD

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1 WITHDRAWN FROM THE CASE?

2 A. THAT CAME ABOUT -- WE HAD A DISCUSSION ABOUT THAT. AND I  
3 SAID HOW CAN YOU DO THIS? HE SAYS, WHAT DO YOU MEAN? I SAID,  
4 YOU KNOW AS WELL AS I DO THIS IS NOT TRUE AND YOU STOOD THERE,  
5 WADE, WHILE BERNIE SEGAL MADE THESE MISREPRESENTATIONS TO  
6 JUDGE DUPREE ABOUT HELENA STOECKLEY AT THE TRIAL. HE SAYS,  
7 HOW DO YOU MEAN -- KNOW THAT? I SAID, WELL, GO READ JOE  
8 MCGINNISS' BOOK, WHICH IS SITTING ON YOUR BOOKSHELF, WHICH WAS  
9 WHERE I GOT THAT FROM. I DON'T RECALL WHAT HE SAID TO THAT.  
10 AND I REMEMBER SAYING TO HIM, I SAID, YOU GO AHEAD AND  
11 REPRESENT JEFFREY MACDONALD IF YOU WANT TO AND FILE THIS  
12 MOTION AND WE'LL STILL BE FRIENDS, BUT IT WILL BE TOUGH, BUT  
13 WE'LL STILL BE FRIENDS, AND I WALKED OUT OF HIS OFFICE. TWO  
14 OR THREE HOURS LATER MY PHONE RANG AND HE CALLED TO TELL ME HE  
15 WAS GOING TO WITHDRAW FROM THE MACDONALD CASE.

16 Q. ALL RIGHT. NOW, LATER ON, WERE YOU APPROACHED ABOUT  
17 WAIVING A CONFLICT OF INTEREST SO THAT ONE OF WADE'S PARTNERS  
18 COULD REPRESENT MR. MACDONALD?

19 A. YES. WADE AND I HAVE REMAINED FRIENDS OVER THE YEARS,  
20 YOU KNOW. AT SOME TIME HE WROTE ME AN EMAIL SAYING THAT --

21 Q. WELL, LET'S GO TO THE NEXT --

22 A. WELL, HE WROTE ME AN EMAIL.

23 Q. -- PAGE AND READ THE EMAIL.

24 A. I'M SORRY?

25 Q. LET'S GO TO THE NEXT PAGE OF THE EXHIBIT.

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1 A. OKAY. IT'S A MESSAGE FROM WADE SMITH TO HART MILES.

2 Q. AND WHAT'S THE -- GO AHEAD AND READ IT.

3 A. HART, JIM BLACKBURN WAS REMARKABLE ABOUT THIS. HE WAS SO  
4 KIND AND IN SO MANY WAYS GENEROUS. HE SAID TO TELL YOU TO GO  
5 FORWARD WITH HILL, THAT IT IS OKAY. JIM IS TRULY AN AMAZING  
6 FELLOW AND I THINK HE IS A VERY ELEGANT HUMAN BEING. HE HAS  
7 LIVED THROUGH SO MUCH AND HE HAS SURVIVED AND EVEN FLOURISHED  
8 AND THRIVED IN THE MOST BARREN ENVIRONMENTS. WADE.

9 Q. ALL RIGHT. SO, YOU AGREED TO LET HILL ALLEN REPRESENT  
10 JEFFREY MACDONALD IN THIS MATTER?

11 A. YES.

12 Q. AS FAR AS WAIVING YOUR CONFLICT OF INTEREST?

13 A. YES. YES.

14 Q. ALL RIGHT. AND THE DATE OF THAT EMAIL THAT YOU JUST READ  
15 IS WHAT?

16 A. AUGUST 17, 2011.

17 MR. BRUCE: ALL RIGHT. NO FURTHER QUESTIONS, YOUR  
18 HONOR.

19 THE COURT: CROSS.

20 MR. WIDENHOUSE: THANK YOU, YOUR HONOR.

21 C R O S S - E X A M I N A T I O N 3:28 P.M.

22 BY MR. WIDENHOUSE:

23 Q. MR. BLACKBURN, I'M GORDON WIDENHOUSE. WE'VE KNOWN EACH  
24 OTHER FOR AWHILE.

25 A. WE HAVE, GORDON.

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1 Q. NOW, YOU HAVE WRITTEN OR SAID IN THE PAST THAT WHEN YOU  
2 GOT THE JEFFREY MACDONALD CASE YOU THOUGHT YOU WOULD LOSE,  
3 HAVE YOU NOT?

4 A. YES.

5 Q. AND I BELIEVE YOU SAID IN THE PAST OR WRITTEN IN THE PAST  
6 THAT IF WADE SMITH HAD BEEN ABLE TO GIVE THE CLOSING ARGUMENT  
7 WITH THE AMOUNT OF TIME THAT HAD BEEN RESERVED FOR HIM HE  
8 MIGHT WELL HAVE -- VERY WELL HAVE WON THE CASE?

9 A. WELL, THAT'S -- I SAID THAT I'M CERTAIN AND THAT'S BEEN  
10 LEGEND IN RALEIGH FOR MANY YEARS.

11 Q. SO, YOU'VE SAID BOTH OF THOSE TWO THINGS?

12 A. YES.

13 Q. OKAY.

14 A. I WILL TELL YOU, GORDON, THAT ABOUT SIX MONTHS AGO I HAD  
15 LUNCH WITH ONE OF THE FORMER JURORS IN THE CASE. AND I SAID,  
16 YOU KNOW -- IT WAS FRED THORNHILL. I SAID, YOU KNOW, FRED,  
17 WE'VE ALL BEEN TOLD THAT IF WADE HAD MADE THE CLOSING  
18 ARGUMENT, YOU KNOW, OR GOTTEN TO GIVE HIS ONE HOUR CLOSING  
19 ARGUMENT FOR DR. MACDONALD THEY MIGHT HAVE WON. I SAID, I'VE  
20 ALSO BEEN TOLD THAT I GAVE A REALLY GOOD CLOSING ARGUMENT AND  
21 THAT MADE A DIFFERENCE. WHICH ONE IS TRUE? AND HE LOOKED AT  
22 ME AND HE SMILED AND HE SAID, JIM, NEITHER ONE IS TRUE, IT WAS  
23 THE MATTER OF THE EVIDENCE.

24 Q. NOW, YOU'VE WRITTEN A BOOK CALLED *FLAME-OUT, FROM*  
25 *PROSECUTING JEFFREY MACDONALD TO SERVING TIME TO SERVING*

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1 TABLES?

2 A. YES.

3 Q. AND THAT'S A SELF-PUBLISHED BOOK?

4 A. YES.

5 Q. AND YOU WROTE IT IN 2000, OR IT WAS PUBLISHED IN 2000?

6 A. IT WAS.

7 Q. AND DO YOU USE THAT AS THE -- SOMETIMES AS THE MANUSCRIPT  
8 FOR SOME OF YOUR CLE TALKS?

9 A. I DON'T KNOW IF I USE IT AS A MANUSCRIPT, BUT I'VE  
10 CERTAINLY TAKEN IT TO THE SEMINARS AND OFFERED IT FOR SALE,  
11 MAKE PEOPLE AWARE OF IT, AND THAT SORT OF THING.

12 Q. BUT PEOPLE CAN GET IT AT YOUR SEMINARS?

13 A. YES. YES. YES.

14 Q. AND THE TITLE REFLECTS THAT THE MACDONALD TRIAL WAS SORT  
15 OF A HIGH MARK IN YOUR LEGAL PRACTICE?

16 A. IT WAS.

17 Q. AND WOULD IT BE FAIR TO SAY YOU ENJOYED THE SUCCESS OF  
18 WINNING THE TRIAL?

19 A. I BELIEVE THAT DR. MACDONALD WAS GUILTY AND I BELIEVE  
20 THAT THE JURY REACHED THE RIGHT VERDICT.

21 Q. WELL, MY QUESTION IS --

22 A. I DON'T KNOW THAT I CAN SAY THAT I ENJOYED THE SUCCESS.

23 Q. YOU DIDN'T GET SORT OF A -- DIDN'T YOU WRITE IN YOUR BOOK  
24 THAT YOU COULD NEVER GET BACK TO HAVING A MACDONALD CASE  
25 AGAIN?

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1 A. YEAH, BUT THAT'S NOT WHAT -- THAT WASN'T WHAT I DEFINED  
2 AS ENJOYING MY SUCCESS. I CAN ANSWER YOUR QUESTION THIS WAY,  
3 I'M NOT TRYING TO AVOID IT. I CAN ANSWER THIS WAY, I DO THINK  
4 THAT ONE OF THE PROBLEMS THAT I FACED IN MY CAREER WAS, AS I  
5 THINK I HAVE SAID AT MY SEMINARS, ONE OF WHICH, YOU KNOW, YOU  
6 WENT TO, IS THAT I ALWAYS WANTED ANOTHER BIG CASE. AND, YOU  
7 KNOW, I DID. AND THAT'S AN HONEST ANSWER.

8 Q. SORT OF THE NEXT BIG CASE?

9 A. WHATEVER. WHATEVER.

10 Q. WHATEVER IT WOULD BE?

11 A. WHATEVER IT WAS, YES.

12 Q. AND SO YOU ENJOYED THE NOTORIETY FROM THE BIG CASE?

13 A. I'M SURE I DID.

14 Q. AND YOU STILL ENJOY SORT OF THE NOTORIETY OF BEING IN  
15 FRONT OF THE CROWD?

16 A. I WOULD LIKE TO BE AN UNKNOWN RIGHT NOW. I DON'T HAVE  
17 ANY -- NOTORIETY IS ONE OF THE MOST OVERRATED THINGS IN THE  
18 WORLD, GORDON.

19 Q. BUT YOU DO THESE SEMINARS WHERE YOU'RE IN FRONT OF  
20 GROUPS?

21 A. I DON'T DO THAT FOR -- I DON'T DO THESE SEMINARS FOR  
22 NOTORIETY.

23 Q. THAT'S NOT MY QUESTION, THAT YOU DO THEM FOR NOTORIETY,  
24 BUT YOU ENJOY BEING IN FRONT OF A GROUP --

25 A. YES, I DO. YES. YES. YES, I DO.

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1 Q. YOU ENJOY --

2 A. YES.

3 Q. -- BEING IN FRONT OF A GROUP OF PEOPLE AND TALKING?

4 A. YES. YES. YES.

5 Q. OKAY. AND WOULD YOU SAY NOW THAT YOUR PROFESSION IS SORT  
6 OF THAT OF A MOTIVATIONAL SPEAKER?

7 A. YES.

8 Q. ALL RIGHT. AND YOU DO A LOT OF DIFFERENT TOPICS?

9 A. YES.

10 Q. OKAY. AND SOME OF THEM ARE THINGS LIKE LAND MINES ON THE  
11 WAY TO THE TOP AND HOW TO AVOID THEM?

12 A. YES.

13 Q. THE UNFORGIVING MINUTE?

14 A. YES.

15 Q. ETHICS IN LIFE, THE MARKETPLACE AND BUSINESS?

16 A. YES.

17 Q. NIGHT FALLS FAST?

18 A. YES.

19 Q. THOSE ARE SOME OF THE --

20 A. YES.

21 Q. -- TOPICS OF YOUR PRESENTATIONS?

22 A. YES. YES.

23 Q. AND DO MOST OF THOSE PRESENTATIONS SORT OF BEGIN WITH,  
24 YOU KNOW, TALKING ABOUT THE MACDONALD CASE?

25 A. NIGHT FALLS FAST DOES NOT. NIGHT FALLS FAST IS A MENTAL

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1 HEALTH PROGRAM. THE OTHERS -- I VARY IT SOMETIMES DEPENDING  
2 ON -- YOU KNOW, I DO VARY -- SOMETIMES, YOU'RE RIGHT.  
3 SOMETIMES, YOU'RE ABSOLUTELY RIGHT, I DO TALK ABOUT THE  
4 MACDONALD CASE.

5 Q. AND IN YOUR SORT OF PROMOTIONAL BIOGRAPHY FOR, YOU KNOW,  
6 YOUR MOTIVATIONAL SPEAKINGS, YOU DESCRIBE YOURSELF AS HAVING A  
7 DRIVE TO WIN AT ANY COST?

