

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 21, 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:

For the Government: JOHN S. BRUCE, FIRST ASST. U.S. ATTORNEY
LESLIE K. COOLEY, ASST. U.S. ATTORNEY
BRIAN M. MURTAGH,
SPECIAL ASST. U.S. ATTORNEY
UNITED STATES ATTORNEY'S OFFICE
310 NEW BERN AVENUE, SUITE 800
RALEIGH, NC 27601

For Defendant/Movant: M. GORDON WIDENHOUSE, JR., ESQUIRE
RUDOLF, WIDENHOUSE & FIALKO
312 WEST FRANKLIN STREET
CHAPEL HILL, NC 27561

KEITH A. WILLIAMS, ESQUIRE
LAW OFFICES OF KEITH A. WILLIAMS P.A.
321 SOUTH EVANS STREET, SUITE 103
GREENVILLE, NC 27835

Court Reporter: STACY SCHWINN, CCR, CVR-M
P.O. BOX 1611
WILMINGTON, NC 28402
(910) 431-4502

Proceedings recorded by stenomask, transcript produced from dictation.

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P R O C E E D I N G S

8:59 A.M.

(DEFENDANT PRESENT.)

THE COURT: GOOD MORNING, EVERYONE. PLEASE BE SEATED. LET ME START BY EXPLAINING OUR SCHEDULE FOR TODAY. WE'RE GOING TO WORK TILL ONE O'CLOCK. WE'RE GOING TO TAKE A RECESS MID-MORNING ABOUT 11:00, BUT WE'LL STOP FOR THE WEEKEND AT ONE O'CLOCK.

ALL RIGHT, LET'S SEE. MR. BRUCE. YOU'RE STILL UNDER OATH, MR. MADDEN.

MS. COOLEY: THANK YOU, YOUR HONOR.

RAYMOND MADDEN, JR., GOVERNMENT WITNESS, PREVIOUSLY SWORN

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

9:00 A.M.

BY MS. COOLEY:

Q. MR. MADDEN, WHEN WE LEFT OFF YESTERDAY, WE WERE TALKING ABOUT YOUR INTERVIEW WITH HELENA STOECKLEY JUNIOR, FOR LACK OF A BETTER WAY TO CALL HER.

A. YES, MA'AM.

Q. AND YOU HAD TESTIFIED YESTERDAY THAT YOU INTERVIEWED HER BOTH ON SEPTEMBER 9TH OF 1981, AS WELL AS SEPTEMBER 10TH OF 1981, CORRECT?

A. THAT'S CORRECT.

Q. AND WE HAD TALKED ABOUT THE SEPTEMBER 9TH INTERVIEW AND YOU READ HER STATEMENTS TO US. WHY DID YOU GO BACK ON SEPTEMBER 10TH?

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1 A. BECAUSE SHE REQUESTED US TO RETURN OUTSIDE THE PRESENCE
2 OF HER HUSBAND, ERNEST DAVIS.

3 Q. AND WHEN YOU RETURNED, DID SHE TELL YOU WHY SHE WANTED
4 YOU TO COME BACK WITHOUT ERNEST BEING THERE?

5 A. BASICALLY, FROM MY RECOLLECTION IS THAT, ACCORDING TO
6 HER, HER HUSBAND HAD NO INFORMATION REGARDING HER DRUG
7 ACTIVITY BACK IN THE '70S.

8 Q. AND DID SHE WANT HIM TO KNOW ABOUT THAT?

9 A. I'M SORRY?

10 Q. DID SHE WANT HIM TO KNOW ABOUT THAT?

11 A. NO, MA'AM.

12 Q. NOW, WHAT WAS YOUR OBJECTIVE IN INTERVIEWING HELENA
13 STOECKLEY ON THOSE TWO DAYS?

14 A. BASICALLY TO GO OVER THE ALLEGED STATEMENTS THAT SHE
15 PROVIDED TO PRIVATE INVESTIGATORS GUNDERSON AND BEASLEY AND TO
16 DETERMINE THE TRUTH OF THE MATTER.

17 Q. AND ON SEPTEMBER 10TH, WHEN YOU CAME BACK TO INTERVIEW
18 HER, DID SHE MAKE SOME CORRECTIONS TO HER STATEMENT OF
19 SEPTEMBER 9TH TO YOU?

20 A. I DON'T RECALL OFFHAND.

21 Q. MAY I HAVE PAGE 917, PARAGRAPH 31. WILL YOU BLOW UP
22 PARAGRAPH 31, PLEASE? THANK YOU.

23 NOW, THIS IS FROM THE AFFIDAVIT WE LOOKED AT
24 YESTERDAY, THE AFFIDAVIT YOU PREPARED AS A RESULT OF YOUR
25 INTERVIEW WITH MS. STOECKLEY. DOES THIS HELP TO REFRESH YOUR

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1 RECOLLECTION?

2 A. YES, MA'AM.

3 Q. OKAY. AND WHAT CORRECTIONS DID SHE WANT TO MAKE?

4 A. SHE WANTED TO CORRECT SOME OF HER PREVIOUS STATEMENTS
5 FURNISHED ON SEPTEMBER 9TH, 1981, TO THE INTERVIEWING AGENTS,
6 AND ADVISED THAT REGARDING HER CONTACTS WITH BEASLEY SINCE
7 DECEMBER OF 1980, IN JANUARY OF 1981, BEASLEY SHOWED UP AT HER
8 RESIDENCE IN SENECA, SOUTH CAROLINA, WITH FRED BOST, B-O-S-T.

9 THEY INFORMED HER THAT BOST WAS WRITING A BOOK AND
10 BEASLEY REQUESTED THAT BOST BE PERMITTED TO INTERVIEW HER.
11 BEASLEY WANTED HER TO TELL HER STORY TO BOST AND NOTED THAT
12 BEASLEY INFORMED HER THAT SHE SHOULD DEAL SPECIFICALLY WITH
13 BEASLEY AND NOT THROUGH GUNDERSON OR BOST.

14 BEASLEY INFORMED HER AT THIS TIME NOT TO TALK TO THE
15 FBI OR DEPARTMENT OF JUSTICE OR ANYONE ELSE INVOLVED WITH THE
16 MACDONALD CASE.

17 SHE STATED THAT SHE AND BOST TALKED ABOUT A BOOK
18 THAT HE WAS GOING TO WRITE AND THAT SHE RECALLS BEING
19 INTERVIEWED BY HIM.

20 Q. DID MS. STOECKLEY DISCUSS WITH YOU THE SPLIT FOR THE
21 PERCENTAGE THAT EACH PERSON WOULD GET AS A RESULT OF THIS BOOK
22 DEAL?

23 A. BASICALLY, YES. MY RECOLLECTION, HELENA WAS SUPPOSED TO
24 RECEIVE APPROXIMATELY 20 PERCENT, BEASLEY 20 PERCENT, BOST AN
25 UNRECALLED PERCENTAGE, AND A PUBLISHER OR AGENT AN UNRECALLED

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1 PERCENTAGE.

2 Q. AND WAS IT YOUR UNDERSTANDING THAT THIS BOOK WAS ABOUT
3 THE MACDONALD MURDERS?

4 A. YES, MA'AM.

5 Q. NOW, DID SHE ALSO WANT TO CLARIFY A FEW THINGS FOR YOU
6 REGARDING THE TESTIMONY SHE GAVE AT THE MACDONALD TRIAL?

7 A. I DON'T RECALL JUST OFFHAND.

8 Q. IF I MAY HAVE PARAGRAPH 36? NOW, THIS IS PARAGRAPH 36
9 FROM YOUR SAME AFFIDAVIT. IF YOU COULD READ THAT AND SEE IF
10 THAT REFRESHES YOUR RECOLLECTION.

11 A. YES, MA'AM.

12 REGARDING HER COURT TESTIMONY DURING THE MACDONALD
13 TRIAL IN AUGUST 1979, HELENA ADVISED THAT SHE WISHED TO MAKE
14 THE FOLLOWING CORRECTIONS TO HER STATEMENT ON SEPTEMBER 9TH,
15 1981.

16 SHE STATED THAT SHE WAS NOT ENTIRELY TRUTHFUL IN
17 FRONT OF HER HUSBAND AND WANTED TO MAKE THE NECESSARY
18 CORRECTIONS AS FOLLOWS; SHE DID NOT POSSIBLY ADMIT TO THE
19 IDENTITIES OF SOME INDIVIDUALS, SPECIFICALLY GREG MITCHELL AND
20 POSSIBLY SOME OTHERS.

21 SHE BELIEVES SHE REMEMBERS SEEING DR. MACDONALD
22 PRIOR TO THE TRIAL AND THINKS THAT HE WAS POINTED OUT TO HER
23 BY JOE KELLY WHO USED TO GET DRUGS FOR HER. KELLY STAYED AT
24 THE MEDICAL HOLDING ON FORT BRAGG IN FAYETTEVILLE, NORTH
25 CAROLINA.

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1 SHE BELIEVES SHE POSSIBLY SAW DR. MACDONALD AT THE
2 HOSPITAL PRIOR TO THE TRIAL IN 1979. SHE WAS UNSURE THAT SHE
3 DID THE EVENING BEFORE THE MACDONALD MURDERS OR THE NEXT
4 MORNING ON SEPTEMBER -- I'M SORRY, ON FEBRUARY 17TH, 1970.

5 Q. THERE IN PARAGRAPH C DOES IT SAY SHE WAS UNSURE WHAT SHE
6 DID THE EVENING BEFORE THE MACDONALD MURDERS?

7 A. YES.

8 Q. AND THOSE ARE CORRECTIONS THAT SHE MADE VOLUNTARILY TO
9 YOU, IS THAT RIGHT?

10 A. THAT'S CORRECT.

11 Q. AND DID SHE INDICATE TO YOU AT ALL -- WELL, LET ME ASK
12 YOU THIS, DURING THE TIME THAT SHE WAS MAKING CORRECTIONS TO
13 YOU, TALKING TO YOU ABOUT HER TESTIMONY DURING THE TRIAL, DID
14 SHE EVER MENTION TO YOU ANY THREATS MADE TO HER BY JIM
15 BLACKBURN?

16 A. NO, MA'AM.

17 Q. AND DID SHE MENTION TO YOU HOW SHE FELT ABOUT HER
18 RELATIONSHIP WITH PRINCE BEASLEY?

19 A. SHE THOUGHT BASICALLY THAT SHE WAS POSSIBLY USED BY
20 BEASLEY TO FURNISH INFORMATION REGARDING THE MACDONALD CASE.

21 Q. AND DID SHE ALSO INDICATE TO YOU HOW SHE FELT ABOUT HER
22 RELATIONSHIP WITH TED GUNDERSON?

23 A. YES, AND APPROXIMATELY THE SAME ANSWER, THAT SHE FELT
24 THAT SHE PROBABLY HAD BEEN USED BY GUNDERSON ALSO TO COERCE A
25 STATEMENT FROM HER REGARDING THE MACDONALD CASE.

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1 Q. DID SHE INDICATE TO YOU THAT SHE HAD WRITTEN MR.
2 GUNDERSON A LETTER?

3 A. YES.

4 Q. AND DID SHE GIVE YOU A COPY OF THAT LETTER?

5 A. YES, SHE DID.

6 Q. AND DID YOU SUMMARIZE OR DID YOU, RATHER, RECREATE THAT
7 LETTER IN YOUR AFFIDAVIT HERE THAT WE HAVE IN FRONT OF US?

8 A. YES.

9 Q. IF I MAY HAVE PARAGRAPH 41, PLEASE? IF YOU WOULD READ
10 PARAGRAPH 41?

11 A. MR. GUNDERSON, IN ALL FAIRNESS TO ANY PERSON OR PERSONS
12 INVOLVED IN THE FOLLOWING OF THE JEFFREY MACDONALD MURDER CASE
13 IN 1970, AT FORT BRAGG, NORTH CAROLINA, I FEEL THAT IT IS MY
14 MORAL OBLIGATION TO INFORM YOU THAT MY HUSBAND AND I ARE IN
15 THE PROCESS OF IMMEDIATE RELOCATION.

16 IT IS MY OPINION THAT IN THE PRECEDING MONTHS I HAVE
17 BEEN USED AS A PAWN FOR YOUR CONVENIENCE AND SUITABILITY. I
18 ALSO FEEL THAT I WAS COERCED INTO SIGNING THE SO-CALLED
19 CONFESSION IN DECEMBER BY MEANS OF EXPLOITATION, FALSE HOPES,
20 AND EMPTY PROMISES.

21 NEVER HAVE I SEEN A GREATER MOCKERY MADE OF JUSTICE
22 OR SUCH A SHAMBLES MADE OF A LEGAL INVESTIGATION. GRANTED, I
23 HAVE A PAST HISTORY OF HEAVY DRUG USE, CULT INVOLVEMENT, AND
24 POLICE TROUBLE. BUT IN MY OPINION, I DO NOT PROMISE CLEAR AND
25 SOUND MENTAL FACULTIES AND GOOD JUDGMENT AND A MODERATE LEVEL

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1 OF INTELLIGENCE.

2 Q. LET ME TAKE YOU BACK REAL QUICK. DOES IT SAY I DO
3 POSSESS CLEAR AND SOUND MENTAL FACULTIES?

4 A. YES, MA'AM. I'M SORRY.

5 Q. THAT'S ALL RIGHT.

6 A. AFTER HAVING BEEN DECEIVED TIME AND TIME AGAIN AND AFTER
7 CONCLUDING THAT WHAT I THOUGHT WAS CAUTION AND SHREWDNESS ON
8 MY PART WAS BEING TAKEN BY EVERYONE AS GULLIBILITY, I NO
9 LONGER FEEL OBLIGATED TO AID ANYONE IN THIS MATTER ANY
10 FURTHER.

11 WHEN I FINALLY AGREED TO TALK TO YOU, I FELT THAT I
12 WAS DOING WHAT WAS MORALLY RIGHT. I WOULD ALSO BE FREEING
13 MYSELF FROM A PRIVATE HELL. SO, I GAVE YOU AS CONCLUSIVE A
14 REVIEW OF THE EVENTS OF THE NIGHT IN QUESTION AS I COULD.
15 YOU, IN TURN, MISCONSTRUED AND DISTORTED ALL STATEMENTS I MADE
16 TO YOU TO BE USED AT YOUR CONVENIENCE.

17 NO LONGER WILL I BE CAUSED ANY FURTHER EMBARRASSMENT
18 OR HAVE UNFAVORABLE IMPLICATIONS MADE ABOUT ME DUE TO THIS
19 CASE. ANY FEARS OR ANXIETIES THAT I NOW HAVE I WILL DEAL WITH
20 MYSELF.

21 CONTRARY TO STATEMENTS MADE BY JUDGE DUPREE AND
22 OTHERS, MY LIFE IS NO LONGER A DRUG DAZED STUPOR THAT I CANNOT
23 FACE OR DEAL WITH.

24 I HAVE PROCURED A LAWYER WHO IS GATHERING DATA ON
25 THIS CASE SO THAT SHOULD ANYONE COME UP WITH ANY INSANE IDEA

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1 THAT I SHOULD BE INCARCERATED I WON'T BE CAUGHT UNPREPARED.

2 IF I WERE YOU, I WOULD ALSO BE MINDFUL OF THE FACT
3 THAT DEFAMATION OF CHARACTER OVER SUCH A LONG PERIOD OF TIME
4 IS A VERY SERIOUS OFFENSE.

5 DO NOT TRY TO CONTACT ME OR ANYONE RELATED TO ME IN
6 THE FUTURE.

7 AT THIS POINT, I FEEL THAT VINDICATION IS IN MY
8 FAVOR.

9 YOUR COOPERATION IN THIS MATTER WOULD BE
10 APPRECIATED. PLEASE MAKE MY STAND CLEAR TO MR. BEASLEY AS
11 WELL. SINCERELY, MRS. HELENA STOECKLEY.

12 P.S. I MUST REITERATE, SHOULD THERE BE ANY UNDUE
13 STRESS PLACED UPON ME OR MY FAMILY IN THE FUTURE, I SHALL NOT
14 HESITATE TO TAKE LEGAL ACTION.

15 Q. DID SHE SIGN IT HELENA STOECKLEY OR HELENA DAVIS?

16 A. I'M SORRY?

17 Q. DID SHE SIGN IT HELENA STOECKLEY OR HELENA DAVIS?

18 A. HELENA DAVIS, I THINK. YES.

19 Q. AND IF WE COULD GO BACK TWO PAGES. THE DATE OF THIS
20 LETTER? WHAT WAS THE DATE?

21 A. IT IS 7/25/81.

22 Q. SO, SHE WROTE THIS BEFORE YOU WENT TO VISIT HER AND TAKE
23 HER STATEMENT?

24 A. YES.

25 Q. AND THEN FURNISHED YOU WITH A COPY?

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1 A. YES.

2 Q. NOW, AT SOME POINT, DID YOU LEARN THAT HELENA STOECKLEY
3 HAD PASSED AWAY?

4 A. YES.

5 Q. DID YOU CONTACT THE DOCTOR WHO DID THE AUTOPSY?

6 A. YES, I DID.

7 Q. DR. SANDRA CONRADI?

8 A. YES, MA'AM.

9 Q. AND DID YOU GET A COPY OF THE AUTOPSY REPORT?

10 A. YES, I DID.

11 Q. IF I CAN HAVE PAGE 988. AND AT THE TOP HERE, DO YOU
12 RECOGNIZE THIS TO BE THE COPY OF THE AUTOPSY YOU PROCURED FROM
13 DR. CONRADI?

14 A. YES, MA'AM.

15 Q. AND THE NAME ON THIS IS HELENA DAVIS?

16 A. YES.

17 Q. AND THE DATE OF HER DEATH DR. CONRADI PLACED AT JANUARY
18 9TH OF 1983?

19 A. YES. YES.

20 Q. AND AFTER -- AT SOME POINT AFTER YOU TALKED TO MS.
21 STOECKLEY, YOU ALSO SPOKE WITH TED GUNDERSON AND PRINCE
22 BEASLEY, IS THAT RIGHT?

23 A. THAT'S CORRECT.

24 Q. TELL ME HOW THAT INTERVIEW WITH THE TWO OF THEM CAME
25 ABOUT?

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1 A. WOULD YOU REPEAT THAT, PLEASE?

2 Q. TELL ME HOW YOUR INTERVIEW WITH THE TWO OF THEM CAME
3 ABOUT?

4 A. I HAD CONTACTED MR. GUNDERSON SEVERAL TIMES ON THE
5 TELEPHONE OVER A PERIOD OF TIME BASICALLY REQUESTING THAT HE
6 SUBMIT HIMSELF FOR AN INTERVIEW TO THE FBI.

7 AT VARIOUS TIMES, HE EXPRESSED TO ME THAT HE HAD
8 BEEN ADVISED BY COUNSEL, BERNARD SEGAL, THAT HE SHOULD NOT
9 TALK TO THE FBI AT THIS TIME. IF THE FBI WANTED TO QUESTION
10 HIM THAT THEY SHOULD PROVIDE A LIST OF WRITTEN QUESTIONS PRIOR
11 TO ANY INTERVIEW BEING CONDUCTED. BUT BASICALLY HE ADVISED
12 THAT MR. SEGAL DID NOT WANT HIM TO SUBMIT TO AN INTERVIEW WITH
13 THE FBI.

14 Q. DID HE AT SOME POINT SUBMIT TO AN INTERVIEW WITH YOU?

15 A. YES, HE DID.

16 Q. AND DID MR. BEASLEY AS WELL?

17 A. PARDON?

18 Q. DID MR. BEASLEY AS WELL?

19 A. YES.

20 Q. AND WHEN YOU INTERVIEWED THE TWO OF THEM, WAS THAT
21 RECORDED?

22 A. YES, IT WAS.

23 Q. AND THEN TRANSCRIBED?

24 A. YES, MA'AM.

25 Q. AND WAS THAT -- WOULD YOU CHARACTERIZE THAT AS A FAIRLY

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1 LONG INTERVIEW?

2 A. YES, IT WAS A FAIRLY LONG INTERVIEW AS I REMEMBER. IT
3 WAS CONDUCTED ON A SUNDAY IN AN FBI OFFICE IN RALEIGH, NORTH
4 CAROLINA, WITH MY PARTNER AT THAT TIME.

5 Q. AND DURING THAT INTERVIEW, DID YOU DISCUSS SOME OF THE
6 INFORMATION THAT MR. GUNDERSON AND MR. BEASLEY HAD BROUGHT
7 FORTH REGARDING THEIR INTERVIEWS WITH HELENA STOECKLEY?

8 A. WOULD YOU SAY THAT AGAIN, PLEASE?

9 Q. DURING THAT TIME, DID YOU DISCUSS WITH THEM THE
10 INFORMATION THAT MR. GUNDERSON AND MR. BEASLEY HAD BROUGHT
11 FORTH WITH REGARD TO THEIR INTERVIEWS WITH HELENA STOECKLEY?

12 A. YES.

13 Q. AND WITH RESPECT TO YOUR INTERVIEW WITH MR. GUNDERSON AND
14 MR. BEASLEY -- WELL, LET ME BACK UP. AT SOME POINT WAS THERE
15 AN INDIVIDUAL NAMED HOMER YOUNG THAT YOU CAME INTO CONTACT
16 WITH?

17 A. YES, MA'AM.

18 Q. OKAY. AND WHO IS HOMER YOUNG?

19 A. HOMER YOUNG WAS A RETIRED FBI AGENT FROM LOS ANGELES,
20 CALIFORNIA, WHO, FOR SOME PERIOD OF TIME, WAS EMPLOYED BY TED
21 GUNDERSON AS A PRIVATE INVESTIGATOR.

22 Q. AND DID YOU HAVE A CONVERSATION WITH MR. YOUNG?

23 A. YES, I DID.

24 Q. WHAT WAS THE NATURE OF THAT CONVERSATION?

25 A. BASICALLY, FROM MY RECOLLECTION, IT WAS THE ATMOSPHERE

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1 THAT HELENA WAS INTERVIEWED IN LOS ANGELES, CALIFORNIA, BY
2 GUNDERSON AND BEASLEY.

3 Q. AND DID HE EXPRESS TO YOU ANY OPINIONS ABOUT THAT
4 INTERVIEW?

5 A. YES, HE DID.

6 Q. WHAT DID HE TELL YOU?

7 A. HE THOUGHT THAT IT WAS AN UNUSUAL INTERVIEW, THAT IT HAD
8 BEEN CONDUCTED 12 TO 15 HOURS A DAY OVER A TWO OR THREE OR
9 FOUR DAY PERIOD, CONDUCTED UNDER SOME DURESS IN HIS OPINION,
10 AND THAT GUNDERSON IN HIS OPINION ALSO PROBABLY HAD USED
11 UNETHICAL TACTICS CONDUCTING THE INTERVIEW.

12 Q. DID HE MENTION WHAT THOSE WERE?

13 A. WELL, I THINK KEEPING SOMEONE IN AN INTERVIEW FOR 12 TO
14 15 HOURS A DAY AND HAVING VERY LITTLE SLEEP OR REST TIME
15 BEFORE THE NEXT INTERVIEW BEGAN THE NEXT MORNING OR WHENEVER.

16 Q. IF I MAY HAVE PAGE 797, PLEASE. MR. MADDEN, I'M GOING TO
17 HAVE YOU READ A COUPLE OF EXCERPTS FROM YOUR INTERVIEW WITH
18 MR. GUNDERSON AND MR. BEASLEY. IF YOU WOULD START READING IN
19 THE FIRST PARAGRAPH AT I SUBSEQUENTLY TALKED TO HER IN. THE
20 THIRD LINE.

21 A. I SUBSEQUENTLY TALKED TO HER IN LOS ANGELES, CALIFORNIA,
22 IN OCTOBER 1980, AND SHE RETURNED TO LOS ANGELES IN DECEMBER
23 1980. AND IN EACH INSTANCE, WE SPENT -- PRINCE BEASLEY AND I
24 SPENT PROBABLY FIVE TO SIX DAYS ON BOTH TRIPS, BUT I --

25 Q. OKAY. LET ME STOP YOU THERE. AND THIS IS MR. GUNDERSON

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1 TALKING, IS THAT CORRECT?

2 A. YES, THAT'S CORRECT.

3 Q. AND NOW WE'LL SKIP DOWN TO YOUR RESPONSE TO THIS AND THEN
4 THE QUESTION AND ANSWER THAT FOLLOWS.

5 A. BY ME, UH, DID SHE FURNISH SIGNED STATEMENTS FROM HER
6 INTERVIEWS SHOWING HER SIGNATURES?

7 GUNDERSON REPLIED YES.

8 HOW LONG, UH, DID THESE INTERVIEWS TAKE?

9 Q. IF YOU WOULD READ MR. GUNDERSON'S REPLY?

10 A. UM, WELL, LET'S SEE. UH, THE FIRST SIGNED STATEMENT, UH,
11 IT'S HARD TO SAY BECAUSE WE SPENT ABOUT A DAY AND A HALF, WHEN
12 SHE CAME BACK IN OCTOBER 1980, WE SPENT ABOUT A DAY AND A HALF
13 TALKING TO HER BEFORE SHE WOULD AGREE TO, UH, GIVE US A SIGNED
14 STATEMENT.

15 AND THEN, UH, WE STARTED -- SHE STARTED TALKING AS I
16 RECALL AROUND NINE O'CLOCK, NINE TO TEN O'CLOCK ONE EVENING,
17 AND I THINK WE FINISHED UP WITH A STATEMENT FROM HER AROUND
18 2:00 OR 3:00 IN THE MORNING.

19 AND WE TOOK THE -- SHE STATED -- SHE STARTED, I'M
20 SORRY, TO TALK ABOUT THE CASE SO I FELT RATHER THAN, EVEN
21 THOUGH IT WAS LATE, RATHER THAN, UH, DISCONTINUE THE INTERVIEW
22 AND PICKING UP THE NEXT DAY I FELT IT WAS BEST TO GO ON
23 THROUGH -- I'M SORRY -- GO ON THROUGH TO THE NEXT NIGHT, TAKE
24 A STATEMENT FROM HER ON THIS OCCASION AND HAVE IT SIGNED AND
25 THEN THE NEXT DAY, WHEN I LOOKED THE STATEMENT OVER, IT WAS

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1 RATHER DISJOINTED SO I RETYPED IT, REORGANIZED IT, AND SHE
2 SIGNED IT, A SECOND STATEMENT THAT NEXT DAY. AND WHEN YOU SAY
3 HOW LONG DID IT TAKE, WELL, THAT'S DIFFICULT TO SAY, BECAUSE
4 WE WERE WITH HELENA FOR FIVE, SIX STRAIGHT DAYS, AND THE ONLY
5 TIME WE DIDN'T TALK TO HER WAS WHEN WE WERE ALL SLEEPING.

6 Q. AND I WANT TO TAKE YOU FORWARD TO PAGE 799, PLEASE.
7 STARTING WITH YOUR FIRST QUESTION STATING OKAY.

8 A. THIS WOULD BE ME SPEAKING. OKAY. WHEN SHE RETURNED TO
9 CALIFORNIA, LATER THAT YEAR IN DECEMBER, I BELIEVE 1980, SHE
10 WAS IN CALIFORNIA FOR HOW LONG?

11 GUNDERSON: ABOUT FIVE OR SIX DAYS AGAIN, I'D SAY.

12 THEN I ASKED, AND DURING THIS PERIOD OF TIME AGAIN
13 WAS SHE ACCOMPANIED BY YOU AND/OR PRINCE BEASLEY PRACTICALLY
14 CONTINUOUSLY THE WHOLE TIME?

15 GUNDERSON: RIGHT, THE SAME SITUATION. WHENEVER SHE
16 FELT LIKE TALKING, WE'D TALKED TO HER. WHEN SHE DIDN'T FEEL
17 LIKE TALKING, WE'D LET HER GO HOME AND GO TO BED AND DO HER
18 THING, WHATEVER SHE WANTED TO DO. WE DIDN'T PRESSURE HER OR
19 PUSH HER AT ALL.

20 MY RESPONSE WAS -- MY QUESTION WAS, BUT DID YOU SAY
21 THAT YOU WERE WITH HER CONTINUOUSLY FROM EARLY MORNING HOURS
22 UNTIL LATE EVENING HOURS OR POSSIBLY THE EARLY MORNING HOURS
23 OF THE NEXT DAY?

24 GUNDERSON'S RESPONSE: WE WERE WITH HER, NOW YOU
25 CAN'T SAY, YOU CAN'T SAY EARLY MORNING HOURS EVERY TIME,

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1 BECAUSE I -- BECAUSE LIKE I SAY, WE WERE WITH HER WHENEVER SHE
2 WAS AVAILABLE AND TO BE INTERVIEWED. WHENEVER SHE FELT LIKE
3 BEING INTERVIEWED.

4 MY NEXT RESPONSE, IN THE DECEMBER TRIP DID SHE AGAIN
5 FURNISH YOU WITH A SIGNED STATEMENT?

6 GUNDERSON: SHE DID.

7 I ASKED WAS THIS SIGNED STATEMENT TAKEN ORALLY OR
8 RECORDED OR ON A TAPE RECORDING MACHINE OR WAS IT A SIGNED
9 STATEMENT THAT YOU PREPARED AND HAD HER SIGN?

10 GUNDERSON: THIS SIGNED STATEMENT, UH, AGAIN, LET'S
11 GO BACK TO OCTOBER. WHEN SHE WAS THERE IN OCTOBER, SHE
12 REFUSED TO GO ON A TAPE RECORDER. SO, THEREFORE -- I'M SORRY,
13 WHERE DO YOU WANT ME TO BEGIN HERE?

14 Q. SO, THEREFORE. DO YOU SEE WHERE THE CURSOR IS? SO,
15 THEREFORE, I BASICALLY --

16 A. I CAN'T SEE THE TOP LINE IT APPEARS.

17 Q. OKAY. I BELIEVE YOU ALREADY READ THAT. IF YOU WOULD
18 START AT THE THIRD LINE DOWN UNDER HIS REPLY. SO, THEREFORE,
19 AT THE END OF THAT SENTENCE.

20 A. I'M NOT SEEING IT. I'M SORRY.

21 Q. DO YOU SEE WHERE THE CURSOR IS MOVING?

22 A. OH, I'M SORRY. THEREFORE, I BASICALLY PREPARED THAT
23 STATEMENT, BASED ON INFORMATION SHE GAVE ME, AND THEN SHE READ
24 IT, OF COURSE, AND SAID IT WAS, UH, ACCURATE AND SHE SIGNED
25 IT. IN DECEMBER, UH, SHE FELT A LITTLE MORE COMFORTABLE,

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1 OBVIOUSLY WITH ME, SO SHE, UH, AGREED TO GO ON A TAPE
2 RECORDER, AND IT WAS IN DECEMBER, UH, THE DECEMBER INTERVIEW,
3 UH, THAT SHE WENT ON A TAPE RECORDER. YES, AND I HAVE THAT
4 TAPE RECORDER IN MY OFFICE RIGHT NOW.

5 WE ALSO -- WE -- WE THEN REDUCED THE RECORDING TO
6 THE FORM OF A SIGNED STATEMENT, WHICH IS A 53 PAGE DOCUMENT,
7 AND SHE READ IT, INITIALED EACH PAGE, AND SAID THAT IT WAS
8 ACCURATE.

9 Q. OKAY. LET ME STOP YOU RIGHT THERE. SO, HER STATEMENT
10 THAT HE PREPARED FOR HER TO SIGN WAS 53 PAGES?

11 A. YES.

12 Q. AND --

13 A. ACCORDING TO HIM.

14 Q. ACCORDING TO HIM. AND DID HE ALSO TELL YOU -- DID YOU
15 ASK HIM ABOUT INTERVIEW LOGS WITH REGARD TO THIS INTERVIEW?

16 A. YES, I HAVE A RECOLLECTION OF ASKING HIM ABOUT THAT.

17 Q. NOW, AS AN FBI AGENT, WHY WOULD YOU HAVE ASKED ABOUT A
18 TOOL SUCH AS AN INTERVIEW LOG?

19 A. WELL, TO SHOW THAT THE INTERVIEW WAS CONDUCTED IN A
20 PROFESSIONAL MANNER, THAT TIMES WERE KEPT AS TO HOW LONG A
21 PERSON WAS INTERVIEWED, WHETHER THERE WERE BREAKS INVOLVED.
22 JUST A RECORD OF THE INTERVIEW TIME-WISE.

23 Q. AND IS THAT SOMETHING THAT YOU TYPICALLY DID IN
24 CONDUCTING YOUR INTERVIEWS WITH SUBJECTS?

25 A. YES, MA'AM.

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1 Q. AND IF I MAY HAVE THE BOTTOM HALF OF THAT PAGE, PLEASE,
2 STARTING WITH DURING THE INTERVIEWS. AND IF YOU WOULD JUST
3 READ US HIS RESPONSE TO YOU, YOUR QUESTION AND HIS RESPONSE.

4 A. YOU WANT ME TO READ --

5 Q. START WITH YOUR QUESTION, PLEASE.

6 A. MADDEN: DURING THE INTERVIEWS WITH STOECKLEY, UH, DID
7 YOU MAINTAIN INTERVIEW LOGS AND WILL YOU PROVIDE THE ORIGINALS
8 AND/OR COPIES TO THE FBI?

9 GUNDERSON: I DID NOT INTERVIEW, UH, MAKE THE
10 INTERVIEW LOG.

11 IS THERE ANY -- I'M SORRY.

12 MADDEN: IS THERE ANY PARTICULAR REASON WHY YOU DID
13 NOT MAKE --

14 GUNDERSON: I JUST DIDN'T DO IT. I DIDN'T THINK IT
15 WAS NECESSARY.

16 MADDEN: ARE YOU TALKING WITH HER FOR LONG HOURS AT
17 A TIME, BUT YOU DIDN'T FEEL IT WAS NECESSARY --

18 GUNDERSON: NO.

19 MADDEN: -- TO MAINTAIN SOME TYPE OF LOG INDICATING
20 HOW LONG SHE WAS WITH YOU BEING INTERVIEWED?

21 GUNDERSON: THAT'S RIGHT, I DIDN'T FEEL IT WAS
22 NECESSARY. SHE DID EVERYTHING VOLUNTARILY AND I DIDN'T THINK
23 IT WAS NECESSARY TO MAKE AN INTERVIEW LOG.

24 Q. NOW, TED GUNDERSON WAS A FORMER FBI AGENT, IS THAT
25 CORRECT?

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1 A. THAT'S CORRECT.

2 Q. SO, HE SHOULD HAVE BEEN FAMILIAR WITH THE CONTEXT OR THE
3 CONCEPT OF AN INTERVIEW LOG?

4 A. ABSOLUTELY.

5 Q. AND DID YOU TALK WITH HIM ABOUT ANY PROMISES THAT HE MADE
6 TO HELENA AND ERNEST?

7 A. YES.

8 Q. AND WHAT DID HE SAY ABOUT THE PROMISES THAT HE MADE TO
9 THEM?

10 A. SPECIFICALLY, WITHOUT HAVING THE INTERVIEW IN FRONT OF
11 ME, THAT HE WOULD PROVIDE HELENA AND ERNEST WITH RELOCATION TO
12 CALIFORNIA, POSSIBLE EMPLOYMENT, A POSSIBLE NEW IDENTITY, AND
13 FINANCIAL ASSISTANCE FOR THEM TO GET ON THEIR FEET.

14 Q. AND DID YOU ALSO TALK WITH HIM ABOUT CERTAIN INDIVIDUALS
15 THAT HE ALLEGED MS. STOECKLEY NAMED AS BEING INVOLVED IN THE
16 MURDERS?

17 A. YES.

18 Q. AND DID HE GIVE YOU A LIST OF SOME OF THOSE PEOPLE?

19 A. YES, FROM HIS REPORT THAT WAS PREPARED. I DON'T RECALL
20 SPECIFICALLY DURING HIS INTERVIEW. I THINK IT WAS 78 PAGES
21 WITH HER HE PROVIDED AT THAT TIME.

22 Q. IF I COULD HAVE PAGE 806.

23 A. I'M SORRY?

24 Q. WE'RE GOING TO PUT UP ON THE SCREEN THAT PORTION OF YOUR
25 INTERVIEW. AND HIS SECOND RESPONSE, GUNDERSON'S SECOND

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1 RESPONSE, PLEASE. DO YOU SEE THERE WHERE HE'S NAMED SOME
2 INDIVIDUALS TO YOU?

3 A. YES.

4 Q. BRUCE FOWLER, GREG MITCHELL, DON HARRIS --

5 A. ALLEN P. MAZEROLLE.

6 Q. OKAY. NOW, I WANT TO ASK YOU A COUPLE OF QUESTIONS ABOUT
7 THOSE INDIVIDUALS. AFTER OBTAINING THOSE INDIVIDUALS' NAMES,
8 DID YOU ATTEMPT TO LOCATE AND RUN DOWN THOSE LEADS?

9 A. YES, I DID, AND I ASKED MR. GUNDERSON IF HE HAD ATTEMPTED
10 TO LOCATE AND INTERVIEW THESE INDIVIDUALS. HE SAID HE DID NOT
11 AND I SAID SOMETHING TO THE EFFECT THAT WOULD PROBABLY BE A
12 LOGICAL NEXT STEP IN THE INVESTIGATION. HE SAID THAT HE WAS
13 OUT OF MONEY, THAT HE HAD NOT BEEN PAID FOR A SUBSTANTIAL
14 AMOUNT OF HIS INVESTIGATIVE WORK IN THE CASE.

15 Q. AND SO NO ONE OTHER THAN YOU RAN DOWN THOSE LEADS?

16 A. THAT'S CORRECT.

17 Q. NOW, WITH RESPECT PARTICULARLY TO ALLEN MAZEROLLE, WHAT,
18 IF ANY, INVESTIGATION DID YOU DO REGARDING HIS WHEREABOUTS ON
19 FEBRUARY 16TH AND 17TH OF 1970?

20 A. I ATTEMPTED TO DETERMINE, FIRST OF ALL, WHO HE WAS AND
21 WHERE HE WAS ON THE DATES OF THE CRIME. IN THAT REGARD, I
22 WENT TO THE FAYETTEVILLE, NORTH CAROLINA, POLICE DEPARTMENT
23 AND ATTEMPTED TO LOCATE RECORDS REGARDING MAZEROLLE.

24 AS I REMEMBER, AND THIS IS 30 YEARS AGO OR SO, BUT
25 AS I REMEMBER, THE JAILER OR POLICE OFFICER IN CHARGE OF

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1 RECORDS AT THAT TIME TOLD ME FAYETTEVILLE POLICE DEPARTMENT
2 HAD RECENTLY RELOCATED, THAT THE RECORDS WERE PRETTY MUCH IN
3 SHAMBLES SOMEWHAT, AND THAT OLD RECORDS WERE STORED IN A ROOM
4 UPSTAIRS AT THE POLICE DEPARTMENT AND I WAS WELCOME TO REVIEW
5 THOSE RECORDS IF I CARED TO.

6 Q. AND DID YOU GO AND REVIEW THOSE RECORDS?

7 A. YES, I DID.

8 Q. AND WERE YOU ABLE TO LOCATE RECORDS REGARDING ALLEN
9 MAZEROLLE THIS WAY?

10 A. YES, I WAS.

11 Q. AND IF I COULD HAVE PAGE 882, PLEASE. DID YOU COPY SOME
12 OF THOSE RECORDS WHILE YOU WERE THERE AT THE FAYETTEVILLE
13 POLICE DEPARTMENT?

14 A. YES, MA'AM.

15 Q. IF WE COULD BLOW UP THIS. NOW, WHAT ARE WE LOOKING AT
16 HERE?

17 A. WE'RE LOOKING AT A DATE OF COMMITMENT FOR ALLEN P.
18 MAZEROLLE, IT'S M-A-Z-E-R-O-L-L-E, A WHITE MALE AGE 20, THAT
19 HE WAS COMMITTED ON 1/29/70 AND HE WAS RELEASED ON 3/10/70 AT
20 5:15 P.M. HE HAD SPENT 41 DAYS IN JAIL AND THAT HE WAS
21 COMMITTED TO THE JAIL BY SONBERG, S-O-N-B-E-R-G, AND BEASLEY.
22 HE WAS CHARGED WITH POSSESSION AND TRANSPORTATION OF LSD.

23 Q. OKAY. I'LL STOP YOU RIGHT THERE. SO, HE WAS IN JAIL
24 DURING THE TIME OF THE MACDONALD MURDERS?

25 A. THAT'S CORRECT.

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1 Q. AND THE PERSON WHO PUT HIM IN JAIL WAS BEASLEY?

2 A. THAT'S CORRECT.

3 Q. OKAY. DID YOU ALSO OBTAIN THE RECORDS FOR ARREST? IF I
4 COULD HAVE 883. DID YOU OBTAIN THIS ARREST RECORD AND
5 COMPLAINT WHILE YOU WERE THERE AT THE POLICE DEPARTMENT AS
6 WELL?

7 A. YES.

8 Q. AND IF WE COULD GO TO THE BOTTOM AND IF WE COULD ROTATE
9 THAT. NOW, AT THE BOTTOM OF THIS ARREST, DOES IT INDICATE
10 WHEN THE ARREST WARRANT WAS SERVED AND THE OFFICER'S RETURN AT
11 THE BOTTOM?

12 A. THE RETURN?

13 Q. YES. IS IT JANUARY 28TH OF 1970?

14 A. YES, MA'AM.

15 Q. OKAY. AND SO THAT WAS -- THE ARREST WARRANT WAS RETURNED
16 AND HE WAS ARRESTED ON THAT DATE?

17 A. YES.

18 Q. AND AT SOME POINT WAS THERE AN ISSUE REGARDING WHETHER HE
19 HAD BONDED OUT? IF I COULD HAVE 884, PLEASE.

20 A. I DON'T RECALL.

21 Q. OKAY. I'M SHOWING YOU HERE WHAT'S AN APPEARANCE BOND
22 ALSO MARKED AS A TRUE COPY THAT YOU GOT FROM THE FAYETTEVILLE
23 POLICE DEPARTMENT. DO YOU RECALL THIS DOCUMENT?

24 A. YES.

25 Q. OKAY. AND THIS IS FOR ALLEN MAZEROLLE?

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1 A. YES.

2 Q. AND IT INDICATES THAT HE WAS BONDED OUT ON MARCH 16TH OF
3 1970, IS THAT CORRECT?

4 A. YES.

5 Q. AND DID YOU ALSO DO SOME INVESTIGATION WITH REGARD TO THE
6 OTHER INDIVIDUALS THAT HAD BEEN NAMED?

7 A. YES.

8 Q. SPECIFICALLY, WITH RESPECT TO THE INDIVIDUAL KNOWN AS
9 EDDIE OR SMITTY, DID YOU COME TO KNOW HIM AS DWIGHT EDWIN
10 SMITH?

11 A. YES, MA'AM.

12 Q. AND DID YOU ALSO PREPARE AN AFFIDAVIT ABOUT YOUR
13 INTERVIEW WITH MR. SMITH?

14 A. YES.

15 Q. IF I COULD HAVE PAGE 895. AND, AGAIN, IS THIS YOUR
16 AFFIDAVIT COMPLETED BASED UPON YOUR SEPTEMBER 7TH, 1982,
17 INTERVIEW WITH DWIGHT EDWIN SMITH?

18 A. YES.

19 Q. AND WERE YOU ABLE TO DETERMINE -- IF I COULD HAVE
20 PARAGRAPH TWO -- WHAT HE DID FOR A LIVING AT THE TIME OF THE
21 MACDONALD MURDERS?

22 A. DO YOU WANT ME TO READ FROM THIS OR DO YOU WANT ME TO
23 TELL YOU FROM RECOLLECTION?

24 Q. YOU CAN TELL ME FROM YOUR RECOLLECTION.

25 A. HE WAS A DRUG COUNSELOR IN FAYETTEVILLE, NORTH CAROLINA.

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1 Q. AND SO HE WAS WORKING IN FAYETTEVILLE AT THE TIME OF THE
2 MURDERS?

3 A. YES.

4 Q. AND DID YOU HAVE A CONVERSATION WITH HIM REGARDING
5 WHETHER OR NOT HE HAD BEEN INVOLVED IN THESE MURDERS?

6 A. YES.

7 Q. AND WHAT DID HE TELL YOU?

8 A. SAID THAT HE KNEW ABSOLUTELY NOTHING REGARDING THE
9 MURDERS.

10 Q. AND DID HE KNOW ANY OF THE OTHER INDIVIDUALS THAT WERE
11 NAMED AS BEING INVOLVED IN THE MURDERS?

12 A. I DON'T SPECIFICALLY RECALL.

13 Q. IF I MAY HAVE PAGE FIVE -- I'M SORRY, PARAGRAPH FIVE, ON
14 PAGE 897.

15 A. THE NAMES OF BRUCE JOHNNY FOWLER, SHELBY DON HARRIS,
16 ALLEN PATRICK MAZEROLLE AND WIZARD MEANT NOTHING TO HIM
17 WHATSOEVER. HE BELIEVES HE REMEMBERS THE NAME OF GREGORY
18 HOWARD MITCHELL AND THINKS MITCHELL WAS PROBABLY ACQUAINTED
19 WITH HELENA STOECKLEY, ALTHOUGH HE COULD NOT PROVIDE ANY
20 INFORMATION REGARDING MITCHELL.

21 Q. SO, FAIR TO SAY, HE WAS NOT ASSOCIATES WITH THESE PEOPLE?

22 A. THAT'S CORRECT.

23 Q. AND DID YOU TALK WITH HIM ABOUT HIS WHEREABOUTS OF THE
24 NIGHT OF THE MACDONALD MURDERS?

25 A. I DON'T SPECIFICALLY RECALL. I'M SURE I DID.

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1 Q. IF I COULD HAVE PARAGRAPH SIX. DID HE INDICATE TO YOU
2 THAT HE HAD SOME INVOLVEMENT WITH SOME SBI AGENTS AS A RESULT
3 OF HIS POSITION AS A DRUG TREATMENT COUNSELOR?

4 A. I DON'T REMEMBER.

5 Q. WELL, DID HE SPEAK WITH THESE SBI AGENTS ON FEBRUARY 17TH
6 OF 1970?

7 A. SBI AGENTS, NOT FBI AGENTS.

8 Q. YES. SBI AGENTS.

9 A. I'M SORRY. S AS IN STATE.

10 Q. THAT'S CORRECT.

11 A. YES.

12 Q. OKAY. AND DID HE SPEAK WITH THESE AGENTS ON THE MORNING
13 AFTER THE MURDERS, FEBRUARY 17TH, 1970?

14 A. YES. IF YOU'D LIKE ME TO READ HIS STATEMENT.

15 Q. YES, PLEASE.

16 A. HE COULD NOT RECALL SPECIFICALLY WHERE HE WAS DURING THE
17 EVENING OF FEBRUARY 16TH OR THE EARLY MORNING HOURS OF
18 FEBRUARY 17TH, 1970.

19 HE DOES REMEMBER THAT DURING EARLY OR MID-MORNING
20 HOURS ON FEBRUARY 17TH, THAT RAY DAVIS AND CUYLER WINDHAM, SBI
21 AGENTS, CAME TO HIS RESIDENCE, SPOKE WITH HIM, AND PAT REESE
22 REGARDING THE MACDONALD MURDERS.

23 THEY WERE SEEKING INFORMATION FROM SMITH AND REESE
24 AS TO POSSIBLE SUSPECTS AS THE SBI HAD A DESCRIPTION OF A
25 GROUP OF INDIVIDUALS WHICH MAY HAVE PARTICIPATED IN THE

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1 MACDONALD MURDERS.

2 TO THE BEST OF SMITH'S RECOLLECTION, HE WAS UNAWARE
3 OF THE MACDONALD MURDERS UNTIL INFORMED ABOUT SAME BY WINDHAM
4 AND DAVIS.

5 WINDHAM AND DAVIS WERE OBVIOUSLY LOOKING FOR HELP AS
6 TO SUSPECTS AS HE WORKED CLOSELY WITH THEM WITH VARIOUS DRUG
7 USERS.

8 SMITH NOTED THAT HE DID MANY PROGRAMS OF A COMMUNITY
9 NATURE AT SCHOOLS AND CHURCHES REGARDING DRUGS WITH WINDHAM
10 AND DAVIS.

11 TO THE BEST OF HIS RECOLLECTION, AT THE TIME HE WAS
12 CONTACTED HE COULD NOT FURNISH ANY SUSPECTS TO WINDHAM OR
13 DAVIS.

14 Q. OKAY. THANK YOU.

15 A. HE --

16 Q. THAT'S FINE. SO, FAIR TO SAY AT THAT TIME THEY WERE
17 SEEKING HIS HELP IN TRYING TO DETERMINE WHO ANY OF THESE
18 INDIVIDUALS WERE?

19 A. YES.

20 Q. DID YOU ALSO LOCATE SHELBY DON HARRIS?

21 A. I BELIEVE SO.

22 Q. IF I COULD HAVE PAGE 1184. I'M SORRY, 1182. IS THIS
23 ALSO AN AFFIDAVIT PREPARED BY YOU?

24 A. YES, IT IS.

25 Q. AND DID YOU HAVE OCCASION -- IF I COULD HAVE PARAGRAPH

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1 THREE -- TO INTERVIEW SHELBY DON HARRIS VIA THE TELEPHONE?

2 A. YES.

3 Q. AND DID HE INDICATE TO YOU THAT HE HAD ANY INVOLVEMENT IN
4 THE MACDONALD MURDERS?

5 A. AS I RECALL, NO.

6 Q. IF I COULD HAVE PARAGRAPH SIX ON PAGE 1183. IF YOU WOULD
7 READ PARAGRAPH SIX.

8 A. STARTING AT SIX?

9 Q. YES, PLEASE.

10 A. HE EMPHASIZED TO SHEDLICK THAT HE KNEW ABSOLUTELY NOTHING
11 ABOUT THE MACDONALD MURDERS AND VOLUNTEERED TO TAKE A
12 POLYGRAPH EXAMINATION IN TENNESSEE FOR SHEDLICK. HOWEVER,
13 SHEDLICK WANTED HARRIS TO COME TO NORTH CAROLINA FOR SUCH AN
14 EXAMINATION AND HARRIS DECLINED.

15 SHEDLICK ASKED HIM QUESTIONS ABOUT PEOPLE HE MAY
16 HAVE KNOWN WHILE IN FAYETTEVILLE, NORTH CAROLINA, AND A
17 BUSINESS ESTABLISHMENT, NAME UNRECALLED, THAT WAS A LOCAL
18 PIZZA SHOP IN FAYETTEVILLE, NORTH CAROLINA.

19 HARRIS READILY ADMITTED TO SHEDLICK THAT HE KNEW
20 CERTAIN INDIVIDUALS INCLUDING HELENA STOECKLEY AND GREG
21 MITCHELL AND THAT HE HAD FREQUENTED EITHER A PIZZA OR A DONUT
22 TYPE RESTAURANT.

23 Q. OKAY. THAT'S --

24 A. HE DOES --

25 Q. THANK YOU. THAT'S PLENTY. SO, HE INDICATED HE KNEW THEM

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1 FROM AROUND FAYETTEVILLE, IS THAT FAIR TO SAY?

2 A. THAT'S CORRECT.

3 Q. OKAY. AND --

4 MS. COOLEY: IF I COULD HAVE ONE MOMENT?

5 (PAUSE.)

6 BY MS. COOLEY:

7 Q. OKAY. AND SO SUFFICE IT TO SAY, YOU MADE EFFORTS TO
8 DETERMINE WHERE THESE INDIVIDUALS WERE ON THE NIGHT OF THE
9 MACDONALD MURDERS AND NONE OF THEM INDICATED INVOLVEMENT IN
10 ANY WAY TO YOU?

11 A. THAT'S CORRECT.

12 Q. MOST PARTICULARLY ALLEN MAZEROLLE WHO WAS IN JAIL?

13 A. THAT'S CORRECT. AND HE WAS INTERVIEWED BY FBI AGENTS IN
14 PORTLAND, MAINE.

15 Q. AND DID HE INDICATE TO THEM THAT HE HAD BEEN INVOLVED IN
16 ANY WAY?

17 A. NO.

18 Q. NOW, DID YOU HAVE OCCASION TO TALK TO TED GUNDERSON ABOUT
19 THE BOOK DEAL THAT HE HAD INVOLVING HELENA STOECKLEY AND THE
20 MACDONALD MURDERS?

21 A. I DON'T RECALL SPECIFIC DETAILS REGARDING THAT.

22 Q. BUT DO YOU RECALL THAT CONVERSATION AS PART OF --

23 A. YES.

24 Q. OKAY. MAY I HAVE PAGE 815 STARTING WITH THE THIRD
25 PARAGRAPH. AND IF YOU COULD JUST READ FOR US YOUR

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1 CONVERSATION WITH GUNDERSON.

2 A. MYSELF: HAVE YOU, SINCE THAT TIME, ACTUALLY ENTERED INTO
3 ANY CONTRACTUAL ARRANGEMENTS WITH HELENA STOECKLEY FOR A BOOK
4 OR A MOVIE TO BE WRITTEN REGARDING THE MACDONALD CASE?

5 GUNDERSON: I HAVE NOT, AND IN FACT I HAVE NOT
6 ENTERED INTO A CONTRACTUAL AGREEMENT WITH ANYBODY FOR THAT.
7 THAT IS MY NOT PRIMARY GOAL. MY PRIMARY GOAL HAS ALWAYS AND
8 WILL BE TO DETERMINE WHAT THE FACTS, TRUE FACTS, ARE IN THIS
9 INVESTIGATION.

10 MADDEN: HAVE YOU, YOURSELF, CONTACTED ANYONE
11 REGARDING THE POSSIBILITY OF A BOOK OR MOVIE REGARDING THIS
12 CASE?

13 GUNDERSON: YES, I HAVE. I'VE TALKED TO SEVERAL
14 PEOPLE ABOUT IT AND UH -- I KEEP SAYING UH, BUT THAT'S HIS
15 PHRASEOLOGY -- I HAVE AN ATTORNEY IN LOS ANGELES WHO HAS
16 MAINLY DONE THE WORK ON IT AND HE HAS TALKED TO SOME PEOPLE
17 ABOUT IT, BUT WE HAVE NOT ENTERED INTO ANY SORT OF AGREEMENT.
18 THAT IS NOT MY PRIMARY, THAT IS SECONDARY.

19 Q. IF I COULD HAVE PAGE 816. WE'RE GOING TO CONTINUE ON THE
20 NEXT PAGE. AND THE SIXTH PARAGRAPH STARTING WITH, UH, HAVE
21 YOU CONTACTED.

22 A. MADDEN: HAVE YOU CONTACTED ANYONE IN THE MOVIE INDUSTRY
23 IN CALIFORNIA REGARDING A POSSIBLE MOVIE REGARDING THE
24 MACDONALD CASE?

25 GUNDERSON: NO, I REALLY, I HAVE TALKED TO SOME

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1 PEOPLE ABOUT IT, BUT I HAVEN'T, YOU KNOW, I REALLY HAVEN'T
2 GONE INTO IT IN EARNEST OR I HAVEN'T REALLY SOUGHT ANYBODY
3 OUT. I JUST -- I MERELY HAD GENERAL DISCUSSIONS ABOUT IT.
4 AND SPENCER, SPENCER'S LOOKING INTO THE POSSIBILITY NOW. AND
5 AS I MENTIONED, THIS IS SECONDARY. THE PRIMARY, UH, CONCERN
6 IS THIS CASE, THE INVESTIGATION. AND MY MOTIVE FOR THIS
7 INVESTIGATION INITIALLY WAS IT WAS A CLIENT-BUSINESS
8 RELATIONSHIP.

9 Q. OKAY. YOU CAN STOP THERE. SO, HE HAD CONTACTED BOTH
10 PEOPLE IN THE MOVIE INDUSTRY AND IN THE BOOK INDUSTRY
11 REGARDING A BOOK AND A MOVIE IN THIS CASE?

12 A. YES.

13 Q. OKAY. DID YOU ALSO ASK HIM ABOUT ANY CONTACTS THAT HE
14 KNEW ABOUT PRINCE BEASLEY HAVING WITH FRED BOST REGARDING A
15 BOOK?

16 A. I DON'T REMEMBER WHETHER BEASLEY -- I'M SORRY, WHETHER
17 GUNDERSON DISCUSSED ANY DEAL WITH BEASLEY OR BOST, BUT I DO
18 REMEMBER BEASLEY AT SOME POINT IN TIME SAYING THAT HE HAD
19 TRANSPORTED FRED BOST TO SENECA, SOUTH CAROLINA, TO HAVE A
20 DISCUSSION WITH HELENA ABOUT THE POSSIBILITY OF A BOOK BEING
21 PUBLISHED.

22 Q. AND DID YOU DISCUSS WITH HIM THE PROCEEDS SIMILAR TO THE
23 CONVERSATION YOU HAD WITH HELENA ABOUT THE PROCEEDS FOR THAT
24 BOOK?

25 A. I'M SORRY, WOULD YOU REPEAT THAT?

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1 Q. DID YOU DISCUSS WITH BEASLEY THE PROCEEDS FOR THAT BOOK
2 SIMILAR TO HOW YOU HAD HAD THAT DISCUSSION WITH HELENA ABOUT
3 THE PROCEEDS?

4 A. YES.

5 Q. IF I COULD HAVE PAGE 847. AND STARTING WITH THE SECOND
6 PARAGRAPH.

7 A. MADDEN: BUT CERTAINLY THE MACDONALD CASE.

8 BEASLEY: OF COURSE, CERTAINLY I IMAGINE IT WOULD
9 COME UP THERE, YES, SIR, IT WOULD.

10 MADDEN: WHAT PERCENTAGE OR PROFIT DO YOU EXPECT TO
11 RECEIVE OR SPECIFICALLY WHAT IS YOUR CONTRACTUAL AGREEMENTS,
12 UH, WHAT --

13 BEASLEY: A PERCENTAGE OF 20 PERCENT FOR EACH.

14 MADDEN: 20 PERCENT YOU WOULD RECEIVE FROM THE BOOK?

15 BEASLEY: AND HER ALSO.

16 AND HELENA?

17 RIGHT. BEASLEY, I'M SORRY, RIGHT.

18 MADDEN: AND WOULD MR. BOST RETAIN THE REMAINING
19 PERCENTAGE?

20 BEASLEY: THAT'S CORRECT.

21 Q. OKAY. THANK YOU. SO, THAT'S IN ACCORDANCE WITH THE
22 CONVERSATION YOU HAD WITH HELENA ABOUT THE PERCENTAGES FROM
23 THE BOOK?

24 A. YES.

25 Q. OKAY. NOW, DID YOU ALSO TALK TO MR. GUNDERSON AND MR.

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1 BEASLEY ABOUT CERTAIN PIECES OF INFORMATION THAT THEY FELT
2 CORROBORATED HELENA'S STORY?

3 A. I'M SURE THAT I DID, YES.

4 Q. NOW, DID MR. GUNDERSON TALK TO YOU ABOUT ALLEN MAZEROLLE
5 BEING THE PERSON IN THE CAR THAT NIGHT?

6 A. I DON'T SPECIFICALLY REMEMBER, BUT I THINK SO, YES.

7 Q. AND LET ME HAVE PAGE 861, PLEASE. DID MR. GUNDERSON TALK
8 TO YOU -- STARTING WITH THE SECOND PARAGRAPH, UH, WE ASKED
9 HELENA. DID MR. GUNDERSON TALK TO YOU ABOUT SOME HAIR THAT
10 WAS FOUND IN COLETTE'S HAND? IF YOU COULD READ THAT.

11 A. CAN YOU GO BACK A LITTLE BIT?

12 Q. SURE. WE CAN GO UP TO THE TOP OF THE PAGE.

13 A. OKAY. WHAT WOULD YOU LIKE ME TO DO?

14 Q. IF YOU WOULD START READING WITH, UH, WE ASKED HELENA.

15 A. GUNDERSON: HELENA STOECKLEY HAS MADE THE SAME STATEMENT,
16 HAD MADE THE SAME STATEMENT TO US ABOUT THE CAR MAKING A U-
17 TURN AND GOING BACK TOWARD THE MACDONALD HOUSE.

18 UH, WE ASKED HELENA ABOUT THE HAIR STRANDS THAT WERE
19 FOUND IN COLETTE'S RIGHT HAND. UH, AS I SAY, I RECALL THIS IS
20 FROM MEMORY NOW SO I CAN'T SAY FOR SURE, BUT, AND I BELIEVE, I
21 KNOW THIS IS IN MY REPORT, OUR REPORT, UH, SHE TOLD US, UH,
22 BRUCE, SHE THOUGHT IT WAS BRUCE FOWLER, BUT BEFORE EARLIER SHE
23 TOLD, SHE HAD TOLD PRINCE THAT SHE THOUGHT IT WAS GREG
24 MITCHELL, AND SHE MADE THE STATEMENT TO PRINCE BEASLEY AND
25 THAT SHE SAW GREG MITCHELL ON TOP OF COLETTE STRUGGLE WITH

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1 COLETTE, BUT ONE OF THE AREAS LIKE THIS, THIS CONCERNS ME
2 BECAUSE IT SEEMS TO ME LIKE SOMEBODY SHOULD ATTEMPT TO LOCATE
3 THESE PEOPLE AND COMPARE THE HAIR STRANDS FOUND IN COLETTE'S
4 HAND WITH THE KNOWN SPECIMENS --

5 Q. OKAY. THAT'S ENOUGH. WE CAN STOP THERE. AND ARE YOU
6 AWARE THAT LATER IN THE INVESTIGATION THOSE HAIRS IN COLETTE'S
7 HAND WERE ACTUALLY COMPARED TO SAMPLES FROM GREG MITCHELL AS
8 WELL AS FROM MR. MACDONALD AND COLETTE?

9 A. THAT IS MY RECOLLECTION.

10 Q. AND THAT THE HAIR IN ONE OF COLETTE'S HANDS WAS
11 CONSISTENT WITH HER OWN AND THE HAIR IN THE OTHER HAND WAS DR.
12 MACDONALD'S?

13 A. I DON'T SPECIFICALLY RECALL THAT INFORMATION.

14 Q. WERE YOU AWARE THAT NEITHER OF THOSE SAMPLES MATCHED GREG
15 MITCHELL?

16 A. TO THE BEST OF MY RECOLLECTION, YES.

17 Q. NOW, DURING THIS ENTIRE INTERVIEW YOU HAD WITH TED
18 GUNDERSON AND WITH BEASLEY, IT'S A FAIR STATEMENT THAT YOU
19 COVERED A LOT OF DIFFERENT TOPICS WITH THEM REGARDING THE
20 MACDONALD MURDERS?

21 A. YES.

22 Q. AND, IN FACT, YOU SAID, I BELIEVE, 80-SOMETHING PAGES OF
23 TRANSCRIPT?

24 A. 78, I BELIEVE.

25 Q. 78. AND AT NO TIME DURING ANY OF THAT INTERVIEW DID

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1 EITHER OF THEM EVER MENTION TO YOU HELENA HAD TOLD THEM JIM
2 BLACKBURN THREATENED HER DURING THE TRIAL?

3 A. THAT'S CORRECT.

4 Q. AND YOU ALSO HAD OCCASION TO INTERVIEW HELENA'S MOTHER?

5 A. YES.

6 Q. AND THAT CAME SOMETIME AFTER YOUR INTERVIEW WITH HELENA,
7 IS THAT RIGHT?

8 A. THAT'S CORRECT.

9 Q. OKAY. DO YOU REMEMBER THE DATE OF THAT INTERVIEW?

10 A. NOT OFFHAND, NO.

11 Q. DID YOU PREPARE NOTES OF THAT INTERVIEW?

12 A. YES.

13 Q. AND DID YOU PREPARE HANDWRITTEN NOTES?

14 A. I'M SORRY?

15 Q. DID YOU PREPARE HANDWRITTEN NOTES?

16 A. YES.

17 Q. IF I MAY HAVE GOVERNMENT 2333, AND IF WE COULD JUST PAGE
18 THROUGH. AND DO RECOGNIZE WHOSE HANDWRITING THIS IS?

19 A. THAT'S MY HANDWRITING.

20 Q. AND DO YOU RECOGNIZE THIS DOCUMENT AS NOTES THAT YOU TOOK
21 DURING YOUR INTERVIEW WITH HELENA STOECKLEY'S MOTHER, HELENA
22 STOECKLEY SENIOR?

23 A. YES.

24 (GOVERNMENT EXHIBIT NUMBER 2333
25 WAS IDENTIFIED FOR THE RECORD.)

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1 Q. AND DID YOU LATER WRITE THOSE NOTES INTO A MORE LEGIBLE
2 FORMAT, SO TO SPEAK?

3 A. YES.

4 Q. IF I MAY HAVE 2334, AND IF YOU COULD JUST PAGE THROUGH.
5 AND DO YOU RECOGNIZE THESE NOTES AS WELL?

6 A. YES.

7 Q. AND ARE THESE THE LEGIBLE COPIES OF YOUR NOTES?

8 A. YES.

9 (GOVERNMENT EXHIBIT NUMBER 2334
10 WAS IDENTIFIED FOR THE RECORD.)

11 Q. AND DID YOU TURN THESE OVER TO AGENT CHEROKE, WHO ALSO
12 WORKS WITH THE FBI?

13 A. YES.

14 Q. AND WERE THESE NOTES OF YOUR TRANSCRIBED INTO WHAT WE
15 WOULD CALL A 302 OR A REPORT OF INCIDENT?

16 A. YES.

17 Q. IF I MAY HAVE 2332. AND DO YOU RECOGNIZE THIS AS THE
18 REPORT OF INCIDENT OF YOUR INTERVIEW WITH MS. STOECKLEY
19 SENIOR?

20 A. YES, MA'AM.

21 (GOVERNMENT EXHIBIT NUMBER 2332
22 WAS IDENTIFIED FOR THE RECORD.)

23 Q. AND WHAT DATE DID YOU INTERVIEW HER? DOES IT REFLECT ON
24 YOUR 302?

25 A. SEPTEMBER -- I'M SORRY.

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1 Q. WHAT DATE DID YOU INTERVIEW MS. STOECKLEY?

2 A. SEPTEMBER -- I'M SORRY, I'M NOT FOLLOWING YOU.

3 Q. IF YOU COULD READ STARTING AT THE TOP.

4 A. I'M SORRY?

5 Q. IF YOU COULD JUST READ IT STARTING AT THE TOP.

6 A. REVIEW OF CAPTIONED CASE MATERIAL REVEALED A HANDWRITTEN
7 DRAFT OF AN INTERVIEW REPORT FORM FD-302 REFLECTING INTERVIEW
8 OF HELENA W. STOECKLEY ON JULY 19TH, 1984.

9 Q. OKAY. AND THEN IT WAS TRANSCRIBED ON SEPTEMBER 19TH OF
10 2007, IS THAT RIGHT?

11 A. THAT'S CORRECT.

12 Q. NOW, FAIR TO SAY AT THE TIME THAT YOU INTERVIEWED MS.
13 STOECKLEY SENIOR, THAT WAS A ROUTINE INTERVIEW JUST LIKE THE
14 OTHER ONES YOU CONDUCTED IN THIS CASE?

15 A. YES.

16 Q. AND THAT YOU WERE UNAWARE THAT IT WOULD LATER COME TO BE
17 THE SUBJECT OF THIS LITIGATION?

18 A. THAT'S CORRECT.

19 Q. AND SO, WHAT WAS YOUR PURPOSE IN INTERVIEWING HER AT THAT
20 POINT IN TIME?

21 A. JUST TO DETERMINE WHETHER SHE HAD ANY KNOWLEDGE REGARDING
22 THE MURDERS EITHER ON A PERSONAL BASIS OR FROM HER DAUGHTER,
23 HELENA STOECKLEY.

24 Q. NOW, THIS DATE, JULY 19TH, 1984, THAT IS AFTER HELENA
25 DIED IN JANUARY OF '83, IS THAT RIGHT?

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1 A. THAT'S CORRECT.

2 Q. AND SO, AT THE POINT THAT YOU INTERVIEWED HER MOTHER,
3 HELENA WAS ALREADY DECEASED?

4 A. THAT'S CORRECT.

5 Q. AND IF YOU WOULD, STARTING WITH THE QUOTATION MARKS, READ
6 THE SUBSTANCE OF YOUR REPORT REGARDING YOUR INTERVIEW WITH MS.
7 STOECKLEY SENIOR.

8 A. MRS. HELENA W. STOECKLEY, FAYETTEVILLE, NORTH CAROLINA,
9 TELEPHONE NUMBER 919-484-0459, WAS CONTACTED AND ADVISED OF
10 THE IDENTITY OF THE INTERVIEWING AGENT, AND THEREAFTER ADVISED
11 AS FOLLOWS: MRS. STOECKLEY WAS THE MOTHER OF HELENA
12 STOECKLEY, WHO IS DECEASED. SHE HAD BEEN PREVIOUSLY INTERVIEW
13 ON ONE OCCASION BEFORE BY A GOVERNMENT AGENT, IDENTITY AND
14 AGENCY UNRECALLED.

15 SHE WAS SUBPOENAED -- SHE MEANING THE DAUGHTER
16 HELENA -- WAS SUBPOENAED TO THE MACDONALD TRIAL BY THE DEFENSE
17 TEAM AND WENT TO RALEIGH, NORTH CAROLINA, WHERE SHE WAS
18 INTERVIEWED BY A FEMALE ATTORNEY, NAME UNRECALLED, WHO WAS A
19 LEGAL ASSISTANT TO THE DEFENSE ATTORNEY, BERNARD SEGAL. MRS.
20 STOECKLEY STATED THAT SHE TOLD THE ATTORNEY -- HELENA AGAIN --
21 THAT SHE DID NOT KNOW ANYTHING ABOUT THE MURDERS.

22 SHE RECALLED THAT WHEN HELENA CAME HOME AFTER THE
23 MACDONALD MURDERS, HELENA TOLD HER IN A PERFECTLY SOBER NON-
24 DRUGGED STATE THAT HELENA KNEW ABSOLUTELY NOTHING ABOUT THE
25 MACDONALD MURDERS.

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1 IN 1970, AT THE TIME OF THE MACDONALD MURDERS,
2 HELENA WAS NOT LIVING AT HOME WITH THE FAMILY. SHORTLY BEFORE
3 THE MURDERS, HELENA TOLD HER SHE HAD A MAN NAMED MAZEROLLE
4 ARRESTED. HELENA WAS SNITCHING FOR DETECTIVES STUDER AND
5 BEASLEY. MRS. STOECKLEY TOLD HELENA AND (SIC) HER PARENTS
6 THEY COULD NOT CONDONE HER DRUG USAGE. AS LONG AS SHE
7 CONTINUED THIS ACTIVITY, HELENA WAS NOT ALLOWED TO LIVE AT THE
8 HOUSE.

9 HELENA THEN MOVED FROM THE HOUSE INTO ANOTHER
10 RESIDENCE IN FAYETTEVILLE, NORTH CAROLINA, WITH OTHER
11 INDIVIDUALS, NAMES UNKNOWN.

12 I'M SORRY, COULD YOU GO BACK A LITTLE? NO, THE
13 OTHER WAY. WHOA.

14 AFTER THE MACDONALD MURDERS, HER HUSBAND SAW HELENA
15 AT WHICH TIME HELENA TOLD HER HUSBAND THAT SHE DID NOT KNOW
16 ANYTHING ABOUT THE MURDERS.

17 ACCORDING TO MRS. STOECKLEY, HER HUSBAND TOLD HELENA
18 TO TELL THE TRUTH. MRS. STOECKLEY WAS OF THE OPINION THAT
19 HELENA COULD NOT HAVE BEEN PRESENT OR COMMITTED THEM AS SHE
20 WAS NOT VIOLENT AND LOVED CHILDREN.

21 STOECKLEY WAS RELUCTANT TO DISCUSS ADDITIONAL
22 INFORMATION BECAUSE HELENA WAS NOT TREATED FAIRLY BY BEASLEY
23 OR TED GUNDERSON, A PRIVATE INVESTIGATOR.

24 SHE WAS OF THE OPINION THAT HELENA'S MIND WAS QUOTE,
25 GONE, UNQUOTE, ESPECIALLY WHEN UNDER THE INFLUENCE OF DRUGS

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1 AND/OR ALCOHOL. WHEN DOING DRUGS, HELENA THOUGHT ABOUT THE
2 MACDONALD CASE, BUT SHE WAS NOT INVOLVED.