8 A. YES.

9 Q. A STRONG DESIRE TO BE ALL THINGS TO ALL PEOPLE?

10 A. YES.

11 Q. AND DO YOU STILL SORT OF FEEL THAT WAY THAT THAT'S --

12 A. I'M A LOT BETTER ABOUT THAT NOW. ONE OF MY DIAGNOSES BY  
13 DR. SPAULDING WAS THAT I HAVE A SEVERE PERSONALITY DISORDER  
14 THAT I WANTED TO PLEASE PEOPLE TOO MUCH AND COULD NOT SAY NO.

15 Q. OKAY.

16 A. SO THAT WAS PART OF MY PROBLEM.

17 Q. ALL RIGHT. AND YOU HAD MENTIONED ON DIRECT THAT YOU DID  
18 SOME WRITING FOR AWHILE. OBVIOUSLY, WROTE THE *FLAME-OUT* BOOK?

19 A. YES.

20 Q. AND DID YOU HAVE THOUGHTS ABOUT DOING MORE WRITING?

21 A. YES, I DID.

22 Q. AND YOUR EMAIL TAG LINE WAS SORT OF JBWRITER AT?

23 A. THAT WAS IT. THAT WAS LONG AGO, BUT THAT WAS ONCE --  
24 THAT WAS ONCE A TAG LINE.

25 Q. AND DID YOU THINK AT ONE TIME ABOUT WRITING A BOOK ABOUT

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1 THE MACDONALD CASE?

2 A. OH, YES.

3 Q. AND OF COURSE --

4 A. I NEVER DID, BUT I THOUGHT ABOUT IT. I TRIED -- I DID  
5 SOME INITIAL WRITINGS ON IT.

6 Q. AND DO YOU STILL THINK ABOUT THAT?

7 A. NO.

8 Q. OKAY. SO, YOU REALLY SORT OF SEE YOURSELF NOW AS A  
9 MOTIVATIONAL SPEAKER, NOT A WRITER?

10 A. NO, I SEE MYSELF TWO WAYS. I SEE MYSELF AS A  
11 MOTIVATIONAL SPEAKER, AND I WOULD LIKE TO WRITE AGAIN, BUT I  
12 WOULD PROBABLY LIKE TO WRITE FICTION OR WRITE ANOTHER SEQUEL  
13 TO MY *FLAME-OUT* BOOK.

14 Q. OKAY. I'M GOING TO SHOW YOU DEFENSE EXHIBIT 5014C AND  
15 ASK IF YOU CAN LOOK AT THE CAPTION THERE AND TELL US IF THAT'S  
16 NOT THE ORDER OF DISBARMENT IN YOUR CASE?

17 A. YES.

18 (DEFENSE EXHIBIT NUMBER 5014C  
19 WAS IDENTIFIED FOR THE RECORD.)

20 Q. AND THIS WAS WHAT RESULTED FROM YOU DECIDING TO TURN IN  
21 YOUR LAW LICENSE?

22 A. YES. YES.

23 Q. THAT YOU TALKED A LITTLE BIT ABOUT ON DIRECT?

24 A. YES.

25 Q. AND IF WE COULD GO TO PAGE TWO OF THE ORDER OF

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1 DISBARMENT, YOU TALK ABOUT IN PARAGRAPH TWO THAT YOU DESIRE TO  
2 RESIGN AND TENDER YOUR LICENSE TO PRACTICE LAW.

3 A. YES.

4 Q. AND YOU SIGNED THIS -- AN AFFIDAVIT SUPPORTING THIS ORDER  
5 OF DISBARMENT?

6 A. I'M SURE I DID.

7 Q. OKAY. AND SO YOU READ IT BEFORE YOU SIGNED IT?

8 A. PROBABLY I DID. IT WAS -- AT THAT POINT IT REALLY DIDN'T  
9 MAKE A GREAT DEAL OF DIFFERENCE.

10 Q. OKAY. AND IN PARAGRAPH THREE YOU SAY MY RESIGNATION IS  
11 FREE AND VOLUNTARILY TENDERED AND NOT THE RESULT OF COERCION  
12 AND DURESS, CORRECT?

13 A. YES.

14 Q. AND YOU'RE FULLY AWARE OF THE CONSEQUENCES RESULTING FROM  
15 TENDERING?

16 A. YES.

17 Q. AND YOU'RE COMPETENT TO MAKE THE DECISION?

18 A. YES.

19 Q. SO, YOU WEREN'T SO MENTALLY DISABLED AT THAT POINT THAT  
20 YOU COULDN'T FUNCTION AND MAKE THE DECISION TO TENDER YOUR LAW  
21 LICENSE?

22 A. I WOULD HAVE TO SAY YES.

23 Q. ALL RIGHT. NOW, PARAGRAPH FIVE STARTS TO DESCRIBE IN  
24 SOME DETAIL THE PROBLEMS THAT LED TO TENDERING THE LAW LICENSE  
25 AND I'LL TAKE YOU THROUGH THE VARIOUS SENTENCES --

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1 A. SURE.

2 Q. -- IN PARAGRAPH FIVE AND ASK YOU SOME QUESTIONS ABOUT IT.  
3 AND IT STARTS OUT BY SAYING -- TALKING ABOUT REPRESENTING  
4 CLIENT A, THEY REQUESTED THAT YOU FILE A COMPLAINT SEEKING TO  
5 SETTLE A LAND DISPUTE IN LAKE GASTON, VIRGINIA.

6 NOW, YOU DID NOT DO WHAT THE CLIENT WANTED YOU TO DO  
7 IN THAT SITUATION, DID YOU?

8 A. NO.

9 Q. AND YOU, IN FACT, MISLED THE CLIENT ABOUT WHETHER YOU HAD  
10 FILED THE COMPLAINT?

11 A. YES.

12 Q. AND THAT WAS AN UNTRUE STATEMENT?

13 A. YES.

14 Q. FALSE STATEMENT?

15 A. YES.

16 Q. OKAY. AND OVER THE -- YOU SAY -- I'M NOW GOING TO THE  
17 THIRD SENTENCE IN THAT PARAGRAPH. YOU SAID OVER THE NEXT TWO  
18 YEARS YOU HAD MANY CONVERSATIONS WITH THE CLIENT WHEREIN WE  
19 DISCUSSED HIS CASE, CONVERSATIONS INCLUDING STRATEGY  
20 CONSIDERATIONS AND PROGRESS OF THE CASE.

21 HOW MANY CONVERSATIONS DO YOU THINK YOU HAD WITH THE  
22 CLIENT OVER THE NEXT TWO YEARS?

23 A. I HAVE NO IDEA.

24 Q. MORE THAN TWO?

25 A. YES.

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1 Q. MORE THAN TEN?

2 A. THAT I DON'T KNOW. I'M SURE IT WAS MORE THAN TEN,  
3 GORDON, BUT I DON'T KNOW.

4 Q. MAYBE MORE THAN 25?

5 A. I DON'T KNOW.

6 Q. OKAY. BUT A LOT OF CONVERSATIONS --

7 A. YES.

8 Q. -- WITH THE CLIENT OVER THE NEXT TWO YEARS?

9 A. YES.

10 Q. AND EVERY ONE OF THOSE CONVERSATIONS MISLED THE CLIENT,  
11 DIDN'T IT?

12 A. SURE I DID.

13 Q. OKAY. SO, LOTS OF, THE LONG ONGOING TWO YEAR PERIOD WITH  
14 THIS CLIENT, MISLEADING HIM AS TO WHAT YOU HAD OR HAD NOT DONE  
15 IN HIS CASE?

16 A. THAT'S CORRECT.

17 Q. OKAY. AND YOU SAY YOU HAD CONVERSATIONS ABOUT STRATEGY  
18 IN THE CASE. WOULD THAT BE WHAT YOU HAD DONE IN THE CASE?

19 A. YES. THIS WAS THE -- LET ME SAY THIS, THE ANSWER IS YES,  
20 BUT IF I MAY SAY ONE FURTHER SENTENCE. IT WAS DURING THIS  
21 TIME IN MY DIAGNOSIS BY DR. SPAULDING WHERE SHE HAD SAID THAT  
22 I HAD A BREAK WITH REALITY. I DON'T KNOW. THAT WAS HER  
23 DIAGNOSIS, NOT MINE, YOU KNOW.

24 BUT NEVERTHELESS, THE ANSWER TO YOUR QUESTION IS FOR  
25 A YEAR AND A HALF, OR HOWEVER LONG IT WAS, I MISLED THIS

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1 CLIENT, TOLD THIS CLIENT NUMBERS OF THINGS THAT WERE UNTRUE  
2 AND MADE -- DRAFTED FALSE, YOU KNOW, COURT DOCUMENTS ON THE  
3 CASE THAT WERE NOT TRUE.

4 Q. ALL RIGHT. AND ALL OF THOSE STATEMENTS WERE FALSE?

5 A. YES.

6 Q. SO, IT'S A CONTINUING PATTERN OF MAKING FALSE STATEMENTS  
7 TO THIS PARTICULAR CLIENT?

8 A. YES.

9 Q. ALL RIGHT. AND WHEN YOU TALKED ABOUT PROGRESS OF THE  
10 CASE, ANY STATEMENT YOU MADE ABOUT THE CASE BEING -- MAKING  
11 PROGRESS, WERE FALSE?

12 A. THAT'S RIGHT.

13 Q. BECAUSE THERE HADN'T BEEN A CASE?

14 A. THAT'S RIGHT.

15 Q. OKAY. AND YOU TOLD THE CLIENT EVENTUALLY, YOU SAY IN THE  
16 LAST SENTENCE ON THAT PAGE, THAT YOU HAD BEEN SUCCESSFUL IN  
17 RESOLVING THE LAND DISPUTE. THAT, OF COURSE, WAS FALSE?

18 A. YES.

19 Q. THERE WASN'T A LAND DISPUTE FILED?

20 A. THAT'S CORRECT.

21 Q. AND YOU HAD A FILE THAT YOU WERE SHOWING THE CLIENT,  
22 DIDN'T YOU?

23 A. I'M SORRY?

24 Q. DID YOU HAVE A FILE THAT YOU WERE SHOWING THE CLIENT?

25 A. YES.

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1 Q. OKAY. AND THOSE DOCUMENTS, YOU JUST MADE THEM UP?

2 A. YES.

3 Q. DID YOU GET THEM OUT OF ANOTHER FILE AND HOPE THE CLIENT  
4 DIDN'T REALIZE IT WAS A DIFFERENT CAPTION OR DID YOU TYPE A  
5 DIFFERENT DOCUMENT OR DO YOU RECALL?

6 A. I RECALL THAT WHAT I DID WAS I WROTE THESE DOCUMENTS TO  
7 GIVE THE CLIENT AN INDICATION AS TO WHAT I WAS DOING ON THEIR  
8 BEHALF AND GAVE THEM TO THE CLIENT. I MADE THEM UP IS THE  
9 ANSWER TO YOUR QUESTION.

10 Q. OKAY. AND DID YOU -- AND WHAT I'M ASKING IS, DID YOU  
11 CREATE THE DOCUMENTS?

12 A. YES.

13 Q. FOR THIS CLIENT?

14 A. YES.

15 Q. AND IT REALLY WAS COMPLETELY FALSE?

16 A. YES.

17 Q. IT WAS IMAGINARY?

18 A. YES.

19 Q. DID ANYBODY EVER TYPE IT UP FOR YOU OR DID YOU TYPE IT  
20 YOURSELF?

21 A. I TYPED IT MYSELF.

22 Q. SO, YOU HAVE THIS ENTIRE FILE, EVERY PIECE OF PAPER IN IT  
23 IS FALSE?

24 A. I DON'T KNOW ABOUT THAT, BUT MOST OF IT WAS FALSE.

25 Q. WELL, IF IT WASN'T A CASE, ANYTHING YOU SAID ABOUT THE

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1 CASE HAD TO BE FALSE, DIDN'T IT?