3 HELENA TOLD HER THAT DURING THE TRIAL QUOTE, THEY,
4 UNQUOTE, WANTED HER TO TAKE DRUGS TO HELP HER REMEMBER
5 DETAILS. MRS. STOECKLEY WAS OF THE OPINION THAT HELENA WAS
6 USED, BUT WOULD NOT STATE BY WHOM. SHE NOTED THAT HELENA WAS
7 BEATEN UP DURING THE MACDONALD TRIAL IN RALEIGH, NORTH
8 CAROLINA, BUT WAS OF THE OPINION IT WAS NOT BY HER BOYFRIEND,
9 ERNEST DAVIS.

10 MRS. STOECKLEY SAVED ALL THE NEWSPAPER ARTICLES
11 RELATIVE TO THE MACDONALD CASE. AFTER THE MURDERS, HELENA
12 RETURNED HOME. MRS. STOECKLEY THEN ALLOWED HELENA TO READ ALL
13 OF THE NEWSPAPER ARTICLES CONCERNING THE MACDONALD CASE. MRS.
14 STOECKLEY BELIEVES HELENA LEFT THEIR HOME THE FALL OF 1970.
15 MRS. STOECKLEY'S KNOWLEDGE ABOUT THE CASE CAME FROM THE
16 ARTICLES SHE READ IN THE NEWSPAPER.

17 HELENA HAD BEEN TRYING TO QUIT DRUGS SINCE 1970, AND
18 AFTER HER RELEASE FROM DORTHEA DIX HOSPITAL, A MENTAL HEALTH
19 HOSPITAL IN RALEIGH, NORTH CAROLINA, BELIEVED TO BE SOMETIME
20 IN 1976, 1977, HELENA WAS STRUGGLING AT DORTHEA DIX FOR
21 ALCOHOLISM AND MENTAL PROBLEMS. HELENA WAS NEVER RIGHT.

22 HELENA ENJOYED THE ATTENTION FROM THE MACDONALD
23 CASE. SHE WAS OF THE OPINION THE MACDONALD CASE WOULD HAVE
24 BEEN RESOLVED IF NOT FOR THE PERSISTENCE OF PRINCE BEASLEY,
25 WHO WOULD NOT LEAVE HELENA ALONE. MRS. STOECKLEY STATED THAT

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1 SHE NEVER MET BEASLEY, BUT TALKED TO HIM ON THE TELEPHONE WHEN
2 HE WOULD CALL HELENA. BEASLEY CALLED HELENA FREQUENTLY WHEN
3 HELENA WAS INFORMING.

4 HELENA TOLD HER THAT WHEN SHE TESTIFIED AT THE
5 MACDONALD TRIAL, SHE TOLD EVERYTHING SHE KNEW AND TOLD THE
6 TRUTH.

7 HELENA TOLD MRS. STOECKLEY THAT SHE WAS A HEAVY DRUG
8 USER, ESPECIALLY WHEN SHE WAS IN NASHVILLE, TENNESSEE. HELENA
9 HAD A LOT OF ATTENTION FROM INVESTIGATORS AND ATTORNEYS.

10 BEFORE HER DEATH HELENA WAS IN TERRIBLE PHYSICAL
11 SHAPE. IT WAS ABOUT THIS TIME THAT HELENA GAVE A STATEMENT TO
12 A PRIVATE INVESTIGATOR FROM CALIFORNIA. WHEN MRS. STOECKLEY
13 ASKED HELENA WHY SHE GAVE A STATEMENT, HELENA REPLIED SHE
14 THOUGHT SHE WAS AT THE MURDER SCENE.

15 Q. NOW, WHEN YOU TOOK THIS STATEMENT FROM MRS. STOECKLEY
16 SENIOR, HELENA STOECKLEY SENIOR, WHERE DID YOU INTERVIEW HER?

17 A. AT HER RESIDENCE.

18 Q. OKAY. AND HOW DID SHE APPEAR TO YOU? HOW WERE HER
19 FACULTIES?

20 A. SHE WAS AN ELDERLY WOMAN AT THAT TIME. SHE APPEARED TO
21 BE NORMAL.

22 Q. DID SHE HAVE ANY TROUBLE RECALLING THESE DETAILS WHEN YOU
23 TALKED WITH HER?

24 A. NOT THAT I RECALL.

25 Q. AND SHE COULD SEE OKAY AT THAT POINT IN TIME?

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1 A. YES.

2 Q. AND SHE WAS STILL LIVING AT HOME FULL TIME?

3 A. THEN?

4 Q. THEN.

5 A. YES.

6 Q. AT THE TIME OF THE INTERVIEW.

7 A. YES.

8 Q. OKAY. AND DURING YOUR ENTIRE INTERVIEW WITH HER, YOU
9 TALKED SOME WITH HER ABOUT HELENA'S TESTIMONY AT TRIAL AND
10 WHAT HELENA HAD TOLD HER ABOUT THAT, CORRECT?

11 A. YES.

12 Q. AND AT ANY TIME DID SHE EVER TELL YOU THAT HELENA HAD
13 TOLD HER JIM BLACKBURN THREATENED HER?

14 A. NO, MA'AM.

15 Q. OR ANY OTHER PROSECUTOR?

16 A. NO.

17 Q. AND HELENA STOECKLEY SENIOR GAVE ANOTHER AFFIDAVIT MUCH
18 LATER IN HER LIFE WHEN SHE WAS LIVING IN A NURSING HOME AND
19 SHE -- AT THIS POINT, SOMEONE WROTE IN THE AFFIDAVIT THAT ON
20 TWO SEPARATE OCCASIONS MY DAUGHTER CONFIDED IN ME THAT SHE WAS
21 PRESENT IN THE MACDONALD HOUSE DURING THE MURDERS ON FEBRUARY
22 17TH. SHE DIDN'T SAY ANYTHING LIKE THAT TO YOU, DID SHE?

23 A. NO.

24 Q. AND YOU INTERVIEWED HER IN '84, SO IN THE EARLY '80S?

25 A. IN WHAT?

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1 Q. IN '84.

2 A. YES.

3 Q. SO, IT WAS CLOSER TO THE TIME OF THE TRIAL AND OF THE
4 INCIDENT?

5 A. YES.

6 Q. AND MS. STOECKLEY SENIOR DIDN'T SAY ANYTHING TO YOU
7 DURING YOUR INTERVIEW ABOUT KNOWING -- THAT HELENA KNEW THERE
8 WAS SOME SORT OF HOBBY HORSE IN A CHILD'S BEDROOM, DID SHE?

9 A. NO.

10 Q. AND --

11 MS. COOLEY: WELL, I HAVE NO FURTHER QUESTIONS.
12 THANK YOU.

13 THE COURT: MR. WIDENHOUSE.

14 MR. WIDENHOUSE: YOUR HONOR, I HAVE NO QUESTIONS OF
15 AGENT MADDEN.

16 THE COURT: YOU MAY STEP DOWN. YOU MAY STEP DOWN,
17 MR. MADDEN.

18 THE WITNESS: THANK YOU.

19 MS. COOLEY: YOUR HONOR, MAY MR. MADDEN BE EXCUSED
20 FROM HIS SUBPOENA?

21 MR. WIDENHOUSE: NO OBJECTION, YOUR HONOR.

22 THE COURT: YES.

23 MS. COOLEY: THANK YOU.

24 MR. BRUCE: YOUR HONOR, WE'RE READY FOR OUR NEXT
25 WITNESS.

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1 THE COURT: YES, SIR.

2 MR. BRUCE: WE'LL CALL JOE MCGINNISS.

3 (PAUSE.)

4 MR. BRUCE: YOUR HONOR, I THINK THAT WENT A LITTLE
5 FASTER THAN WE ANTICIPATED AND SO HE'S UPSTAIRS SO IT'S GOING
6 TO TAKE A MINUTE.

7 THE COURT: SURE.

8 (PAUSE.)

9 **JOE MCGINNISS, GOVERNMENT WITNESS, SWORN**

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

11 BY MR. BRUCE:

12 Q. WOULD YOU STATE YOUR NAME, PLEASE?

13 A. JOE MCGINNISS.

14 Q. MR. MCGINNISS, WHERE ARE YOU FROM ORIGINALLY?

15 A. I WAS BORN IN NEW YORK CITY.

16 Q. AND DID YOU ATTEND COLLEGE?

17 A. I DID. I WENT TO HOLY CROSS COLLEGE IN WORCHESTER,
18 MASSACHUSETTS, AND GRADUATED IN 1964.

19 Q. AFTER COLLEGE, WHAT CAREER DID YOU PURSUE?

20 A. I STARTED WORKING FOR NEWSPAPERS. I GOT A JOB FIRST WITH
21 MY HOME TOWN PAPER IN COLCHESTER, NEW YORK. THEN I WAS HIRED
22 BY THE *WORCESTER TELEGRAM* IN MASSACHUSETTS. THEN IN 1965, THE
23 *PHILADELPHIA BULLETIN* HIRED ME AS A SPORTS WRITER. IN THE
24 FALL OF '66, I MOVED OVER TO THE *PHILADELPHIA INQUIRER* WHERE I
25 WROTE A COLUMN THREE DAYS A WEEK ABOUT WHATEVER WAS HAPPENING.

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1 Q. YOU MIGHT NEED TO GET A LITTLE CLOSER TO THE MICROPHONE.

2 A. SURE THING. HOW ABOUT THAT?

3 Q. OKAY. SO, YOU INDICATED THAT YOU STARTED WRITING A
4 COLUMN FOR THE *PHILADELPHIA INQUIRER*?

5 A. THAT'S CORRECT.

6 Q. AND WHAT SUBJECTS DID YOU COVER?

7 A. WELL, IT WAS THREE DAYS A WEEK, ANYTHING I WANTED. AND
8 IT WAS LARGELY BASED IN PHILADELPHIA, BUT GRADUALLY THE SCOPE
9 EXPANDED. I WENT TO VIETNAM TO WRITE THE COLUMN IN THE FALL
10 OF 1967. I WAS OVER THERE FOR A COUPLE OF MONTHS. GOT BACK
11 JUST BEFORE THE TET OFFENSIVE BEGAN.

12 AND THEN IN 1968, I WENT TO PARIS TO COVER THE PEACE
13 TALKS, WHICH COINCIDED WITH THE MASS OF STUDENT RIOTS IN
14 PARIS. AND THAT WAS A VERY TOUGH SPRING. MARTIN LUTHER KING
15 WAS ASSASSINATED THAT SPRING. I FLEW DOWN TO MEMPHIS AND WENT
16 TO THE MOTEL WHERE HE'D BEEN SHOT AND KILLED AND THEN WENT TO
17 ATLANTA FOR HIS FUNERAL.

18 AND THEN, OF COURSE, THERE WERE MANY MORE RIOTS,
19 WHICH I WAS IN WASHINGTON AND PHILADELPHIA WRITING ABOUT THEM.

20 AND THEN IN JUNE, ROBERT KENNEDY WAS ASSASSINATED.
21 ACTUALLY, I WAS ON THE FIFTH FLOOR OF THE GOOD SAMARITAN
22 HOSPITAL IN LOS ANGELES WHEN HE DIED. I ATTENDED HIS FUNERAL
23 AND RODE THE TRAIN DOWN TO ARLINGTON CEMETERY.

24 AND, YOU KNOW, I WOULD WRITE ABOUT WHATEVER SEEMED
25 INTERESTING. THERE WAS A LOT OF -- 1968 WAS A HECK OF A YEAR.

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1 Q. AT SOME POINT, DID YOU BEGIN TO WRITE BOOKS AS WELL AS
2 NEWSPAPER ARTICLES?

3 A. WELL, I DID. I TOOK A WEEK OFF AFTER THE ROBERT KENNEDY
4 FUNERAL, BURIAL. I HAD JUST BEEN FLAT OUT WORKING FOR A WEEK
5 WITHOUT SLEEP. I TOOK A WEEK OFF AND I WENT UP TO NEW YORK TO
6 DO A PIECE FOR *TV GUIDE* MAGAZINE ABOUT A NEW SPORTSCASTER WHO
7 WAS ATTRACTING ATTENTION, A GUY NAMED HOWARD COSELL.

8 I WOUND UP STAYING THE NIGHT WITH HOWARD AT HIS
9 HOUSE UP IN POUND RIDGE, NEW YORK, AND THE NEXT MORNING WHEN
10 RIDING TO THE STAMFORD CONNECTICUT TRAIN STATION TO GET THE
11 TRAIN BACK INTO THE CITY, AND IT WAS A CAR POOL, AND THERE WAS
12 -- THE GUY DRIVING IT WAS DRIVING A LITTLE VOLKSWAGEN BUG AND
13 EVERYBODY IN IT WAS AT LEAST SIX FOOT THREE. HOWARD WAS A
14 TALL FELLOW. AND THE REASON IT WAS A VOLKSWAGEN BUG WAS THE
15 MAN DRIVING IT WAS ED RUSSELL, WHO WAS THE VICE PRESIDENT OF
16 DOYLE DANE BERNBACH, THE ADVERTISING AGENCY THAT HANDLED
17 VOLKSWAGEN. AND MR. RUSSELL LEANED ACROSS TO HOWARD AND SAID,
18 HOWARD, GREAT NEWS, WE JUST LANDED THE HUMPHREY ACCOUNT. AND
19 I'M IN THE BACK SEAT AND I JUST SAID WHAT'S THE HUMPHREY
20 ACCOUNT? AND RUSSELL -- MR. RUSSELL SAID, WELL, WE'RE GOING
21 TO SELL HUMPHREY JUST THE WAY WE SELL VOLKSWAGEN AND AVIS RENT
22 A CAR AND HEINZ KETCHUP. WE'RE GOING TO ADVERTISE HIM JUST
23 LIKE HE'S ANOTHER CONSUMER PRODUCT. AND THAT'S THE WAY
24 POLITICS IS NOW. WELL, THAT WAS NEWS TO ME. I DIDN'T KNOW
25 CANDIDATES HAD ADVERTISING AGENCIES.

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1 BY CHANCE, I WAS SCHEDULED TO HAVE LUNCH THAT DAY
2 WITH AN EDITOR FROM SIMON AND SCHUSTER WHO WANTED TO TALK TO
3 ME ABOUT WRITING BOOKS. AND I SAT DOWN, I SAID, WELL, I HAVE
4 AN IDEA FOR A BOOK I JUST FOUND THIS MORNING. WE CAN CALL IT
5 THE SELLING OF THE PRESIDENT, NOT THE MAKING OF THE PRESIDENT,
6 BUT THE SELLING OF THE PRESIDENT BECAUSE HUMPHREY'S GOT AN AD
7 AGENCY AND I'LL BET IF HUMPHREY DOES NIXON ALSO DOES. SO, I
8 CHECKED INTO IT AND, OF COURSE, NIXON DID TOO.

9 SO, I WROTE *THE SELLING OF THE PRESIDENT*. THAT WAS
10 MY FIRST BOOK AND THAT'S HOW THAT STARTED. NOW, SUBSEQUENTLY,
11 ALL TOGETHER, I'VE WRITTEN 12 BOOKS AND WELL AT WORK ON MY
12 13TH RIGHT NOW.

13 Q. AND THAT FIRST BOOK WAS *THE SELLING OF THE PRESIDENT*
14 *1968*?

15 A. THAT'S CORRECT.

16 Q. AND HOW DID IT DO?

17 A. OH, IT DID REAL WELL. IT WAS NUMBER ONE ON THE *NEW YORK*
18 *TIMES* LIST FOR MANY WEEKS. IT WAS A BIG SUCCESS.

19 Q. AND PRIOR TO YOUR ASSOCIATION WITH THE MACDONALD CASE,
20 WHAT OTHER BOOKS HAD YOU WRITTEN OTHER THAN *SELLING THE*
21 *PRESIDENT*?

22 A. WELL, I WROTE MY ONE NOVEL OR, AS WILLIAM BUCKLEY PUTS
23 IT, I COMMITTED ONE NOVEL CALLED *THE DREAM TEAM*, WHICH WAS NOT
24 SO SUCCESSFUL COMMERCIALY, ALTHOUGH IT GOT SOME NICE REVIEWS.

25 THEN I WROTE A BOOK CALLED *HEROS* ABOUT WHY AMERICA

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1 DIDN'T HAVE NATIONAL HEROS ANYMORE THE WAY THE COUNTRY ONCE
2 HAD.

3 AND THEN I WENT TO ALASKA. THE OIL PIPE LINE WAS
4 BEING BUILT AND I SAW THIS AS THE LAST DAYS OF AMERICA'S LAST
5 FRONTIER. SO, I WENT OUT THERE AND SPENT A YEAR LIVING IN
6 ALASKA TO WRITE A BOOK CALLED *GOING TO EXTREMES*.

7 SO, I HAD WRITTEN THOSE FOUR BOOKS BEFORE -- IN
8 FACT, I MAILED THE MANUSCRIPT OF *GOING TO EXTREMES* TO MY
9 PUBLISHER IN NEW YORK IN JUNE ON THE WAY TO THE AIRPORT WHERE
10 I WAS FLYING TO LOS ANGELES BECAUSE I HAD TAKEN A POSITION AS
11 A WRITER IN RESIDENCE AT THE *LOS ANGELES HERALD EXAMINER*.

12 AND THAT MEANT FOR TWO OR THREE MONTHS THEY WOULD
13 BRING IN SOMEBODY WHO DIDN'T NORMALLY WRITE NEWSPAPER COLUMNS
14 FROM ANOTHER PART OF THE COUNTRY AND THEY WOULD JUST GIVE A
15 FRESH TAKE ON WHAT WAS HAPPENING IN AND AROUND L.A.

16 SO, I ARRIVED AND FACED WITH THE TASK OF WRITING
17 THREE DIFFERENT PIECES EVERY WEEK I STARTED TO PAY ATTENTION
18 TO WHAT WAS HAPPENING.

19 AND ONE OF THE THINGS I NOTICED, I SAW -- I PICKED
20 UP THE NEWSPAPER AND SAW THAT THE LONG BEACH POLICE OFFICERS
21 ASSOCIATION WAS HOLDING A FUND RAISING DINNER FOR JEFFREY
22 MACDONALD WHO WAS GOING BACK TO NORTH CAROLINA TO BE TRIED FOR
23 THE MURDER OF HIS WIFE AND KIDS. I SAID, OH, MY GOD, IS THAT
24 CASE STILL GOING ON? EVEN BACK IN 1979, IT SEEMED LIKE A LONG
25 TIME. AND I THOUGHT THAT WOULD BE AN INTERESTING THING, YOU

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1 KNOW, TO LEARN MORE ABOUT. I WONDER HOW THIS GUY IS FARING
2 WITH ALL THIS.

3 SO, I CALLED HIM UP AND WE TALKED ON THE PHONE AND I
4 WENT DOWN TO SEE HIM, HAD BREAKFAST WITH HIM, AND WE TALKED
5 FOR A COUPLE OF HOURS. AND HE ASKED ME IF I'D EVER CONSIDER
6 WRITING A BOOK ABOUT HIM AND HIS CASE. AND THAT WAS OUR FIRST
7 CONVERSATION ABOUT IT.

8 UNBEKNOWNST TO ME AT THE TIME, AS SOON AS HE
9 FINISHED BREAKFAST WITH ME, HE GOT IN HIS CAR AND HE DROVE UP
10 TO SEE JOSEPH WAMBAUGH AND HAVE LUNCH WITH WAMBAUGH AND HE
11 MADE THE EXACT SAME PITCH TO JOE WAMBAUGH AS HE DID WITH ME.

12 Q. WHO IS JOSEPH WAMBAUGH?

13 A. JOSEPH WAMBAUGH IS A FORMER LOS ANGELES POLICE HOMICIDE
14 DETECTIVE WHO HAS WRITTEN A NUMBER OF BEST SELLING BOOKS BOTH
15 FICTION AND NON-FICTION. HE WAS A VERY BIG NAME AT THE TIME
16 AND I THINK QUITE A BIT BIGGER THAN MINE. AND I THINK HE WAS
17 MACDONALD'S FIRST CHOICE, BUT WAMBAUGH WANTED NOTHING TO DO
18 WITH IT.

19 Q. WELL, WHAT WAS MACDONALD'S PITCH TO YOU ABOUT WRITING A
20 BOOK?

21 A. HE SAID THAT IF I CAME TO THE TRIAL, I COULD HAVE
22 COMPLETE ACCESS TO HIM AND HIS DEFENSE TEAM THROUGHOUT THE
23 WHOLE PROCEEDING AND THEN AFTERWARDS I COULD HAVE COMPLETE
24 ACCESS TO ALL THEIR FILES, ALL HIS PAPERS, ANYTHING TO DO WITH
25 THE CASE. AND I SAID, WELL, THAT WOULD BE WONDERFUL, BUT ONE

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1 THING ELSE I NEED AND THAT IS THE COMPLETE FREEDOM TO TELL THE
2 STORY ANY WAY I CHOOSE. IT WOULDN'T BE YOUR STORY, IT
3 WOULDN'T BE YOUR BOOK THAT I'M A GHOST WRITER, THIS WOULD BE
4 MY BOOK AND YOU WOULD HAVE NO CONTROL OVER THE CONTENT. AND,
5 IN FACT, YOU WOULDN'T EVEN GET TO SEE THE MANUSCRIPT UNTIL IT
6 WAS PUBLISHED. AND HE SAID, OH, THAT'S FINE, I KNOW A REAL
7 WRITER WOULDN'T SETTLE FOR ANYTHING LESS THAN THAT.

8 HIS CONCERN WAS MONEY. HE WANTED MONEY. AND SO WE
9 ACTUALLY -- HIS LAWYER, BERNIE SEGAL, AND MY AGENT AT THE
10 TIME, STERLING LORD, NEGOTIATED A DEAL WHEREBY HE WOULD GET 20
11 PERCENT OF THE ROYALTIES UP TO A CERTAIN FIGURE AND THEN 33
12 PERCENT OF THE ROYALTIES BEYOND THAT FIGURE. SO, WE HAD THAT
13 KIND OF CONTRACTUAL RELATIONSHIP.

14 Q. ALL RIGHT. SO, DID YOU AGREE TO THIS ARRANGEMENT?

15 A. YES, I DID.

16 Q. AND WAS IT REDUCED TO WRITING?

17 A. IT WAS. THERE WAS A RELEASE SIGNED BY MACDONALD AND ME
18 IN NORTH CAROLINA THAT DESCRIBED THE AGREEMENT AND MADE THOSE
19 TERMS QUITE CLEAR.

20 Q. AND IN THE AGREEMENT, HE GAVE YOU UNFETTERED ACCESS TO
21 ANY INCIDENTS, CHARACTERS, DIALOGUES, ACTION SCENES AND
22 SITUATIONS THAT YOU DESIRED IN CONNECTION WITH THE PUBLICATION
23 OF THE BOOK?

24 A. THAT SOUNDS RIGHT.

25 Q. AND SO, DID YOU JOIN THE TRIAL TEAM IN RALEIGH FOR THE

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1 TRIAL?

2 A. THEY WERE LIVING IN A FRATERNITY HOUSE ON THE CAMPUS OF
3 NORTH CAROLINA STATE UNIVERSITY. THEY FELT THAT GAVE THEM
4 MORE PRIVACY AND A PLACE TO UNWIND A LITTLE BIT. AND, YEAH, I
5 HAD A ROOM THERE. I STAYED -- I STAYED THERE WITH MACDONALD'S
6 LAWYERS, LEGAL ASSISTANTS, THE OTHER HANGERS ON, WHATEVER HIS
7 ENTOURAGE CONSISTED OF, AND HE WAS THERE TOO.

8 Q. DID YOU PARTICIPATE IN INTERVIEWS OF WITNESSES,
9 PROSPECTIVE WITNESSES, THAT THE DEFENSE MIGHT CALL?

10 A. OH, NO, NO, NO, I DIDN'T DO ANYTHING LIKE THAT. I WAS
11 JUST THERE TAKING NOTES FOR THE BOOK I WAS GOING TO WRITE
12 AFTER THE TRIAL WAS OVER.

13 Q. SO, YOU DIDN'T PARTICIPATE, BUT YOU WERE PRESENT?

14 A. I WAS PRESENT AT THE INTERVIEWS OF SOME WITNESSES. IT
15 DEPENDED ON THE WITNESS. I DON'T THINK I WAS PRESENT FOR THE
16 -- FOR INTERVIEWS WITH EVERY WITNESS, BUT I HAD THE RIGHT TO
17 BE. I HAD ACCESS. I HAD, YOU KNOW, FREE RUN. I COULD --
18 THERE WERE NO -- THIS WAS A PROVISION THAT DROVE MR. WADE
19 SMITH, THE LOCAL COUNSEL, HALFWAY CRAZY BECAUSE HE THOUGHT --
20 HE DISAPPROVED OF THIS SO MUCH. HE THOUGHT YOU DON'T LET A
21 WRITER INTO YOUR INNER SANCTUM IN THE MIDDLE OF A MURDER
22 TRIAL, THAT'S NOT THE WAY YOU DO THINGS, BUT BERNIE SEGAL HAD
23 A DIFFERENT APPROACH AND BERNIE WAS THE BOSS SO WADE HAD TO GO
24 ALONG WITH IT. AND, THEREFORE, THERE WERE NO CLOSED DOORS. I
25 COULD -- I WAS PRESENT AT ANYTHING I WANTED TO BE PRESENT AT.

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1 Q. AND DID YOU SIT IN THE GALLERY AND WATCH THE TRIAL AS IT
2 UNFOLDED?

3 A. YES, I DID.

4 Q. SO, PRETTY MUCH THE ENTIRE TRIAL?

5 A. THE WHOLE THING. I WAS THERE ALL DAY EVERY DAY.

6 Q. DID YOU ATTEND THE JURY SELECTION?

7 A. YES, I DID.

8 Q. AND DO YOU REMEMBER ANYTHING ABOUT THE COMPOSITION OF THE
9 JURY AS IT WAS SELECTED?

10 A. WELL, I REMEMBER THEY HAD HIRED A FELLOW FROM DUKE
11 UNIVERSITY. I THINK HIS NAME WAS MCCONAHEY. PAID HIM 30 OR
12 \$35,000, I THINK, TO SCIENTIFICALLY SELECT THE JURY.

13 AND WHAT THEY CAME UP WITH -- I WAS STRUCK BY, FIRST
14 OF ALL, THE HIGH EDUCATION LEVEL OF THE JURY. I BELIEVE 11 OF
15 THE 12 JURORS, I THINK IT WAS 11, HAD AT LEAST SOME COLLEGE
16 EDUCATION.

17 THERE WERE PROFESSIONAL PEOPLE. THERE WERE
18 ACCOUNTANTS. THERE WAS A CHEMIST. THERE WAS A -- KIND OF A
19 SOCIALITE WOMAN. THERE WAS THE SON -- A YOUNG FELLOW WHO WAS
20 THE SON OF A PROMINENT DOCTOR IN RALEIGH. THIS WAS NOT SOME
21 COLLECTION OF HAYSEEDS AND HICKS DRAGGED IN FROM THE TOBACCO
22 FIELDS. THIS WAS A HIGH CLASS GROUP OF PEOPLE.

23 THERE WAS ONE FORMER GREEN BARET SERGEANT ACTUALLY
24 ON THE JURY AND THERE WAS A RETIRED NORTH CAROLINA STATE
25 POLICEMAN.

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1 AND YOU WOULD THINK THAT THE DEFENSE WOULDN'T WANT A
2 RETIRED POLICEMAN ON THE JURY, BUT BERNIE SEGAL EXPLAINED THAT
3 THE POLICE WORK DONE BY THE ARMY WAS SO SLOPPY THAT A REAL
4 POLICE OFFICER WOULD SEE RIGHT THROUGH IT AND SEE WHAT A BAD
5 JOB IT WAS. AND THEN I REMEMBER MACDONALD WAS SO HAPPY WITH
6 THE GREEN BERET.

7 Q. I'M NOT GOING TO ASK YOU ANY QUESTIONS ABOUT WHAT
8 MACDONALD SAID.

9 A. OKAY.

10 Q. NOW, AT THE CONCLUSION OF ALL OF YOUR WORK IN THIS CASE
11 -- AND YOU RESEARCHED IT AFTER THE TRIAL ALSO, DID YOU NOT?

12 A. OH, FOR YEARS.

13 Q. AT THE CONCLUSION OF ALL OF THAT, YOU WROTE A BOOK ABOUT
14 IT, IS THAT RIGHT?

15 A. YES, SIR.

16 Q. AND THE TITLE OF THE BOOK WAS *FATAL VISION*?

17 A. THAT'S CORRECT.

18 Q. NOW, IN WRITING *FATAL VISION* -- YOU WROTE ALL OF IT, IS
19 THAT RIGHT?

20 A. I WROTE ALL OF IT?

21 Q. YOU WROTE THE WHOLE BOOK?

22 A. YEAH. SURE.

23 Q. EVERY WORD?

24 A. I DID. THAT'S WHAT I DO.

25 Q. AND WERE YOU TRYING TO BE ACCURATE IN THE BOOK?

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1 A. YES, ABSOLUTELY. IT WAS NON-FICTION.

2 Q. AND YOUR PROFESSION IS JOURNALISM?

3 A. THAT'S CORRECT.

4 Q. AND YOU WERE WRITING THIS BOOK AS A JOURNALIST?

5 A. THAT'S RIGHT.

6 Q. NOT A NOVELIST?

7 A. NOT A NOVELIST, NO.

8 Q. SO, UNDER OATH, WOULD YOU SAY THAT YOUR BOOK IS ACCURATE?

9 A. YES, I WOULD. THIS HAS ACTUALLY BEEN LITIGATED. I DON'T
10 KNOW IF YOU WANT TO GET INTO THAT, BUT --

11 Q. NOT RIGHT NOW. NOW, I WANT TO PUT UP ON THE SCREEN
12 GOVERNMENT EXHIBIT 2201. AND THE BOOK WAS -- THE WRITING
13 PROCESS OF THE BOOK TOOK PLACE WHEN?

14 A. WELL, I STARTED IN THE FALL OF '79, BUT I WAS STILL DOING
15 SO MUCH RESEARCH I -- YOU KNOW, PROBABLY WAS SOMETIME IN 1980
16 BEFORE I ACTUALLY GOT INTO A WRITING RHYTHM, BUT EVEN THEN I
17 WAS CONTINUING MY RESEARCH.

18 THERE CAME A POINT WHEN COLETTE MACDONALD'S PARENTS,
19 HER MOTHER AND STEPFATHER, WHO WOULD NOT SPEAK TO ME DURING
20 THE TRIAL BECAUSE THEY WERE UNDER THE IMPRESSION THAT I WAS
21 HIRED BY MACDONALD AND I WAS GOING TO BE HIS WRITER, HIS
22 MOUTHPIECE, TELLING HIS STORY, WHEN THEY FINALLY WERE
23 PERSUADED OR CAME TO UNDERSTAND THAT THAT WASN'T TRUE THEN
24 THEY DID TALK TO ME AND THAT OPENED UP A WHOLE NEW AVENUE THAT
25 GAVE ME -- THAT DOUBLED THE AMOUNT OF INFORMATION AVAILABLE TO

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1 ME.

2 LIKewise, THE MEMBERS OF THE PROSECUTION HAD REFUSED
3 TO SPEAK TO ME BECAUSE THEY TOO THOUGHT THAT I WAS PART OF THE
4 MACDONALD TEAM. AND WHEN THEY FOUND OUT THAT WASN'T THE CASE
5 THEN THEY WERE MORE OPEN AND WILLING TO SPEAK WITH ME.

6 SO, I BEGAN TO GET A LOT MORE INFORMATION AND DETAIL
7 SOMETIME DURING SAY THE FALL OF 1980 INTO '81.

8 IT TOOK ME SO LONG TO WRITE THE BOOK THAT MY
9 ORIGINAL PUBLISHER GAVE UP ON IT AND THEY SAID, YOU KNOW, WE
10 WANT OUR ADVANCE BACK BECAUSE YOU DIDN'T FINISH THIS BY THE
11 DAY YOU SHOULD. I SAID, WELL, THE STORY CHANGED, IT GOT A LOT
12 MORE COMPLICATED. AND THEY DIDN'T CARE ABOUT THAT.

13 SO, ANYWAY, I WOUND UP WITH A DIFFERENT PUBLISHER
14 WHO UNDERSTOOD THAT SOMETIMES, YOU KNOW, IF YOU WANT QUALITY,
15 IT TAKES TIME TO ACHIEVE IT.

16 AND THE BOOK -- I DIDN'T FINISH WRITING THE BOOK
17 UNTIL DECEMBER OF '82, AND THEN EVEN AFTER THAT THROUGH THE
18 SPRING OF '83, I WAS DOING EDITING AND CHANGES.

19 SO, IT WAS A PROCESS THAT PROBABLY -- IT WAS
20 PUBLISHED IN THE FALL OF '83, I THINK OCTOBER, AND THERE WERE
21 PROBABLY -- I WAS PROBABLY STILL TINKERING WITH IT RIGHT UP
22 THROUGH JULY OF '83.

23 SO, THAT WAS FOUR YEARS AFTER THE TRIAL AND THAT WAS
24 A CONSTANT PROCESS. THAT WAS THE ONLY JOB I DID. THAT WAS
25 FULL TIME WORK FOR ME. I WASN'T MAKING TV COMMERCIALS. I

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1 WASN'T OFF DOING ANYTHING ELSE. I WAS JUST WORKING ON THIS
2 BOOK ALL THE TIME, DAY AND NIGHT, AND I FINALLY FINISHED IT.

3 Q. SO, THE WRITING PROCESS TOOK FROM '79 TO MID-'83, IS THAT
4 RIGHT?

5 A. YES, SIR.

6 Q. AND THAT WAS A LOT CLOSER TO THE TIME OF THE EVENTS THAN
7 2012?

8 A. IT WAS, YEAH.

9 Q. ALL RIGHT. LET'S LOOK AT PAGE 2201.2 OF GOVERNMENT
10 EXHIBIT 2201. AND DO YOU RECALL THAT THE DEFENSE INTERVIEWED
11 -- WELL, FIRST OF ALL, DO YOU RECALL THAT THEY WERE TRYING TO
12 FIND HELENA STOECKLEY, THE YOUNGER HELENA STOECKLEY?

13 A. YES, THERE WAS -- I BELIEVE A BENCH WARRANT WAS ISSUED
14 AND THERE WERE LAW ENFORCEMENT PEOPLE ACTIVELY SEARCHING FOR
15 HER.

16 Q. DO YOU RECALL THAT THE DEFENSE SUBPOENAED THE PARENTS OF
17 HELENA STOECKLEY?

18 A. YES, I DO RECALL THAT.

19 Q. AND WAS THERE AN INTERVIEW?

20 A. YES, THEY INTERVIEWED THE STOECKLEY PARENTS. AND MY
21 RECOLLECTION IS THAT MOST OF THE TALKING, IF NOT ALMOST ALL OF
22 IT, WAS DONE BY MRS. STOECKLEY.

23 Q. AND YOU WROTE ABOUT THIS INTERVIEW IN YOUR BOOK?

24 A. YES, SIR, I DID.

25 (GOVERNMENT EXHIBIT NUMBER 2201.2

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1 WAS IDENTIFIED FOR THE RECORD.)

2 Q. ALL RIGHT. LET'S GO DOWN TO THE MIDDLE OF THE PAGE WHERE
3 IT STARTS WITH HIS PERIMETER OVERRUN.

4 A. OKAY.

5 Q. JUST READ THAT TO THE BOTTOM OF THE PAGE, IF YOU WOULD.

6 A. WITH HIS PERIMETER OVERRUN AND WITH EVEN HIS INNER LINES
7 OF DEFENSE BEGINNING TO CRUMBLE, BERNIE SEGAL RECOGNIZED THAT
8 THE TIME HAD COME TO RUSH A REAL, QUOTE, MYSTERY WITNESS INTO
9 THE BREACH. HELENA STOECKLEY HAD SAVED HIM AND JEFFREY
10 MACDONALD ONCE BEFORE IN 1970. MAYBE SHE, OR THE INVOCATION
11 OF HER, COULD BE MADE TO DO SO AGAIN.

12 FIRST, SEGAL SUBPOENA STOECKLEY'S PARENTS. THEN
13 JUDGE DUPREE ISSUED A BENCH WARRANT FOR STOECKLEY HERSELF ON
14 THE GROUNDS THAT SHE WAS A MATERIAL WITNESS IN A HOMICIDE
15 CASE.

16 STOECKLEY'S PARENTS CAME TO RALEIGH AND SAID THEY
17 DID NOT KNOW WHERE THEIR DAUGHTER WAS. THE LAST TIME THEY HAD
18 SEEN HER WAS IN EARLY JUNE, WHEN SHE HAD COME TO FAYETTEVILLE
19 FOR A BRIEF VISIT FROM A DRUG REHABILITATION CENTER IN
20 COLUMBIA, SOUTH CAROLINA. SHE HAD SAID THEN THAT SHE PLANNED
21 TO MOVE TO THE SMALL SOUTH CAROLINA TOWN OF WALHALLA TO LIVE
22 WITH A MAN WHOM SHE HAD MET AT THE REHABILITATION CENTER.
23 QUOTE, I DON'T KNOW HER ADDRESS STOECKLEY'S MOTHER SAID,
24 QUOTE, AND I DON'T WANT TO KNOW.

25 THAT'S THE BOTTOM OF THE PAGE ON MY SCREEN.

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1 Q. WELL, READ THAT LAST PHRASE AND THEN WE'LL GO ON TO THE
2 NEXT PAGE.

3 A. IN A PRIVATE INTERVIEW WITH DEFENSE ATTORNEYS, THE MOTHER
4 ALSO SAID --

5 Q. HOLD UP A MINUTE. OKAY. GO AHEAD.

6 A. THE MOTHER ALSO SAID THAT EVEN IF HER DAUGHTER WERE
7 FOUND, IT WAS NOT LIKELY SHE COULD CONTRIBUTE MUCH OF VALUE TO
8 THE TRIAL.

9 AND THIS IS A QUOTE, SHE CALLED UP, MUST HAVE BEEN A
10 YEAR AND A HALF AGO, FOUR O'CLOCK IN THE MORNING, ALL
11 BEFUDDLED. SHE SAID SOMEBODY WAS CHASING HER AND HAD TAKEN
12 HER CAR KEYS. THEN IT TURNED OUT SHE HAD A STROKE. WE GOT
13 HER HOME. SHE WAS LIKE A VEGETABLE. SHE COULDN'T TALK,
14 COULDN'T EAT, HER FACE QUIVERED, SALIVA WOULD RUN OUT OF HER
15 MOUTH. WE PUT HER ON A STRICT DIET AND LET HER REST AND AFTER
16 ABOUT THREE WEEKS SHE WAS IMPROVED, BUT STILL SHE WAS NOT
17 QUITE RIGHT. THAT'S THE END OF THE QUOTATION.

18 SHE HAD LEFT HOME AGAIN, THIS TIME FOR DAYTONA,
19 FLORIDA, WHERE SHE SAID SHE PLANNED TO WORK IN A HOSPITAL.
20 THE NEXT THING HER PARENTS HAD HEARD WAS THAT SHE HAD BEEN
21 ARRESTED FOR DRUNKEN DRIVING.

22 THIS IS A QUOTE AGAIN, SHE'S HAD HER GALLBLADDER
23 REMOVED HER MOTHER SAID, SHE'S HAD THREE LIVER BIOPSIES AND
24 SHE'S BEEN SPITTING UP BLOOD AND PASSING BLOOD IN HER STOOLS
25 FOR YEARS. SHE'S NOT AT ALL LIKE SHE USED TO BE. SHE'S A

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1 PHYSICAL AND MENTAL WRECK. SHE'S NOT EVEN A HUMAN BEING
2 ANYMORE. YOU FIND HER NOW, SURE SHE'LL TALK. SHE'LL ALWAYS
3 TALK. BUT I'M TELLING YOU, SHE'S GONNA TALK ALL KINDS OF
4 NONSENSE.

5 Q. CONTINUE WITH CHAIN-SMOKING.

6 A. CHAIN-SMOKING VIRGINIA SLIMS CIGARETTES, HELENA
7 STOECKLEY'S MOTHER DESCRIBED HER DAUGHTER'S ORIGINAL REACTION
8 TO THE MURDERS. QUOTE, IT REALLY HURT HER. SHE WAS A VERY
9 SOFT HEARTED PERSON AND SHE ESPECIALLY LOVED LITTLE CHILDREN.
10 SHE SAID RIGHT AWAY NOT A HIPPIE AROUND HERE WOULD DO A THING
11 LIKE THAT. EVERYBODY'S GOING TO PITCH IN AND FIND OUT WHAT
12 HAPPENED. WE'VE GOT TO FIND OUT WHO DID THIS.

13 QUOTE, I REALLY BELIEVE IT WAS BEASLEY WHO FIRST PUT
14 THE IDEA IN HER HEAD. BEASLEY WAS HER DADDY IMAGE. HE HAD A
15 TERRIFIC AMOUNT OF INFLUENCE OVER HER. SHE TOLD ME HE HAD
16 BEEN UP TO TALK TO HER RIGHT AFTER IT HAPPENED AND THEN SHE
17 SAID, YEAH, I'VE BEEN THINKING AND I DON'T REALLY KNOW WHERE I
18 WAS THAT NIGHT. I MIGHT HAVE BEEN THERE. AND I JUST KNEW
19 RIGHT THEN THAT DADDY BEASLEY HAD TALKED HER INTO IT.

20 Q. ALL RIGHT. THAT'S FINE. SO, OBVIOUSLY, THE ELDER HELENA
21 STOECKLEY WOULD NOT BE A GOOD WITNESS FOR THE DEFENSE IN THE
22 CASE?

23 A. THEY DIDN'T WANT HER ANYWHERE NEAR THE JURY.

24 Q. ALL RIGHT. SO, HELENA STOECKLEY, THE YOUNGER, WAS
25 TRANSPORTED TO RALEIGH, IS THAT RIGHT?

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1 A. YEAH. THE WORD CAME IN THAT SHE HAD BEEN PICKED UP AND
2 THAT SHE WAS GOING TO BE BROUGHT TO RALEIGH. AND THEN SHE WAS
3 GOING TO -- BOTH THE DEFENSE AND THE PROSECUTION WERE GOING TO
4 HAVE A CHANCE TO QUESTION HER PRIVATELY AND THEN IF, I GUESS,
5 EITHER SIDE CHOSE TO, SHE WOULD TAKE THE STAND, SHE COULD BE
6 MADE TO TESTIFY.

7 Q. NOW, DO YOU KNOW ANYTHING WHATSOEVER ABOUT HER
8 TRANSPORTATION TO RALEIGH?

9 A. NO, I DON'T. I JUST KNOW -- THE FIRST THING I'M REALLY
10 CONSCIOUS OF WOULD BE THE FIRST TIME I SAW HER, WHICH WAS IN
11 THE COURTHOUSE WHEN SHE -- AFTER SHE HAD ARRIVED IN RALEIGH.

12 Q. ALL RIGHT. SO, YOU SAT IN ON THE DEFENSE INTERVIEW OF
13 HER?

14 A. YES, THERE WERE -- BERNIE SEGAL WAS GOING TO INTERVIEW
15 HER IN THE WITNESS ROOM AND WADE SMITH, OF COURSE, WAS GOING
16 TO BE PRESENT TO TAKE NOTES AND MAYBE PARTICIPATE. AND THEN
17 BERNIE -- WELL, OF COURSE, I WANTED TO BE IN THERE, BUT BERNIE
18 MADE A BIG POINT, HE SAYS, JOE, YOU'VE GOT TO BE IN HERE.

19 BERNIE WANTED ME THERE TO RECORD EVERY BIT OF THIS
20 BECAUSE HE WAS CONFIDENT THIS WAS GOING TO BE HIS GREAT MOMENT
21 OF TRIUMPH. HE WAS GOING TO GET STOECKLEY TO CONFESS AND THEN
22 HE WAS GOING TO WALK OUT OF THERE AND THEY COULD CALL OFF THE
23 TRIAL BECAUSE THERE'S THIS DRAMATIC NEW THING. AND HE WANTED
24 -- YOU KNOW, BERNIE SAW HIMSELF AS THE STAR OF THE SHOW AND HE
25 WANTED TO BE SURE THAT I WAS THERE TO SEE HIM IN ALL OF HIS

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1 GLORY.

2 Q. ALL RIGHT. LET ME PUT UP GOVERNMENT EXHIBIT 2077 AND
3 WE'LL ENLARGE THAT A LITTLE BIT. AND I WANT TO WARN YOU THAT
4 THIS COULD BE CONFUSING BECAUSE THE FRONT OF THE BUILDING IS
5 AT THE TOP OF THE PAGE RATHER THAN THE BOTTOM.

6 A. RIGHT. NEW BERN AVENUE.

7 Q. RIGHT.

8 A. THAT'S THE MAIN ENTRANCE, YEAH.

9 (GOVERNMENT EXHIBIT NUMBER 2077
10 WAS IDENTIFIED FOR THE RECORD.)

11 Q. ALL RIGHT. SO, DO YOU RECOGNIZE WHERE THE TRIAL WAS
12 HELD?

13 A. YEAH, YOU WOULD GET OFF THE ELEVATOR -- I SEE WHERE IT
14 SAYS LOBBY AND COMING OFF THE ELEVATOR THE COURTROOM WOULD BE
15 DIRECTLY AHEAD OF YOU JUST ON THE OTHER SIDE OF THE LOBBY.

16 Q. CAN YOU MAKE A MARK WITH YOUR HAND WHERE THE COURTROOM
17 WOULD BE?

18 A. WELL, I'M NO JOHN MADDEN. THERE. RIGHT THERE.

19 Q. AND SO YOU SAT IN THIS COURTROOM EVERY DAY OF THE TRIAL,
20 IS THAT RIGHT?

21 A. YES, SIR.

22 Q. AND WOULD YOU SIT BEHIND THE DEFENSE TEAM?

23 A. THEY WERE -- I DON'T -- I DON'T KNOW THAT I SAT -- WELL,
24 I SAT -- THE DEFENSE TEAM -- I SAT MOSTLY ON THE RIGHT-HAND
25 SIDE AND I KNOW THE KASSABS WERE ON THE OTHER SIDE. SO, I

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1 GUESS THAT WAS THE PROSECUTION SIDE. BUT WHERE THE COUNSEL
2 TABLES WERE -- AND THE JURY WAS ON THE RIGHT SIDE. BUT I
3 DON'T -- I DON'T RECALL WHICH COUNSEL TABLE WAS ON WHICH SIDE.

4 Q. SO, YOU WEREN'T SEATED AT COUNSEL TABLE WITH THE DEFENSE?

5 A. NO, NO, NO, I WAS BACK IN THE GALLERY. AND, YOU KNOW, I
6 DIDN'T SIT IN THE SAME SEAT EVERY DAY. I MEAN, THE COURTROOM
7 WAS SELDOM FILLED AND, YOU KNOW, I WOULD MOVE AROUND A LITTLE
8 BIT.

9 Q. ALL RIGHT. NOW -- HOLD ON JUST A MINUTE.

10 (PAUSE.)

11 OKAY. MR. MCGINNISS, CAN YOU MAKE THOSE MARKS
12 AGAIN? WE DIDN'T HAVE IT SET UP TO RECORD. JUST POINT OUT
13 THE COURTROOM AGAIN.

14 A. YEAH, THIS IS -- I'M DRAWING A RECTANGLE, WHICH -- WELL,
15 NO, I DIDN'T QUITE, BUT THAT'S THE COURTROOM.

16 Q. OKAY. NOW, WAS IT SOMEWHERE ON THIS FLOOR THAT THE
17 DEFENSE DID THE INTERVIEW OF HELENA STOECKLEY?

18 A. YES. IF YOU WERE TO COME OUT OF THE COURTROOM AND THEN
19 GO IN THIS DIRECTION AND THEN GO DOWN THIS WAY, THERE WERE A
20 COUPLE OF ROOMS THAT WERE GIVEN OVER TO THE DEFENSE. I THINK
21 THEY WERE STORING DOCUMENTS IN ONE AND THE OTHER WAS AVAILABLE
22 FOR WITNESS INTERVIEWS. SO, IT WOULD BE DOWN THIS HALLWAY IN
23 THAT DIRECTION. AND THE PROSECUTION, AS I RECALL, WAS ONE
24 FLOOR HIGHER UP.

25 Q. AND DID YOU EVER GO UP THERE?

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1 A. NO, I DIDN'T BECAUSE I HAD NO REASON TO.

2 Q. ALL RIGHT. SO, THE INTERVIEW THAT YOU SAT IN ON WITH
3 HELENA STOECKLEY, THE YOUNGER, OCCURRED IN ONE OF THOSE ROOMS
4 ON THIS DIAGRAM?

5 A. THAT'S MY RECOLLECTION, YES, SIR.

6 Q. ALL RIGHT.

7 MR. BRUCE: CAN WE PRESERVE THIS AS 2077 --

8 MADAM CLERK: B. B.

9 MR. BRUCE: B. OKAY. THANK YOU.

10 (GOVERNMENT EXHIBIT NUMBER 2077B
11 WAS IDENTIFIED FOR THE RECORD.)

12 BY MR. BRUCE:

13 Q. NOW, YOU WROTE ABOUT THIS INTERVIEW IN YOUR BOOK IN SOME
14 DETAIL, DID YOU NOT?

15 A. OH, YEAH, THIS WAS A BIG MOMENT.

16 Q. ALL RIGHT. LET'S GO TO 2201.3.

17 MADAM CLERK: CAN YOU GO BACK TO THAT ONE?

18 MR. BRUCE: OKAY. GO BACK.

19 MADAM CLERK: THE MARKS ARE STILL THERE. JUST BEAR
20 WITH ME ONE SECOND.

21 MR. BRUCE: THAT'S FINE.

22 MADAM CLERK: OKAY. THANK YOU.

23 BY MR. BRUCE:

24 Q. OKAY. LET'S GO TO GOVERNMENT EXHIBIT 2201.3, AND WE'LL
25 CLEAR THE SCREEN, AND LET'S BLOW UP WHERE IT STARTS AT FOUR

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1 MINUTES ON PAGE 527. WOULD YOU BEGIN READING WHERE IT SAYS AT
2 FOUR MINUTES?

3 A. AT FOUR MINUTES BEFORE TEN O'CLOCK ON THE MORNING OF
4 THURSDAY, AUGUST 16TH, 1979, EXACTLY ONE MONTH AFTER THE TRIAL
5 OF JEFFREY MACDONALD HAD BEGUN AND NINE AND A HALF YEARS TO
6 THE DAY SINCE MONDAY, FEBRUARY 16TH, 1970, THE DAY WHICH HAD
7 ENDED WITH HER TAKING MESCALINE IN HER DRIVEWAY ON CLARK
8 STREET IN FAYETTEVILLE, HELENA STOECKLEY, ESCORTED BY A U.S.
9 MARSHAL, WALKED INTO A SMALL OFFICE ON THE NINTH FLOOR OF THE
10 FEDERAL BUILDING IN RALEIGH, WHERE BERNIE SEGAL WAS WAITING
11 FOR HER HOPING TO PERSUADE HER TO CONFESS.

12 SHE WAS NEATLY, EVEN DEMURELY, ATTIIRED IN WHITE
13 SHOES AND A FLORAL PRINT DRESS. HER HAIR WAS BLACK. HER
14 COMPLEXION SALLOW. SHE WAS MANY POUNDS OVERWEIGHT. HER EYES
15 WERE DULL AND HER THIN LIPS UNEXPRESSIVE. SHE SPOKE IN A SOFT
16 VOICE ALMOST ENTIRELY DEVOID OF AFFECT.

17 HER LEFT ARM WAS IN A CAST. IT HAD BEEN BROKEN IN
18 CINCINNATI TWO WEEKS EARLIER WHEN SOMEONE HAD HIT HER WITH A
19 TIRE IRON DURING A DISPUTE INVOLVING NARCOTICS.

20 HER FIANCE, ERNEST DAVIS, WHOM SHE HAD MET IN THE
21 DRUG REHABILITATION CENTER IN COLUMBIA, SOUTH CAROLINA, PACED
22 BAREFOOT, UNWASHED AND UNSHAVED IN A SMALL CORRIDOR OUTSIDE
23 THE OFFICE.

24 (GOVERNMENT EXHIBIT NUMBER 2201.3
25 WAS IDENTIFIED FOR THE RECORD.)

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1 Q. LET ME STOP YOU RIGHT THERE. SO, MR. DAVIS WAS NOT
2 PRESENT IN THE INTERVIEW?

3 A. NO. I THINK -- NO. AFTER THE MORNING INTERVIEW ENDED
4 AND SHE WAS ALLOWED TO HAVE A SANDWICH, I THINK HE CAME IN AND
5 JOINED HER FOR LUNCH.

6 Q. ALL RIGHT. SO --

7 A. BUT THERE ARE ONLY FOUR PEOPLE IN THE ROOM. BERNIE --

8 Q. NAME THOSE FOUR PEOPLE, PLEASE.

9 A. BERNIE SEGAL, WADE SMITH, HELENA STOECKLEY AND MYSELF.

10 Q. ALL RIGHT. NO DEPUTY U.S. MARSHALS WERE IN THE ROOM?

11 A. NO. NO, THEY STOPPED AT THE DOOR.

12 Q. ALL RIGHT. AND DO YOU KNOW WHO BROUGHT HELENA STOECKLEY
13 TO THAT INTERVIEW ROOM AND LEFT HER?

14 A. NO, I HAVE NO IDEA.

15 Q. OKAY. NOW, CONTINUE READING WITH FOR ALMOST A DECADE.

16 A. FOR ALMOST A DECADE, IN BERNIE SEGAL'S MIND, HELENA
17 STOECKLEY HAD BEEN A FIGURE OF NEAR MYTHIC PROPORTION. NOW,
18 HERE SHE WAS, THREE FEET FROM HIM, POLITELY DECLINING HIS
19 OFFER OF COFFEE AND DONUTS. SHE WOULD, SHE SAID, BE GRATEFUL
20 FOR A CAN OF DIET SODA.

21 SEGAL BEGAN TO SPEAK IN A VOICE SO QUIET AND SO
22 GENTLE THAT IT WAS AS IF HELENA WERE SLEEPING AND HE DID NOT
23 WANT TO RISK AWAKENING HER. YET THERE WAS AN ALMOST PAINFUL
24 INTENSITY TO HIS TONE. THIS WOMAN, HE BELIEVED, HAD THE POWER
25 TO SET JEFFREY MACDONALD FREE AND TO PROVIDE SEGAL WITH THE

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1 GREATEST TRIUMPH OF HIS CAREER.

2 HIS FIRST WORDS WERE LIKE SURGICAL INSTRUMENTS
3 UTILIZED WITH THE UTMOST SKILL AND DELICACY THEY MIGHT ENABLE
4 HIM TO STRIDE FORTH FROM THIS ROOM AND ANNOUNCE TO THE JUDGE
5 AND THE JURY AND THE PRESS THAT THERE WAS NO NEED TO PROCEED
6 FURTHER WITH THE TRIAL, ONE OF THE REAL KILLERS HAD JUST
7 CONFESSED.

8 SEGAL HAD, AT HIS SIDE, AN ALBUM CONTAINING
9 PHOTOGRAPHS OF --

10 Q. HOLD ON JUST A MOMENT.

11 A. -- THE CRIME SCENE. HE PLACED IT ON A TABLE BEFORE
12 STOECKLEY. THE FIRST PICTURE WAS NOT A PARTICULARLY HORRID
13 ONE. ALL IT SHOWED WAS A PORTION OF THE KITCHEN OF 544 CASTLE
14 DRIVE. THERE WAS A CALENDAR HANGING ON A WALL. THE TOP PAGE
15 OF THE CALENDAR SAID FEBRUARY 1970.

16 SEE THAT, HELENA, SEGAL SAID SOFTLY LEANING SO CLOSE
17 TO HER THAT HE COULD HAVE PUT HIS ARM AROUND HER IF HE HAD
18 DESIRED. SEE THAT CALENDAR? IT HAS BEEN THERE FOR NINE YEARS
19 WAITING. WAITING FOR SOMEBODY TO TELL US HOW THIS STORY
20 SHOULD END.

21 SHE STARED AT THE PICTURE. THERE WAS ABSOLUTELY NO
22 CHANGE OF EXPRESSION ON HER FACE. SHE TOOK A SIP OF DIET
23 SODA. I CAN'T HELP YOU SHE SAID TONELESSLY, I WASN'T IN THAT
24 HOUSE. I DIDN'T HAVE ANYTHING TO DO WITH ANY OF THIS.

25 BERNIE SEGAL BEGAN TO SHAKE HIS HEAD, NO, HELENA,

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1 THAT WON'T DO. YOU CAN'T GET AWAY WITH THAT ANYMORE. IT'S
2 GOT TO END. WE ARE AT TRIAL NOW. THE TIME HAS COME. I'M
3 SERIOUS, HELENA. YOU WERE IN THAT HOUSE. I KNOW IT AND YOU
4 KNOW IT. NOW LET'S TALK ABOUT IT. DON'T GO ON PUNISHING
5 YOURSELF.

6 SHE STARED AT THE FLOOR, SHAKING HER HEAD, STILL
7 WITH NO CHANGE OF EXPRESSION. I DON'T KNOW WHAT YOU WANT TO
8 KNOW. I WAS NEVER IN THAT HOUSE.

9 Q. CONTINUE READING WITH HELENA, BELIEVE ME.

10 A. HELENA, BELIEVE ME, SEGAL SAID. IF YOU TALK TO ME HERE,
11 IF YOU TELL ME WHAT HAPPENED, I CAN MAKE THIS VERY SHORT AND
12 PAINLESS. HELENA, YOU CAN PUT IT BEHIND YOU FOREVER. NOW,
13 FOR YOUR OWN CONSCIENCE. AND FOR THE SAKE OF THAT MAN IN THE
14 COURTROOM. THAT MAN WHO'S BEEN MADE TO SUFFER UNJUSTLY FOR
15 NINE YEARS.

16 AND, HELENA, YOU WILL NOT BE PROSECUTED. NOTHING
17 WILL HAPPEN TO YOU. THAT I CAN PROMISE YOU. THE STATUTE OF
18 LIMITATIONS HAS EXPIRED. THIS IS THE END, HELENA. RIGHT NOW.
19 RIGHT HERE. ALL YOU HAVE TO DO IS TALK TO ME.

20 FOR THE FIRST TIME, STOECKLEY LOOKED DIRECTLY AT
21 BERNIE SEGAL. I CAN'T HELP YOU SHE SAID. I CAN'T TELL YOU
22 THINGS I DON'T REMEMBER.

23 FOR NEARLY TWO HOURS, SEGAL PERSISTED. HIS TONE
24 CHANGED FROM SOOTHING AND PROTECTIVE TO HARSH AND DEMANDING
25 AND BACK AGAIN. IT MADE NO DIFFERENCE. HE MIGHT AS WELL HAVE

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1 BEEN A MORNING QUIZ SHOW. STOECKLEY WAS TUNED TO THE STATION
2 BUT SHE WAS ONLY A VIEWER, NOTHING MORE. THERE WAS NOTHING HE
3 COULD DO OR SAY TO MOVE HER.

4 HELENA, PEOPLE HAVE GONE TO THE ELECTRIC CHAIR FOR
5 HAVING SAID ONE-TENTH OF WHAT YOU'VE SAID ABOUT THIS CASE.
6 I'VE GOT SIX WITNESSES. PEOPLE TO WHOM YOU'VE ALREADY
7 CONFESSED. THEY'RE WAITING IN THE NEXT ROOM. ONE AFTER
8 ANOTHER, I'M GOING TO PUT THEM ON THE STAND AND HAVE THEM TELL
9 THE JURY WHAT YOU'VE TOLD THEM, THEN, BY LAW, I HAVE TO PUT
10 YOU ON THE STAND.

11 SHE LOOKED AT HIM COOLLY IN SILENCE.

12 HELENA, THE CHOICE IS YOURS.

13 I CAN'T HELP YOU.

14 HELENA, REMEMBER WHAT YOU TOLD JANE ZILLIOUX; THE
15 BLOOD, THE BLOOD, I REMEMBER THE BLOOD ON MY HANDS.

16 SHE SHOOK HER HEAD, I DON'T REMEMBER EVER SAYING
17 THAT.

18 DO YOU THINK JANE ZILLIOUX IS LYING?

19 I DIDN'T SAY THAT. I JUST SAID I DON'T REMEMBER
20 SAYING IT.

21 STILL, THERE WAS NO INFLECTION, NO SPARK, NOT EVEN
22 OF RESENTMENT IN HER VOICE. DO YOU REALIZE HOW MUCH DRUGS
23 I'VE TAKEN SINCE THAT HAPPENED? I'M NOT GONNA SIT THERE AND
24 SAY YES TO THINGS I DIDN'T SAY OR THINGS I DON'T REMEMBER
25 SAYING. BESIDES, SHE SAID, HOW DO YOU KNOW HE'S NOT GUILTY?

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1 Q. LET ME STOP YOU FOR A MOMENT. SOME OF THIS MATERIAL THAT
2 YOU WROTE IN YOUR BOOK IS IN QUOTES. DOES THAT MEAN THOSE
3 WERE EXACT WORDS THAT WERE SPOKEN?

4 A. THOSE WERE EXACT WORDS. I WAS TAKING LINE BY LINE NOTES
5 AS EVERYBODY WAS SPEAKING. NO, TWO PEOPLE WERE SPEAKING;
6 BERNIE AND HELENA.

7 Q. AND IN YOUR PROFESSION AS A JOURNALIST, IS THAT SOMETHING
8 THAT YOU WERE EXPERIENCED AT DOING?

9 A. OH, YES, INDEED. YEP, THAT'S A SKILL THAT I HAVE AND
10 THAT I'VE USED OFTEN.

11 Q. OKAY. CONTINUE READING, IF YOU WOULD, WHERE IT SAYS
12 SEGAL RETURNED TO THE ALBUMS.

13 A. SEGAL RETURNED TO THE ALBUMS OF CRIME SCENE AND AUTOPSY
14 PHOTOGRAPHS. HE TURNED TO A PICTURE OF KIMBERLEY, A PICTURE
15 THAT SHOWED THE FRACTURE OF HER SKULL AND THE PIECE OF
16 CHEEKBONE PROTRUDING THROUGH THE SKIN OF HER FACE.

17 THAT WAS HIS FLESH AND BLOOD, HELENA. WHAT KIND OF
18 FATHER COULD DO THAT TO HIS OWN FLESH AND BLOOD?

19 SOMEBODY ON DRUGS COULD DO SOMETHING LIKE THAT. NOT
20 ACID. MAYBE SPEED. DID THEY DO BLOOD TESTS ON HIM RIGHT
21 AWAY?

22 YES, HELENA. THEY DID BLOOD TESTS. THERE WERE NO
23 DRUGS, THERE WAS NO ALCOHOL.

24 HAS HE BEEN GIVEN PSYCHIATRIC EVALUATION AND
25 EVERYTHING?

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1 YES, HELENA, HE'S BEEN GIVEN ALL OF THAT. SEGAL
2 FLIPPED TO A PICTURE OF COLETTE. LOOK AT HIS WIFE, HELENA.
3 LOOK AT THIS PICTURE. HER JAW WAS BROKEN. BOTH OF HER ARMS
4 WERE BROKEN. HER SKULL WAS FRACTURED RIGHT DOWN THE MIDDLE.
5 SHE WAS STABBED WITH A KNIFE, WITH A ICE PICK, DOZENS OF
6 TIMES. HELENA, THAT WAS THE WORK OF A REPULSIVE, CRAZY
7 PERSON. DR. MACDONALD IS A NORMAL, DECENT HUMAN BEING. EVEN
8 THE ARMY PSYCHIATRISTS WHO HAVE EXAMINED HIM AGREED TO THAT.

9 SEGAL TURNED TO A PICTURE OF KRISTEN, A COLORED
10 PICTURE, TAKEN BEFORE THE BODY HAD BEEN REMOVED FROM THE BED.
11 THE BRIGHT RED OF HER BLOOD FILLED THE ROOM.

12 ONLY SOMEBODY CRAZY OR WHACKED OUT ON DRUGS COULD
13 HAVE DONE SOMETHING LIKE THAT, STOECKLEY SAID. I DON'T KNOW
14 WHAT ANYBODY ELSE IS CAPABLE OF, BUT I KNOW I'M NOT CAPABLE OF
15 THAT.

16 HELENA, NO ONE IS ASKING YOU TO SAY THAT YOU DID
17 THAT. YOU WILL NOT BE TOUCHED, I PROMISE YOU. YOU WILL NOT
18 BE INDICTED EVER. ALL YOU HAVE TO DO -- ALL YOU HAVE TO SAY
19 IS YOU WERE THERE HOLDING THE CANDLE.

20 Q. HOLD ON A MOMENT.

21 A. SAYING ACID IS GROOVY. YOU DON'T REMEMBER HURTING
22 ANYBODY. THEN YOU RAN OUT THE BACK DOOR.

23 HE TURNED TO ANOTHER PICTURE OF KIMBERLEY. HELENA,
24 HELP US END IT. I BEG OF YOU. LOOK AT THIS CHILD'S FACE.
25 FOR GOD'S SAKE. TO ACCUSE THE FATHER OF THESE BABIES OF

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1 HAVING DONE THAT TO THEM. HELENA, LOOK AT THIS. LOOK AT THIS
2 ONE. SMASHED WITH A CLUB. COME ON, HELENA, HOW MUCH LONGER
3 WILL THAT MAN HAVE TO SIT THERE ACCUSED OF SOMETHING SO
4 MONSTROUS. YOU HAVE IT IN YOUR POWER, HELENA, TO END IT RIGHT
5 NOW. OTHERWISE, HELENA, I GUARANTEE YOU, I AM GOING TO TAKE
6 YOU INTO COURT.

7 IF I COULD REMEMBER, SHE TOLD HIM, I WOULD SAY.

8 SEGAL STEPPED INTO AN ADJACENT ROOM WHERE HIS OTHER
9 WITNESSES HAD BEEN WAITING. ONE BY ONE, LIKE THE GHOSTS OF
10 CHRISTMAS PAST, HE BROUGHT THEM IN TO CONFRONT HER WITH THE
11 THINGS SHE HAD SAID TO THEM YEARS BEFORE. BEASLEY. GADDIS.
12 ZILLIOUX. UNDERHILL. THE POLYGRAPH MAN WHOSE NAME WAS
13 BRISENTINE. AND FINALLY, HER EX-NEIGHBOR, POSEY.

14 NONE OF IT MATTERED. SHE SAID HELLO. SHE SAID NICE
15 TO SEE YOU, HOW HAVE YOU BEEN? BUT WHENEVER THEY ASKED HER
16 ABOUT THE MACDONALD CASE, SHE SAID I DON'T REMEMBER ANY OF
17 THAT.

18 ONE BY ONE, THE WITNESSES TROOPED OUT OF THE ROOM.
19 SEGAL WAS ADMITTING DEFEAT. THERE WOULD BE NO DRAMATIC
20 ANNOUNCEMENT. THERE WOULD BE NO NEWS BULLETINS ON TV. NO
21 EIGHT-COLUMN HEADLINES ACROSS PAGE ONE. THERE WOULD JUST BE A
22 TRUCULENT, UNCOMMUNICATIVE, APATHETIC WITNESS, 30 POUNDS
23 OVERWEIGHT AND LOOKING FAR LESS MENACING THAN PATHETIC TELLING
24 THE JURY SHE DIDN'T REMEMBER A THING.

25 Q. ALL RIGHT. YOU CAN STOP THERE. NOW, DID THERE COME A

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1 TIME -- WELL, WAIT A MINUTE. LET'S READ ON TO THE BOTTOM OF
2 THAT PAGE.

3 A. NOW, TOO LATE, BERNIE SEGAL REALIZED HE WOULD HAVE BEEN
4 BETTER OFF IF SHE HAD NEVER BEEN FOUND. MUCH EASIER TO HAVE
5 CONJURED UP THE IMAGE OF A DRUG-CRAZED AND MURDEROUS HIPPIE
6 FROM THE DISTANT AND DANGEROUS PAST AND TO HAVE THE JURY SEIZE
7 UPON THAT AS AN EXPLANATION THAN TO PRESENT THEM WITH THIS
8 BURNED-OUT WOMAN AND EXPECT THEM TO BELIEVE THAT SHE HAD EVER
9 STOOD OVER A COUCH ON WHICH JEFFREY MACDONALD HAD BEEN
10 SLEEPING AND HAD HELD A CANDLE BENEATH HER FACE WHILE CHANTING
11 ACID IS GROOVY, KILL THE PIGS, ACID AND RAIN.

12 SEGAL LEFT HER, IN THE COMPANY OF HER FIANCE, THE
13 BAREFOOT AND BEDRAGGLED ERNEST DAVIS, WHILE HE WENT TO INFORM
14 THE JUDGE THAT HE HAD COMPLETED HIS WITNESS INTERVIEW AND THAT
15 HE WAS PREPARED FOR THE TRIAL TO RESUME.

16 IT WAS NOW LUNCHTIME. HELENA STOECKLEY HAD BEEN
17 GIVEN A BOLOGNA SANDWICH. SHE SAT QUIETLY, PLACIDLY, CHEWING
18 HER FOOD AND SLOWLY TURNING THE PAGES OF THE CRIME SCENE AND
19 AUTOPSY PHOTO ALBUMS AS IF SHE WERE BROWSING THROUGH A MOVIE
20 MAGAZINE.

21 Q. ALL RIGHT. SO, MR. SEGAL RETURNED TO COURT AT SOME
22 POINT?

23 A. YEAH, I'D SAY THIS WHOLE THING WITH STOECKLEY PROBABLY
24 RAN ABOUT THREE HOURS INCLUDING THE TIME THAT THESE WITNESSES
25 CAME IN. SO, I THINK IT WAS EARLY AFTERNOON WHEN THERE WAS --

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1 WHEN THEY MADE A PROGRESS -- I THINK THEY MADE A PROGRESS
2 REPORT TO THE JUDGE SOMETHING ABOUT WHERE IT STOOD.

3 Q. ALL RIGHT. LET'S GO TO TRIAL DAY 20, PAGE THREE. NOW,
4 WOULD YOU READ STARTING WITH LINE TEN?

5 A. THE COURT -- SO THIS WOULD BE JUDGE DUPREE -- GENTLEMEN,
6 I WILL ENTERTAIN A REPORT FROM YOU ON THE STATUS OF YOUR
7 INTERROGATION OF A WITNESS WHO WAS NOT AVAILABLE TO EITHER
8 SIDE UNTIL THIS MORNING AT NINE O'CLOCK AND THE QUESTION OF
9 WHICH WITNESS -- AND THE QUESTION OF WHICH WITNESS NOW
10 APPARENTLY BY ONE SIDE OR THE OTHER OR BOTH SEEMS TO BE IN AND
11 ABOUT ITS THIRD HOUR. ARE YOU READY TO PROCEED IN THIS CASE?

12 AND MR. SMITH SAYS, YOUR HONOR, LET ME EXPRESS THE
13 THANKS OF THE DEFENSE FOR THE COURT'S INDULGENCE AND THE
14 JURY'S INDULGENCE THIS MORNING AS WE HAVE HAD AN OPPORTUNITY
15 TO TALK WITH THIS WITNESS WHO HAS, INDEED, BEEN UNAVAILABLE TO
16 EITHER SIDE FOR A LONG PERIOD OF TIME.

17 WE HAVE ALMOST CONCLUDED OUR DISCUSSIONS WITH THE
18 WITNESS AND WILL BE IN A POSITION VERY SHORTLY TO TURN THE
19 WITNESS OVER TO THE GOVERNMENT IF THE GOVERNMENT DESIRES TO
20 TALK WITH THE WITNESS. WE WILL LEAVE ANY REMARKS TO MR.
21 BLACKBURN ABOUT THAT.

22 Q. ALL RIGHT. YOU CAN STOP THERE. LET ME GO BACK TO THE
23 PREVIOUS PAGE AND GET YOU TO LOOK AT THE TIME THERE IN THE
24 UPPER RIGHT-HAND CORNER.

25 A. YEAH, 1:00 P.M.

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1 Q. ALL RIGHT. NOW, WHILE THIS WAS GOING ON IN COURT, DO YOU
2 RECALL WHETHER YOU WERE IN COURT WATCHING THIS OR WERE YOU
3 UPSTAIRS -- I'M SORRY, NOT UPSTAIRS, DOWN THE HALL WHERE THE
4 WITNESS INTERVIEW WAS?