2 A. THERE MAY HAVE BEEN CORRESPONDENCE WITH THE CLIENT  
3 UNRELATED TO THAT AND THE MATTERS WERE TRUE, BUT THE REST OF  
4 MY ANSWER IS, YES, EVERYTHING I SAID ABOUT THIS ALLEGED CASE  
5 WAS FALSE.

6 Q. OKAY. SO, AGAIN, EVERY DOCUMENT THAT YOU PUT IN THAT  
7 FILE FOR THAT CLIENT WAS FALSE?

8 A. YES.

9 Q. AND MOVING TO THE TOP OF PAGE TWO, YOU TOLD THE CLIENT  
10 THAT HE HAD -- WAS ENTITLED TO A LARGE SUM OF MONEY, CORRECT?

11 A. THAT'S RIGHT.

12 Q. BOTH FROM PEOPLE WHO WERE INVOLVED WITH THE DISPUTE WITH  
13 HIM, THE PEOPLE HE THOUGHT YOU HAD SUED, CORRECT?

14 A. YES.

15 Q. AND A POWER COMPANY THAT HAD BEEN INVOLVED IN THE LAKE  
16 GASTON AREA?

17 A. YES.

18 Q. AND NONE OF THAT WAS TRUE?

19 A. THAT'S RIGHT.

20 Q. HE WASN'T ENTITLED TO ANY MONEY AT ALL BASED ON WHAT YOU  
21 HAD DONE?

22 A. CORRECT.

23 Q. AND YOU GO ON IN THE NEXT SENTENCE IN THE PARAGRAPH AND  
24 MENTION WITH SPECIFICITY THAT YOU HAD DRAFTED A NUMBER OF  
25 LEGAL PLEADINGS, CORRECT?

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1 A. YES.

2 Q. OKAY. AND OBVIOUSLY NONE OF THOSE HAD -- WERE FACTUALLY  
3 ACCURATE BECAUSE THERE WAS NO CASE, RIGHT?

4 A. THAT'S CORRECT.

5 Q. ALL RIGHT. AND YOU SAID THAT YOU DRAFTED AT LEAST 17  
6 ORDERS, CORRECT?

7 A. YES.

8 Q. SUPPOSEDLY SIGNED BY JUDGES?

9 A. YES.

10 Q. THAT AWARDED THE DISPUTED PROPERTY TO THE CLIENT ALONG  
11 WITH SUMS OF MONEY?

12 A. YES.

13 Q. ALL RIGHT. NOW, EACH ONE OF THOSE 17 ORDERS, YOU WERE  
14 WRITING AN ORDER THAT YOU KNEW WAS FALSE WHEN YOU WERE WRITING  
15 IT?

16 A. YES.

17 Q. AND YOU SIGNED THE JUDGE'S NAME?

18 A. YES.

19 Q. AND I BELIEVE YOU TOLD US YOU AT LEAST SIGNED JUDGE  
20 DUPREE'S NAME TO ORDERS AND JUDGE BRITT'S NAME?

21 A. YES.

22 Q. DID YOU SIGN JUDGE FOX'S NAME TO ANY OF THEM?

23 A. I DON'T THINK SO.

24 Q. OKAY. AND EVERY TIME YOU SIGNED A JUDGE'S NAME TO ONE OF  
25 THOSE DOCUMENTS, YOU WERE COMMITTING FORGERY, WEREN'T YOU?

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1 A. YES.

2 Q. OKAY. SO, AT LEAST 17 FORGERIES OF JUDGES' NAMES JUST IN  
3 THOSE SETS OF ORDERS IN ONE CLIENT'S FILE?

4 A. YES. I WILL SAY, HOWEVER, THAT NONE OF THESE -- IT MAKES  
5 NO REAL DIFFERENCE -- WAS EVER FILED ANYWHERE.

6 Q. CORRECT. BUT YOU'RE FORGING A JUDGE'S NAME --

7 A. I UNDERSTAND.

8 Q. -- TO AN ORDER SO IT'S STILL AN ACT OF FORGERY?

9 A. YES.

10 Q. AND IT'S A CRIME?

11 A. YES.

12 Q. AND IT'S ONE OF THOSE CRIMINAL FALSI CRIMES, IN OTHER  
13 WORDS, A CRIME OF FALSITY? FORGERY IS A CRIME OF FALSITY?

14 A. YES.

15 Q. WE LEARNED IN CRIMINAL LAW IN LAW SCHOOL, CORRECT?

16 A. YES.

17 Q. ALL RIGHT. AND YOU DIDN'T HAVE ANY AUTHORIZATION TO SIGN  
18 THOSE NAMES -- THE PEOPLE'S NAMES TO THOSE 17 ORDERS?

19 A. NO.

20 Q. AND WHEN YOU SHOWED THOSE ORDERS TO YOUR CLIENT, EACH  
21 TIME YOU SHOWED ONE OF THOSE ORDERS, IT WAS A  
22 MISREPRESENTATION?

23 A. CORRECT.

24 Q. SO, A FALSE STATEMENT AGAIN TO THE CLIENT?

25 A. YES.

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1 Q. SO, WE GOT A DOCUMENT THAT'S NOT AN ACCURATE DOCUMENT TO  
2 START WITH, YOU FORGE THE JUDGE'S NAME TO IT, IT FALSELY  
3 MISREPRESENTS THINGS TO YOUR CLIENT, CORRECT?

4 A. YES.

5 Q. AND THE DISPUTED PROPERTY THAT WAS AWARDED WAS NOT  
6 AWARDED TO THE CLIENT?

7 A. NO. NO.

8 Q. OKAY. NOW, I BELIEVE YOU DID SAY YOU NEVER FILED ANY OF  
9 THOSE DOCUMENTS IN COURT?

10 A. CORRECT.

11 Q. THERE WAS NO LAWSUIT?

12 A. THAT'S RIGHT. THERE WAS NOWHERE TO FILE THEM.

13 Q. OKAY. SO, THEY WERE JUST IN THE FILE THAT YOU HELD FOR  
14 YOUR CLIENT AT YOUR OFFICE, CORRECT?

15 A. YES.

16 Q. OKAY. AND I BELIEVE YOU SAID YOU PREPARED THEM ALL?

17 A. YES.

18 Q. YOU SIGNED THEM ALL?

19 A. YES.

20 Q. DIDN'T REVEAL TO THE CLIENT THERE WAS NO LAWSUIT?

21 A. CORRECT.

22 Q. ALL OF THOSE THINGS WERE FALSE?

23 A. YES.

24 Q. IN PARAGRAPH SIX YOU TALK ABOUT SENDING CHECKS TO CLIENT  
25 A TO COMPENSATE HIM FOR THE CASE. DID YOU SEND PERSONAL

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1 CHECKS?

2 A. (NO RESPONSE.)

3 Q. FIRST SENTENCE IN PARAGRAPH SIX; I GAVE OR SENT CHECKS TO  
4 CLIENT A PURPORTING TO COMPENSATE HIM FOR THE CASE. WERE THEY  
5 PERSONAL CHECKS?

6 A. NO.

7 Q. WERE THEY LAW FIRM CHECKS?

8 A. YES.

9 Q. DID YOU HAVE AUTHORITY TO SIGN --

10 A. NO.

11 Q. -- THE CHECKS FROM THE LAW FIRM?

12 A. NO. NO.

13 Q. DID THE CLIENT HAVE ANY OF THAT MONEY -- WAS HE ENTITLED  
14 TO ANY OF THAT MONEY?

15 A. NO. NO.

16 Q. OKAY. AND YOU THEN SAY YOU STOPPED PAYMENT ON THOSE  
17 CHECKS BECAUSE THEY DID NOT REPRESENT REAL FUNDS FROM WHICH  
18 THE CLIENT COULD BE PAID, CORRECT?

19 A. CORRECT.

20 Q. OKAY. DOES THAT MEAN IT WAS A BAD CHECK TO START WITH?

21 A. NO. I DON'T THINK --

22 Q. BECAUSE THERE WAS MONEY IN THE LAW FIRM ACCOUNT --

23 A. YES.

24 Q. -- THAT YOU WERE WRITING A CHECK ON?

25 A. I JUST DIDN'T GO THROUGH WITH IT. IN OTHER WORDS, I

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1 STOPPED -- IN OTHER WORDS, I STOPPED THE PAYMENT ON THE CHECK  
2 SO IT WOULDN'T BE CASHED.

3 Q. YEAH. BUT YOU STOPPED THE PAYMENT ON THE CHECKS BECAUSE  
4 IF IT GOT CASHED SOMEBODY MIGHT FIND OUT YOU HAD WRITTEN A  
5 CHECK --

6 A. SURE.

7 Q. -- YOU WEREN'T AUTHORIZED TO WRITE?

8 A. SURE.

9 Q. OKAY. SO, YOU KNEW THE CHECKS WERE FRAUDULENT WHEN YOU  
10 WROTE THEM?

11 A. YES.

12 Q. ALL RIGHT. AND THEY WERE MISREPRESENTATIONS TO THE  
13 CLIENT?

14 A. YES.

15 Q. CORRECT?

16 A. YES.

17 Q. AND THEN IN THE THIRD SENTENCE IN PARAGRAPH SIX YOU TALK  
18 ABOUT IN LATE NOVEMBER YOU REQUESTED FUNDS OF \$50,000 FROM  
19 YOUR FIRM'S TRUST ACCOUNT AND WIRED IT TO THE CLIENT AT A BANK  
20 AND ACCOUNT OF HIS CHOOSING, IS THAT CORRECT?

21 A. YES.

22 Q. WIRED \$50,000 FROM YOUR LAW FIRM'S TRUST ACCOUNT TO THIS  
23 CLIENT?

24 A. YES.

25 Q. THESE WERE NOT FUNDS THAT CLIENT A WAS ENTITLED TO --

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1 A. NO.

2 Q. -- WERE THEY? AND THEY WERE FUNDS OF ANOTHER CLIENT, IN  
3 FACT, WEREN'T THEY?

4 A. THAT'S RIGHT.

5 Q. AND THAT'S STEALING, ISN'T IT?

6 A. SURE.

7 Q. OKAY. AND IT'S ALSO EMBEZZLEMENT?

8 A. YES.

9 Q. OKAY. AND THOSE ARE CRIMES THAT INVOLVE FALSE  
10 REPRESENTATIONS, DON'T THEY?

11 A. YES.

12 Q. OKAY. AND YOU KNEW THEY WERE WRONG WHEN YOU DID IT,  
13 DIDN'T YOU?

14 A. YES, BUT, I MEAN -- YES.

15 Q. YOU KNEW YOU WERE TAKING FUNDS THAT YOU WEREN'T --

16 A. I KNOW IT'S NOT RIGHT TO TAKE FUNDS FROM ONE PLACE AND  
17 GIVE IT TO ANOTHER. I KNOW THAT.

18 Q. YOU KNEW IT WAS WRONG WHEN YOU WERE DOING IT? YES?

19 A. YES.

20 Q. OKAY. AND THAT'S REALLY WHERE -- AND IT WAS ALSO, ASIDE  
21 FROM BEING FRAUDULENT AS FAR AS THE CLIENT IS CONCERNED, IT  
22 WAS A VIOLATION OF STATE BAR POLICY REGARDING LAW FIRM TRUST  
23 ACCOUNTS?

24 A. YES.

25 Q. BECAUSE NONE OF THE OTHER FIRM CLIENTS HAD OKAYED YOU

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1 SENDING THEIR MONEY TO CLIENT A?

2 A. THAT'S CORRECT.

3 Q. ALL RIGHT. AND OTHER CLIENTS, IN FACT, DIDN'T KNOW ABOUT  
4 THE MONEY?

5 A. THAT'S RIGHT.

6 Q. AND, IN FACT, THE LAW FIRM ORIGINALLY DIDN'T KNOW ABOUT  
7 IT?

8 A. THAT'S RIGHT.

9 Q. AND THAT'S REALLY WHERE THINGS COMPLETELY FELL APART?

10 A. THEY DID.

11 Q. BECAUSE YOU COULDN'T STOP PAYMENT ON A WIRE TRANSFER?

12 A. I DIDN'T.

13 Q. WELL, YOU COULDN'T HAVE STOPPED PAYMENT ON A WIRE  
14 TRANSFER?

15 A. NO.

16 Q. OKAY. NOW --

17 A. BUT I WILL ALSO TELL YOU I DID THAT ON THE FRIDAY AFTER  
18 THANKSGIVING OF 1993. IT DIDN'T COME TO LIGHT, I THINK, UNTIL  
19 MID-JANUARY OF -- I'M SORRY -- OF 1993. IT WAS THANKSGIVING  
20 OF 1992. AND I THINK WHAT WAS GOING THROUGH MY MIND OR BRAIN  
21 AT THAT TIME WAS I'LL WORRY ABOUT THAT TOMORROW. YOU KNOW, I  
22 JUST DIDN'T TRY TO DO ANYTHING ABOUT IT. I JUST DID IT. I  
23 DIDN'T TRY TO STOP IT. I DIDN'T TRY TO TELL ANYBODY. I  
24 DIDN'T DO ANYTHING.

25 Q. WELL, YOU COULDN'T HAVE STOPPED A WIRE TRANSFER?

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1 A. I KNOW THAT, BUT I'M STILL SAYING I DIDN'T TRY TO DO  
2 ANYTHING.

3 Q. OKAY. WELL, WHAT COULD YOU HAVE DONE?

4 A. I DON'T KNOW.

5 Q. I MEAN --

6 A. I MIGHT HAVE GONE TO THE LAW FIRM AND SAID I HAVE DONE  
7 THIS, LET ME TELL YOU WHAT I HAVE DONE. I WISH I HAD DONE  
8 THAT.

9 Q. YOU MAY HAVE --

10 A. I WISH I HAD -- LET ME JUST SAY THIS TO YOU, I WISH MORE  
11 THAN YOU KNOW THAT I HAD DONE THAT. ONE OF THE THINGS --  
12 YOU'VE ASKED ME THESE QUESTIONS ON FALSITY AND LYING AND  
13 STEALING. LET ME JUST SAY THIS TO YOU AS A BREAK HERE, I KNOW  
14 AS WELL AS ANYBODY IN THIS COURTROOM THE CONSEQUENCES OF DOING  
15 THESE THINGS. I WANT YOU TO KNOW I HAVE LEARNED THAT LESSON  
16 SO WELL. I WOULD NEVER IN A MILLION YEARS SAY SOMETHING FROM  
17 THIS WITNESS STAND THAT WAS UNTRUE TO KEEP DR. MACDONALD OR  
18 ANYBODY ELSE IN ANY SITUATION BECAUSE IT JUST IS NOT WORTH IT.  
19 I WOULD NOT DO THAT AND I HAVE NOT DONE THAT.

20 Q. OKAY. AND IF WE COULD GO TO PARAGRAPH SEVEN OF THE  
21 DISBARMENT, CONSENT DISBARMENT. YOU TALK ABOUT ANOTHER  
22 CLIENT, CLIENT B, YOU DEALT WITH FOR A NUMBER OF YEARS,  
23 CORRECT?

24 A. YES.

25 Q. THAT CLIENT ASKED YOU TO FILE A COMPLAINT?

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1 A. YES.

2 Q. FOR DAMAGES FOR BREACH OF CONTRACT?

3 A. YES.

4 Q. AND YOU DID THAT?

5 A. YES.

6 Q. AND THEN YOU TOOK A VOLUNTARY DISMISSAL?

7 A. YES.

8 Q. YOU DIDN'T TELL THE CLIENT YOU TOOK A VOLUNTARY  
9 DISMISSAL?

10 A. WHATEVER IT SAYS IS WHAT IT -- I DON'T REMEMBER, BUT  
11 WHATEVER --

12 Q. DO YOU NEED THE PARAGRAPH?

13 A. -- IT SAYS -- WHATEVER IT SAYS IS TRUE.

14 Q. OKAY. DID YOU REFILE THE COMPLAINT WITHIN ONE YEAR?

15 A. I DON'T RECALL.

16 Q. OKAY. BUT YOU KNOW THAT IF YOU TAKE A VOLUNTARY  
17 DISMISSAL --

18 A. I DO.

19 Q. -- IN STATE COURT UNDER THE RULES --

20 A. I DO.

21 Q. -- OF CIVIL PROCEDURE YOU'VE GOT ONE YEAR TO REFILE?

22 A. RIGHT.

23 Q. AND IF YOU DON'T --

24 A. CORRECT.

25 Q. -- THE CAUSE OF ACTION IS GONE?

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1 A. CORRECT.

2 Q. IF WE COULD GO TO THE NEXT PAGE WHERE WE'RE CONTINUING IN  
3 THIS AFFIDAVIT. YOU ULTIMATELY TOOK THE DISMISSAL WITHOUT THE  
4 CLIENT'S KNOWLEDGE AND CONSENT, YOU SAY THAT?

5 A. (WITNESS NODS HEAD.)

6 Q. THE CLIENT DIDN'T CONSENT TO THE VOLUNTARY DISMISSAL,  
7 CORRECT?

8 A. YES.

9 Q. ALL RIGHT. AND YOU TOLD THE CLIENT THE COMPLAINT HAD  
10 BEEN FILED AND PROGRESS WAS BEING MADE, CORRECT?

11 A. YES.

12 Q. AND BOTH OF THOSE THINGS WERE FALSE?

13 A. YES. YES.

14 Q. OKAY. SO, AGAIN, TWO FALSE STATEMENTS TO A CLIENT ABOUT  
15 ONGOING LITIGATION?

16 A. YES.

17 Q. AND FALSE REPRESENTATIONS ABOUT WHETHER PROGRESS WAS  
18 BEING MADE IN THE CASE?

19 A. YES.

20 Q. DO YOU KNOW HOW MANY CALLS OR CONVERSATIONS YOU HAD WITH  
21 CLIENT B?

22 A. NO.

23 Q. COULD IT HAVE BEEN MORE THAN TWO MAYBE?

24 A. PROBABLY.

25 Q. MORE THAN TEN?

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1 A. I DON'T -- NO, I DON'T REMEMBER THAT. NOT AS MANY AS THE  
2 OTHER, BUT I DON'T REMEMBER.

3 Q. OKAY. BUT EVERY ONE OF THEM WOULD HAVE BEEN A FALSE --

4 A. CORRECT.

5 Q. -- REPRESENTATION?

6 A. CORRECT.

7 Q. AND THEN -- YOU THEN TOLD CLIENT B HE HAD WON HIS CASE?

8 A. YES.

9 Q. AND THAT WAS FALSE?

10 A. YES.

11 Q. AND THAT WAS A MISREPRESENTATION?

12 A. YES.

13 Q. AND THAT WAS FRAUDULENT?

14 A. YES.

15 Q. ALL RIGHT. AND AT THAT POINT YOU WIRED SOME MONEY TO  
16 CLIENT B?

17 A. \$6,000.

18 Q. FROM THE LAW FIRM'S TRUST ACCOUNT?

19 A. YES.

20 Q. AND YOU WIRED IT TO THE CLIENT'S PERSONAL BANK ACCOUNT?

21 A. YES.

22 Q. THAT WASN'T MONEY THE CLIENT WAS ENTITLED TO?

23 A. NO.

24 Q. SO, THAT WAS, AGAIN, A MISREPRESENTATION?

25 A. YES.

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1 Q. IT WAS DEFRAUDING YOUR LAW FIRM?

2 A. YES.

3 Q. IT WAS STEALING?

4 A. YES.

5 Q. AND IT WAS A VIOLATION OF STATE BAR PROFESSIONAL  
6 REQUIREMENTS REGARDING TRUST FUNDS?

7 A. YES.

8 Q. NOW, IF WE COULD GO TO PARAGRAPH EIGHT OF THIS DOCUMENT  
9 AND WE'RE TALKING ABOUT THE YEAR PRIOR TO 1992, AND YOU HAD  
10 CLIENT C, WHO HAD SETTLED A CLAIM. THE FIRST LINE IN  
11 PARAGRAPH EIGHT; CLIENT C HAD SETTLED A CLAIM AND RECEIVED A  
12 CASH PAYMENT, CORRECT?

13 A. YES.

14 Q. AND ALSO HAD PAYMENT OVER TIME, CORRECT?

15 A. YES.

16 Q. AND HE OWED A MEDICAL LIEN?

17 A. YES.

18 Q. AND WHEN YOU SETTLE A CLAIM ON BEHALF OF A CLIENT, IS IT  
19 NOT THE LAW FIRM'S RESPONSIBILITY OR THE LAWYER'S  
20 RESPONSIBILITY TO PAY OUTSTANDING MEDICAL LIENS OUT OF THE  
21 SETTLEMENT BEFORE THE MONEY IS DISBURSED TO THE CLIENT?

22 A. YES.

23 Q. AND THAT WASN'T DONE HERE?

24 A. CORRECT.

25 Q. AND THE FEDERAL GOVERNMENT FOUND OUT THE CLIENT HAD NOT

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1 PAID -- THAT THEY HAD NOT BEEN PAID?

2 A. RIGHT. RIGHT. RIGHT.

3 Q. THE FEDERAL GOVERNMENT HADN'T BEEN PAID \$23,000?

4 A. RIGHT.

5 Q. IT WAS A LOT OF MONEY?

6 A. YES.

7 Q. A LOT OF MONEY, \$23,000?

8 A. YES.

9 Q. THE CLIENT ALL OF A SUDDEN OWES -- FINDS OUT HE OWES  
10 \$23,000 THAT SHOULD HAVE BEEN TAKEN FROM THE SETTLEMENT  
11 PROCEEDS?

12 A. YES.

13 Q. AND THE FEDERAL GOVERNMENT WANTS THEIR MONEY?

14 A. YES.

15 Q. OKAY. AND THEY'RE COMING TO GET IT? I MEAN, THEY'RE  
16 WRITING THEY WANT THE MONEY?

17 A. YES.

18 Q. AND HE OWES THE MONEY AND HE DOESN'T HAVE IT TO PAY THEM,  
19 CORRECT?

20 A. YES.

21 Q. AND YOU MADE ARRANGEMENTS FOR THE FIRM TO ADVANCE HIM  
22 \$23,000?

23 A. YES.

24 Q. AND DID THE FIRM AGREE TO THAT?

25 A. YES.

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1 Q. DID THEY REALIZE THAT YOU HAD NOT DISBURSED THE MONEY IN  
2 THE APPROPRIATE FASHION AND THAT WAS WHY THE \$23,000 WAS A  
3 LIEN THAT HADN'T BEEN PAID?

4 A. I DON'T KNOW THAT I -- I DON'T -- I'M SURE THEY DID NOT  
5 KNOW THAT, BUT I'M SURE I DIDN'T HAVE A DISCUSSION WITH THEM  
6 ABOUT THAT.

7 Q. OKAY. SO, ONCE AGAIN, IT WAS A MISREPRESENTATION TO THE  
8 LAW FIRM?

9 A. I DON'T KNOW THAT -- IF YOU WANT TO CALL IT A  
10 MISREPRESENTATION. IT WAS A MISREPRESENTATION BY OMISSION  
11 THAT I DIDN'T TELL THEM MORE INFORMATION THAN THEY NEEDED TO  
12 KNOW. I DON'T KNOW IF I EVER LIED TO THE FIRM ABOUT THAT  
13 EXCEPT -- UNLESS IT'S A LIE TO NOT TELL THEM SOMETHING.

14 Q. OKAY. ALL RIGHT. IN ORDER TO DEAL WITH THIS, YOU GOT A  
15 -- YOU PREPARED A PROMISSORY NOTE?

16 A. CORRECT.

17 Q. AND IT WAS A PROMISSORY NOTE FOR THE CLIENT TO SIGN?

18 A. YES.

19 Q. TO THE FIRM?

20 A. YES.

21 Q. SO, THE FIRM WOULD BE REIMBURSED FOR THE \$23,000?

22 A. YES. YES.

23 Q. THAT WAS PAYMENT TO THE FEDERAL GOVERNMENT?

24 A. YES.

25 Q. WHO WANTED THEIR MONEY?

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1 A. YES.