5 A. I REMEMBER THAT I WAS IN THE ROOM WITH SEGAL WHEN -- I'M
6 SORRY, WITH STOECKLEY WHEN BERNIE AND WADE LEFT AND THEY LET
7 HER FIANCE COME IN AND THEY DELIVERED HER BOLOGNA SANDWICH.

8 BUT I THINK WHILE THAT DISCUSSION WAS STILL GOING ON
9 IN COURT, I LEFT THAT ROOM AND WENT BACK INTO THE COURTROOM
10 BECAUSE I DON'T REMEMBER WATCHING -- I DON'T REMEMBER STAYING
11 THERE FOR THE WHOLE TIME THAT STOECKLEY AND ERNIE DAVIS WERE
12 THERE. AND I THINK THEY WOUND UP JUST ALONE IN THAT ROOM.

13 Q. YOU DID STAY LONG ENOUGH TO SEE HER, AS YOU READ, EATING
14 THE BOLOGNA SANDWICH WHILE TURNING THROUGH THE PICTURES?

15 A. YEAH, THAT'S AN UNFORGETTABLE IMAGE.

16 Q. ALL RIGHT. NOW, LET'S LOOK AT PAGE SIX AND LET'S READ AT
17 LINE 15.

18 A. AGAIN THIS IS JUDGE DUPREE. OH, YEAH, THE COURT NEVER
19 STOPS WORK, BUT I DON'T WANT TO KEEP THESE JURORS HERE ANY
20 LONGER, SO WE WILL LET YOU RETIRE UNTIL TOMORROW MORNING AT
21 NINE O'CLOCK. WE WILL GO BACK ON OUR REGULAR FRIDAY SCHEDULE
22 WITNESS OR NO. JURY EXITS AT 1:08 P.M.

23 Q. ALL RIGHT. NOW LET'S GO TO PAGE 12 AND AT THE VERY
24 BOTTOM, LINE 25, PICK UP WHERE IT SAYS MR. BLACKBURN.

25 A. MR. BLACKBURN: I MIGHT ASK COUNSEL I KNOW --

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1 Q. HOLD ON A MOMENT.

2 A. I KNOW YOU HAVE SAID THAT I COULD SEE HER SHORTLY, BUT
3 CAN YOU BE MORE SPECIFIC AS TO WHEN SHORTLY MIGHT COME?

4 MR. SEGAL: I NEED TO DEFINE A COUPLE OF MATTERS,
5 MR. BLACKBURN, BUT I WOULD SAY BY TWO O'CLOCK. I JUST WANT TO
6 ADD FOR THE RECORD, YOUR HONOR, THE REQUEST IN REGARD TO
7 WHETHER MS. STOECKLEY SHOULD BE RELEASED OR NOT WAS THE
8 REQUEST THAT I CONVEYED AT HER INSTANCE. IT IS NOT
9 NECESSARILY MY REQUEST, YOUR HONOR.

10 THE COURT: ALL RIGHT --

11 DO YOU WANT ME TO KEEP GOING?

12 Q. YEAH, JUST TO THE END OF THE PAGE.

13 A. ALL RIGHT. I DIDN'T IDENTIFY YOU WITH THE REQUEST. YOU
14 WERE JUST COMMUNICATING A REQUEST BY THE WITNESS AND HER
15 BOYFRIEND.

16 YES, YOUR HONOR.

17 THE COURT: TAKE A RECESS UNTIL TOMORROW MORNING AT
18 NINE O'CLOCK.

19 THE PROCEEDING WAS ADJOURNED AT 1:17 P.M., TO
20 RECONVENE AT 9:00 A.M. ON FRIDAY, AUGUST 17TH, 1979.

21 Q. OKAY. SO, IN THIS TRANSCRIPT, MR. SEGAL FORECASTS THAT
22 HE'S GOING TO CONTINUE TO QUESTION HER UNTIL ABOUT TWO
23 O'CLOCK?

24 A. WELL, HE DIDN'T -- HE SAID THAT HE NEEDS TO DEFINE A
25 COUPLE OF MATTERS. I'M NOT, AT THIS POINT, SURE WHAT HE MEANT

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1 BY THAT. BUT BASICALLY THE QUESTIONING OF HER WAS OVER BY THE
2 TIME THEY GAVE HER THE BOLOGNA SANDWICH. THERE WAS NO OTHER
3 MAINSTREAM INTERROGATION OR ANYTHING.

4 Q. IF MR. SEGAL QUESTIONED HER ANY MORE AFTER THIS POINT,
5 WERE YOU PRESENT?

6 A. NO, AND HE -- AND I WOULD HAVE BEEN. MR. SEGAL WANTED TO
7 BE SURE I WAS PRESENT FOR EVERYTHING HE HAD TO DO WITH
8 STOECKLEY BECAUSE, YOU KNOW, I THINK UP UNTIL THE -- PROBABLY
9 UP UNTIL TWO O'CLOCK, HE STILL THOUGHT MAYBE HE COULD -- BUT
10 HE NEVER WENT BACK AND TRIED AGAIN. HE NEVER WENT BACK AND HE
11 PRETTY MUCH KNEW THAT THIS DIDN'T WORK BY THE TIME HE SPOKE TO
12 THE JUDGE AT 1:00.

13 Q. BUT YOU'RE CONFIDENT THAT ANY QUESTIONING OF MS.
14 STOECKLEY BY SEGAL YOU OBSERVED?

15 A. OH, YES. ABSOLUTELY.

16 Q. AND THAT WOULD HAVE BEEN AT HIS INSISTENCE?

17 A. YES, INDEED. I MEAN, I COULD HAVE REFUSED TO GO IN THE
18 ROOM, I GUESS, BUT HE WAS -- HE WASN'T JUST ENCOURAGING ME TO,
19 HE MADE IT VERY CLEAR HE WANTED ME THERE.

20 Q. AND SO THERE WAS NO MORE COURT THAT DAY, IS THAT RIGHT?

21 A. IT DOESN'T LOOK LIKE IT. IT SAYS IT WAS ADJOURNED UNTIL
22 THE NEXT MORNING.

23 Q. NOW, YOU SAT IN THE COURTROOM AND OBSERVED HELENA
24 STOECKLEY TESTIFYING THE NEXT DAY?

25 A. YES, SIR, I DID.

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1 Q. DIRECT EXAMINATION BY MR. SEGAL, IS THAT RIGHT?

2 A. RIGHT.

3 Q. DID THE TESTIMONY THAT YOU OBSERVED HELENA STOECKLEY GIVE
4 ON DIRECT EXAMINATION, WAS IT CONSISTENT WITH WHAT SHE HAD
5 SAID THE PREVIOUS DAY IN THE DEFENSE INTERVIEW ROOM?

6 A. YES, I THINK IT WAS. SHE SAID JUST WHAT SHE HAD SAID THE
7 DAY BEFORE, THAT SHE HADN'T BEEN THERE, SHE COULDN'T HELP.

8 Q. LET'S GO TO TRIAL DAY 21, PAGE 107.

9 MR. BRUCE: JUST A MOMENT, PLEASE, YOUR HONOR.

10 (PAUSE.)

11 BY MR. BRUCE:

12 Q. OKAY. NOW, WHEN YOU WERE SEATED IN THE COURTROOM, YOU
13 DID NOT GO TO THE BENCH WHEN THEY CALLED A BENCH CONFERENCE,
14 DID YOU?

15 A. I WASN'T ALLOWED IN FRONT OF THE BAR, NO.

16 Q. ALL RIGHT. SO, YOU WERE NOT ABLE TO HEAR WHAT WAS GOING
17 ON WHEN THE LAWYERS WERE SPEAKING TO THE JUDGE AT THE BENCH?

18 A. THAT'S RIGHT.

19 Q. ALL RIGHT. LET'S TAKE A LOOK AT THIS PAGE 107 OF TRIAL
20 DAY 21 AND JUST START READING WHERE IT SAYS, MR. SEGAL, MAY WE
21 APPROACH THE BENCH, YOUR HONOR?

22 A. OKAY.

23 MR. SEGAL: MAY WE APPROACH THE BENCH?

24 BENCH CONFERENCE.

25 MR. SEGAL: AT THIS TIME, YOUR HONOR, I ASK FOR

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1 LEAVE OF COURT TO TAKE THIS WITNESS ON -- TAKE THIS WITNESS AS
2 ON CROSS BECAUSE SHE IS A SURPRISE AND HOSTILE WITNESS.

3 I REPRESENT TO THE COURT THAT DURING INTERVIEWS WITH
4 ME AND WITH OTHER PERSONS PRESENT SHE STATED THAT WHEN SHE
5 LOOKED AT THE PICTURE, SHE HAD A RECOLLECTION OF STANDING OVER
6 A BODY HOLDING A CANDLE, SEEING A MAN'S BODY ON THE FLOOR.

7 I ALSO MAY SAY, YOUR HONOR, WE ARE NOW DOWN TO THE
8 BOTTOM FIVE OR SIX CRITICAL THINGS THAT SHE REVEALED
9 YESTERDAY. I HAVE A FEELING, BASED ON HER ANSWER TO THIS ONE
10 NOW, THAT WHEN AND IF I ASK HER IN DIRECT FASHION THAT I MAY
11 GET NEGATIVE ANSWERS.

12 I HAD NO ANTICIPATION OF THAT, BECAUSE YESTERDAY
13 THROUGHOUT THE TIME THAT SHE MADE THESE STATEMENTS, WE
14 ACCEPTED THEM, DID NOT EXPECT CONTRARY.

15 WE HAVE NOT HAD ANY DIFFERENT STATEMENTS FROM HER
16 AND WE FEEL THAT WE ARE ENTITLED TO THE PLEA OF SURPRISE AS
17 WELL AS THE FACT, I THINK, AT THIS POINT, THE EXTENT OF HER
18 HOSTILE RELATIONSHIP NOT IN TERMS OF MANNER BUT THE HOSTILITY
19 OF HER INTEREST TO THE DEFENDANT.

20 I AM GOING TO TELL YOUR HONOR THE OTHER THINGS THAT
21 SHE HAS SAID. WOULD THAT APPROPRIATE NOW TO EXPEDITE OR
22 SHOULD IT DO IT ONE AT A TIME?

23 THE COURT: WELL, IF IT WILL SAVE ANY TRIPS UP HERE
24 MAYBE YOU SHOULD TELL US NOW.

25 MR. SEGAL: SHE HAS ALREADY ACTUALLY SAID SOMETHING,

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1 AND I DID NOT WANT TO RAISE A SURPRISE QUESTION. I WANT TO DO
2 IT ALL AT ONE TIME. THE PHOTOGRAPH THAT I SHOWED HER OF THE
3 BEDROOM OF KRISTEN MACDONALD DURING THE INTERVIEW YESTERDAY,
4 SHE STATED THAT SHE REMEMBERED RIDING THE ROCKING HORSE WHEN
5 SHE LOOKED AT THAT PICTURE.

6 SHE ALSO STATED YESTERDAY SHE REMEMBERED STANDING AT
7 THE END OF THE SOFA HOLDING A CANDLE. SHE ALSO STATED WHEN
8 SHE SAW THE BODY OF KRISTEN MACDONALD, THE ONE WHEN SHE WAS
9 CLOTHED WITH THE BABY BOTTLE, THAT THAT PICTURE LOOKED
10 FAMILIAR TO HER. THAT SCENE LOOKED FAMILIAR.

11 SHE ALSO SAID WHEN SHE WAS SHOWN THE PHOTOGRAPH OF
12 COLETTE MACDONALD, THE SAME ONE I SHOWED HER TODAY, THAT SHE
13 SAID THAT THE FACE IN THAT PICTURE LOOKED FAMILIAR EXCEPT THAT
14 THE CHIN WAS BROKEN AND MADE IT A LITTLE HARD.

15 SHE ALSO STATED, AND I'M GOING TO GET TO IT -- SHE'S
16 GOTTEN TO THE POINT WHERE SHE DOES NOT SOUND LIKE SHE IS GOING
17 TO COOPERATE FURTHER -- THAT SHE WAS STANDING ON THE CORNER OF
18 HONEYCUTT ACROSS FROM MELONY VILLAGE.

19 SHE HAS A RECOLLECTION OF STANDING THERE DURING THE
20 EARLY MORNING HOURS OF FEBRUARY 17TH, 1970. SHE FURTHER
21 STATED YESTERDAY, AND I INTEND TO ASK HER NOW, THAT SHE HAS A
22 RECOLLECTION OF STANDING OUTSIDE THE HOUSE LOOKING AT HER
23 HANDS AND SAYING, MY GOD, THE BLOOD; OH, MY GOD, THE BLOOD.

24 SHE SAID THAT TOOK PLACE FEBRUARY 17TH, 1970. THERE
25 ARE WITNESSES TO EACH OF THESE THINGS. I MUST SAY, YOUR

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1 HONOR, THERE WERE PERSONS PRESENT THE ENTIRE TIME THIS TOOK
2 PLACE.

3 I INTEND TO NOW ASK HER DIRECTLY EACH OF THESE
4 QUESTIONS. IF SHE REFUSES OR DENIES HER STATEMENTS, I ASK FOR
5 LEAVE TO CONFRONT HER; DID YOU NOT SAY THAT YESTERDAY WHEN YOU
6 WERE CONFRONTED WITH THESE PHOTOS?

7 IF SHE PERSISTS IN DENYING IT WE WILL OF COURSE
8 IMPEACH HER AS WE HAVE THE RIGHT TO IMPEACH HER UNDER THE
9 RULES. ALTHOUGH WE HAVE CALLED HER AS A WITNESS, THERE ARE
10 RULES THAT PERMIT THAT TO BE DONE.

11 WHEN I AM DONE WITH THAT, I INTEND TO TURN HER OVER
12 FOR CROSS-EXAMINATION.

13 THE COURT: LET'S TAKE A RECESS UNTIL 11:15.

14 (RECESS TAKEN FROM 10:59 A.M., UNTIL 11:16 A.M.)

15 (DEFENDANT PRESENT.)

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

18 MR. MCGINNISS, YOU'RE STILL UNDER OATH. THE WITNESS
19 IS STILL WITH MR. BRUCE.

20 MR. BRUCE: THANK YOU, YOUR HONOR.

21 BY MR. BRUCE:

22 Q. MR. MCGINNISS, LET'S GO BACK TO PAGE 108, WHERE MR. SEGAL
23 WAS AT THE BENCH. DO YOU RECALL READING THAT JUST BEFORE THE
24 BREAK?

25 A. YES, SIR.

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1 Q. I'M GOING TO ASK THE TECHNICIAN TO HIGHLIGHT THE AREA
2 BEGINNING WITH, ON LINE TEN, THE PHOTOGRAPH THAT I SHOWED AND
3 THROUGH THE END OF THAT PARAGRAPH.

4 NOW, THE STATEMENT, THE PHOTOGRAPH THAT I SHOWED HER
5 OF THE BEDROOM OF KRISTEN MACDONALD DURING THE INTERVIEW
6 YESTERDAY, SHE STATED THAT SHE REMEMBERED RIDING THE ROCKING
7 HORSE WHEN SHE LOOKED AT THAT PICTURE. DID YOU HEAR HELENA
8 STOECKLEY MAKE ANY STATEMENT LIKE THAT DURING THE INTERVIEW
9 THE PREVIOUS DAY?

10 A. NO, I DID NOT.

11 Q. NOW, I WANT TO MOVE DOWN TO THE FIRST SENTENCE OF THE
12 NEXT PARAGRAPH. SHE ALSO STATED YESTERDAY THAT SHE REMEMBERED
13 STANDING AT THE END OF THE SOFA HOLDING A CANDLE. PRESUMABLY,
14 THE SOFA IN THE MACDONALD HOUSE. DID YOU HEAR HER SAY
15 ANYTHING LIKE THAT?

16 A. NO, SHE DIDN'T SAY ANYTHING THAT.

17 Q. ALL RIGHT. LET'S MOVE TO PAGE 109 AND STARTING WITH
18 WHERE -- LET'S SEE -- WHERE IT SAYS SHE HAS A RECOLLECTION OF
19 STANDING THERE. STARTING ON LINE FIVE AND GOING THROUGH LINE
20 12. AND JUST READ WHAT SHE SAYS THERE OR WHAT SEGAL QUOTES
21 HER SAYING.

22 A. SHE HAS A RECOLLECTION OF STANDING THERE DURING THE EARLY
23 MORNING HOURS OF FEBRUARY 17TH, 1970. SHE FURTHER STATED
24 YESTERDAY, AND I INTEND TO ASK HER NOW, THAT SHE HAS A
25 RECOLLECTION OF STANDING OUTSIDE THE HOUSE LOOKING AT HER

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1 HANDS AND SAYING, MY GOD, THE BLOOD; OH, MY GOD, THE BLOOD.
2 SHE SAID THAT TOOK PLACE FEBRUARY 17TH, 1970. THERE ARE
3 WITNESSES TO EACH OF THESE THINGS.

4 Q. ALL RIGHT. DID YOU HEAR HELENA STOECKLEY THE PREVIOUS
5 DAY DURING THE DEFENSE INTERVIEW SAY ANYTHING LIKE THAT?

6 A. ABSOLUTELY NOT.

7 Q. NOW, THESE STATEMENTS, IF SHE HAD MADE THEM, WOULD BE
8 ADMITTING TO PRESENCE AT THE MACDONALD SCENE -- CRIME SCENE,
9 IS THAT RIGHT?

10 A. YEAH. I MEAN, IF SHE HAD EVER SAID ANYTHING LIKE THAT
11 THERE WOULD HAVE BEEN JUBILATION IN THAT ROOM. THERE WOULD
12 HAVE BEEN HIGH FIVES. THEY WOULD HAVE RAN OUT OF COURT AND
13 CHAMPAGNE CORKS WOULD HAVE POPPED. THIS WAS -- THIS WAS THEIR
14 DREAM, BUT IT JUST DIDN'T HAPPEN.

15 Q. AND SO THERE WAS NO CELEBRATION THERE OR EVEN BACK AT THE
16 FRATERNITY HOUSE?

17 A. NO. THEY WOULD HAVE BEEN UP ALL NIGHT PARTYING REALLY.
18 I MEAN, THAT WOULD HAVE BEEN -- THAT WAS THE HOLY GRAIL, TO
19 GET STOECKLEY TO CONFESS, AND IT ABSOLUTELY DID NOT HAPPEN.

20 Q. ALL RIGHT. NOW, I WANT TO TAKE YOU BACK TO PAGE 110, AND
21 GET YOU TO START READING WITH WHERE IT SAYS MR. BLACKBURN ON
22 LINE ONE.

23 A. MR. BLACKBURN: OF COURSE, I WAS NOT THERE WHEN SHE
24 TALKED WITH THE DEFENSE YESTERDAY, BUT IN HER INTERVIEW WITH
25 THE GOVERNMENT NONE OF THOSE STATEMENTS WERE MADE. SHE

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1 SPECIFICALLY TOLD US --

2 THE COURT: (INTERPOSING.) DID YOU ASK HER ANY?

3 MR. BLACKBURN: YES, SIR. SHE SPECIFICALLY TOLD US
4 THAT SHE HAD BEEN SHOWN THE PHOTOGRAPHS AND WE ASKED HER DID
5 YOU RECOGNIZE ANY OF THE SCENES IN THOSE PHOTOGRAPHS. THE
6 ANSWER WAS NO. I ASKED HER HAVE YOU EVER BEEN TO THAT HOUSE?
7 SHE SAID NO. I SAID DO YOU KNOW ANYTHING ABOUT THAT? NO.
8 WHO DO YOU THINK DID IT? DR. MACDONALD. YOU KNOW, IT JUST
9 WENT ONE RIGHT AFTER THE OTHER.

10 I DISCUSSED -- I TOLD MR. SMITH LAST NIGHT WHAT SHE
11 TOLD US. I WAS UNDER THE IMPRESSION TO THIS VERY MOMENT THAT
12 WHAT SHE TOLD US WAS ESSENTIALLY WHAT SHE TOLD THEM.

13 IT IS DIFFICULT FOR ME -- YOU KNOW, I AM NOT SAYING
14 THAT THEY ARE NOT SAYING WHAT SHE SAID. I JUST DON'T KNOW
15 WHICH WAY IT IS BECAUSE SHE HAS NOT INDICATED ANYTHING TO THE
16 GOVERNMENT.

17 Q. STOP THERE FOR A MINUTE. THE STATEMENTS THAT MR.
18 BLACKBURN -- WELL, LET ME ASK YOU THIS, WERE YOU PRESENT
19 DURING THE PROSECUTION INTERVIEW OF HELENA STOECKLEY?

20 A. NO.

21 Q. AND SO YOU DON'T KNOW OF YOUR PERSONAL KNOWLEDGE WHAT
22 WENT ON THERE?

23 A. NO, I DON'T.

24 Q. BUT THE STATEMENTS THAT MR. BLACKBURN HAS MADE ABOUT THE
25 PROSECUTION INTERVIEW, YOU JUST READ THEM, IS THAT RIGHT?

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1 A. I JUST READ WHAT'S IN THE TRANSCRIPT HERE.

2 Q. RIGHT. MY QUESTION IS, WHAT MR. BLACKBURN IS RELATING
3 ABOUT THE PROSECUTION INTERVIEW, WOULD YOU COMPARE THAT TO
4 WHAT YOU HEARD DURING THE DEFENSE INTERVIEW?

5 A. JUST ABOUT IDENTICAL.

6 Q. ALL RIGHT. NOW, START READING WITH MR. SMITH.

7 A. MR. SMITH: JUDGE, HERE I THINK IS WHERE WE ARE.
8 GENERALLY, SHE SAID TO US THE SAME THING -- SAID TO US THE
9 SAME THING AND THAT IS I DON'T REMEMBER. BUT IN TWO OR THREE
10 OR FOUR INSTANCES, WHATEVER THE LIST WOULD REVEAL, SHE SAYS
11 SOMETHING WHICH WOULD GIVE AN INTERESTING INSIGHT INTO HER
12 MIND.

13 Q. ALL RIGHT. NOW, PRIOR TO THIS WEEK, HAD YOU EVER READ
14 THIS TRANSCRIPT EXCERPT WE'VE BEEN GOING OVER THIS MORNING?

15 A. NO, I NEVER DID. THIS IS COMPLETELY NEWS TO ME. IF I
16 HAD, BELIEVE ME, IT WOULD HAVE BEEN IN THE BOOK.

17 Q. DID YOU GET A TRIAL TRANSCRIPT IN PREPARING YOUR BOOK?

18 A. YES, AND I HAD -- THE BENCH CONFERENCES WERE IN A
19 SEPARATE VOLUME AND I WAS ESPECIALLY INTERESTED IN THEM
20 BECAUSE THAT'S THE PART I NEVER HEARD. AND I GOT -- MR.
21 SEGAL, BERNIE SEGAL, SENT ME FROM HIS OFFICE IN SAN FRANCISCO,
22 AS I RECALL, THE FULL VOLUME OF THE BENCH CONFERENCES, OR AT
23 LEAST I THOUGHT IT WAS THE FULL VOLUME, BUT CLEARLY THESE
24 PAGES HAD BEEN REMOVED. THEY WERE NOT IN IT. I'VE NEVER SEEN
25 -- I'VE NEVER SEEN THIS BEFORE.

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1 Q. SO, WHEN YOU READ THIS -- THESE STATEMENTS OF BERNIE
2 SEGAL ABOUT THE DEFENSE INTERVIEW IN THIS TRANSCRIPT THIS
3 WEEK, WHAT WAS YOUR REACTION?

4 A. WELL, HE WAS LYING. I DON'T LIKE TO SPEAK ILL OF THE
5 DEAD, BUT, YOU KNOW, THIS IS RIDICULOUS. HE'S STANDING RIGHT
6 THERE IN FRONT OF A FEDERAL JUDGE AND HE'S JUST MAKING UP THIS
7 STUFF. CRAZY.

8 Q. AND YOU JUST READ WHAT MR. SMITH SAID. WOULD YOU SAY
9 BETWEEN THE TWO STATEMENTS ABOUT WHAT WENT ON THE PREVIOUS DAY
10 IN THE DEFENSE INTERVIEW WHICH WAS MORE ACCURATE, MR. SEGAL OR
11 MR. SMITH?

12 A. WELL, MR. SEGAL'S IS ALL JUST -- JUST MADE UP. MR. SMITH
13 WAS SAYING I DON'T -- SHE SAID I DON'T REMEMBER. THAT'S
14 ACCURATE.

15 YOU KNOW, I TALKED TO WADE SMITH AFTER THE TRIAL AND
16 HE TOLD ME HE FELT THAT HE HAD BEEN BETWEEN A ROCK AND A HARD
17 PLACE BECAUSE HE COULDN'T STAND UP THERE AND UNDERMINE HIS CO-
18 COUNSEL BY TELLING THE COURT MR. SEGAL'S NOT TELLING THE
19 TRUTH, BUT ON THE OTHER HAND, HE'S NOT -- AS AN OFFICER OF THE
20 COURT, HE'S NOT GOING TO PARTICIPATE IN TRYING TO FABRICATE
21 ANYTHING OR PUT UP -- YOU KNOW, SAY ANYTHING THAT WAS NOT
22 TRUE.

23 Q. AND WHEN YOU SAY --

24 A. HE WALKED A FINE LINE AND HE WAS VERY HAPPY WHEN HE GOT
25 TO THE OTHER END.

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1 Q. ALL RIGHT. SO, YOU'RE RELATING WHAT WENT ON WITH THE
2 CONVERSATION BETWEEN YOU AND MR. SMITH YOU SAID AFTER TRIAL,
3 BUT IT WAS QUITE A LONG TIME AFTER TRIAL, RIGHT?

4 A. WELL, I'VE SEEN WADE OVER THE YEARS MANY TIMES AND, YOU
5 KNOW, WE'VE HAD HUNDREDS OF CONVERSATIONS AND I'M SURE IT'S
6 COME UP MORE THAN ONCE.

7 Q. ALL RIGHT. NOW, DID YOU ALSO SIT IN THE COURTROOM AND
8 OBSERVE THE CROSS-EXAMINATION OF HELENA STOECKLEY BY MR.
9 BLACKBURN?

10 A. YES, SIR, I DID.

11 Q. AND LET'S GO TO TRIAL DAY 21, PAGE 141. AND WOULD YOU
12 START READING AT LINE 19.

13 A. TO YOUR OWN KNOWLEDGE -- THIS IS THE QUESTION -- TO YOUR
14 OWN KNOWLEDGE, DID YOU PARTICIPATE IN THE KILLINGS OF THE
15 MACDONALD FAMILY?

16 NO, SIR.

17 HOW DO YOU FEEL TOWARD CHILDREN?

18 I LOVE CHILDREN.

19 OF YOUR OWN PERSONAL KNOWLEDGE, DID YOU KILL COLETTE
20 MACDONALD?

21 NO, SIR.

22 HOW ABOUT KRISTEN?

23 NO, SIR.

24 HOW ABOUT KIMBERLEY?

25 NO, SIR.

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1 DID YOU TRY TO KILL DR. MACDONALD?

2 NO, SIR.

3 DO YOU KNOW WHO DID?

4 NO, SIR.

5 DO YOU RECALL EVER BEING IN THE MACDONALD APARTMENT
6 CARRYING A CANDLE?

7 NO, SIR.

8 NOW, I BELIEVE --

9 Q. THAT'S FINE. NOW, THOSE STATEMENTS THAT MR. BLACKBURN
10 ELICITED ON CROSS-EXAMINATION, WERE THEY CONSISTENT WITH WHAT
11 YOU HEARD HELENA STOECKLEY SAY IN THE DEFENSE INTERVIEW THE
12 PREVIOUS DAY?

13 A. ABSOLUTELY.

14 Q. ALL RIGHT. NOW, LET'S GO TO PAGE 164, AND START READING
15 AT LINE 12 DOWN TO LINE 19.

16 A. THE QUESTION IS, NOW, WHEN YOU CAME HOME AT ABOUT 4:30 OR
17 FIVE O'CLOCK THAT MORNING ON THE 17TH, YOU GOT OUT OF THE CAR,
18 DO YOU RECALL THAT?

19 YES, SIR.

20 DID YOU SEE ANY BLOOD ON YOUR HANDS?

21 NO, SIR.

22 DID YOU SEE ANY BLOOD ON YOUR CLOTHES?

23 NO, SIR.

24 MR. BLACKBURN: NO FURTHER QUESTIONS, YOUR HONOR.

25 Q. ALL RIGHT. NOW, I DON'T KNOW IF THAT SUBJECT WAS COVERED

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1 IN THE DEFENSE INTERVIEW, DO YOU RECALL?

2 A. I DON'T RECALL THAT HE ASKED THAT SPECIFIC QUESTION.

3 Q. OKAY. NOW, THE TRIAL RESULTED IN THE CONVICTION OF DR.
4 MACDONALD, IS THAT RIGHT?

5 A. YES, IT DID.

6 Q. AND YOU CONTINUED TO WORK ON THE BOOK?

7 A. YES, I DID.

8 Q. AND DID YOU HAVE INTERACTION WITH JEFFREY MACDONALD IN
9 WORKING ON THE BOOK?

10 A. WELL, I DID IN A LIMITED WAY. AND, OF COURSE, HE WAS IN
11 PRISON WHICH MADE IT A LITTLE DIFFICULT. BUT THAT FALL -- HE
12 WAS CONVICTED IN AUGUST OF '79. I BELIEVE IT WAS NOVEMBER OF
13 '79, THAT I WENT OUT TO -- THEY HAD SHUTTLED HIM AROUND THE
14 COUNTRY, YOU KNOW, HE WAS IN A LOT OF DIFFERENT PLACES BEFORE
15 HE GOT TO TERMINAL ISLAND.

16 BUT HE FINALLY GOT TO THE FCI AT TERMINAL ISLAND,
17 WHICH IS IN SOUTHERN CALIFORNIA, NOT FAR FROM WHERE HE HAD
18 LIVED. AND I WENT OUT THERE TO VISIT HIM AND ALSO TO GATHER
19 UP ALL THE MATERIALS THAT HE HAD IN HIS CONDOMINIUM BECAUSE I
20 NEEDED THEM FOR MY RESEARCH.

21 IN FACT, I STAYED AT HIS CONDO AT HIS SUGGESTION
22 BECAUSE IT WAS MORE CONVENIENT. I COULD JUST WORK THERE, GO
23 THROUGH ALL OF HIS FILES, SELECT THE PAPERS THAT I NEEDED TO
24 BRING BACK HOME TO HAVE COPIED AND THEN GO VISIT HIM IN THE
25 EVENINGS. AND FOUR OR FIVE DAYS THAT'S WHAT I DID.

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1 BUT HERE'S THE THING, AT TERMINAL ISLAND I HAD
2 PLANNED TO DO INTERVIEWS WITH HIM, BUT THEY WOULDN'T LET YOU
3 TAKE NOTES. I COULDN'T SIT THERE AND ASK HIM QUESTIONS AND
4 WRITE DOWN HIS ANSWERS. THAT WAS NOT PERMITTED.

5 SO, I THINK -- IT MIGHT HAVE EVEN BEEN HIS
6 SUGGESTION, THAT HE MAKE TAPES IN HIS CELL AND SEND THEM TO
7 ME. I WOULD WRITE HIM LISTS OF QUESTIONS AND HE WOULD RESPOND
8 ON TAPE AND THEN HE'D HAVE SOMEONE SEND ME THE CASSETTES.

9 Q. ALL RIGHT. NOW, WHILE YOU WERE STAYING AT JEFFREY
10 MACDONALD'S CONDOMINIUM, DID HE GIVE YOU PRETTY MUCH THE RUN
11 OF THE PLACE?

12 A. OH, YEAH, ABSOLUTELY. THE IDEA WAS IT WOULD BE THE MOST
13 CONVENIENT WAY FOR ME TO HAVE ACCESS TO ALL OF HIS FILES THAT
14 WENT BACK -- BASICALLY BACK TO 1970.

15 Q. AND THE PAPERWORK WAS ALL THERE IN THE CONDOMINIUM?

16 A. YEAH. AS I RECALL, THERE WERE BOXES AND BOXES WITH FILE
17 FOLDERS OF TRANSCRIPTS AND ALL KINDS OF THINGS. I EVEN CAME
18 ACROSS HIS CORRESPONDENCE -- HIS CORRESPONDENCE THAT HE HAD
19 WITH JOE WAMBAUGH. HE AND WAMBAUGH EXCHANGED A LETTER AFTER
20 THEIR MEETING. BUT, YOU KNOW, EVERYTHING WAS THERE. IT WAS
21 ALL IN -- IT WASN'T ORGANIZED, BUT IT WAS ALL IN CARDBOARD
22 BOXES IN THE HALLWAY.

23 Q. AND AS PART OF YOUR AGREEMENT WITH HIM, YOU WERE GIVEN
24 ACCESS TO ALL THAT MATERIAL?

25 A. OH, ABSOLUTELY. YEAH.

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1 Q. NOW, DID THERE COME A TIME WHEN YOU FOUND SOME NOTES THAT
2 HE HAD MADE CONCERNING THE DAY IN QUESTION, THE DAY OF THE
3 HOMICIDES?

4 A. YEAH. WELL -- YES. ACTUALLY, I THINK THESE NOTES -- AS
5 I RECALL, HIS MILITARY LAWYER AT THE ARTICLE 32 HEARING HAD
6 ASKED HIM TO DESCRIBE IN AS MUCH DETAIL AS HE COULD EVENTS
7 LEADING UP TO THAT DAY AND THEN INCLUDING THAT DAY SO HE WOULD
8 HAVE A FULL COMPREHENSIVE ACCOUNT OF PUTTING THAT DAY IN
9 CONTEXT.

10 Q. OKAY. SO, YOU FOUND THESE NOTES AND READ THEM?

11 A. RIGHT. YES, I DID.

12 Q. IN THE MATERIALS YOU WERE GIVEN ACCESS TO?

13 A. THAT'S RIGHT, YEP.

14 Q. AND THEN YOU WROTE ABOUT IT IN YOUR BOOK?

15 A. CORRECT. I QUOTED FROM, YOU KNOW, FROM -- I QUOTED FROM
16 A LOT OF DIFFERENT THINGS.

17 Q. ALL RIGHT. LET'S GO TO GOVERNMENT EXHIBIT 4002, AND
18 LET'S GO TO THE NEXT PAGE. AND WOULD YOU START READING, MR.
19 MCGINNISS, WHERE IT SAYS ON MY LAST DAY AT THE CONDOMINIUM?

20 A. ON MY LAST DAY AT THE CONDOMINIUM, I FOUND MORE PAGES OF
21 NOTES IN JEFFREY MACDONALD'S HANDWRITING. THE HEADING SAID
22 ACTIVITIES MONDAY, 16 FEBRUARY, 5:30 P.M. DASH TUESDAY IN
23 HOSPITAL, 17 FEBRUARY.

24 THIS, TOO, WAS PART OF THE DETAILED ACCOUNT WHICH
25 MACDONALD HAD PREPARED AT THE REQUEST OF HIS MILITARY ATTORNEY

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1 IMMEDIATELY AFTER THE APRIL 6TH ANNOUNCEMENT THAT HE WAS BEING
2 HELD AS A SUSPECT. THE ACCOUNT WHICH, HE HAD TOLD VICTOR
3 WORHEIDE AT THE GRAND JURY, HE HAD PUT IN WRITING BECAUSE THE
4 EVENTS WERE TOO PAINFUL FOR HIM TO TALK ABOUT. THIS --

5 (GOVERNMENT EXHIBIT NUMBER 4002
6 WAS IDENTIFIED FOR THE RECORD.)

7 Q. HOLD ON A SECOND. HOLD ON A SECOND. YOU -- OKAY, KEEP
8 READING. I'M SORRY.

9 A. THIS, HE HAD TOLD WORHEIDE, WAS THE MOST ACCURATE, MOST
10 COMPLETE, MOST COHERENT ACCOUNT OF THE NIGHT OF THE MURDERS
11 WHICH HE HAD EVER COMPILED. HE HAD NOT, HOWEVER, MADE IT
12 AVAILABLE TO WORHEIDE OR TO THE GRAND JURORS. HE HAD NOT MADE
13 IT AVAILABLE TO ANY INVESTIGATOR. HE HAD GIVEN IT TO HIS
14 LAWYERS FOR THEIR USE NOT KNOWING AT THE TIME WHAT THE
15 EVIDENCE AGAINST HIM MIGHT CONSIST OF. AND ONCE IT BECAME
16 CLEAR DURING THE ARTICLE 32 HEARING THAT CERTAIN AVENUES WERE
17 NOT TO BE PURSUED THIS, QUOTE, MOST ACCURATE ACCOUNT HAD LAIN
18 AT THE BOTTOM OF A CARDBOARD BOX COVERED BY DOZENS OF OTHER
19 FILES.