2 Q. OKAY. AND DID THE CLIENT SIGN THE PROMISSORY NOTE OR  
3 DID --

4 A. NO, I DID.

5 Q. OKAY. SO, YOU SIGNED THE CLIENT'S NAME TO THE PROMISSORY  
6 NOTE?

7 A. YES.

8 Q. WITHOUT THE CLIENT'S KNOWLEDGE?

9 A. YES.

10 Q. ANOTHER FORGERY?

11 A. YES.

12 Q. ANOTHER MISREPRESENTATION?

13 A. YES.

14 Q. THE LAW FIRM DIDN'T KNOW ABOUT IT?

15 A. NO.

16 Q. AND, AGAIN, IF THE MONEY CAME FROM THE LAW FIRM TRUST  
17 ACCOUNT TO THE FEDERAL GOVERNMENT, IT WAS A BREACH OF STATE  
18 BAR ETHICS?

19 A. THAT MONEY DID NOT COME FROM THE FIRM'S TRUST ACCOUNT.

20 Q. WHERE DID THAT MONEY COME FROM?

21 A. PROBABLY THE OPERATING ACCOUNT.

22 Q. OKAY. SO, THE FIRM PAID THAT OUT OF THE OPERATING  
23 ACCOUNT?

24 A. I SUSPECT THAT'S TRUE. IT DID NOT COME FROM THE TRUST  
25 ACCOUNT. IT WOULD BE AN OPERATING ACCOUNT. I DON'T KNOW WHAT

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1 THEY CALLED THE ACCOUNT.

2 Q. ALL RIGHT. AND, AGAIN, YOU'RE SURE IT DIDN'T COME FROM  
3 THE LAW FIRM TRUST ACCOUNT?

4 A. I AM POSITIVE.

5 Q. SO, THAT JUST --

6 A. OR AT LEAST TO THE BEST OF MY KNOWLEDGE, IT DIDN'T COME  
7 FROM -- I DIDN'T TAKE IT FROM ANY TRUST ACCOUNT. I AM CERTAIN  
8 THAT IT DID NOT COME FROM THE LAW FIRM'S TRUST ACCOUNT.

9 Q. OKAY. BECAUSE THE LAW FIRM WAS WRITING THE CHECK?

10 A. CORRECT.

11 Q. THEY KNEW THEY WERE WRITING THE CHECK?

12 A. THAT'S CORRECT.

13 Q. AND THEY WOULDN'T HAVE WRITTEN IT FROM THE TRUST ACCOUNT?

14 A. THAT'S CORRECT. THAT'S CORRECT.

15 Q. AND THEN I BELIEVE -- WE GET TO PARAGRAPH NINE AND YOU  
16 TALK ABOUT IN 1991 AND '92, DIVERTING \$140,000 OF FUNDS THAT  
17 CAME INTO THE FIRM, AND YOU DIVERTED THEM TO YOUR PERSONAL  
18 CHECKING ACCOUNT?

19 A. YES.

20 Q. AND THAT WAS MONEY THAT SHOULD HAVE GONE TO THE FIRM,  
21 BEEN EARNED BY THE FIRM?

22 A. YES. YES.

23 Q. EARNED BY YOUR PARTNERS OR YOU AS WELL?

24 A. EARNED BY ME.

25 Q. WHOEVER THE PARTNERS WERE.

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1 A. EARNED BY ME.

2 Q. OKAY. AND WHEN YOU SAY NONE OF YOUR PARTNERS KNEW ABOUT  
3 THE DIVERSION OF FUNDS, IS DIVERSION JUST A NICE WAY OF SAYING  
4 YOU STOLE THE MONEY?

5 A. I WOULD HOPE SO.

6 Q. WELL, I MEAN, THAT'S REALLY WHAT IT WAS? YOU STOLE MONEY  
7 FROM THE LAW FIRM?

8 A. YOU CAN USE THE WORD STEAL IF YOU WISH.

9 Q. WELL, ISN'T THAT AN ACCURATE DESCRIPTION OF --

10 A. SURE.

11 Q. -- THE CRIME OF STEALING --

12 A. SURE.

13 Q. -- PROPERTY?

14 A. SURE.

15 Q. AND YOU KNEW IT WAS A CRIME WHEN YOU DID IT?

16 A. YEAH.

17 Q. AND YOU'RE A CRIMINAL DEFENSE LAWYER?

18 A. YEAH. I PLED GUILTY TO THESE CHARGES IN COURT.

19 Q. I UNDERSTAND.

20 A. AND WHEN I PLED GUILTY, I PLED GUILTY TO FELONIES IN  
21 COURT.

22 Q. I KNOW YOU DID AND WE'LL GET TO THAT IN JUST A MINUTE,  
23 BUT MY QUESTION IS, YOU KNEW IT WAS A CRIME WHEN YOU DID THE  
24 ACT?

25 A. YES.

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1 Q. AND YOU KNEW IT WAS WRONG --

2 A. YES.

3 Q. -- IN ADDITION TO BEING A CRIME?

4 A. YES.

5 Q. AND YOU USED THE MONEY -- THE THIRD SENTENCE. IT SAYS  
6 YOU USED THE MONEY, A SUM IN EXCESS OF \$100,000, TO PAY OUT TO  
7 VARIOUS CLIENTS --

8 A. YES.

9 Q. -- OR TO OTHERS ON THEIR BEHALF?

10 A. (WITNESS NODS HEAD.)

11 Q. AND IS THAT TO COVER THINGS THAT HADN'T BEEN TAKEN CARE  
12 OF FOR THE CLIENTS?

13 A. I'M SURE SOME OF THAT MONEY WAS FOR THAT REASON.

14 Q. WELL, WHY ELSE WOULD YOU WRITE CHECKS --

15 A. WELL, THERE WAS A SITUATION -- AND I'M NOT TRYING TO  
16 SPLIT HAIRS -- BUT THERE WAS A SITUATION WHERE IT WAS 18,000  
17 OR \$20,000, WHERE I HAD WON A CASE IN FEDERAL CIVIL COURT AND  
18 THE CLIENTS WANTED TO SUE SOMEBODY ELSE TO GET THEIR  
19 ATTORNEY'S FEES BACK AND SOME OF THAT MONEY WENT FOR THAT, TO  
20 GIVE THEM THAT SO THEIR ATTORNEY'S FEES WOULD BE PAID BACK.  
21 SO, THAT WASN'T WORK THAT WASN'T DONE FOR THEM IT WAS JUST --  
22 IT WAS STILL MISUSE OF THE MONEY. I'M NOT DISPUTING THAT.

23 Q. OKAY. AND YOU SAY THAT YOU WERE PAYING OUT TO VARIOUS  
24 CLIENTS OR OTHERS ON THEIR BEHALF AND THE SUMS WERE PAID OUT  
25 BECAUSE -- LAST SENTENCE IN THE PARAGRAPH -- POTENTIAL CLAIMS

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1 CLIENTS HAD AGAINST ME OR THE THREAT OF CLAIMS.

2 A. THAT WAS THE ONE THAT I JUST SPOKE ABOUT, ABOUT THE  
3 ATTORNEY FEES ISSUE. I THINK THAT'S THE ONE I'M REFERRING TO.

4 Q. SO, THAT'S JUST -- THERE WAS JUST ONE WHERE YOU WERE  
5 WORRIED ABOUT A CLAIM AGAINST YOU?

6 A. YEAH. THERE MAY HAVE BEEN OTHERS, I DON'T RECALL TODAY  
7 AS I SIT HERE.

8 Q. WERE YOU WORRIED THAT THEY HAD A CLAIM THAT YOU HADN'T  
9 DONE SOMETHING YOU WERE SUPPOSED TO DO?

10 A. NO, I WAS WORRIED THAT THEY -- WELL, YEAH, IN THE SENSE  
11 OF THE WORD. THEY WANTED TO SUE AND GET BACK THEIR ATTORNEY'S  
12 FEES AND I HADN'T DONE ALL THE LEGAL PAPERWORK, I THINK, THAT  
13 WOULD GIVE THEM THE RIGHT TO DO THAT. AND SO IN THAT SENSE OF  
14 THE WORD, I HADN'T DONE WHAT THEY HAD REQUESTED.

15 Q. SO, THEY THOUGHT THEY WERE ENTITLED TO ATTORNEY'S FEES  
16 FROM THE LOSING PARTY?

17 A. YES.

18 Q. IN A CASE --

19 A. YES.

20 Q. -- THAT YOU HAD --

21 A. YES.

22 Q. -- WON FOR THEM?

23 A. YES. YES.

24 Q. ALL RIGHT. AND YOU JUST DIDN'T DO --

25 A. RIGHT.

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1 Q. -- THE NECESSARY WORK --

2 A. RIGHT.

3 Q. -- TO TRY TO RECOUP THE ATTORNEY'S FEES?

4 A. RIGHT.

5 Q. AND SO YOU JUST PAID THEM?

6 A. YES.

7 Q. OKAY. AND WAS THIS AN ACTION THAT YOU HAD THOUGHT WAS A  
8 SITUATION OF YOU TRYING TO PLEASE EVERYBODY?

9 A. I WAS TRYING TO PLEASE THEM.

10 Q. OKAY. ALL RIGHT. AND YOU TALKED ABOUT -- EVENTUALLY  
11 AFTER THE DISBARMENT -- THAT CAME FIRST IN SORT OF THE VERY  
12 FIRST CONSEQUENCES --

13 A. THAT CAME -- YEAH. IT WAS A BAD YEAR. THAT CAME IN LATE  
14 APRIL OF THAT YEAR.

15 Q. AND THEN THE CRIMINAL CASE MOVED AFTER OR COMPLETED --  
16 CAME TO FRUITION AFTER --

17 A. YES. YES.

18 Q. -- THE STATE BAR MATTER HAD FINISHED?

19 A. YES.

20 Q. AND I BELIEVE YOU SAID THAT THE CRIMINAL CASE INVOLVED  
21 \$235,000 IN LAW FIRM MONEY ROUGHLY?

22 A. 234.

23 Q. 234. SO, A GOOD BIT OF LAW FIRM MONEY?

24 A. OH, YES.

25 Q. OKAY. 56,000 THAT WERE TWO NON-EXISTENT LAWSUITS?

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- 1 A. CORRECT.
- 2 Q. 17 FAKE COURT ORDERS?
- 3 A. YES.
- 4 Q. 17 FORGED JUDGE'S SIGNATURES?
- 5 A. YES.
- 6 Q. ALL RIGHT. I BELIEVE YOU STATED YOU EVENTUALLY PLED  
7 GUILTY TO 12 FELONY CHARGES?
- 8 A. YES.
- 9 Q. EMBEZZLEMENT?
- 10 A. YES.
- 11 Q. OBSTRUCTION OF JUSTICE?
- 12 A. YES.
- 13 Q. OBTAINING PROPERTY BY FALSE PRETENSES?
- 14 A. I SUSPECT. I DON'T KNOW.
- 15 Q. BUT 12 FELONIES THAT ALL OF THE TIME CARRIED A MAXIMUM  
16 SENTENCE OF TEN YEARS, DO YOU THINK? DOES THAT SOUND ABOUT  
17 RIGHT?
- 18 A. NO. I WILL TELL YOU THAT I THINK THE MAXIMUM THAT I  
19 COULD HAVE RECEIVED IF THEY HAD BEEN RUN TOGETHER --  
20 CONSECUTIVE, THE MAXIMUM I COULD HAVE GOTTEN WAS 110.
- 21 Q. OKAY. SO, 12 FELONIES, NINE -- ROUGHLY NINE -- ROUGHLY  
22 ABOUT NINE YEARS --
- 23 A. MY MATH IS NOT GOOD.
- 24 Q. -- SOMETHING LIKE THAT?
- 25 A. OKAY.

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1 Q. AND SO YOU FACED 110 YEARS, YOU THINK?

2 A. YES.

3 Q. AND YOU GOT THREE?

4 A. YES.

5 Q. OKAY. AND I BELIEVE YOU SAID YOU SERVED JUST OVER A  
6 YEAR?

7 A. NO, I SERVED A LITTLE OVER THREE MONTHS, ABOUT THREE AND  
8 A HALF MONTHS.

9 Q. OH, OKAY. SO, THREE AND A HALF MONTHS OF A THREE YEAR  
10 SENTENCE?

11 A. YES.

12 Q. OKAY. AND SPENT THAT TIME, EXCEPT FOR A LITTLE BIT AT  
13 THE BEGINNING, AT WAKE ADVANCEMENT OR WAKE CORRECTIONAL?