20 Q. HOLD ON JUST A MINUTE. LET ME ASK YOU ONE QUESTION.
21 YOU'VE GOT SOME COMMENTS HERE ABOUT WHAT MACDONALD TESTIFIED
22 TO IN THE GRAND JURY, IS THAT RIGHT, THAT YOU JUST READ?

23 A. YES. YES. RIGHT. THAT WAS FROM SOME OF THE MATERIALS
24 THAT I TOOK BACK WITH ME. MACDONALD HAD COPIES OF HIS OWN
25 GRAND JURY TESTIMONY.

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1 Q. ALL RIGHT. AND HE WAS QUESTIONED IN THE GRAND JURY BY
2 VICTOR WORHEIDE WHO WAS -- HELPED WITH PROSECUTING THE CASE AT
3 THAT TIME?

4 A. YES.

5 Q. AND THE GRAND JURY TRANSCRIPTS WERE PREPARED -- I MEAN,
6 WERE PROVIDED TO MACDONALD'S DEFENSE TEAM?

7 A. YEAH, I DON'T THINK THEY PROVIDED THEM THE COMPLETE GRAND
8 JURY TRANSCRIPT, BUT THEY PROVIDED THEM ANYBODY WHO WAS GOING
9 TO BE --

10 Q. WELL, WHATEVER THEY PROVIDED -- WHATEVER WAS PROVIDED TO
11 THE DEFENSE TEAM YOU GOT TO SEE?

12 A. I DID, YEAH. YOU KNOW, I THINK MACDONALD'S MOTHER AND
13 HIS BROTHER ALSO TESTIFIED. IF YOU TESTIFY AT A GRAND JURY,
14 YOU GET A COPY OF YOUR OWN -- YOU KNOW, YOU GET A TRANSCRIPT
15 OF YOUR OWN TESTIMONY.

16 Q. WELL, MY QUESTION IS, WHATEVER GRAND JURY TRANSCRIPTS THE
17 PROSECUTION PROVIDED TO THE DEFENSE, MACDONALD DEFENSE, YOU
18 GOT TO SEE THEM?

19 A. YES.

20 Q. OKAY. NOW, CONTINUE READING WITH THE WARM SOUTHERN
21 CALIFORNIA SUN.

22 A. WITH THE WARM SOUTHERN CALIFORNIA SUN OF LATE NOVEMBER
23 SHINING BRIGHTLY THROUGH THE SLIDING GLASS DOORS, I STARTED TO
24 READ. AND NOW THIS IS -- THESE WERE FROM HIS HANDWRITTEN
25 NOTES. WE ATE DINNER TOGETHER AT 5:45 P.M., PARENTHESSES, ALL

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1 FOUR. IT IS POSSIBLE I HAD ONE DIET PILL AT THIS TIME. I DO
2 NOT REMEMBER, BUT IT IS POSSIBLE. I HAD BEEN RUNNING A WEIGHT
3 CONTROL PROGRAM FOR MY UNIT AND I PUT MY NAME AT THE TOP OF
4 THE PROGRAM TO ENCOURAGE PARTICIPATION. I HAD LOST 12 DASH 15
5 POUNDS IN THE PRIOR THREE DASH FOUR WEEKS IN THE PROCESS USING
6 THREE DASH FIVE CAPSULES OF ESKATROL -- ESKATROL SPANSULE,
7 PARENTHESSES, 15 MILLIGRAMS, DEXTROAMPHETAMINE, DOUBLE
8 PARENTHESSES, QUOTES, SPEED, AND 7.5 MILLIGRAMS
9 PROCHLORPERAZINE, PARENTHESSES, COMPAZINE TO COUNTERACT THE
10 EXCITABILITY OF THE SPEED.

11 I WAS ALSO LOSING WEIGHT BECAUSE I WAS WORKING OUT
12 WITH THE BOXING TEAM AND THE COACH TOLD ME TO LOSE WEIGHT. IN
13 ANY CASE, THE REASON I COULD HAVE TAKEN THE PILL WAS TWOFOLD;
14 ONE, TO EAT LESS IN THE EVENING WHEN I SNACKED THE MOST; AND
15 TWO, TO TRY TO STAY AWAKE AFTER DINNER SINCE I WAS
16 BABYSITTING. IT DIDN'T WORK IF I DID TAKE THE PILL BECAUSE I
17 THINK I HAD A HALF HOUR NAP ON THE FLOOR FROM 7:30 TO 8:00
18 P.M. AFTER I PUT KRISTY TO BED.

19 THE CID KNOWS NOTHING ABOUT THE POSSIBLE DIET PILL.
20 IF I DID TAKE THE PILL, IT IS CONCEIVABLE THAT MY URINE AND
21 BLOOD 11:30 A.M. TUESDAY WOULD STILL HAVE SOME RESIDUE.

22 WE WOULD HAVE TO RESEARCH THE BREAKDOWN AND
23 EXCRETION OF WHAT WAS IN THE PILL. WE WOULD ALSO HAVE TO FIND
24 OUT THE EXCRETION PRODUCTS ARE DEFINITELY DIFFERENT THAN
25 NORMAL BREAKDOWN PRODUCTS OF ADRENALINE FROM THE BODY, WHICH

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1 WOULD BE INCREASED IN THE EXCITEMENT OF THE ATTACK, ET CETERA.
2 RIGHT NOW, I DON'T KNOW IF IT IS DEFINITELY POSSIBLE TO
3 IDENTIFY DEXTROAMPHETAMINE FROM PILLS IN THE BLOOD AND IN THE
4 URINE. I THINK I TOLD THE CID THE ONLY PILLS I USUALLY TOOK
5 WERE ASPIRIN, OCCASIONALLY COLD PILLS, AND TETRACYCLINE, AN
6 ANTIBIOTIC. THEN THERE'S FOUR DOTS.

7 DR. HENRY ASHTON NOW LIVING IN SALT LAKE CITY, UTAH,
8 WAS THE GROUP SURGEON BEFORE I ARRIVED IN SEPTEMBER 1969. IF
9 HE REMEMBERS, HE CAN TESTIFY THAT THE BOTTLE OF ESKATROL FROM
10 MY HOUSE, PARENTHESSES, WITH ONLY A FEW MISSING, WAS LEFT IN
11 THE DESK I TOOK OVER WHEN HE LEFT.

12 IF NECESSARY, WE CAN THEN CONTACT THE SMITH KLINE
13 AND FRENCH REPRESENTATIVE NEAR HERE WHO CAN TESTIFY I NEVER
14 RECEIVED ANOTHER LARGE BOTTLE OF SAMPLE ESKATROL. HE DID GIVE
15 ME SOME SMALL SAMPLE BOTTLES FOR USE IN THE WEIGHT CONTROL
16 PROGRAM.

17 COLETTE HAD SOME DIET PILLS OF HER OWN, PARENTHESSES,
18 USED BEFORE SHE WAS PREGNANT. I THINK I THREW THEM ALL OUT
19 BECAUSE THEY MADE HER NERVOUS, BUT POSSIBLY THERE WAS AN OLD
20 CONTAINER LEFT IN THE MEDICINE CABINET.

21 Q. ALL RIGHT. STOP RIGHT THERE. NOW, LET'S PUT UP ON THE
22 SCREEN EXHIBIT 4000. NOW, WE'VE BEEN READING FROM THE
23 REPRODUCTION OF THIS IN YOUR BOOK, BUT DO YOU RECOGNIZE 4000
24 AS THE HANDWRITTEN NOTES OF DR. MACDONALD?

25 A. YES. YES, I DO.

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1 (GOVERNMENT EXHIBIT NUMBER 4000
2 WAS IDENTIFIED FOR THE RECORD.)

3 Q. AND WHENEVER THERE WERE -- THERE WAS A DOT, DOT, DOT IN
4 YOUR -- OR ELLIPSIS IN YOUR BOOK, YOU LEFT OUT SOMETHING FROM
5 THE NOTES?

6 A. WELL, I'M NOT SURE IF THAT'S THE CASE OR IF I WAS JUST
7 REPRODUCING DOTS IN HIS --

8 Q. WELL, LET'S LOOK AT IT. LET'S SEE IF WE CAN BLOW THIS --
9 ENLARGE THIS A LITTLE BIT. SCROLL DOWN. ALL RIGHT, LET'S GO
10 TO THE NEXT PAGE. SCROLL UP A LITTLE BIT. WELL, I WAS TRYING
11 TO ORIENT TO THE ELLIPSIS, BUT IT DOESN'T LOOK LIKE THERE'S
12 ANYTHING LEFT OUT. DO YOU SEE ANYTHING LEFT OUT?

13 A. WELL, IT SAYS IN THE HANDWRITTEN NOTES HERE I ALSO HAVE A
14 VERY STRONG NAP URGE AFTER A FULL MEAL.

15 Q. OKAY.

16 A. AND KNOWING THIS, I WOULD WANT TO PREVENT THE NAP AT
17 LEAST UNTIL KRISTY WAS IN BED.

18 Q. OKAY. SO, THAT MAY BE THE PORTION LEFT OUT?

19 A. YEAH, I -- YOU KNOW, YEAH. RIGHT.

20 Q. OKAY.

21 A. IN ITS NEW EDITION, MR. BRUCE, *FATAL VISION* IS NOW 951
22 PAGES LONG. YOU KNOW, IT WOULD BE 2,000 IF I DIDN'T LEAVE
23 SOME THINGS OUT.

24 Q. OKAY. WELL, LET'S SEE. WE WANT TO BE COMPLETE HERE.
25 SO, LET'S SCROLL DOWN TO WHERE WE CAN FIND THE CID. WELL,

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1 I'LL TELL YOU WHAT, LET'S JUST GO BACK TO THE BEGINNING OF
2 THIS HANDWRITTEN VERSION AND LET'S READ IT.

3 A. STARTING AGAIN WITH WE ATE DINNER TOGETHER?

4 Q. WE ATE DINNER.

5 A. HUH?

6 Q. WE ATE DINNER.

7 A. SO, WHAT I'VE ALREADY READ. OKAY.

8 Q. EXCUSE ME. LET'S GO TO THE TOP AND GET THE DATE OF THIS.
9 OKAY. WHAT DOES IT SAY ABOUT ACTIVITIES?

10 A. ACTIVITIES MONDAY, 5:00 P.M. 16 -- SOME STUFF IS SO FAINT
11 AND SMUDGED HERE I CAN'T ACTUALLY READ IT.

12 Q. RIGHT.

13 A. THEN IT SAYS 16 FEB AND THAT SAYS 17 FEB. 5:30 P.M.
14 MONDAY DASH A.M. TUESDAY.

15 Q. OKAY.

16 A. THEN WE ATE DINNER TOGETHER AT 5:45 P.M., ALL FOUR. IT
17 IS POSSIBLE I HAD -- I HAD ONE DIET PILL AT THIS TIME. I DO
18 NOT REMEMBER, AND DO NOT THINK I HAD ONE, BUT IT IS POSSIBLE.
19 I HAVE BEEN RUNNING A WEIGHT CONTROL PROGRAM FOR THE SIXTH
20 SPECIAL FORCES GROUP, PARENTHESES, MY UNIT AND I PUT MY NAME
21 AT THE TOP OF THE PROGRAM TO ENCOURAGE PARTICIPATION.

22 I HAD LOST 12 DASH 15 POUNDS IN THE PRIOR THREE,
23 FOUR WEEKS, IN THE PROCESS USING THREE DASH FIVE AMP -- WELL,
24 WHAT'S THAT WORD? CAPSULES OF ESKATROL SPANSULE BRACKET 15
25 MILLIGRAM DEXTROAMPHETAMINE, PARENTHESES, QUOTE, SPEED, AND

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1 7.5 MILLIGRAMS PROCHLORPERAZINE, PARENTHESES, COMPAZINE, TO
2 COUNTERACT THE EXCITABILITY OF THE SPEED. I WAS ALSO LOSING
3 WEIGHT BECAUSE I WAS WORKING OUT WITH THE BOXING TEAM AND THE
4 COACH ME TO LOSE WEIGHT.

5 IN ANY CASE, THE REASON I COULD HAVE TAKEN THE PILL
6 WAS TWOFOLD; ONE, TO EAT LESS IN THE EVENING WHEN I SNACKED
7 THE MOST; AND TWO, TO TRY TO STAY AWAKE AFTER DINNER SINCE I
8 WAS BABYSITTING. IT DIDN'T WORK IF I DID TAKE A PILL BECAUSE
9 I THINK I HAD A HALF HOUR NAP ON THE FLOOR FROM 7:30 TO 8:00
10 P.M. AFTER -- WHAT DOES THAT SAY -- TO NAP ON THE FLOOR. I
11 ALSO HAVE A VERY STRONG NAP URGE AFTER A FULL MEAL AND KNOWING
12 THIS I WOULDN'T -- NO
13 -- KNOWING THIS, I WOULD WANT TO PREVENT THE NAP AT LEAST
14 UNTIL KRISTY WAS IN BED.

15 AFTER DINNER, I PUT THE DISHES IN THE SINK. COLETTE
16 GOT READY FOR SCHOOL AND LEFT 6:15 P.M.

17 THE KIDS AND I PLAYED, I READ TO THEM, WATCHED TV,
18 ET CETERA. I PUT KRISTY TO BED IN HER OWN ROOM AT ABOUT 7:15,
19 7:30 P.M. AND TOOK A SOME KIND OF -- TOOK SOME KIND OF NAP.

20 Q. COULD IT BE SHORT NAP?

21 A. THAT WORD LOOKS LONGER THAN SHORT, BUT COULD BE. I CAN'T
22 MAKE OUT THAT HANDWRITING OF THE WORD.

23 ON THE FLOOR WAITING FOR, QUOTE, LAUGH-IN TO COME
24 ON. KIM AND I ALWAYS WATCHED LAUGH-IN TOGETHER ON MONDAY WITH
25 COLETTE -- WHEN COLETTE WENT TO CLASS.

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1 PUT KIM TO BED AT 9:00 P.M. AND RETURNED TO THE
2 LIVING ROOM TO WATCH TV. I THINK IT WAS THE GLEN CAMPBELL
3 SHOW. COLETTE RETURNED HOME AT 9:30, 9:40 P.M., HAVING
4 DROPPED OFF ANOTHER GIRL. I SOMETHING -- I DON'T KNOW WHAT
5 THAT WORD IS.

6 Q. OKAY. WE'LL JUST MOVE ON.

7 A. COLETTE CHANGED TO PAJAMAS AND WE WATCHED TV TOGETHER.
8 SHE HAD AT LEAST ONE GLASS OF COGNAC -- NO, LIQUOR, DRAMBUIE
9 OR CREME DE MINT. AT ABOUT 12:00 MIDNIGHT SHE WENT TO BED.
10 SOMETHING OF JOHNNY CARSON. I DON'T -- MAYBE THAT'S A
11 PARENTHESSES AND THEN -- I DON'T KNOW. SOMETHING OF JOHNNY
12 CARSON.

13 Q. ALL RIGHT.

14 A. SHE UNDOUBTEDLY HAD AN ANTI-NAUSEA PILL AND IT LOOKS LIKE
15 SOMETHING BEND -- BEND -- SOMETHING -- B-E-N-D -- IT'S THE
16 NAME OF A DRUG, WHICH IS SAFE IN PREGNANCY, AND POSSIBLY HAD A
17 BENADRYL PILL FOR SLEEP. UNDERLINED CAPITAL LETTERS THIS IS
18 UNLIKELY. THE SOMETHING IS AN ANTIHISTAMINE, BUT ALSO MAKES
19 YOU SLEEPY AND IS SAFE FOR PREGNANT WOMEN AND IS SOMETIMES
20 USED FOR SLEEP IN SOMETHING OLDER PATIENTS.

21 I WATCHED TV UNTIL CARSON SHOW OFF. THEN I WASHED
22 DISHES IN KITCHEN USING EITHER DISH GLOVES, YELLOW RUBBER, OR
23 MORE LIKELY, PARENTHESSES, LARGER SURGICAL GLOVES THAT I HAD --
24 I HAD -- THAT I HAD SUPPLIED FOR COLETTE'S USE. THERE WERE AT
25 LEAST TWO PAIRS SURGICAL GLOVES OUT IN THE HOUSE, ONE ON SINK

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1 AND ONE ON DRYER IN SMALL BACK ROOM OFF MASTER BEDROOM
2 SOMETHING TO THE BACK DOOR USED -- USED FOR ENTRY THAT NIGHT
3 BY THE ATTACKERS, PARENTHESSES, QUOTE, ALLEGEDLY.

4 ALSO, THE YELLOW GLOVES WERE ON THE KITCHEN SINK.
5 ALSO, SEVERAL UNOPENED PAIRS OF GLOVES WERE PROBABLY IN HALL
6 CLOSET. I FINISHED THE DISHES, PUT ON THE FM STEREO, AND READ
7 A MIKE HAMMER MYSTERY. I FINISHED IT ABOUT PARENTHESSES ROUGH
8 2:00 A.M., POSSIBLY 2:30 A.M., AND WENT IN TO GO TO BED.

9 KRISTY HAD CRAWLED INTO MY SIDE OF THE BED, AS
10 USUAL, AND HAD WET THE BED PARENTHESSES SHE STILL --

11 Q. HOLD ON A MINUTE. I DIDN'T REALIZE IT WAS QUITE THIS
12 LONG. LET'S SEE IF WE CAN SKIP TO THE POINT WHERE THE CID
13 DISCUSSION COMES UP. LET'S GO TO PAGE 18. I THINK IT'S PAGE
14 18 OF THE EXHIBIT. OKAY, GO BACK TO 17.

15 (PAUSE.)

16 WHILE WE'RE FINDING THAT PORTION -- I WANTED YOU TO
17 READ THE PORTION FROM THE ACTUAL NOTES THAT'S EXCERPTED IN
18 YOUR BOOK ABOUT THE CID KNOWS NOTHING ABOUT THE POSSIBLE DIET
19 PILL.

20 BUT WHILE WE'RE FINDING IT LET ME ASK YOU THIS,
21 AFTER YOU READ THIS, DID YOU DO SOME ADDITIONAL RESEARCH ON
22 ESKATROL?

23 A. OH, YES, I STARTED TO -- I WANTED TO LEARN MORE ABOUT IT
24 SO I LOOKED IT UP IN VARIOUS MEDICAL BOOKS, PHARMACOLOGY
25 BOOKS.

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1 Q. OKAY. WELL, WHAT IS IT? WHAT DID YOU FIND OUT THAT IT
2 IS?

3 A. WELL, IT'S A MIXTURE OF AN UPPER AND A DOWNER, SPEED AND
4 A TRANQUILIZING AGENT. AND IT APPARENTLY -- WELL, IT WAS MORE
5 THAN APPARENTLY, IT WAS PARTICULARLY DANGEROUS IN TERMS OF
6 SIDE EFFECTS. IN FACT, THE MANUFACTURER TOOK IT OFF THE
7 MARKET SOMETIME NOT LONG AFTER FEBRUARY 1970.

8 AND I HAVE -- IN *FATAL VISION* I QUOTE FROM MEDICAL
9 BOOKS THAT DESCRIBE THE SIDE EFFECTS. A FREQUENT SIDE EFFECT
10 WAS RAGE REACTIONS. PEOPLE WOULD SUDDENLY HAVE UNCONTROLLABLE
11 BURSTS OF RAGE AFTER TAKING ESKATROL.

12 Q. ALL RIGHT. WELL, LET'S FIND THAT IN YOUR BOOK. LET'S
13 LOOK AT EXHIBIT 4002 AT PAGE THREE. AND IF YOU LOOK -- DO YOU
14 SEE WHERE IT SAYS TEN YEARS LATER HOWEVER?

15 A. YES, SIR.

16 Q. CAN YOU START READING THERE?

17 A. TEN YEARS LATER, HOWEVER, THE POTENTIAL HAZARDS
18 ASSOCIATED WITH ESKATROL CONSUMPTION HAD RECEIVED CONSIDERABLY
19 WIDER ATTENTION. THE DRUG WAS LISTED IN *PILLS THAT DON'T*
20 *WORK*, THE 1981 BOOK BY SIDNEY M. WOLFE, M.D., AND CHRISTOPHER
21 M. COLEY THAT IS DESCRIBED ON ITS COVER AS, QUOTE, A
22 CONSUMERS' AND DOCTORS' GUIDE TO OVER 600 PRESCRIPTION DRUGS
23 THAT LACK EVIDENCE OF EFFECTIVENESS.

24 WOLFE AND COLEY DESCRIBED THE DRUG AS QUOTE, NOT
25 ONLY INEFFECTIVE BUT ALSO DANGEROUS. TO USE A COMBINATION --

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1 THIS IS STILL A QUOTE -- TO USE A COMBINATION OF AN UPPER AND
2 A DOWNER BOTH OF WHICH CARRY SIGNIFICANT RISKS IS ASKING FOR
3 TROUBLE.

4 AND THEN I SAY, AMONG THE POSSIBLE SIDE EFFECTS
5 LISTED ARE QUOTE, INSOMNIA, RESTLESSNESS, NERVOUSNESS AND
6 DIZZINESS. THE AUTHORS ALSO STATE THAT, QUOTE, PSYCHOSIS,
7 PARENTHESSES, INSANITY, MAY OCCUR WITH LARGE DOSES, CLOSE
8 QUOTE.

9 ESKATROL IS DESCRIBED IN EVEN MORE DETAIL IN THE
10 *PHYSICIANS' DESK REFERENCE*, A STANDARD MEDICAL REFERENCE BOOK
11 PUBLISHED BY MEDICAL ECONOMICS COMPANY.

12 QUOTE, AMPHETAMINES HAVE A SIGNIFICANT POTENTIAL FOR
13 ABUSE THIS TEXT STATES. IN VIEW OF THEIR SHORT-TERM ANORECTIC
14 EFFECT AND RAPID DEVELOPMENT OF TOLERANCE THEY SHOULD BE USED
15 WITH EXTREME CAUTION AND ONLY FOR LIMITED PERIODS OF TIME IN
16 WEIGHT REDUCTION PROGRAMS, CLOSE QUOTE.

17 ACCORDING TO HIS OWN NOTES, THE NOTES THAT VICTOR
18 WORHEIDE HAD ASKED HIM TO PROVIDE TO THE GRAND JURY BUT WHICH
19 HE DECLINED TO DO, NOTES WHICH HAD LAIN IN THE BOTTOM OF A
20 FILE DRAWER SINCE 1970 WHEN MACDONALD HAD LEARNED THAT CID
21 TESTING HAD FAILED TO DISCOVER THE PRESENCE OF AMPHETAMINES IN
22 HIS BLOOD. MACDONALD HAD LOST 12 TO 15 POUNDS IN THE THREE TO
23 FOUR WEEKS PRECEDING THE MURDERS.

24 THAT WAS A LOT OF WEIGHT TO LOSE FOR AN ALREADY FIT
25 26-YEAR-OLD GREEN BARET OFFICER FRESH FROM PARATROOP TRAINING

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1 AT FORT BENNING. AND BOXING WOULD NOT ACCOUNT FOR IT. HIS
2 LAST WORKOUT WITH THE BOXING TEAM HAD COME MORE THAN THREE
3 WEEKS BEFORE THE KILLINGS. NEITHER WOULD AN ODD HOUR OF
4 BASKETBALL LATE ON A RAINY AFTERNOON PRODUCE THAT SORT OF
5 WEIGHT LOSS. AND THERE HAD BEEN NOTHING TO SUGGEST THAT
6 MACDONALD HAD EMBARKED UPON A FORMAL DIET. INDEED, HE'D BEEN
7 EATING COOKIES WITH RON HARRISON ON THE NIGHT OF VALENTINE'S
8 DAY AND DRINKING A SWEET LIQUEUR WITH HIS WIFE TWO NIGHTS
9 LATER AND HE HAD SAID ONE OF THE MOST APPEALING FEATURES OF
10 HAMLET HOSPITAL WAS THAT THE NURSES SERVED HIM STEAK FOR
11 BREAKFAST.

12 QUOTE, THREE TO FIVE ESKATROL SPANSULES OVER A THREE
13 TO FOUR WEEK PERIOD ALSO WOULD NOT HAVE ACCOUNTED FOR THE
14 WEIGHT LOSS. THREE TO FIVE PER DAY, HOWEVER, COULD HAVE HAD A
15 MARKED EFFECT.

16 Q. ALL RIGHT. STOP RIGHT THERE. LET'S GO BACK TO THE
17 EXCERPT IN YOUR BOOK FROM HIS NOTES AND THAT WOULD BE ON PAGE
18 TWO OF THE EXHIBIT AND LET'S ZOOM IN ON THE TOP OF PAGE 611.

19 NOW, IN THERE -- IN THIS, JEFFREY MACDONALD SAYS I
20 HAD LOST 12 TO 15 POUNDS IN THE PRIOR THREE TO FOUR WEEKS, IN
21 THE PROCESS USING THREE TO FIVE CAPSULES OF ESKATROL SPANSULE,
22 WHICH HE THEN DESCRIBES THE DRUG. HE DOESN'T SAY THREE TO
23 FIVE PER DAY, IS THAT RIGHT?

24 A. THAT'S RIGHT. HE DOESN'T SAY THREE TO FIVE PER DAY. HE
25 DOESN'T SAY THREE TO FIVE OVER THE THREE TO FOUR WEEKS. HE

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1 JUST DOESN'T SAY.

2 Q. SO, THAT'S WHAT YOU WERE EXPLAINING WHEN YOU WERE JUST
3 READING ABOUT THREE TO FIVE WOULD NOT ACCOUNT FOR THE WEIGHT
4 LOSS OVER THAT LONG PERIOD OF TIME?

5 A. YEAH. YOU KNOW, ANYBODY WHO'S TAKING A DIET PILL WHO
6 LOSES 15 -- THREE TO FIVE CAPSULES OVER THREE TO FOUR WEEKS,
7 YOU WOULD BE TAKING, YOU KNOW, ONE PILL A WEEK. NOBODY TAKES
8 ONE DIET PILL A WEEK IF THEY'RE LOSING WEIGHT, YOU KNOW, THEY
9 TAKE A PILL EVERY DAY.

10 Q. ALL RIGHT. LET'S GO BACK TO WHERE YOU WERE ON PAGE
11 THREE. AND I BELIEVE YOU HAD READ THROUGH THE END OF THE
12 PARAGRAPH THAT SAYS PSYCHOSIS.

13 A. NO, I STOPPED -- YOU STOPPED ME IN THE MIDDLE, I THINK.

14 Q. OKAY. WELL, RESUME THEN.

15 A. THREE TO FIVE ESKATROL SPANSULES OVER A THREE TO FOUR
16 WEEK PERIOD ALSO WOULD NOT ACCOUNT FOR THE WEIGHT LOSS. THREE
17 TO FIVE PER DAY, HOWEVER, COULD HAVE A MARKED EFFECT.

18 THAT LEVEL OF CONSUMPTION COULD ALSO HAVE HAD A
19 NUMBER OF OTHER CONSEQUENCES SUCH AS, ACCORDING TO THE
20 *PHYSICIANS' DESK REFERENCE*, QUOTE, MARKED INSOMNIA, TENSENESS
21 AND IRRITABILITY, HYPERACTIVITY, CONFUSION, ASSAULTIVENESS,
22 HALLUCINATIONS, PANIC -- PANIC STATES AND, QUOTE, THE MOST
23 SEVERE, PSYCHOSIS.

24 CARDIOVASCULAR REACTIONS, THE REFERENCE BOOK STATES,
25 MAY INCLUDE CHILLINESS, PALLOR OR HEADACHE. ALL THREE OF

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1 WHICH SYMPTOMS JEFFREY MACDONALD EXHIBITED IN THE IMMEDIATE
2 AFTERMATH OF THE MURDER OF HIS FAMILY.

3 AND IT IS NOT ONLY THE AMPHETAMINE COMPONENT WHICH
4 CAN POSE HAZARDS. AGAIN, AS CITED IN THE *PHYSICIANS' DESK*
5 *REFERENCE*, PROCHLORPERAZINE, THE SEDATIVE COMPONENT OF THE
6 SPANSULE, CAN CAUSE, QUOTE, AGITATION, RESTLESSNESS AND
7 REACTIVATION OF PSYCHOTIC PROCESSES.

8 Q. OKAY.

9 A. OKAY. AND --

10 Q. AND WHY DON'T WE SKIP OVER -- WELL, GO AHEAD AND READ
11 THAT PART WHERE IT SAYS *PHYSICIANS' DESK REFERENCE*.

12 A. OKAY. THE *PHYSICIANS' DESK REFERENCE* ALSO STATES THAT
13 THE DRUG WAS, QUOTE, SO PREPARED THAT AN INITIAL DOSE IS
14 RELEASED PROMPTLY AND THE REMAINING MEDICATION IS RELEASED
15 GRADUALLY OVER A PROLONGED PERIOD, CLOSE QUOTE. THE
16 PRESCRIBED DOSE WAS ONE CAPSULE PER DAY TO BE TAKEN IN THE
17 MORNING.

18 QUOTE, IF APPETITE CONTROL IS DESIRED THROUGH
19 EVENING HOURS THE *PDR* STATES, QUOTE, SHIFT DOSE TO MID-
20 MORNING. LATE AFTERNOON OR EVENING MEDICATION SHOULD BE
21 AVOIDED BECAUSE OF RESULTING INSOMNIA.

22 Q. OKAY. NOW, LET'S SKIP OVER TO WHERE IT SAYS THE CHAPTER
23 ON AMPHETAMINES.

24 A. YEP. THE CHAPTER ON AMPHETAMINES IN -- THIS IS THE
25 TITLE -- *DISPOSITION OF TOXIC DRUGS AND CHEMICALS IN MAN* BY

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1 RANDALL C. BASELT, BIOMEDICAL PUBLICATIONS, 1982, STATES THAT
2 QUOTE, CHRONIC USAGE IS ASSOCIATED WITH A HIGH INCIDENCE OF
3 WEIGHT LOSS, HALLUCINATIONS AND PARANOID PSYCHOSIS.

4 AN EVEN MORE DETAILED ANALYSIS OF THE EFFECTS OF
5 AMPHETAMINES AND PROCHLORPERAZINE IS CONTAINED IN *GOODMAN AND*
6 *GILMAN'S PHARMACOLOGICAL BASIS OF THERAPEUTICS*, A WIDELY USED
7 MEDICAL TEXT EDITED BY ALFRED GOODMAN GILMAN, LOUIS S.
8 GOODMAN, AND ALFRED GILMAN AND PUBLISHED BY MACMILLAN.

9 IN THE CHAPTER ENTITLED DRUG ADDICTION AND DRUG
10 ABUSE, JEROME H. JAFFE, M.D., PROFESSOR OF PSYCHIATRY AT THE
11 UNIVERSITY OF CONNECTICUT SCHOOL OF MEDICINE WRITES, QUOTE,
12 THE USER OF AMPHETAMINES IS HYPERACTIVE AND DURING A TOXIC
13 EPISODE MAY ACT IN RESPONSE TO PERSECUTORY DELUSIONS. THE
14 FULLY DEVELOPED TOXIC SYNDROME FROM AMPHETAMINE IS
15 CHARACTERIZED BY VIVID VISUAL, AUDITORY, AND SOMETIMES TACTILE
16 HALLUCINATIONS. THAT'S THE END OF -- THAT'S A CLOSE QUOTE.
17 AND THEN --

18 Q. YOU CAN STOP THERE.

19 A. OKAY.

20 Q. NOW, MOVE ON TO WHERE IT SAYS OTHER
21 PSYCHOPHARMACOLOGISTS.

22 A. OTHER PSYCHOPHARMACOLOGISTS HAVE COMMENTED THAT RAGE
23 REACTIONS ARE NOT UNCOMMON IN INDIVIDUALS WHO ARE ABUSING
24 AMPHETAMINES, PARTICULARLY WHEN THE PERIOD OF ABUSE INVOLVES
25 SLEEP DEPRIVATION, OUTSIDE STRESSES AND, MOST NOTABLY, ANY

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1 PREDISPOSITION TOWARDS PSYCHOLOGICAL INSTABILITY SUCH AS WOULD
2 BE -- SUCH AS WOULD BE THE CASE WITH AN INDIVIDUAL SUFFERING
3 FROM A NARCISSISTIC PERSONALITY DISORDER.

4 QUOTE, MOST OBSERVERS, DR. JAFFE WRITES, QUOTE, HAVE
5 NOTED CONSIDERABLE PSYCHOPATHOLOGY IN COMPULSIVE AMPHETAMINE
6 USERS AND THEIR FAMILIES WHICH APPEARED TO HAVE ANTEDATED THE
7 DRUG USE. WHETHER QUOTE, CONSIDERABLE PSYCHOPATHOLOGY, CLOSE
8 QUOTE, EXISTED IN THE MACDONALD FAMILY OF PATCHOGUE, LONG
9 ISLAND, IS PERHAPS ANOTHER, QUOTE, DARK AREA, BUT IT IS FACT
10 THAT THE FATHER WAS GIVEN TO OUTBURSTS OF ANGER AND THAT
11 JEFFREY'S ONLY BROTHER WAS HOSPITALIZED AFTER A PSYCHOTIC
12 EPISODE INVOLVING VIOLENCE.

13 IT IS ALSO FACT THAT IF JEFFREY MACDONALD WERE
14 TAKING THREE TO FIVE ESKATROL SPANSULES DAILY, HE WOULD HAVE
15 BEEN CONSUMING 75 MILLIGRAMS OF DEXTROAMPHETAMINE, MORE THAN
16 ENOUGH TO PRECIPITATE AN AMPHETAMINE PSYCHOSIS.

17 CHAPTER 19, DRUG TREATMENT OF DISORDERS OF MOOD OF
18 GOODMAN AND GILMAN'S BOOK, DISCUSSES SIDE EFFECTS OF
19 CHLORPROMAZINE, THE CATEGORY OF DRUGS WHICH INCLUDES THE
20 PROCHLORPERAZINE FOUND IN ESKATROL SPANSULES.

21 THE AUTHOR ROSS J. BALDESSARINI, M.D., PROFESSOR OF
22 PSYCHIATRY AT THE HARVARD MEDICAL SCHOOL, WRITES THAT WHILE
23 TOLERANCE TO THE SEDATIVE EFFECTS OF THIS DRUG DEVELOPS,
24 QUOTE, OVER A PERIOD OF DAYS OR WEEKS IT RETAINS CAPACITY TO
25 PRODUCE UNPLEASANT SIDE EFFECTS INCLUDING A SYNDROME KNOWN AS

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1 AKATHISIA -- IS THAT RIGHT -- AKATHISIA WHICH IS CHARACTERIZED
2 BY QUOTE, THE COMPELLING NEED OF THE PATIENT TO BE IN CONSTANT
3 MOVEMENT. THE PATIENT FEELS THAT HE MUST GET UP AND WALK OR
4 CONTINUOUSLY MOVE ABOUT. AKATHISIA CAN BE MISTAKEN FOR
5 AGITATION IN PSYCHOTIC PATIENTS, CLOSE QUOTE.

6 CERTAINLY ALL REPORTS FROM WOMACK HOSPITAL INDICATE
7 THAT JEFFREY MACDONALD, IN THE FIRST MOMENTS AFTER HIS
8 ARRIVAL, INDEED, UNTIL MERRILL BRONSTEIN BEGAN INTRAVENOUS
9 ADMINISTRATION OF VISTARIL, NEMBUTAL, AND DEMEROL HAD FELT A
10 POWERFUL URGE TO GET UP AND WALK ABOUT AND THAT HE APPEARED TO
11 BE IN A STATE OF HIGH AGITATION.

12 CONCLUDING THAT THEIR -- CONCLUDING THEIR DISCUSSION
13 OF ESKATROL SPANSULES *IN PILLS THAT DON'T WORK*, WOLFE AND
14 COLEY WRITE THAT THE DRUG QUOTE, SHOULD HAVE BEEN REMOVED FROM
15 THE MARKET LONG AGO, CLOSE QUOTE.

16 LATE IN 1980, AS SUCH MEDICATIONS WERE COMING UNDER
17 CLOSER SCRUTINY FROM THE FOOD AND DRUG ADMINISTRATION, ITS
18 MANUFACTURER SMITH KLINE AND FRENCH VOLUNTARILY CEASED THE
19 MANUFACTURE AND DISTRIBUTION OF ESKATROL, DESPITE THE FACT
20 THAT ITS ESTIMATED RETAIL SALES AT THAT TIME TOTALED MORE THAN
21 SIX MILLION DOLLARS ANNUALLY.

22 Q. ALL RIGHT. I WANT YOU TO JUST READ ONE MORE PARAGRAPH,
23 THE ONE THAT STARTS WITH WHEN COLETTE MACDONALD.

24 A. WHEN COLETTE MACDONALD, PREGNANT BY ACCIDENT ONCE AGAIN,
25 HAD LEFT FOR HER PSYCHOLOGY CLASS THAT COLD AND RAINY FEBRUARY

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1 EVENING, HER HUSBAND, PARENTHESSES, WHOSE PALLOR, FATIGUE AND
2 CHANGED -- PALLOR, FATIGUE AND CHANGED PERSONALITY HAD BEEN
3 NOTED EVEN BY NEIGHBORS IN THE WEEKS IMMEDIATELY PRECEDING THE
4 MURDERS, HAD BEEN SO EXHAUSTED FROM HAVING WORKED A 24 HOUR
5 EMERGENCY ROOM SHIFT AND THEN A FULL DAY AT THE OFFICE
6 FOLLOWED BY AN HOUR OF BASKETBALL AND A TRIP WITH HIS
7 DAUGHTERS TO FEED THE PONY, THAT HE HAD BEEN ON THE VERGE OF
8 FALLING SLEEP WITHOUT EVENING PUTTING HIS YOUNGER DAUGHTER TO
9 BED. HIS CONDITION HAD BEEN SO NOTEWORTHY THAT COLETTE HAD
10 COMMENTED ON IT TO THE FRIEND WHOM SHE DROVE TO CLASS.

11 Q. NOW, THAT INFORMATION IN THAT PARAGRAPH ABOUT COLETTE'S
12 COMMENT AND THE NEIGHBORS OBSERVING JEFFREY MACDONALD, THAT
13 WAS FROM YOUR RESEARCH ON THE CASE?

14 A. THAT'S RIGHT.

15 Q. ALL RIGHT.

16 A. I BELIEVE IT WAS ACTUALLY -- YOU KNOW, THERE'S ALSO BEEN
17 RESEARCH DONE BY PROSECUTORS IN THE CASE.

18 Q. OKAY. NOW, GOING BACK TO PAGE TWO OF THE EXHIBIT. AND
19 YOU'VE ALREADY READ IT, I'M NOT GOING TO GET YOU TO READ IT
20 AGAIN, BUT THE PORTION STARTING WITH WE ATE DINNER AND THEN
21 GOING ON TO THE NEXT PAGE, 611, ALL THE WAY DOWN TO MEDICINE
22 CABINET, THAT'S A QUOTE FROM THOSE NOTES YOU FOUND?

23 A. THAT'S RIGHT.

24 Q. OKAY. AND YOU HAD THE ENTIRE SET OF NOTES?

25 A. I HAD EVERYTHING THAT I FOUND IN THE CONDOMINIUM.

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1 Q. OKAY. AND WHEN YOU PUT THE ELLIPSIS IN PLACES, THAT
2 INDICATES SKIPPING OVER TO THE NEXT MATERIAL?

3 A. YEAH, THAT'S GENERALLY WHAT IT WOULD INDICATE. YEP.

4 Q. NOW, AFTER YOU CONCLUDED WRITING THE BOOK, DID YOU
5 COOPERATE WITH *60 MINUTES* ON A STORY ON THE MATTER?

6 A. YES.

7 Q. AND CAN YOU TELL US ABOUT HOW THAT CAME ABOUT?

8 A. WELL, EVERY PUBLISHER WANTS TO HAVE A NEW BOOK FEATURED
9 ON *60 MINUTES* AND MY PUBLISHER SENT THE MANUSCRIPT TO *60*
10 *MINUTES*.

11 AND PRODUCERS THERE GOT INTERESTED ENOUGH TO COME UP
12 AND TALK TO ME. THEY READ THE MANUSCRIPT. THEY LOOKED
13 THROUGH MY NOTES. WE HAD A SERIES OF MEETINGS AND THEY
14 FINALLY AGREED THAT THEY WERE GOING TO DO A -- I GUESS A 20
15 MINUTE FEATURE ON A *60 MINUTES* PROGRAM THAT WOULD AIR JUST AT
16 ABOUT THE TIME THE BOOK CAME OUT.

17 Q. OKAY. AND SO YOU WERE INTERVIEWED ON CAMERA FOR THAT?

18 A. YES, I WAS.

19 Q. AND JEFFREY MACDONALD WAS INTERVIEWED ON CAMERA FOR THAT?

20 A. YES.

21 Q. AND THE *60 MINUTES* PRODUCERS KNEW ABOUT THE NOTES THAT
22 YOU'D FOUND THAT JEFFREY MACDONALD WROTE TO HIS MILITARY
23 LAWYER?

24 A. RIGHT. THEY READ THE MANUSCRIPT SO THEY KNEW EVERYTHING
25 THAT WAS IN THERE.

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1 MR. BRUCE: YOUR HONOR, AT THIS TIME WE WOULD LIKE
2 TO PLAY A PORTION OF GOVERNMENT EXHIBIT 4001 SHOWING MIKE
3 WALLACE INTERVIEWING JEFFREY MACDONALD.

4 (GOVERNMENT EXHIBIT NUMBER 4001
5 WAS IDENTIFIED FOR THE RECORD.)

6 THE COURT: ALL RIGHT.

7 BY MR. BRUCE:

8 Q. WELL, BEFORE WE START, THIS IS NOT YOU TALKING, BUT IS
9 THAT YOU ON THE SCREEN?

10 A. ME OR MY SON.

11 (VIDEO PLAYING.) (PAUSE.)

12 Q. ALL RIGHT. MR. MCGINNISS, THIS INFORMATION ABOUT
13 POSSIBLE ESKATROL USE WAS NOT INTRODUCED AT THE TRIAL, IS THAT
14 RIGHT?

15 A. NO, IT WAS NOT.

16 Q. AND PRESUMABLY, THE GOVERNMENT DIDN'T EVEN KNOW ABOUT IT
17 AT THE TIME OF THE TRIAL?

18 A. I HAVE NO WAY OF KNOWING IF THE GOVERNMENT KNEW ABOUT IT
19 OR NOT. I DIDN'T KNOW ABOUT IT UNTIL I FOUND THOSE NOTES.

20 Q. ALL RIGHT. NOW, *FATAL VISION* WAS PUBLISHED, IS THAT
21 RIGHT?

22 A. YES, IN THE FALL OF 1983.

23 Q. AND WAS IT A BIG SUCCESS?

24 A. IT WAS A REASONABLY -- IT WAS REASONABLY SUCCESSFUL. IT
25 NEVER GOT TO NUMBER ONE ON THE HARDCOVER *NEW YORK TIMES* LIST.

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1 I THINK IT GOT AS HIGH AS NUMBER SIX. IT WAS OKAY. IT DID
2 WELL.

3 Q. WAS THERE A TELEVISION MINI-SERIES MADE OF THE BOOK?

4 A. YES, THERE WAS. BROADCAST BY NBC.

5 Q. AND DID YOU HAVE ANYTHING TO DO WITH THAT?

6 A. WELL, NOT MUCH. I WAS OFFICIALLY A CONSULTANT, WHICH
7 MEANS THAT THEY COULD ASK MY OPINION OF STUFF AND THEN IGNORE
8 WHAT I SAID. THAT WAS THE ROLE OF A CONSULTANT.

9 I DID MEET WITH THE SCREEN WRITER, JOHN GAY, AND,
10 YOU KNOW, I WAS AVAILABLE, BUT I HAD NO CONTROL OVER -- I HAD
11 NOTHING -- I HAD NO REAL CREATIVE INPUT. I COULDN'T SAY WHAT
12 THEY SHOULD INCLUDE OR WHAT THEY SHOULDN'T. IT WAS A SEPARATE
13 PROJECT.

14 Q. DID YOU WATCH THE MOVIE?

15 A. YES, I DID.

16 Q. IT WAS AIRED OVER TWO NIGHTS, FOUR HOURS, IS THAT RIGHT?

17 A. SIX HOURS, I BELIEVE.

18 Q. ALL RIGHT. SO, YOU WATCHED IT?

19 A. IT WAS TWO NIGHTS AND SIX HOURS AS I RECALL. YEAH, I
20 WATCHED IT. YEAH.

21 Q. OKAY. DO YOU RECALL THE DEFENSE INTERVIEW OF HELENA
22 STOECKLEY BEING DEPICTED IN THE *FATAL VISION* MOVIE?

23 A. YES, I THINK -- I REMEMBER VIVIDLY THE ACTRESS PLAYING
24 STOECKLEY SAYING I WASN'T THERE LIKE THAT, AND I'M SURE THAT
25 WAS IN RESPONSE TO THAT KIND OF A QUESTION.

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1 Q. WAS THERE ANY DEPICTION OF THE PROSECUTION INTERVIEW OF
2 HELENA STOECKLEY IN THE *FATAL VISION* MOVIE?

3 A. NO, BECAUSE IT WAS BASED ON MY BOOK AND MY BOOK DIDN'T
4 INCLUDE ANYTHING ABOUT THAT.

5 Q. AND YOU DIDN'T HAVE ANY INFORMATION ABOUT THE
6 PROSECUTION?

7 A. I DID NOT. I KNEW THAT THEY HAD INTERVIEWED HER, I KNEW
8 WHAT MR. BLACKBURN HAD SAID IN OPEN COURT, BUT THAT WAS THE
9 EXTENT OF MY KNOWLEDGE OF THAT.

10 MR. BRUCE: NO FURTHER QUESTIONS ON DIRECT, YOUR
11 HONOR.

12 THE COURT: CROSS.

13 MR. WILLIAMS: YES, SIR. THANK YOU, YOUR HONOR.

14 C R O S S - E X A M I N A T I O N 12:11 P.M.

15 BY MR. WILLIAMS:

16 Q. SIR, I'M GOING TO BEGIN BY ASKING YOU A QUESTION ABOUT
17 YOUR EXPERIENCE AS AN AUTHOR. I THINK WE CAN AGREE THAT WHEN
18 AN AUTHOR WANTS TO PROMOTE A BOOK, ONE WAY TO ACCOMPLISH THAT
19 IS BY DOING PUBLICITY, WOULD YOU AGREE WITH THAT?

20 A. ABSOLUTELY.

21 Q. I'M GOING TO DIRECT YOUR ATTENTION TO THE SCREEN. MR.
22 MCGINNISS, YOU HAVE A TWITTER ACCOUNT UNDER WHICH YOU SEND OUT
23 TWITTER MESSAGES TO PEOPLE WHO FOLLOW YOU?

24 MADAM CLERK: IS THERE AN EXHIBIT NUMBER FOR THAT,
25 SIR?

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1 MR. WILLIAMS: NO, I'M JUST SHOWING IT TO HIM.

2 THE WITNESS: YEAH, FROM TIME TO TIME.

3 BY MR. WILLIAMS:

4 Q. AND YOU'LL SEE HERE ON THE SCREEN, IF YOU LOOK AT THE
5 BOTTOM, AUGUST 29TH, 2012, WHICH WAS ROUGHLY THREE WEEKS AGO.

6 IS IT FAIR TO SAY YOU SENT OUT A TWITTER MESSAGE
7 THAT SAID THE FIRST E-BOOK EDITION OF *FATAL VISION* ON SALE
8 TODAY AT AMAZON, NEW PRINT EDITION DUE NEXT WEEK?

9 A. YES, I SENT THAT.

10 Q. THAT WAS THE SAME PRINT EDITION YOU MENTIONED EARLIER,
11 THE ONE THAT'S GOING TO BE 900 AND SOME PAGES?

12 A. OH, IT IS 951.

13 Q. EARLIER THIS WEEK ON MONDAY, YOU ALSO TWITTERED OUT, YOU
14 SAID SEQUESTERED IN WITNESS ROOM UNTIL I TESTIFY, INSTRUCTED
15 NOT TO LEARN ANYTHING ABOUT HEARING, BUT I TAPED INTERVIEW
16 WITH *INSIDE EDITION*. DID YOU SEND THAT OUT AS SHOWN ON
17 MONDAY, SEPTEMBER 17TH?

18 A. DID I TWITTER THAT? YES, I DID.

19 Q. GOING TO TUESDAY. JOE MCGINNISS, SPEAKING OF YOURSELF IN
20 THE THIRD PERSON, WILL PROBABLY TESTIFY THURSDAY IN *FATAL*
21 *VISION* JEFFREY MACDONALD HEARING. LOOKS LIKE *TODAY SHOW*
22 INTERVIEW THURSDAY OR FRIDAY. DID YOU SEND THAT OUT AS WELL?

23 A. YES, I DID.

24 Q. AND THEN ON WEDNESDAY, SEPTEMBER 19TH, YOU SEE THE DATE
25 AT THE BOTTOM, *FATAL VISION* OR *FV*, AN E-BOOK FOR THE FIRST

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1 TIME, ALSO NEW BIGGER PRINT EDITION. YOU SENT THAT MESSAGE
2 OUT AS WELL?

3 A. YES, I DID.

4 Q. NOW, THERE'S BEEN SOME TESTIMONY ABOUT THE BOOK AND THE
5 QUOTES AND WHAT HAD BEEN WRITTEN. AND I WANT TO DIRECT YOUR
6 ATTENTION TO THE SCREEN AND I'LL ATTEMPT TO ENLARGE THIS FOR
7 YOU SO THAT WE CAN ALL LOOK AT IT HERE TOGETHER.

8 AND I BELIEVE YOU'RE FAMILIAR WITH THE BOOK ENOUGH
9 TO LOOK ON THE LEFT-HAND SIDE OF THE SCREEN TOWARD THE BOTTOM
10 AND YOU'LL SEE A YELLOW HIGHLIGHT.

11 A. YES, SIR.

12 Q. AND THIS IS THE SECTION, OR AT LEAST PART OF IT, THAT YOU
13 WERE READING FOR THE PROSECUTION?

14 A. YES, THAT'S RIGHT.

15 Q. AND COULD YOU PLEASE READ FOR ME THE YELLOW HIGHLIGHTED
16 PORTION?

17 A. IT IS POSSIBLE I HAD ONE DIET PILL AT THIS TIME. I DO
18 NOT REMEMBER, BUT IT IS POSSIBLE.

19 Q. IT IS POSSIBLE I HAD ONE DIET PILL AT THIS TIME. I DO
20 NOT REMEMBER, BUT IT IS POSSIBLE. ARE THERE ANY ELLIPSES, ANY
21 DOTS IN THERE, THAT WOULD INDICATE ANYTHING WAS LEFT OUT?

22 A. THERE'S NO ELLIPSES, NO.

23 Q. AND I BELIEVE YOU SAID THAT THIS WAS A WORK OF NON-
24 FICTION, CORRECT?

25 A. ABSOLUTELY.

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1 Q. AND SO IT WOULD BE YOUR INTENTION TO QUOTE THINGS
2 ACCURATELY?

3 A. ACCURATELY, BUT NOT NECESSARILY IN FULL.

4 Q. AND IF YOU LEFT SOMETHING OUT, YOU WOULD PUT ELLIPSIS?

5 A. YEAH, MOST LIKELY.

6 Q. ESPECIALLY SOMETHING IMPORTANT?

7 A. WELL, WHAT'S IMPORTANT TO ONE PERSON MIGHT NOT BE
8 IMPORTANT TO ANOTHER.

9 Q. WELL, WHY DON'T YOU LET ME PUT BACK ON THE SCREEN THE
10 ACTUAL NOTES AND IF YOU WOULD, PLEASE, READ THE PORTION THAT
11 IS SHOWN IN RED WHICH WOULD BE WHERE YOU HAD SOMEWHAT QUOTED.
12 READ THAT PORTION, IF YOU WOULD.

13 A. IT IS POSSIBLE I HAD ONE DIET PILL AT THIS TIME. I DO
14 NOT REMEMBER AND DO NOT THINK I HAD ONE, BUT IT IS POSSIBLE.

15 Q. IT IS POSSIBLE I HAD ONE DIET PILL AT THIS TIME. I DO
16 NOT REMEMBER AND DO NOT THINK I HAD ONE, BUT IT IS POSSIBLE.

17 WOULD YOU LIKE ME TO PUT YOUR BOOK BACK ON THE
18 SCREEN SO THAT WE CAN SEE WHETHER YOU INCLUDED THE PHRASE AND
19 DO NOT THINK I HAD ONE? WOULD YOU LIKE ME TO PUT THAT BACK ON
20 THE SCREEN OR DO YOU REMEMBER?

21 A. WELL, YOU CAN IF YOU WANT.

22 Q. WELL, DO YOU REMEMBER?

23 A. I DON'T THINK I REPEATED IT IS POSSIBLE TWICE, BUT I DO
24 NOT THINK --

25 Q. WELL, LET'S FOCUS ON THAT PHRASE AND DO NOT THINK I HAD

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1 ONE.

2 A. YEAH.

3 Q. READ FOR ME AGAIN THE PORTION IN YELLOW. THIS IS FROM
4 YOUR ACTUAL BOOK.

5 A. IT IS POSSIBLE I HAD ONE DIET PILL AT THIS TIME. I DO
6 NOT REMEMBER, BUT IT IS POSSIBLE.

7 Q. SO, YOU LEFT OUT THE PHRASE AND DO NOT THINK I HAD ONE?

8 A. THAT'S CORRECT.

9 Q. WE'RE GOING TO MOVE NEXT TO TESTIMONY THAT YOU GAVE
10 BEFORE IN A RELATED CASE, AND I'M GOING TO ASK YOU SOME
11 QUESTIONS ABOUT YOUR TESTIMONY IN A CIVIL CASE THAT INVOLVED
12 YOU AND DR. MACDONALD. AND I'M SPEAKING HERE OF THE CIVIL
13 CASE THAT WAS FILED IN FEDERAL COURT IN LOS ANGELES IN THE
14 1980S. DO YOU REMEMBER THAT CASE?

15 A. YES, I DO.

16 Q. AND DO YOU REMEMBER THAT YOU TESTIFIED IN THAT CASE?

17 A. YES, SIR.

18 Q. ALL RIGHT. DIRECTING YOUR ATTENTION THEN TO THE SCREEN,
19 YOU'LL SEE WHAT I REPRESENT TO YOU IS A PAGE FROM THE
20 TRANSCRIPT. AND I WILL TELL YOU THAT I'M GOING TO SHOW YOU
21 PAGES FROM THE TRANSCRIPT. IF, AT ANY TIME, YOU'D LIKE TO SEE
22 THE ACTUAL TRANSCRIPT, I HAVE ALL OF THOSE BACK HERE. I CAN
23 HAND UP A WHOLE VOLUME. I THOUGHT THIS MIGHT HELP US GO A
24 LITTLE FASTER.

25 A. YEAH. SURE.

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1 Q. YOU SEE AT THE TOP IT SAYS LOS ANGELES, CALIFORNIA,
2 THURSDAY, JULY 16TH, 1987?

3 A. 9:30 A.M.

4 Q. AND YOU WERE IN FEDERAL COURT AND IT WAS A CASE IN WHICH
5 DR. MACDONALD HAD SUED YOU?

6 A. THAT'S CORRECT.

7 Q. AND IF YOU LOOK DOWN ON THE PAGE, YOU'LL SEE JOSEPH R.
8 MCGINNISS, PLAINTIFF'S WITNESS, SWORN. THAT MEANS THAT YOU
9 WERE SWORN IN TO TESTIFY, CORRECT?

10 A. THAT'S CORRECT.

11 Q. SWORN TO TELL THE TRUTH?

12 A. THAT'S RIGHT.

13 Q. YOU UNDERSTOOD YOUR DUTY TO TELL THE TRUTH?

14 A. YES, SIR.

15 Q. YOU MADE EVERY EFFORT TO TELL THE TRUTH WHEN YOU
16 TESTIFIED IN THAT CASE?

17 A. AS WELL AS I CAN RECALL.

18 Q. YOU KNEW YOUR TESTIMONY WAS PART OF THE EVIDENCE IN THE
19 CASE?

20 A. WELL, SURE.

21 Q. AND YOU WANTED TO PROVIDE RELIABLE INFORMATION TO THE
22 COURT, DIDN'T YOU?

23 A. YEAH, I WANTED TO HONESTLY ANSWER WHATEVER QUESTIONS I
24 WAS ASKED.

25 Q. ALL RIGHT. I DIRECT YOUR ATTENTION AGAIN TO THE SCREEN.

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1 YOU WERE ASKED THE QUESTION IN 1987, ARE YOU CONVINCED TODAY
2 THAT HE KILLED HIS WIFE, THAT IS DR. MACDONALD, THAT HE KILLED
3 HIS WIFE AND CHILDREN? AND WHAT WAS YOUR ANSWER?

4 A. YES, I AM.

5 Q. YOU WERE ALSO ASKED AND WHEN DID YOU BECOME SO CONVINCED?
6 AND WHAT WAS YOUR ANSWER?

7 A. I WOULD SAY THAT BASED ON THE EVIDENCE PRESENTED IN
8 COURT, I HAD FORMED THAT OPINION BY THE END OF THE TRIAL IN
9 1979. HOWEVER, THERE WAS FOR A CONSIDERABLE TIME THEREAFTER A
10 GREAT DEGREE OF VARIATION -- THAT'S THE END OF THE PAGE.

11 Q. IT'S OKAY. I --

12 MR. BRUCE: EXCUSE ME. EXCUSE ME, YOUR HONOR.

13 COULD WE GET AN EXHIBIT NUMBER? WE'RE NOT FINDING THIS AT OUR
14 TABLE.

15 THE COURT: YES.

16 MR. WILLIAMS: YOUR HONOR, I'M USING THIS TO REFRESH
17 RECOLLECTION. I'M NOT INTENDING TO ADMIT IT AT THIS TIME.

18 MR. BRUCE: WELL, WE WOULD REQUEST A COPY.

19 THE COURT: ALL RIGHT, SIR.

20 MR. WILLIAMS: AND I CAN PROVIDE IT IF YOU'D LIKE TO
21 HAVE THE WRITTEN DOCUMENTS.

22 (PAUSE.)

23 BY MR. WILLIAMS:

24 Q. ALL RIGHT. GETTING BACK TO THE SCREEN THEN. YOU WERE
25 ASKED WHEN DID YOU BECOME SO CONVINCED AND YOU SAID I WOULD

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1 SAY THAT BASED ON THE EVIDENCE PRESENTED IN COURT, I HAD
2 FORMED THAT OPINION BY THE END OF TRIAL IN 1979. AND THAT WAS
3 AUGUST 1979, CORRECT?

4 A. CORRECT. THAT PARAGRAPH CONTINUES, HOWEVER --

5 Q. AND I'LL MOVE THAT BACK UP SO YOU CAN CONTINUE READING.

6 A. HOWEVER, THERE WAS, FOR A CONSIDERABLE TIME THEREAFTER, A
7 GREAT DEGREE OF VARIATION IN THE INTENSITY WITH WHICH I HELD
8 THAT OPINION. I WAS CONFRONTED ON A DAILY BASIS WITH THIS
9 HORRIBLE CONFLICT BETWEEN WHAT THE EVIDENCE HAD DEMONSTRATED
10 AND THE MAN I THOUGHT I KNEW.

11 Q. SO, YOU HELD THAT OPINION CONSISTENTLY FROM AUGUST '79
12 FORWARD, BUT YOU'RE SAYING SOME DAYS YOU REALLY HELD IT AND
13 OTHER DAYS YOU SORT OF HELD IT?

14 A. I KEPT TRYING TO FIND ANY REASON I COULD TO BELIEVE THAT
15 HE WASN'T GUILTY.

16 Q. BUT YOU NEVER CHANGED YOUR OPINION?

17 A. I NEVER DID, BUT IT WAS -- IT TOOK A LONG TIME BEFORE IT
18 SOLIDIFIED.

19 Q. IF YOU'D TAKE A LOOK THERE. YOU WERE ASKED THE QUESTION
20 DID YOU EVER COMMUNICATE TO DR. MACDONALD THE FACT THAT YOU
21 HAD FORMED THAT OPINION BY THE END OF THE TRIAL? WHAT WAS
22 YOUR ANSWER?

23 A. NO, I DIDN'T.

24 Q. NOW, I WANT TO TAKE YOU TO TESTIMONY IN THAT CASE ABOUT A
25 HANDWRITTEN LETTER FROM SEPTEMBER 11TH, 1979. DO YOU SEE

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1 WHERE YOU ACKNOWLEDGED THAT YOU WERE SHOWN A LETTER WITH THAT
2 DATE AND YOU SAID THAT IT WAS YOUR HANDWRITING. DO YOU SEE
3 THAT?

4 A. YEP, I DO. YEP.

5 Q. AND YOU WERE ASKED ABOUT THAT LETTER AND THERE WAS A
6 QUOTE YOU HAD THERE AND IT WAS QUOTED AS THIS; TOTAL STRANGERS
7 CAN RECOGNIZE WITHIN FIVE MINUTES THAT YOU DID NOT RECEIVE A
8 FAIR TRIAL. WAS THAT PART OF THAT LETTER THAT YOU SENT TO DR.
9 MACDONALD?

10 A. YES.

11 Q. GOING ON TO THE NEXT PAGE, YOU'LL SEE AGAIN THERE'S A
12 QUOTE, YOU WERE ASKED ABOUT THE LETTER AND I BELIEVE YOU WERE
13 READING FROM IT IN THE TESTIMONY. IF YOU WOULD, PLEASE READ
14 THE PART THAT'S IN THE YELLOW?

15 A. JEFF, IT'S ALL SO FUCKING AWFUL. I CAN'T BELIEVE IT YET.
16 THE SIGHT OF THE JURY COMING IN, OF THE JURY POLLING, OF YOU
17 STANDING SAYING THOSE FEW WORDS, BEING LED OUT, AND THEN
18 SEEING YOU IN A FUCKING PRISON IS A HELL OF A THING. SPEND
19 THE SUMMER MAKING A NEW FRIEND AND THEN THE BASTARDS COME
20 ALONG AND LOCK HIM UP. BUT NOT FOR LONG, JEFFREY, NOT FOR
21 LONG.

22 Q. AND THIS IS ROUGHLY SEPTEMBER 11TH, '79. SO, THREE WEEKS
23 OR SO AFTER THE TRIAL?

24 A. YES. I THINK IT WAS -- THIS WAS IN RESPONSE TO A LETTER
25 I HAD GOTTEN FROM HIM.

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1 Q. AND THEN WE ALSO HAVE A LETTER DATED SEPTEMBER 28TH, '79,
2 WHICH I BELIEVE YOU TYPED OUT. AND I'LL LET YOU TAKE A LOOK
3 AT THAT TO SEE IF YOU RECOGNIZE IT.

4 A. YEAH. YES. YES.

5 Q. ALL RIGHT. AND LOOKING TO PAGE FOUR OF THE LETTER IF YOU
6 WOULD, PLEASE, READ THE YELLOW PORTIONS FOR US.

7 A. GODDAMN, JEFF, ONE OF THE WORST THINGS ABOUT ALL OF THIS
8 IS HOW SUDDENLY AND TOTALLY ALL OF YOUR FRIENDS, SELF
9 INCLUDED, HAVE BEEN DEPRIVED OF THE PLEASURE OF YOUR COMPANY.
10 WHAT THE FUCK WERE THOSE PEOPLE THINKING OF? HOW COULD 12
11 PEOPLE NOT ONLY AGREE TO BELIEVE SUCH A HORRENDOUS
12 PROPOSITION, BUT AGREE, WITH A MAN'S LIFE AT STAKE, THAT THEY
13 BELIEVED IT BEYOND A REASONABLE DOUBT IN SIX AND A HALF HOURS?
14 THE QUESTIONS WHICH KEEP YOU AWAKE NIGHT AFTER NIGHT, NO
15 DOUBT, DID THE SAME TO MYSELF AND TO WADE EVEN AT 8,000 FEET.

16 Q. YOU HAVE ANOTHER LETTER THAT YOU WROTE TO HIM DATED
17 DECEMBER 18TH, 1979, AND I'VE PUT THAT ON THE SCREEN. I
18 BELIEVE YOU WERE RETURNING TO HIM AT THAT TIME HIS ARTICLE 32
19 TESTIMONY AND SOME NOTES AND A DIARY. DO YOU SEE THAT?

20 A. YEP. YES, I DO.

21 Q. ALL RIGHT. AND AS WE LOOK AHEAD TO PAGE THREE OF THE
22 LETTER, I BELIEVE WHAT WE SEE IS THAT YOU MENTION THAT YOU HAD
23 BEEN SPENDING A LOT OF TIME GOING THROUGH THE ARTICLE 32
24 MATERIAL?

25 A. YES, I READ THE ENTIRE TRANSCRIPT.

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1 Q. THE ARTICLE 32 PROCEEDING WAS THE MILITARY PROCEEDING,
2 CORRECT, THAT WAS HEADED BY COLONEL WARREN ROCK IN 1970?

3 A. THAT'S RIGHT.

4 Q. AND IT INCLUDED A RECOMMENDATION, YOU MAY BE FAMILIAR
5 WITH IT AND TELL ME IF YOU ARE, ALL CHARGES AND SPECIFICATIONS
6 AGAINST CAPTAIN JEFFREY R. MACDONALD BE DISMISSED BECAUSE THE
7 MATTERS SET FORTH IN ALL CHARGES AND SPECIFICATIONS ARE NOT
8 TRUE. DO YOU REMEMBER THAT RECOMMENDATION?

9 A. I DON'T RECALL THAT LANGUAGE, BUT I KNOW THAT THE OUTCOME
10 WAS THAT THEY DID NOT PROCEED TO A COURT MARTIAL.

11 Q. ALL RIGHT. AND DIRECTING YOUR ATTENTION AGAIN TO THE
12 SCREEN, IF YOU COULD PLEASE READ THE SECOND HIGHLIGHTED QUOTE
13 FROM YOUR LETTER?

14 A. ONE CERTAINLY GETS THE IMPRESSION THAT COLONEL ROCK WAS A
15 MORE IMPARTIAL AND INTELLIGENT HEARING OFFICER THAN JUDGE
16 DUPREE.

17 Q. MOVING FORWARD TO A LETTER THAT I BELIEVE YOU SENT TO DR.
18 MACDONALD ON FEBRUARY 4TH, 1980. AND HERE WE'RE LOOKING AT
19 YOUR TRIAL TESTIMONY FROM THE CALIFORNIA CASE. YOU'LL SEE
20 THERE'S A REFERENCE TO A FOUR PAGE LETTER DATED FEBRUARY 4TH,
21 1980, AND YOU SAID THAT YOU'RE SURE THAT YOU WROTE THAT. DO
22 YOU SEE THAT THERE?

23 A. YES, I SEE THAT.

24 Q. AND LOOKING AT THE NEXT PAGE WHERE THAT LETTER WAS
25 DISCUSSED, IF YOU WOULD, PLEASE, READ THE BOTTOM THREE LINES

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1 AND THEN I'LL GO OVER TO THE NEXT PAGE SO YOU CAN FINISH THE
2 QUOTE. AND THIS, FROM THE TRIAL TESTIMONY, WAS FROM YOUR
3 LETTER OF FEBRUARY 4TH, 1980, TO DR. MACDONALD.

4 A. AMONG THE TRIAL ISSUES, THE REBUTTAL BRIEF ARGUES SO
5 STRONGLY AND LUCIDLY IN REGARD TO HELENA STOECKLEY THAT I
6 CANNOT SEE HOW THE GOVERNMENT CAN HOPE TO MAKE THE VERDICT
7 STICK. THAT'S --

8 Q. MOVING ON AGAIN -- I'M SORRY, DID YOU WANT TO SAY
9 SOMETHING ELSE?

10 A. NO, I THOUGHT YOU WANTED ME TO READ MORE.

11 Q. THAT'S FINE. THANK YOU. MOVING ON AGAIN YOU WROTE A
12 LETTER NOVEMBER 3RD, 1981, TO A PERSON BY THE NAME OF MORGAN.
13 AND IF I'M UNDERSTANDING CORRECTLY, THAT'S MORGAN ENTRAKAN,
14 SOMEONE CONNECTED WITH YOUR PUBLISHER?

15 A. MORGAN ENTRAKAN, YEAH.

16 Q. AND YOU SEE THE DATE THERE AT THE TOP, NOVEMBER 3RD,
17 1981?

18 A. YES.

19 Q. AND YOU CAN SEE THAT WE'VE HIGHLIGHTED JUST A PORTION AND
20 YOU DON'T HAVE TO READ IT, BUT JUST FOR YOUR REFERENCE TO SHOW
21 YOU THAT I BELIEVE THIS LETTER HAS TO DO WITH TALKING ABOUT
22 THE DIVISION AND STRUCTURE OF THE BOOK?

23 A. RIGHT. MORGAN WAS MY EDITOR AT THAT TIME.

24 Q. LOOKING AHEAD TO PAGE THREE OF THIS LETTER, YOU MENTION A
25 CONVERSATION THAT YOU HAD LAST NIGHT, WHICH WOULD HAVE BEEN

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1 NOVEMBER 2ND, 1981, SPOKE TO HIM, SPOKE TO JEFFREY MACDONALD.
2 IF YOU COULD READ THAT FOR US THERE, PLEASE.

3 A. I SPOKE TO HIM LAST NIGHT AND HE KEPT REFERRING TO,
4 QUOTE, OUR BOOK AND WAS ASTOUNDED THAT TAYLOR DASH WIGUTOW
5 COULD HAVE GIVEN A STORY TO THE *HOLLYWOOD REPORTER* TO THE
6 EFFECT THAT THEY WERE PLANNING A FILM ON DR. JEFFREY MACDONALD
7 QUOTE CONVICTED OF HAVING MURDERED HIS WIFE AND CHILDREN WHEN
8 THE WHOLE POINT OF THE FILM AND BOOK OBVIOUSLY WAS THAT HE WAS
9 FALSELY CONVICTED AS HE HAD BEEN FALSELY SUSPECTED FOR TEN
10 YEARS, ET CETERA, ET CETERA. HE'S LETTING THIS ONE PASS,
11 WRITING IT OFF TO SLOPPINESS IN A TRADE PAPER, BUT THE ICE IS
12 GETTING THINNER AND I'M STILL A LONG WAY FROM SHORE.

13 Q. SO, AS I UNDERSTAND THIS WRITING HERE, YOU HAD A
14 CONVERSATION WITH DR. MACDONALD THE NIGHT BEFORE AND YOU HAD
15 SHARED WITH HIM THAT THERE WAS A STORY IN THE *HOLLYWOOD*
16 *REPORTER*. THE STORY SAID THAT THERE WAS A FILM PLANNED ABOUT
17 HOW HE SUPPOSEDLY HAD BEEN CONVICTED OR HOW HE SUPPOSEDLY HAD
18 MURDERED HIS WIFE AND CHILDREN AND THAT ASTOUNDED HIM BECAUSE
19 HE THOUGHT THE WHOLE POINT OF THE FILM AND BOOK WAS OBVIOUSLY
20 THAT HE WAS FALSELY CONVICTED. DO YOU SEE THAT?

21 A. THAT'S WHAT HE KEPT HOPING.

22 Q. AND YOU SHARED WITH MORGAN THAT HE WAS LETTING THIS ONE
23 PASS, HE WROTE IT OFF TO SOME SLOPPINESS IN A TRADE PAPER.
24 BUT YOU SAID THIS, BUT THE ICE IS GETTING THINNER AND I'M
25 STILL A LONG WAY FROM SHORE?

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1 A. THAT'S RIGHT.

2 Q. AND YOU WERE ASKED ABOUT THAT IN THE TRIAL IN CALIFORNIA.
3 DO YOU SEE THERE AT THE TOP? WHAT DID YOU MEAN WHEN YOU WROTE
4 MORGAN ENTRAKAN IN NOVEMBER OF 1981, THAT THE ICE WAS GETTING
5 THINNER AND YOU WERE STILL A LONG WAY FROM SHORE? AND IF YOU
6 WOULD, PLEASE READ YOUR ANSWER THERE.

7 A. WELL, I MEANT THAT MACDONALD'S GRADUALLY GROWING
8 AWARENESS OF THE FACT THAT THIS BOOK WASN'T NECESSARILY GOING
9 TO COME OUT THE WAY HE WANTED TO WAS SOMETHING THAT COULD
10 POTENTIALLY TURN INTO A PROBLEM.