14 A. CORRECT. CORRECT.

15 Q. A MINIMUM SECURITY FACILITY?

16 A. RIGHT.

17 Q. SO, YOU WERE WORKING DURING THE DAY AND LOCKED UP AT  
18 NIGHT?

19 A. YES. YES.

20 Q. NOW, DID THERE COME A TIME WHEN YOU -- LET ME BREAK OFF  
21 THAT FOR A MINUTE. DID THERE COME A TIME IN SEPTEMBER OF  
22 2005, WHERE YOU HAD DINNER WITH KATHRYN MACDONALD?

23 A. YES.

24 Q. AND WAS IT A LONG DINNER?

25 A. PROBABLY.

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1 Q. OKAY. AND DID YOU MAKE SOME STATEMENTS TO HER DURING  
2 THAT MEETING THAT YOU DIDN'T THINK JEFFREY MACDONALD WAS  
3 GUILTY?

4 A. NO.

5 Q. YOU NEVER MADE THAT STATEMENT TO HER?

6 A. NO.

7 Q. DID YOU EVER SAY YOU WOULD BE HAPPY IF HIS CONVICTIONS  
8 WERE OVERTURNED?

9 A. NO.

10 Q. AND --

11 A. THIS DINNER WAS BEFORE ANY MOTION WAS FILED, I THINK. I  
12 THINK IT WAS BEFORE THE MOTION WAS FILED. I MET KATHRYN  
13 MACDONALD PURSUANT TO A PHONE CALL BY WADE SMITH, WHO WANTED  
14 ME TO COME TO HIS OFFICE TO MEET HER AND ANOTHER LAWYER IN THE  
15 CASE, TIM JUNKIN, WHICH I DID.

16 A FEW DAYS AFTER THAT WE HAD DINNER. I'M SURE THAT  
17 MY PURPOSE WAS TO HOPE THAT NO MOTION WOULD BE FILED. I'M  
18 SURE THAT HER PURPOSE WAS TO CONVINC ME THE REVERSE.

19 Q. OKAY. AND YOU DIDN'T THINK ANYTHING ODD ABOUT HAVING  
20 DINNER?

21 A. YEAH, I THINK IT WAS VERY ODD.

22 Q. OKAY. YOU DID?

23 A. IT WAS ONE OF THE DUMBER THINGS I'VE DONE.

24 Q. OKAY. LET ME TALK TO YOU FOR A FEW MINUTES ABOUT A  
25 FORMER CLIENT OF YOURS BY THE NAME OF LEROY MCNEIL.

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- 1 A. WHO?
- 2 Q. LEROY MCNEIL. DO YOU REMEMBER --
- 3 A. OH, YES. YES, YES, YES.
- 4 Q. -- REPRESENTING MR. MCNEIL? YES?
- 5 A. YES.
- 6 Q. YOU WERE APPOINTED TO REPRESENT HIM?
- 7 A. YES.
- 8 Q. A CAPITAL CASE?
- 9 A. YES.
- 10 Q. CHARGED WITH THREE MURDERS, I BELIEVE, IS THAT RIGHT,
- 11 TWO OR THREE?
- 12 A. YES. I THINK YOU DID THE POST-CONVICTION WORK ON SOME OF
- 13 IT.
- 14 Q. AND YOUR CO-COUNSEL WAS RICK GAMMON?
- 15 A. YES.
- 16 Q. WHO YOU DESCRIBED AS YOUR PROTEGEE?
- 17 A. I DIDN'T DESCRIBE HIM AS THAT.
- 18 Q. WOULD YOU DESCRIBE HIM AS YOUR PROTEGEE?
- 19 A. NO, I THINK HE WAS JUST A YOUNG LAWYER AND WE WORKED
- 20 TOGETHER. HE MIGHT NOT EVEN WANT TO BE DESCRIBED THAT WAY.
- 21 Q. ALL RIGHT. EVENTUALLY HE BECAME YOUR LAW PARTNER?
- 22 A. YES.
- 23 Q. A GOOD FRIEND?
- 24 A. YES.
- 25 Q. REPRESENTED YOU WHEN YOU GOT IN TROUBLE?

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1 A. YES.

2 Q. IN FACT, WORKED WITH MR. SMITH IN THAT REPRESENTATION?

3 A. YES.

4 Q. AND THE TRIAL -- MR. MCNEIL WAS CONVICTED?

5 A. YES.

6 Q. AND HE WAS SENTENCED TO DEATH?

7 A. YES.

8 Q. OKAY. AND THE DEATH SENTENCE WAS UPHELD ON APPEAL?

9 A. YES.

10 Q. AND THERE WAS A MOTION FOR APPROPRIATE RELIEF FILED?

11 A. YES.

12 Q. OKAY. AND YOU RECALL THE LITIGATION ABOUT THE MOTION FOR  
13 APPROPRIATE RELIEF?

14 A. YES.

15 Q. OKAY. AND ONE OF THE ALLEGATIONS WAS INEFFECTIVE  
16 ASSISTANCE OF COUNSEL?

17 A. SURE.

18 Q. OKAY. AND PART OF THE INEFFECTIVE ASSISTANCE ARGUMENT  
19 DEALT WITH WHETHER YOU HAD MR. MCNEIL'S PERMISSION TO CONCEDE  
20 GUILT OF SECOND DEGREE MURDER TO THE JURY IN CLOSING ARGUMENT,  
21 DOES THAT SOUND FAMILIAR?

22 A. YEAH.

23 Q. OKAY. AND AT THE TIME THAT YOU REPRESENTED MR. MCNEIL  
24 THERE WAS NO STATE SUPREME COURT DECISION DIRECTING THAT YOU  
25 NEEDED THE CLIENT'S PERMISSION TO DO THAT?

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1 A. I TRULY DO NOT RECALL.

2 Q. OKAY. BUT THE ARGUMENT -- THE ISSUE -- ONE OF THE  
3 INEFFECTIVE ASSISTANCE ISSUES WAS THAT MR. MCNEIL SAID NOBODY  
4 HAD GOTTEN HIS PERMISSION --

5 A. CORRECT.

6 Q. -- TO PLEAD GUILTY TO SECOND DEGREE MURDER? YOU WOULD  
7 AGREE NOW THAT A CRIMINAL DEFENSE LAWYER HAS TO GET A CLIENT'S  
8 PERMISSION TO CONCEDE GUILT IN CLOSING ARGUMENT TO A  
9 PARTICULAR CRIME?

10 A. YEAH. WE WERE TRYING TO SAVE HIS LIFE.

11 Q. I UNDERSTAND. BUT YOU DO HAVE TO HAVE THE CLIENT'S  
12 PERMISSION TO DO THAT?

13 A. YES. YES.

14 Q. NOBODY'S QUESTIONING --

15 A. YES, I UNDERSTAND.

16 Q. OKAY. AND THERE CAME A TIME THAT THERE WAS AN  
17 EVIDENTIARY HEARING ON THE MOTION FOR APPROPRIATE RELIEF?

18 A. YES. YES.

19 Q. OKAY. AND THERE WAS AN AFFIDAVIT -- DO YOU RECALL IF  
20 THERE WAS AN AFFIDAVIT FROM LEROY MCNEIL SAYING NOBODY HAD  
21 ASKED HIM FOR HIS PERMISSION?

22 A. I'M SURE THERE WAS. I DON'T RECALL, BUT I'M SURE THERE  
23 WAS.

24 Q. AND DO YOU RECALL THAT MR. GAMMON TESTIFIED AT THAT  
25 HEARING?

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1 A. THE RECORD WOULD REFLECT WHATEVER THE RECORD REFLECTS,  
2 BUT I DON'T REMEMBER.

3 Q. SO, YOU DON'T RECALL THAT HE TESTIFIED --

4 A. NO.

5 Q. SO, YOU WOULDN'T RECALL THAT HE TESTIFIED THAT YOU DIDN'T  
6 HAVE PERMISSION TO CONCEDE --

7 A. I WOULD NOT BE SURPRISED, BUT I JUST DON'T RECALL.

8 Q. OKAY. BUT YOU WENT TO COURT AT THE HEARING TO TESTIFY,  
9 DIDN'T YOU?

10 A. YES.

11 Q. CALLED BY THE STATE?

12 A. YES.

13 Q. AND YOU TOOK AN OATH JUST LIKE YOU DID TODAY?

14 A. YES.

15 Q. OKAY. AND SWORE ON THE BIBLE TO TELL THE TRUTH?

16 A. YES.

17 Q. AND YOU TESTIFIED THAT YOU HAD MR. MCNEIL'S PERMISSION?

18 A. I THINK WE TOLD HIM. I DON'T THINK I LIED ON THAT STAND  
19 THAT DAY. I DO NOT THINK I DID AT ALL AND I -- NOR AM I  
20 SAYING THAT RICK DID.

21 WHAT I'M SAYING IS THAT AT THAT PARTICULAR INSTANCE  
22 I BELIEVED THAT I TALKED TO LEROY VERBALLY, NOT IN WRITING,  
23 BUT VERBALLY, AND TOLD HIM WHAT WE WERE GOING TO SAY. AND I'M  
24 NOT SURE IT WAS EVEN IN CLOSING ARGUMENT. IT MAY HAVE BEEN IN  
25 THE OPENING STATEMENT BECAUSE -- LET ME FINISH -- BECAUSE WE

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1 HAD NO CHANCE WHATSOEVER OF GETTING HIM ACQUITTED ON A FIRST  
2 DEGREE MURDER TRIAL UNLESS WE COULD GET IT -- DO SOMETHING TO  
3 SAVE HIS LIFE. SO, THAT'S WHAT WE WERE TRYING TO DO.

4 I RECALL, MORE SPECIFICALLY TO YOUR QUESTION, THAT  
5 MY TESTIMONY THAT DAY WAS ACCURATE AND TRUTHFUL AND I WOULD  
6 NOT CONCEDE OTHERWISE.

7 Q. ALL RIGHT. BUT DO YOU RECALL SAYING YOU HAD LEROY  
8 MCNEIL'S PERMISSION TO CONCEDE GUILT TO SECOND DEGREE MURDER?

9 A. IF THAT'S WHAT THE RECORD REFLECTS, THAT'S WHAT I -- IT  
10 WOULD BE.

11 Q. AND THE JUDGE, IN FACT, RULED THAT LEROY MCNEIL WAS  
12 ENTITLED TO A NEW TRIAL BECAUSE HE HAD NOT BEEN ADVISED?

13 A. I DON'T RECALL THAT.

14 Q. YOU DON'T RECALL?

15 A. I MEAN, I DON'T REMEMBER THE RESULT. I KNOW YOU WERE THE  
16 LAWYER ON THE OTHER SIDE, BUT I JUST DON'T REMEMBER THE  
17 RESULT.

18 Q. OKAY. SO YOU WOULDN'T DISPUTE --

19 A. I DON'T DISPUTE IT. I'M JUST TELLING YOU THAT WHAT I  
20 SAID WAS THE TRUTH.

21 Q. ALL RIGHT. IS THERE AN ENTITY OR A CORPORATION OR A FIRM  
22 THAT'S CALLED CHAPTER TWO?

23 A. USED TO BE.

24 Q. AND WHAT WAS THAT?

25 A. CHAPTER TWO WAS -- IT WASN'T A CORPORATION. IT WAS JUST

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1 AN ENTITY THAT I HAD SET UP AT ONE TIME TO HELP ME IN MY  
2 SPEAKING SEMINAR BUSINESS AND WRITING MY BOOK AND STUFF LIKE  
3 THAT.

4 Q. OKAY. AND MAYBE SO YOU COULD HAVE AN ACCOUNT THAT WOULD  
5 ALLOW YOU TO PAY EXPENSES --

6 A. YES.

7 Q. -- AND THINGS WHILE YOU WORKED ON WRITING THE BOOK?

8 A. YES.

9 Q. AND DID THERE COME A TIME WHEN A FRIEND OF YOURS  
10 INTRODUCED YOU TO A PERSON BY THE NAME OF BROOKE MORROW?

11 A. YES.

12 Q. AND WHO -- MS. MORROW WAS SOMEBODY WHO WAS INTERESTED IN  
13 HELPING YOU WRITE A BOOK?

14 A. SHE WANTED ME TO WRITE A BOOK ON THE MACDONALD CASE.

15 Q. AND SO SHE AGREED TO GIVE YOU SOME FINANCIAL SUPPORT FOR  
16 THAT?

17 A. SHE DID.

18 Q. AND WROTE A CHECK OR WROTE TWO CHECKS FOR \$50,000 TOTAL  
19 TO CHAPTER TWO?

20 A. YES. YES.

21 Q. OKAY. AND THERE WAS A PROMISSORY NOTE TO REPAY THAT  
22 MONEY?

23 A. YES. YES.

24 Q. A WRITTEN AGREEMENT?

25 A. YES.

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1 Q. THAT YOU SIGNED?

2 A. YES.

3 Q. OKAY. DID YOU EVER WRITE THE BOOK?

4 A. NO.

5 Q. OKAY. DID YOU REPAY HER THE MONEY?

6 A. NO. I HAD NO MONEY AT THAT TIME SO, NO, I WAS NOT ABLE  
7 TO REPAY HER THE MONEY.

8 Q. OKAY. AND THAT WAS IN 2001, THAT YOU SIGNED THE  
9 PROMISSORY NOTE, IS THAT CORRECT?

10 A. YES.

11 Q. AT THAT POINT --

12 A. THAT'S WHY I WAS WAITING TABLES AGAIN DURING THAT TIME.

13 Q. THAT'S WHEN YOU THOUGHT YOU WOULD WRITE THE BOOK?

14 A. YES.

15 Q. OKAY. AND DID YOU PERIODICALLY COMMUNICATE WITH HER  
16 ABOUT PROGRESS THAT WAS BEING MADE?

17 A. I WAS WORKING ON THE BOOK TO SOME DEGREE. I DID DO SOME  
18 DRAFTING WRITING DURING THAT TIME, I BELIEVE. I BELIEVE I  
19 DID. I JUST NEVER FINISHED IT.

20 Q. OKAY. AND THE AGREEMENT WAS IF YOU DIDN'T HAVE THE BOOK  
21 FINISHED YOU WOULD REPAY THE PROMISSORY NOTE?

22 A. CORRECT.

23 Q. THAT HASN'T BEEN DONE?

24 A. NO.

25 Q. OKAY. THAT'S BEEN EIGHT YEARS?

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1 A. YES.

2 Q. AND HAVE YOU TALKED TO HER ABOUT REPAYING THE MONEY?

3 A. NOT IN THE LAST FIVE YEARS, NO.

4 Q. OKAY. AND THAT'S THE SAME SORT OF PATTERN OF CONDUCT  
5 THAT WE SAW AT THE LAW FIRM, ISN'T IT?

6 A. NO.

7 Q. WELL, ISN'T IT TAKING MONEY WITH AN EXPECTATION THAT  
8 SOMEBODY WILL GET SOMETHING IN RETURN FOR IT?

9 A. I FULLY INTENDED TO DO THAT. IT'S NOT THE SAME THING AT  
10 ALL TO ME.

11 Q. WELL, IF YOU DON'T --

12 A. I UNDERSTAND WHAT YOU'RE TRYING TO SAY, BUT I DON'T THINK  
13 THAT'S THE SAME THING AT ALL. I DID NOT DO IT. I DID NOT  
14 FINISH IT. I DID NOT HAVE THE MONEY TO REPAY HER, BUT I DID  
15 NOT GO INTO THAT SITUATION AND TELL HER THINGS THAT WERE  
16 FALSE.

17 Q. OKAY. BUT YOU SIGNED A PROMISSORY NOTE THAT YOU DIDN'T  
18 OWN UP TO?

19 A. THE PROMISSORY NOTE -- THAT'S CORRECT.

20 Q. OKAY.

21 A. THAT'S CORRECT.

22 Q. ALL RIGHT. AGAIN, A SITUATION OF TRYING TO PLEASE  
23 EVERYBODY? IS THAT STILL THAT GOING ON?

24 A. I DON'T KNOW HOW YOU WOULD CHARACTERIZE THAT. I DON'T  
25 KNOW. I'M NOT A DOCTOR. I CAN'T --

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1 Q. WELL, I'M JUST ASKING HOW YOU --

2 A. I DON'T KNOW. I DON'T CHARACTERIZE IT THAT WAY.

3 Q. OKAY. THE CHARACTERIZATION -- IS IT WINNING AT ALL COSTS  
4 STILL?

5 A. NO.

6 Q. OKAY. YOU DON'T BELIEVE IN WINNING AT ALL COSTS ANYMORE?

7 A. NO.

8 Q. OKAY. SO, THAT WAS ONLY IN THE EARLY DAYS?

9 A. IT WAS WHENEVER I SAID THAT, BUT I DON'T REMEMBER WHEN I  
10 SAID THAT.

11 Q. WELL, IT'S IN YOUR PROMOTIONAL MATERIALS NOW. HE'S A  
12 PERSON WHO BELIEVES IN WINNING AT ALL COST AND PLEASING  
13 EVERYBODY.

14 A. WELL, IN MY PROMOTIONAL MATERIALS I SENT OUT I HAD THE  
15 ATTITUDE AT ONE TIME OF WINNING AT ALL COST. THAT DOES NOT  
16 MEAN, AND IT NEVER HAS MEANT, WINNING ILLEGALLY AT ALL COSTS.  
17 AND IT CERTAINLY DIDN'T MEAN IT IN THE MACDONALD CASE.

18 Q. THERE WAS NO QUALIFICATION IN THE DESCRIPTION THAT YOU  
19 WROTE, WAS THERE?

20 A. WELL, THE REASON FOR THAT IS WHEN I WROTE THE DARN THING  
21 I DIDN'T KNOW THAT THE MACDONALD CASE WOULD COME BACK UP WITH  
22 A MOTION LIKE WE HAVE HERE. I DIDN'T THINK OF THE MACDONALD  
23 CASE WHEN I WROTE THAT SENTENCE FOR PROMOTIONAL MATERIALS LIKE  
24 I DO NOW -- WOULD TODAY.

25 Q. BUT DID YOU THINK ABOUT THE WORDS A LAWYER WHO BELIEVED

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1 IN WINNING AT ALL COST WHEN YOU PUT THOSE WORDS ON YOUR  
2 PROMOTIONAL MATERIALS?

3 A. DID I BELIEVE WHAT NOW?

4 Q. DID YOU BELIEVE THE DESCRIPTION THAT YOU WERE A LAWYER --

5 A. DID I BELIEVE IT WAS ACCURATE? SURE, I BELIEVE IT WAS  
6 ACCURATE.

7 Q. OKAY.

8 A. I'M NOT QUARRELING WITH YOU ABOUT THAT. WHAT I'M  
9 QUARRELING WITH YOU ABOUT IS THAT I DID NOT DO WHAT'S ALLEGED  
10 IN THIS CASE THAT YOU'RE TRYING TO PROVE THAT I DID. THAT  
11 SIMPLY DID NOT EVER HAPPEN, PERIOD. IT NEVER TOOK PLACE.

12 MR. WIDENHOUSE: MAY I HAVE A MOMENT, YOUR HONOR?

13 THE COURT: YES, SIR.

14 (PAUSE.)

15 BY MR. WIDENHOUSE:

16 Q. DURING THE MACDONALD TRIAL WHEN JUDGE DUPREE EXCLUDED THE  
17 STOECKLEY WITNESSES, THAT WAS A BIG BOOST FOR THE PROSECUTION?

18 A. YES.

19 Q. YOU DIDN'T TELL KATHRYN MACDONALD DURING YOUR MEETING  
20 THAT YOU THOUGHT JUDGE DUPREE HANDED YOU THE CASE WHEN HE DID  
21 THAT, DID YOU?

22 A. NO.

23 Q. IN ONE OF YOUR ANSWERS YOU MENTIONED THAT I HAD BEEN TO  
24 ONE OF YOUR SEMINARS?

25 A. YES.

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1 Q. AND YOU TALK A LOT ABOUT SUBSTANCE ABUSE?

2 A. NO, NO, THAT'S NOT TRUE. I TALK ABOUT MENTAL HEALTH  
3 ISSUES, NOT SUBSTANCE ABUSE. I DON'T KNOW ANYTHING ABOUT  
4 SUBSTANCE ABUSE. I KNOW A LOT ABOUT MENTAL HEALTH ISSUES.

5 Q. OKAY. SO NONE OF THE CLE CREDIT THAT COMES FROM YOUR  
6 SEMINARS WOULD COVER THE SUBSTANCE ABUSE REQUIREMENT?

7 A. OH, YES, IT DOES. IF YOU WILL LOOK AT THE BAR RULES IT  
8 SAYS MENTAL HEALTH/SUBSTANCE ABUSE. IT DOESN'T MAKE ANY  
9 DIFFERENCE WHICH YOU GET.

10 Q. SO, SUBSTANCE ABUSE WASN'T AN ISSUE IN YOUR SITUATION?

11 A. NO.

12 Q. AND AS YOU SAID, YOU DON'T HAVE ANY EXPERTISE IN THAT  
13 PARTICULAR AREA?

14 A. NO.

15 Q. OKAY. NOW, THE DEPRESSION ISSUE -- THE MENTAL HEALTH  
16 ISSUES THAT YOU TALKED ABOUT AND GOING TO SEE DR. SPAULDING,  
17 ET CETERA, ALL THAT REALLY CAME OUT AFTER THE WORLD CRUMBLED?

18 A. YES.

19 Q. IT DIDN'T COME OUT AHEAD OF TIME?

20 A. NO. DR. SPAULDING WAS OF THE VIEW THAT WHATEVER I WAS  
21 GOING THROUGH HAD PRECEDED -- BY HOW LONG, I DO NOT KNOW -- A  
22 YEAR OR TWO THE FALL OR THE WORLD CRUMBLING, AS YOU SAY. IT  
23 DIDN'T -- THE DEPRESSION OR THE SEVERE DEPRESSION THAT I WENT  
24 THROUGH DID NOT COME ABOUT JUST AS THE RESULT OF MY FALL.

25 Q. BUT THAT WAS THE FIRST INKLING THAT YOU HAD THAT YOU HAD

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1 THIS SERIOUS MENTAL ILLNESS?

2 A. YES. I WAS PROBABLY -- IN ALL HONESTY, I DIDN'T BELIEVE  
3 IN PSYCHIATRY. I DIDN'T BELIEVE, QUITE HONESTLY, IN MENTAL  
4 HEALTH ISSUES. THE TRUTH OF THE MATTER, AS I THINK YOU MAY  
5 KNOW, IS THAT THE FIRST TIME I WENT TO SEE DR. SPAULDING IN  
6 DURHAM, THEY HAD MY SECRETARY FOLLOW ME IN HER CAR TO MAKE  
7 SURE I SHOWED UP BECAUSE THEY DIDN'T THINK I'D GO. SO, THAT  
8 WAS THE FIRST TIME I KNEW.

9 Q. OKAY. AND ALL OF THAT REALLY CAME TO LIGHT, AND THE  
10 ACKNOWLEDGMENT OF IT, AFTER THE LAW FIRM DISCOVERED THE  
11 TRANSFER?

12 A. YES. YES. YES. YES. YES.

13 MR. WIDENHOUSE: ALL RIGHT. THANK YOU, YOUR HONOR.  
14 NO FURTHER QUESTIONS.

15 THE COURT: MR. BRUCE.

16 MR. BRUCE: JUST BRIEFLY.

17 R E D I R E C T E X A M I N A T I O N 4:14 P.M.

18 BY MR. BRUCE:

19 Q. MR. WIDENHOUSE ASKED YOU IF THE EXCLUSION OF THE OUT OF  
20 COURT TESTIMONY -- EXCUSE ME, THE TESTIMONY OF THE STOECKLEY  
21 WITNESSES ABOUT HER OUT OF COURT STATEMENTS WAS A BIG DEAL TO  
22 THE PROSECUTION. DO YOU REMEMBER HIM ASKING YOU THAT?

23 A. YES.

24 Q. IN FACT, AFTER THAT RULING, DIDN'T THE STOECKLEY  
25 WITNESSES, OR AT LEAST FOUR OF THEM, GET CALLED TO THE STAND

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1 ANYWAY?

2 A. YES.

3 Q. AND WEREN'T THEY ASKED MANY QUESTIONS TO WHICH THE ANSWER  
4 WAS OBJECTIONABLE BASED ON JUDGE DUPREE'S RULING?

5 A. YES. THE BOTTOM LINE IS IT REALLY DIDN'T MAKE ANY  
6 DIFFERENCE ABOUT JUDGE DUPREE'S RULING BECAUSE BERNIE --

7 COURT REPORTER: I'M SORRY. I DIDN'T UNDERSTAND  
8 THAT.

9 THE WITNESS: IT DIDN'T REALLY MAKE TOO MUCH  
10 DIFFERENCE ABOUT JUDGE DUPREE'S RULING BECAUSE BERNIE, IN HIS  
11 QUESTIONS, GOT MOST OF THE STUFF HE WANTED IN ANYWAY IN FRONT  
12 OF THE JURY.

13 BY MR. BRUCE:

14 Q. LET'S PUT 5014C UP ON THE SCREEN, PLEASE. THIS IS THE  
15 DOCUMENT THAT MR. WIDENHOUSE TOOK YOU THROUGH ON CROSS-  
16 EXAMINATION. DO YOU REMEMBER THAT?

17 A. YES.

18 Q. AND IN THIS DOCUMENT IT IS DISCLOSED THAT YOU TOLD MANY,  
19 MANY LIES?

20 A. YES.

21 Q. AND THAT YOU TOOK OR MISAPPROPRIATED A LOT OF MONEY THAT  
22 DIDN'T BELONG TO YOU?

23 A. YES.

24 Q. AND LET'S GO TO PAGE FIVE OF THAT DOCUMENT.

25 MR. WIDENHOUSE: PAGE WHAT?

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1 MR. BRUCE: PAGE FIVE.

2 BY MR. BRUCE:

3 Q. FOCUS IN ON PARAGRAPH TEN. JUST READ PARAGRAPH TEN.

4 A. I ACKNOWLEDGE MY MISCONDUCT WITH REGARD TO THE ABOVE SUCH  
5 STATED MATTERS. DO YOU WANT ME TO CONTINUE?

6 Q. NO.

7 MR. BRUCE: NO FURTHER QUESTIONS.

8 THE WITNESS: I WANT TO SAY ONE LAST THING. IN  
9 ADDITION TO THIS, I DON'T KNOW IF IT IS A MATTER OF THE BAR  
10 RECORD, I ALSO SUBMITTED A PERSONAL LETTER TO THE BAR THAT  
11 SAME DAY THAT I TENDERED MY RESIGNATION IN WHICH I APOLOGIZED  
12 TO THE LAW FIRM AND APOLOGIZED TO THE BAR OF NORTH CAROLINA.  
13 THAT'S ALL. WHICH I STILL DO.

14 THE COURT: MR. WIDENHOUSE.

15 R E C R O S S - E X A M I N A T I O N 4:16 P.M.

16 BY MR. WIDENHOUSE:

17 Q. ALL OF THE STOECKLEY -- I'M SORRY, ALL OF THE STOECKLEY  
18 WITNESS TESTIMONY --

19 A. I'M SORRY, WHAT?

20 Q. ALL OF THE STOECKLEY WITNESS TESTIMONY THAT THE JURY  
21 HEARD ABOUT BECAUSE OF BERNIE SEGAL'S QUESTIONS, THERE WERE  
22 OBJECTIONS SUSTAINED TO THOSE QUESTIONS, RIGHT?

23 A. YES, BUT IT DIDN'T STOP BERNIE.

24 Q. I UNDERSTAND. BUT THE JURY IS INSTRUCTED TO DISREGARD  
25 THAT?

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1 A. YES. YES.

2 Q. AND WE BELIEVE JURIES LISTEN TO THEIR INSTRUCTIONS, DON'T  
3 WE?

4 A. YES. THE RECORD WILL REFLECT WHETHER THEY WERE TOLD TO  
5 DISREGARD IT OR NOT. I DON'T RECALL WHETHER THAT PART IS  
6 ACCURATE OR NOT.

7 MR. WIDENHOUSE: OKAY. THANK YOU. NO FURTHER  
8 QUESTIONS.

9 THE COURT: EXCUSE ME. I HAVE A QUESTION.

10 THE WITNESS: YES, SIR.

11 THE COURT: WHO WAS WITH YOU AT THE TIME YOU  
12 INTERVIEWED MR. BRITT -- I MEAN MS. STOECKLEY?

13 THE WITNESS: I'M SORRY?

14 THE COURT: WHO WAS WITH YOU WHEN YOU INTERVIEWED  
15 MS. STOECKLEY?

16 THE WITNESS: GEORGE ANDERSON, WHO WAS THE UNITED  
17 STATES ATTORNEY, BRIAN MURTAGH AND JACK CRAWLEY. THERE WERE  
18 JUST FOUR PEOPLE -- THERE WERE FOUR LAWYERS AND HELENA  
19 STOECKLEY.

20 THE COURT: AND WERE THEY THERE THE WHOLE TIME?

21 THE WITNESS: YES, SIR. I NEVER INTERVIEWED HELENA  
22 STOECKLEY WITHOUT BRIAN MURTAGH, JACK CRAWLEY AND GEORGE  
23 ANDERSON. I ONLY INTERVIEWED HER THAT ONE TIME.

24 THE COURT: ALL RIGHT. THANK YOU. I WANT TO SEE  
25 COUNSEL AT THE BENCH JUST A SECOND.

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1 (BENCH CONFERENCE ON THE RECORD.)

2 THE COURT: I JUST WONDER IF MR. MURTAGH HAS AN  
3 OBLIGATION TO TESTIFY.

4 MR. BRUCE: WELL, WE MADE THE DECISION THAT WE WOULD  
5 NOT CALL HIM AS A WITNESS BECAUSE WE WANTED TO KEEP HIM ON THE  
6 TRIAL TEAM.

7 THE COURT: I SEE. LET ME ASK YOU ALL SOMETHING  
8 ELSE. I NOTICED IN THE HELENA STOECKLEY AFFIDAVIT THERE'S NO  
9 STAPLE IN IT. ALL THE OTHER AFFIDAVITS ARE STAPLED -- PAGES  
10 ARE STAPLED TOGETHER. NONE IS REFLECTED IN HER AFFIDAVIT.  
11 THAT'S PRETTY STRANGE.

12 MR. WIDENHOUSE: I DIDN'T NOTICE THAT.

13 THE COURT: I DID.

14 MR. WIDENHOUSE: OKAY.

15 THE COURT: I MEAN, I DON'T KNOW WHETHER YOU'VE GOT  
16 THE ORIGINAL OR NOT. THE COPY THAT I HAVE DOESN'T SHOW THAT.

17 MR. WIDENHOUSE: OKAY.

18 THE COURT: NOW, TOMORROW MORNING I HAVE A  
19 CONTINUATION OF A SHOW CAUSE HEARING AT NINE O'CLOCK AND I  
20 HOPE I WILL BE THROUGH BY 10:00 AND I WILL TAKE A LITTLE BREAK  
21 BEFORE I COME BACK TO YOU ALL AND I HOPE WE CAN WORK STRAIGHT  
22 THROUGH TO LUNCH WITHOUT A MORNING BREAK.

23 MR. WIDENHOUSE: OKAY.

24 THE COURT: IS THERE ANYTHING ELSE WE NEED TO TAKE  
25 UP TONIGHT, COUNSEL?

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1 MR. BRUCE: YOUR HONOR, DO YOU WANT US TO BE HERE AT  
2 10:00 IN CASE YOU'RE FINISHED AND READY TO GO?

3 THE COURT: I WANT YOU TO BE IN THE BUILDING  
4 SOMEWHERE I CAN GET IN TOUCH WITH YOU.

5 MR. BRUCE: OKAY.

6 THE COURT: I HONESTLY HAVE NO IDEA WHAT TO EXPECT  
7 TOMORROW. IT'S A VERY STRANGE THING. BUT ANYWAY --

8 MR. WIDENHOUSE: BUT IF WE'RE IN THE BUILDING BY  
9 10:00 -- BY QUARTER TILL 10:00, WE'LL BE OKAY AS FAR AS YOU'RE  
10 CONCERNED?

11 THE COURT: OH, YEAH. SURE. I'M GOING TO TAKE A  
12 BREAK BETWEEN THE TWO HEARINGS. ANYTHING ELSE, COUNSEL?

13 MR. BRUCE: THAT'S ALL. THANK YOU.

14 THE COURT: I'D LIKE TO SEE IF YOU COULD FIND THE  
15 ORIGINAL OF THAT AFFIDAVIT.

16 MR. WIDENHOUSE: I'LL DO THE BEST I CAN. IT MAY BE  
17 IN CHAPEL HILL OR IT MAY BE IN ANOTHER LAWYER'S OFFICE.

18 THE COURT: I HAVE NO IDEA WHERE IT IS. WE'VE GOT A  
19 LOT OF STUFF HERE, I DON'T KNOW, BUT I DID NOTICE THAT ON THE  
20 MATERIAL THAT WAS GIVEN TO ME AND I DID NOTICE THAT THE OTHERS  
21 WERE STAPLED.

22 MR. WIDENHOUSE: ALL RIGHT. I'LL SEE WHAT I CAN DO.

23 THE COURT: IS THERE ANYTHING ELSE, COUNSEL?

24 MR. BRUCE: THAT'S ALL.

25 MR. WILLIAMS: YOUR HONOR, JUST IF I COULD, AND I

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1 DON'T MEAN TO SPEAK OUT OF TURN, BUT MY OFFICE PREPARED THE  
2 COPIES AND I DON'T KNOW IF YOU MEAN THE ACTUAL NOTEBOOK COPIES  
3 THAT YOU RECEIVED SOME WERE STAPLED AND OTHERS IN THE NOTEBOOK  
4 WERE NOT STAPLED.

5 THE COURT: THE PHOTOGRAPH SHOWS NO STAPLE.

6 MR. WILLIAMS: THE PHOTOGRAPH SHOWS NO STAPLE MARK,  
7 OKAY.

8 THE COURT: THAT'S RIGHT.

9 MR. WILLIAMS: OKAY. THAT WOULD PRECEDE US, BUT WE  
10 CAN CERTAINLY CHECK ON THAT.

11 THE COURT: WELL, I THINK IT WOULD BE INTERESTING --

12 MR. WILLIAMS: YES, SIR.

13 THE COURT: -- IN VIEW OF THE NATURE OF THE DOCUMENT  
14 AND THE SECOND PAGE AND THE FIRST PAGE.

15 MR. WILLIAMS: YES, SIR.

16 THE COURT: ALL RIGHT. ANYTHING FURTHER, COUNSEL?

17 MR. BRUCE: THAT'S ALL.

18 (BENCH CONFERENCE CONCLUDED.)

19 THE COURT: WE'RE GOING TO TAKE A RECESS TILL NINE  
20 O'CLOCK TOMORROW MORNING.

21 MR. BRUCE: THANK YOU, YOUR HONOR.

22 THE COURT: THIS CASE WILL START AT 10:00, COUNSEL.

23 I'VE GOT ANOTHER HEARING TOMORROW MORNING TO HANDLE AT 9:00.

24 I HOPE TO BE THROUGH BY 10:00. I CAN'T GUARANTEE THAT, BUT I  
25 THINK WE WILL. THANK YOU.

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1 (WHEREUPON, THESE PROCEEDINGS RECESSED AT 4:21 P.M.,  
2 TO RECONVENE AT 10:00 A.M., ON SEPTEMBER 20, 2012.)

I CERTIFY THAT THE FOREGOING IS A TRUE AND ACCURATE  
TRANSCRIPT OF SAID PROCEEDINGS.

/s/ STACY SCHWINN, CCR, CVR-M  
STACY SCHWINN, CCR, CVR-M

11/19/12  
DATE

September 19, 2012