11 AND THEN YOU WANT ME TO READ. YOU KNOW, THE MAN HAD
12 KILLED BEFORE. I DIDN'T KNOW WHAT HE WAS GOING TO DO TO MY
13 WIFE OR MY KID. HE WASN'T IN PRISON AT THAT TIME.

14 Q. THAT'S FINE. THERE YOU'RE REFERENCING IF SOMEONE ASKED
15 YOU IF YOU WERE CONCERNED ABOUT ANY THREATS TO YOURSELF AND I
16 BELIEVE THE CONTEXT WAS, WELL, YOU HADN'T RECEIVED ANY, BUT
17 YOU HAD A GENERAL CONCERN BASED ON WHAT YOU KNEW HE WAS
18 CONVICTED OF?

19 A. THAT'S RIGHT.

20 Q. WELL, GETTING BACK TO THE ANSWER ABOVE, YOU KNEW THAT
21 MACDONALD WAS GRADUALLY GROWING AWARE OF THE FACT THAT THE
22 BOOK WASN'T NECESSARILY GOING TO BE HIS WAY AND THAT YOU
23 WANTED TO AVOID THAT, THAT THAT COULD BE A PROBLEM FOR YOU?

24 A. YES. YOU KNOW, HE'D BEEN TRYING TO CON ME FROM THE FIRST
25 DAY AND IT HAD TAKEN ME A LONG TIME TO REALIZE THAT. I DIDN'T

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1 UNDERSTAND ABOUT HIM BEING A PSYCHOPATH UNTIL PROBABLY 19 --
2 THE FALL OF '80 OR 1981, WHEN I HAD A CONVERSATION WITH JOE
3 WAMBAUGH.

4 AND THEN THE THING IS, YOU KNOW, HERE'S A GUY WHO'S
5 KILLED HIS WIFE AND KIDS AND HE'S LYING TO ME CONSISTENTLY AND
6 MY GOAL THEN IS TO TRY TO KEEP HIM TALKING TO LEARN AS MUCH AS
7 I POSSIBLY CAN ABOUT THIS PERSONALITY TYPE AND WHAT KIND OF,
8 YOU KNOW, WHAT KIND OF PSYCHOPATH HE REALLY IS.

9 SO, I WANTED TO STAY IN TOUCH WITH HIM AS LONG AS I
10 COULD AND I KNEW THAT HE WOULD BREAK OFF CONTACT THE MINUTE HE
11 FOUND OUT THAT THE BOOK WASN'T GOING TO BE WHAT HE HAD HOPED
12 FOR.

13 Q. SO, IN REGARD TO THAT CORRESPONDENCE -- LET ME DIRECT YOU
14 AGAIN TO THE SCREEN AND THE CORRESPONDENCE THAT YOU HAD OR
15 DESCRIBING WHAT YOU HAD WITH HIM.

16 I BELIEVE YOU TESTIFIED IN THAT TRIAL THAT DR.
17 MACDONALD BEGAN TO WRITE TO YOU WITHIN HOURS OF YOUR (SIC)
18 CONVICTION?

19 A. YEAH, I THINK I GOT A LETTER THAT HE WROTE FROM BUTNER,
20 WHICH WAS WHERE HE WAS TAKEN RIGHT FROM THE COURTROOM THAT
21 NIGHT BEGGING ME FOR MY SUPPORT AND, YOU KNOW, SAYING HOW
22 TERRIBLE HE FELT. AND, YOU KNOW, AT THAT POINT I STILL -- THE
23 GUY WAS WONDERFULLY CHARMING. YOU KNOW, HE DID A GREAT JOB.
24 PSYCHOPATHS ARE VERY CHARMING PEOPLE. I FELT GENUINE
25 AFFECTION FOR HIM AT THAT TIME. I WAS INTELLECTUALLY

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1 CONVINCED BY THE PROSECUTION'S CASE THAT HE WAS GUILTY AS
2 CHARGED, BUT, GOD, IT WAS A TOUGH FIGHT BETWEEN MY HEAD AND MY
3 HEART FOR A LONG TIME.

4 Q. IT'S HARD WHEN YOU FEEL AFFECTION FOR A PSYCHOPATH, I CAN
5 ONLY IMAGINE.

6 A. IT IS, BUT THAT'S BECAUSE -- THAT'S BEFORE I FOUND OUT HE
7 WAS A PSYCHOPATH. YOU KNOW, I STILL THOUGHT HE WAS A
8 GENUINELY TROUBLED GUY.

9 Q. YOU ALSO SAID HE WAS YOUR SUBJECT?

10 A. ABSOLUTELY.

11 Q. HE WAS MY -- STILL MY SUBJECT -- DID YOU SAY THIS, HE WAS
12 STILL MY SUBJECT AND I WAS STILL THE AUTHOR AND I FELT I HAD A
13 PROFESSIONAL DUTY TO MAINTAIN AS CLOSE A RELATIONSHIP WITH HIM
14 AS I COULD? DID YOU SAY THAT?

15 A. ABSOLUTELY. YEP.

16 Q. ALL RIGHT. NOW, I WANT TO TAKE YOU BACK TO THE
17 HANDWRITTEN LETTER THAT YOU MENTIONED IN THIS TRIAL TRANSCRIPT
18 AS HAVING WRITTEN IT ON SEPTEMBER 11TH OF 1979. AND I BELIEVE
19 THERE WAS CONVERSATION IN THERE -- WELL, I'LL JUST PUT IT THIS
20 WAY; YOU WERE ASKED ABOUT BOB KEELER, WHO WAS A REPORTER. YOU
21 SAID THAT HE WAS A REPORTER FROM THE LONG ISLAND NEWSPAPER AND
22 YOU'VE MENTIONED HIM IN THIS LETTER.

23 AND YOU WERE ASKED THIS QUESTION, YOU WERE WORRIED
24 ABOUT SOMEBODY ELSE PUTTING OUT A BOOK ABOUT THIS SUBJECT THAT
25 MIGHT CUT INTO YOUR POSSIBLE FAME AND PROFIT, WEREN'T YOU?

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1 A. OH, SURE. YOU NEVER --

2 Q. WHAT WAS YOUR ANSWER?

3 A. YOU NEVER WANT ANOTHER BOOK ON THE SAME SUBJECT THAT
4 YOU'RE WRITING ABOUT TO COME OUT ESPECIALLY AT THE SAME TIME
5 AS YOURS. YOU KNOW, THAT DOESN'T HELP ANYBODY.

6 Q. AND YOU ALSO TESTIFIED THAT YOU WANTED DR. MACDONALD, AS
7 YOU CAN SEE HERE IN THE HIGHLIGHTED PORTIONS, TO KEEP IN MIND
8 THE FACT THAT WE HAD AN EXCLUSIVE ARRANGEMENT. DO YOU
9 REMEMBER THAT?

10 A. THAT'S RIGHT.

11 Q. YOU ALSO HAD A CONCERN THAT HE NOT GET IN THE WAY OF YOUR
12 PROJECT. AND IF YOU WOULD, IF YOU COULD READ THE HIGHLIGHTED
13 PORTION AGAIN FROM THE CALIFORNIA TRANSCRIPT?

14 A. I JUST DIDN'T WANT TO GET HIM ALL AGITATED AND DOING THE
15 KINDS OF THINGS THAT WOULD PREVENT ME FROM MOVING FORWARD WITH
16 THE BOOK THAT I FELT HE WAS CAPABLE OF DOING.

17 Q. AND SO YOU WERE ASKED LATER ABOUT A LETTER THAT SAID THAT
18 YOU HOPED THAT FUTURE BRIEFINGS WITH HIM COULD BE MADE BY
19 TELEPHONE, TO HIS HOME TELEPHONE NUMBER. AND YOU WERE ASKED
20 THIS, YOU WERE TRYING TO TELL HIM THAT YOU HOPED THAT HE WOULD
21 BE OUT OF JAIL SO THAT YOU COULD CALL HIM AT HOME. AND WHAT
22 WAS YOUR ANSWER THERE, LINE NINE THROUGH 11?

23 A. I WAS SURE NOT TRYING TO TELL HIM WHAT MY TRUE FEELINGS
24 WERE IN 1982, BECAUSE I DIDN'T WANT HIM TO TAKE STEPS TO TRY
25 TO PREVENT ME FROM FINISHING MY BOOK.

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1 Q. AND THEN YOU WERE ASKED, MR. MCGINNISS, YOU TOLD YOUR
2 WIFE YOU WERE GLAD HE WAS BACK IN JAIL. TWO WEEKS LATER IN
3 THIS LETTER YOU'RE TELLING HIM THAT YOU HOPED YOU WOULD BE
4 ABLE TO CALL HIM AT HOME, WHY? AND WHAT WAS YOUR ANSWER?

5 A. AS I'VE ALREADY TESTIFIED, I BELIEVE, BECAUSE I WAS
6 ENCOURAGING HIM TO NOT DISCOURAGE ME FROM FINISHING THE BOOK
7 THAT I HAD PUT SO MUCH OF MY LIFE INTO AT THAT POINT. MY
8 COMMITMENT WAS TO THE BOOK AND TO THE TRUTH.

9 Q. AND IT WAS OKAY TO TELL HIM SOMETHING THAT YOU REALLY
10 DIDN'T BELIEVE IN IN THE SERVICE OF THIS TRUTH?

11 A. I WAS JUST SAYING THAT FALLS INTO MR. WAMBAUGH'S CATEGORY
12 OF UNTRUTH. I COULD EXPLAIN THAT BECAUSE IT MIGHT NOT BE
13 CLEAR OUT OF CONTEXT.

14 Q. THAT'S ALL RIGHT. I DIRECT YOUR ATTENTION NEXT TO THE
15 SCREEN WHERE YOU MENTION THAT THERE WAS SOME CONVERSATION,
16 EITHER IN PERSON OR BY CORRESPONDENCE, I'M NOT SURE WHICH,
17 WHERE APPARENTLY THERE WAS A CONCERN THAT IF DR. MACDONALD
18 RECEIVED A NEW TRIAL, WHAT EVIDENCE OR WHAT ROLE WOULD YOU
19 PLAY IN THAT. AND IN THIS LETTER YOU SPOKE TO THAT. AND IF
20 YOU COULD, PLEASE READ THE HIGHLIGHTED PORTIONS FOR US?

21 A. I'M SORRY, COULD YOU JUST CLARIFY WHEN THIS LETTER WAS
22 WRITTEN OR WHEN I WROTE IT OR SENT IT?

23 Q. YES, I CAN.

24 MR. WILLIAMS: IF I CAN HAVE JUST A MOMENT.

25 (PAUSE.)

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1 MR. BRUCE: YOUR HONOR, MAY I SAY, NONE OF THESE
2 DOCUMENTS THAT ARE BEING USED ARE IN THE PRETRIAL ORDER AND
3 I'M NOT OBJECTING ON THAT BASIS, BUT IT JUST SEEMS LIKE TO ME
4 IT'S GOING TO BE HARD TO REVIEW THE RECORD WHEN YOU DON'T HAVE
5 EXHIBIT NUMBERS.

6 MR. WILLIAMS: YOUR HONOR, I'VE NOT ASKED THE COURT
7 TO ADMIT THIS INTO THE RECORD. I'M USING IT FOR PURPOSES OF
8 REFRESHING HIS RECOLLECTION. I CERTAINLY DON'T EXPECT HIM TO
9 REMEMBER EVERYTHING FROM BACK IN THE DAY AND I'M TRYING TO
10 HELP US MOVE A LITTLE FASTER.

11 I'D BE GLAD TO WALK BACK AND FORTH BETWEEN HERE AND
12 THE STAND TO SHOW HIM INDIVIDUAL PAGES, BUT I SUSPECT THAT
13 THIS MIGHT HELP US GO FORWARD A LITTLE FASTER AND I CERTAINLY
14 HAVE NO OBJECTION TO THE GOVERNMENT SEEING THESE SOURCE
15 DOCUMENTS.

16 THE COURT: MR. BRUCE.

17 MR. BRUCE: I DON'T OBJECT TO USING THE SCREEN.

18 THE COURT: I'M SORRY?

19 MR. BRUCE: I DON'T OBJECT TO HIM USING THE SCREEN
20 OR THE DOCUMENTS. I JUST THINK THERE NEEDS TO BE SOME METHOD
21 OF IDENTIFICATION OF WHAT DOCUMENTS THE WITNESS IS BEING ASKED
22 ABOUT.

23 THE COURT: WELL, I THINK HE'S PROBABLY CORRECT
24 ABOUT THAT. I THINK FOR GOING FORWARD IN THE FUTURE IF YOU
25 WANT TO FIND OUT WHAT HE'S REFERRING THEN IT SHOULD BE

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1 NUMBERED.

2 MR. WILLIAMS: YES, SIR. YES, SIR.

3 BY MR. WILLIAMS:

4 Q. ALL RIGHT. TAKING YOU BACK TO YOUR QUESTION, I BELIEVE
5 YOU SAID YOU WOULD LIKE TO SEE SOME CONTEXT FOR THAT.

6 A. NO, I JUST WONDERED WHAT THE DATE WAS.

7 Q. SURE. WE HAVE HERE A REFERENCE IN THE TRANSCRIPT FROM
8 THE CALIFORNIA CASE, IT SAYS EXHIBIT 234 BEFORE THE WITNESS,
9 AND IT SAYS DO YOU SEE PAGE ONE IS DATED APPROXIMATELY TWO
10 WEEKS AFTER THAT TELEPHONE CONVERSATION. AND IT SAYS, DEAR,
11 JEFF, I HAD NOT THOUGHT THAT I WOULD BE WRITING TO YOU AGAIN
12 AT THIS ADDRESS AND THEN YOU SAY THAT YOU BELIEVED YOU WERE
13 WRITING TO HIM AT TERMINAL ISLAND. THAT'S THE CONTEXT THAT I
14 HAVE FOR THIS IN THE TRANSCRIPT.

15 A. SO, THIS WOULD HAVE BEEN AFTER HE WAS RE-ARRESTED?

16 Q. COULD HAVE BEEN, YES, WHEN HE WAS CONSIDERING THE
17 POSSIBILITY OF WHAT WOULD HAPPEN IF THERE WAS A NEW TRIAL.

18 AND IF YOU COULD, PLEASE, READ FOR US BEGINNING FROM
19 LINE SIX DOWN THROUGH LINE 18.

20 MR. WILLIAMS: YOUR HONOR, FOR THE RECORD WE WILL
21 IDENTIFY THIS AS -- THE PORTION HE'S GOING TO READ AS EXHIBIT
22 5112, DEFENSE 5112.

23 THE WITNESS: IF I AM SUBPOENAED BY THE PROSECUTION
24 IN THE EVENT OF A NEW TRIAL, I WOULD RESIST ON FIRST AMENDMENT
25 GROUNDS. I DON'T KNOW FOR WHAT THEY WOULD WANT ME, BUT I

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1 WOULD CERTAINLY REFUSE TO ALLOW THEM ANY ACCESS WHATSOEVER TO
2 ANY TAPES, LETTERS, FILES, SO FORTH, MADE AVAILABLE TO ME FOR
3 PURPOSES OF THE BOOK, AND I COULD MAKE A HELL OF A FREEDOM OF
4 SPEECH, AUTHOR-CLIENT RELATIONSHIP, CASE OUT OF IT.

5 THIS HAS HAPPENED BEFORE. WRITERS HAVE REFUSED.
6 THEY'VE BEEN HELD IN CONTEMPT OF COURT. HAVE ACTUALLY GONE TO
7 JAIL.

8 AS AN OLD PARATROOPER FRIEND OF MINE, NOW,
9 COINCIDENTALLY, A MOVIE PRODUCER, OFTEN SAYS IF YOU NEVER HAVE
10 JUMPED OUT OF AN AIRPLANE, DON'T SAY YOU WOULD.

11 (DEFENSE EXHIBIT NUMBER 5112
12 WAS IDENTIFIED FOR THE RECORD.)

13 BY MR. WILLIAMS:

14 Q. ALL RIGHT. NOW, SIR, I'D LIKE TO ASK YOU SOME QUESTIONS
15 ABOUT YOUR TESTIMONY ON DIRECT AND IN PARTICULAR I WANT TO
16 DIRECT YOUR ATTENTION TO YOUR TESTIMONY ABOUT YOUR INTERACTION
17 WITH THE DEFENSE ON THURSDAY, AUGUST 16TH, 1979.

18 YOU TESTIFIED, IF I RECALL CORRECTLY, THAT YOU WERE
19 PRESENT IN THE ROOM WHEN ATTORNEY BERNIE SEGAL INTERVIEWED
20 HELENA STOECKLEY?

21 A. THAT'S CORRECT.

22 Q. AND AT THE SAME TIME YOU WERE PRESENT WADE SMITH WAS ALSO
23 IN THE ROOM?

24 A. YES, THERE WERE FOUR OF US.

25 Q. AND THERE WAS NO ONE ELSE IN THE ROOM?

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1 A. NO ONE ELSE.

2 Q. AND YOU WERE SHOWN A TRANSCRIPT FROM THAT DAY WHEN, AT
3 ROUGHLY 1:00 P.M. OR SHORTLY THEREAFTER, THAT COURT RESUMES
4 AND THE REPORT WAS MADE THAT SOME ADDITIONAL TIME WAS NEEDED
5 AND SO COURT WAS RECESSED FOR THE DAY AND MR. SEGAL SAID I
6 NEED HER TILL ROUGHLY 2:00. DO YOU REMEMBER THAT TESTIMONY?

7 A. YES, I THINK -- YES, GENERALLY.

8 Q. NOW, IT'S BEEN A LONG TIME, BUT LET ME ASK YOU THIS,
9 WHEN YOU LEFT THAT COURTROOM THAT DAY, WHERE DID YOU GO?

10 A. I WENT BACK TO -- I BELIEVE I WENT BACK TO THE WITNESS
11 ROOM. STOECKLEY -- NO, I STAYED IN THE COURTROOM, OR I WOULD
12 HAVE, I'M JUST PROJECTING WHAT MY PROCEDURE WOULD HAVE BEEN,
13 UNTIL THE COURT WAS IN RECESS. AND AT THAT TIME, I WOULD JUST
14 HAVE GONE WITH, AS I DID AT THE END OF COURT JUST ABOUT EVERY
15 DAY, GO WITH BERNIE SEGAL AND WITH MACDONALD AND, YOU KNOW,
16 EVENTUALLY GO BACK TO THE FRATERNITY HOUSE. IF STOECKLEY WAS
17 STILL IN THAT ROOM, WE COULD HAVE COME BACK AND HAD SOME
18 DISPOSITION.

19 HER WHEREABOUTS FOR THE WEEKEND WERE UNDER SOME
20 DISCUSSION BECAUSE SHE WASN'T GOING TO BE HELD IN -- SHE
21 WASN'T GOING TO BE LOCKED UP, BUT THEY DIDN'T WANT HER TO
22 LEAVE. SO, SOMEBODY GOT HER A MOTEL ROOM AND IT WAS ALL THOSE
23 KIND OF ARRANGEMENTS GOING ON.

24 Q. RIGHT. AND I UNDERSTAND IT'S BEEN A LONG TIME. I'M NOT
25 TRYING TO PUT YOU ON THE SPOT OTHER THAN YOU'VE TALKED ABOUT

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1 IT EARLIER TODAY SO I NEED TO FOLLOW UP WITH YOU ABOUT IT.

2 A. SURE.

3 Q. IS IT FAIR TO SAY THAT YOU DON'T SPECIFICALLY RECALL
4 EVERY MINUTE OF WHERE YOU WERE FROM WHEN COURT ENDED THROUGH
5 THE REST OF THE DAY AUGUST 16TH, 1979?

6 A. I DON'T THINK I SPECIFICALLY RECALL EVERY MINUTE OF EVERY
7 DAY AFTER COURT FOR ANY DAY DURING THE SIX WEEK TRIAL, YOU
8 KNOW. I KNOW WHAT THE NORMAL PRACTICE WAS AND DEVIATIONS FROM
9 THAT WOULD STICK OUT IN MY MIND, BUT --

10 Q. AND BECAUSE OF HIS EGO, YOU FEEL LIKE BERNIE SEGAL WOULD
11 DEFINITELY HAVE HAD YOU THERE IF HE HAD TALKED TO HELENA
12 STOECKLEY?

13 A. I AM CONVINCED OF THAT. HE MADE A BIG POINT OF WANTING
14 ME THERE. AND HE AND WADE HAD SOME DISCUSSIONS ABOUT THAT
15 WHICH WADE -- I WAS ACTUALLY PRIVY TO -- WADE WAS OBJECTING.
16 HE SAID, BERNIE, THAT'S NOT HOW -- YOU KNOW, WE DON'T DO IT
17 THAT WAY DOWN HERE. I DON'T THINK THIS IS A GOOD IDEA. YOU
18 KNOW, WE SHOULDN'T HAVE HIM PRESENT WHEN YOU'RE TALKING TO A
19 WITNESS. AND BERNIE SAID, NO, NO, I WANT HIM THERE. SO,
20 THAT'S HOW THAT WENT.

21 Q. BUT YOU COULD AGREE WITH ME, I THINK, THAT IT'S AT LEAST
22 POSSIBLE THAT BERNIE COULD HAVE SPOKEN TO MS. STOECKLEY AGAIN
23 THAT DAY WITHOUT YOU KNOWING ABOUT IT?

24 A. I WOULD HAVE KNOWN ABOUT IT AND I CERTAINLY WOULD HAVE
25 KNOWN ABOUT IT IF SHE HAD SAID ANYTHING HELPFUL TO THE DEFENSE

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1 BECAUSE BERNIE WOULD HAVE BEEN ON TOP OF THE WORLD. AND,
2 BELIEVE ME, HE WAS NOT.

3 Q. BUT YOU DON'T REMEMBER WHERE YOU WERE EVERY MINUTE FOR
4 THE REST OF THAT DAY?

5 A. THAT'S CORRECT.

6 Q. AND SO IT IS POSSIBLE THAT BERNIE COULD HAVE BEEN
7 SOMEWHERE THAT YOU DON'T REMEMBER DOING SOMETHING THAT YOU
8 DIDN'T KNOW ABOUT?

9 A. NO, WHEN BERNIE WENT TO THE BATHROOM, I DIDN'T FOLLOW
10 HIM. HE COULD HAVE BEEN -- YOU KNOW, IT IS POSSIBLE, YES,
11 SIR.

12 Q. ALL RIGHT. LET'S MOVE NEXT AND TALK ABOUT YOUR ESKATROL
13 THEORY. AND I WANT TO START BY TALKING ABOUT THE ORIGIN OF
14 THAT AND WHERE ALL THAT CAME FROM.

15 AND IF YOU LOOK AT THE SCREEN -- MY UNDERSTANDING
16 WAS THAT YOU FOUND THESE NOTES AND THAT YOU TALKED TO JEFFREY
17 MACDONALD ABOUT THESE NOTES AND THAT HE TOLD YOU THAT HE HAD
18 BEEN REQUESTED TO WRITE A DETAILED ACCOUNT. AND IN
19 PARTICULAR, THE TESTIMONY FROM THE CASE IN CALIFORNIA
20 INDICATED THAT THE POINT WAS THAT MACDONALD SAID HE FOUND IT
21 VERY DIFFICULT TO TALK ABOUT THE EVENTS OF THAT NIGHT AND IT
22 SORT OF MIGHT BE EASIER FOR HIM TO JUST WRITE OUT AN ACCOUNT.
23 DO YOU REMEMBER THAT?

24 A. YES, HE HAD -- YEAH. YES. AT SOME POINT HE SAID THAT
25 THE REASON HE WROTE THIS OUT RATHER THAN JUST TALKING TO HIS

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1 LAWYERS ABOUT IT WAS HE FOUND IT HARD TO TALK ABOUT IT AND IT
2 MIGHT BE EASIER IF HE JUST PUT IT IN WRITING.

3 Q. SURE.

4 MR. WILLIAMS: IF I COULD HAVE JUST A MOMENT, YOUR
5 HONOR, TO --

6 THE COURT: YES.

7 (PAUSE.)

8 BY MR. WILLIAMS:

9 Q. AND SO YOU MENTIONED THE FACT THAT YOU WERE THERE IN
10 CALIFORNIA. AND I THINK IT'S AGAIN MY UNDERSTANDING, CORRECT
11 ME IF I'M WRONG, THAT DR. MACDONALD STILL HAD A CONDOMINIUM IN
12 CALIFORNIA AT THE TIME?

13 A. YES, HE DID.

14 Q. AND YOU WERE THERE IN CALIFORNIA BECAUSE YOU WERE GOING
15 TO TAKE A LOOK AT HIS NOTES, BUT I BELIEVE THERE WAS TESTIMONY
16 ALSO THAT YOU WERE THERE BECAUSE YOU HAD A PUBLICITY TOUR FOR
17 AN UPCOMING BOOK?

18 A. NO, THAT WAS NOT THE SAME TIME. MY BOOK ON ALASKA WASN'T
19 PUBLISHED UNTIL THE FALL OF 1980, AND THIS WAS THE FALL OF
20 '79. SO, I WAS THERE ONLY TO SEE MACDONALD AT TERMINAL ISLAND
21 AND TO GATHER UP ALL THE MATERIALS THAT HE HADN'T BROUGHT TO
22 RALEIGH FOR THE TRIAL.

23 Q. SO, THERE WAS A PUBLICITY TOUR, BUT IT WASN'T AT THAT
24 TIME?

25 A. IT WAS 1980. IT WAS A YEAR LATER.

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1 Q. AND YOU WERE THERE JUST IN THE CONDO OR JUST FOR THIS
2 PURPOSE, I UNDERSTAND. LET ME DIRECT YOUR ATTENTION TO THE
3 SCREEN AND YOU MENTIONED THAT YOU LOOKED AT THE DOCUMENTS AND
4 I THINK YOU USED THE SAME LANGUAGE TODAY, YOU WENT THROUGH
5 BOXES AND BOXES OF DOCUMENTS, THERE WAS A TON OF BOXES.

6 A. YES, I SEE WHERE I SAID THAT. YEP.

7 Q. AND YOU ALSO SAID THAT YOU WENT THROUGH EVERYTHING THAT
8 WAS IN THE AREA OF THE CONDO WHERE THE MATERIAL RELATED TO THE
9 CASE WAS KEPT. DO YOU SEE THAT?

10 A. YES, I DO.

11 Q. AND YOU WERE ASKED, DR. MACDONALD TOLD YOU YOU COULD DO
12 THAT, RIGHT? AND WHAT WAS YOUR ANSWER?

13 A. HE SURE DID.

14 Q. YOU WERE ALSO ASKED, AND HE TOLD YOU YOU COULD TAKE SOME
15 DOCUMENTS, IS THAT RIGHT? AND WHAT WAS YOUR ANSWER?

16 A. YEAH, HE TOLD ME I COULD TAKE BACK ANYTHING I WANTED.

17 Q. AND IT WAS DURING THIS TIME THAT YOU FOUND THESE NOTES
18 CONCERNING THE ESKATROL, IS THAT A RIGHT UNDERSTANDING?

19 A. YES, IT WAS THE FALL -- NOVEMBER OF '79.

20 Q. NOW, LOOKING AT THIS PAGE HERE FROM YOUR BOOK IN *FATAL*
21 *VISION*, I'VE HIGHLIGHTED THE PART THAT YOU'VE ALREADY READ AND
22 THESE QUOTING THE NOTES I BELIEVE CORRECTLY THIS TIME; I HAD
23 LOST 12 TO 15 POUNDS IN THE PRIOR THREE TO FOUR WEEKS IN THE
24 PROCESS USING THREE TO FIVE CAPSULES OF ESKATROL SPANSULE. DO
25 YOU SEE THAT?

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1 A. YES, I DO.

2 Q. AND I BELIEVE WE'VE ALREADY HAD SOME DISCUSSION, THE
3 NOTES DID NOT SAY IF THAT WAS THREE TO FIVE CAPSULES PER DAY
4 EVERY DAY FOR THREE TO FOUR WEEKS OR WHETHER THAT WAS A TOTAL
5 OF THREE TO FIVE CAPSULES OVER THE ENTIRE THREE TO FOUR WEEKS.
6 THE NOTES ARE JUST SILENT ON THAT PARTICULAR POINT.

7 A. THEY ARE, BUT THE LOGICAL INFERENCE WOULD BE IT WASN'T
8 JUST ONE PILL A WEEK.

9 Q. AND YOU WERE ASKED ABOUT THIS IN THE TRIAL IN CALIFORNIA
10 AND YOU WERE ASKED IN PARTICULAR IF THERE WAS ANY EVIDENCE OF
11 A DAILY USE. AND IF YOU COULD PLEASE READ YOUR ANSWER IN THE
12 HIGHLIGHTED PORTIONS?

13 A. THERE WAS NO EVIDENCE PRESENTED IN COURT AND FOUND TO BE
14 TRUE BY A JURY AND UPHELD BY APPELLATE COURTS THAT SAID HE
15 TOOK THREE TO FIVE PER DAY.

16 Q. YOU ALSO WERE ASKED ABOUT THAT AGAIN. SOMEONE ASKED YOU
17 -- THE ATTORNEY I BELIEVE ASKED YOU, DR. MACDONALD CONSUMING
18 THE DRUG IS THAT JUST MORE THAN SURMISAL? AND WHAT WAS YOUR
19 ANSWER THERE?

20 A. BASED ON THE NOTES, WHICH WERE MADE AVAILABLE TO ME BY
21 HIM, I DON'T THINK THERE'S MUCH QUESTION ABOUT WHETHER OR NOT
22 HE WAS CONSUMING THE DRUG. THE QUESTION MAY BE HOW MUCH AND
23 WHEN.

24 Q. AND IN YOUR BOOK YOU ADDRESS THAT WITH THE QUOTED PART
25 THERE WHICH SAYS HOW MUCH HE MIGHT HAVE BEEN CONSUMING WILL

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1 FOREVER BE, TO EMPLOY A PHRASE USED BY FREDDY KASSAB BEFORE
2 THE GRAND JURY, QUOTE, A DARK AREA. IS THAT RIGHT?

3 A. I SEE THAT. YES, SIR.

4 Q. NOW, IN ADDITION TO WRITING ABOUT THE DRUG, YOU ALSO
5 WROTE ABOUT THE DRUG TESTING THAT WAS DONE ON DR. MACDONALD
6 SHORTLY AFTER THE MURDERS OCCURRED. DO YOU REMEMBER THAT?

7 A. YES, I DO.

8 Q. AND IN YELLOW THERE YOU WROTE THAT THE CHEMIST HAD NEVER
9 BEEN INSTRUCTED TO TEST FOR THE PRESENCE OF AMPHETAMINES AND,
10 IN FACT, THE EQUIPMENT AVAILABLE AT THE CID LABORATORY AT THE
11 TIME WOULD NOT HAVE ENABLED HIM TO DO SO. DO YOU SEE THAT?

12 A. YES, I DO.

13 Q. AND SO YOU'RE TELLING THE READER THAT THE BLOOD AND URINE
14 CAME IN FOR TESTING, BUT THE EQUIPMENT AT THE CID LAB WAS
15 SIMPLY NOT AVAILABLE TO TEST FOR AMPHETAMINES?

16 A. YES, THAT'S RIGHT, AND THAT WAS CONFIRMED IN 1987 BY THE
17 ARMY CHEMIST, MR. BARBATO, WHO TESTIFIED AT THE CIVIL TRIAL.

18 Q. SURE. WELL, LET'S TAKE A LOOK AT THAT. FIRST YOU WERE
19 ASKED ABOUT THE SOURCE FOR THAT INFORMATION THAT YOU WROTE
20 THERE AND WHAT WAS YOUR ANSWER AS SHOWN IN YELLOW?

21 A. WELL, AS I SAY EARLIER IN THE PARAGRAPH, I MADE A FREEDOM
22 OF INFORMATION REQUEST FOR THE LABORATORY NOTES AND THAT, IN
23 CONJUNCTION WITH A CONVERSATION I HAD WITH MR. MURTAGH,
24 PERSUADED ME THAT THAT PARAGRAPH WAS SUBSTANTIALLY ACCURATE.

25 Q. AND THAT WOULD BE MR. MURTAGH WHO ALSO SITS AT COUNSEL

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1 TODAY, IS THAT RIGHT, FOR THE GOVERNMENT, THE PROSECUTOR MR.
2 MURTAGH?

3 A. THAT'S CORRECT.

4 Q. YOU SPOKE ON THAT A LITTLE FURTHER IN THE TRIAL, AND IF
5 YOU COULD READ THE PORTIONS THAT ARE HIGHLIGHTED AGAIN THERE
6 IN YELLOW.

7 A. AND THERE WERE, AS I RECALL, A COUPLE OF PAGES OF
8 TYPEWRITTEN NOTES AND MAYBE EVEN SOME GRAPH TYPE PAPER SHOWING
9 TESTING THAT WAS OR WASN'T DONE.

10 AND DID THESE NOTES SAY THAT TESTING WAS NOT DONE
11 FOR AMPHETAMINES?

12 MY RECOLLECTION IS THAT IT WAS MR. MURTAGH WHOSE
13 INTERPRETATION OF THOSE NOTES I RELIED UPON.

14 Q. SO, YOU RELIED UPON MR. MURTAGH'S INTERPRETATION FOR THAT
15 SECTION?

16 A. THAT'S WHAT IT SAYS HERE, WHICH WAS CLOSER TO THE TIME
17 THAN TODAY IS.

18 Q. AND YOU WERE UNDER OATH?

19 A. OH, YES.

20 Q. AND INTENDED TO TELL THE TRUTH THEN?

21 A. ABSOLUTELY.

22 Q. LET'S TAKE A LOOK THEN AT MR. BARBATO, I THINK YOU SAID,
23 WHO TESTIFIED. HE WAS THE MAN WHO PERFORMED THE ACTUAL
24 TESTING ON THE BLOOD AND THE URINE.

25 WE'RE LOOKING HERE AT PAGE 92 AND I DIRECT YOUR

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1 ATTENTION TO -- WELL, I'LL JUST ASK IT. THERE WAS A QUESTION
2 THERE, THE QUESTION WAS WHETHER IN HIS REPORT DID HE SAY THAT
3 THERE WAS NO EVIDENCE OF NARCOTICS OR DANGEROUS DRUGS?

4 AND THEN HE ANSWERED, I THINK THE REPORT BASICALLY
5 SAYS THE EXAM DID NOT REVEAL THE PRESENCE, WHICH MEANS IT DID
6 NOT REVEAL THE PRESENCE BASED ON THE TEST THAT I CONDUCTED.
7 AND FURTHER DOWN HE SAYS I DID NOT DETECT THE DRUGS.

8 NOW, WE'RE GOING TO GO -- WALK THROUGH THAT AND I'LL
9 BE SURE THAT WE COVER YOUR POINT AS WELL, BUT, FIRST, JUST SO
10 WE UNDERSTAND OUR TERMINOLOGY, THERE WAS TESTIMONY THERE ABOUT
11 WHAT WERE CONSIDERED DANGEROUS DRUGS BY THE ARMY.

12 AND IF YOU COULD READ THE ANSWER THAT MR. BARBATO
13 GAVE, LINES 15 TO 17.

14 A. OKAY. MR. BARBATO SAID I BELIEVE THAT THAT WAS A
15 GENERAL TERM THAT WAS USED TO APPLY TO DRUGS THAT WERE IN SOME
16 WAY CONTROLLED BY FEDERAL LAWS OR MILITARY LAWS, CODE OF
17 CONDUCT RULES.

18 Q. AND THEN IF YOU COULD READ THE YELLOW PORTION THERE AT
19 LINES 21 THROUGH 25.

20 A. I THINK IT WAS GENERALLY A CATCH ALL PHRASE TO TRY TO
21 INDICATE CONTROLLED SUBSTANCES THAT WERE CONTROLLED BY FEDERAL
22 STATUTE.

23 AND WERE AMPHETAMINES, AT THAT TIME, CONTROLLED BY
24 FEDERAL STATUTE?

25 Q. AND HIS ANSWER?

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1 A. I BELIEVE THEY WERE.

2 SO, THEY WERE DANGEROUS DRUGS?

3 YES.

4 SO, THE STATEMENT ON PAGE 612 OF THAT SAME BOOK
5 WHICH SAYS THAT AMPHETAMINES WERE NOT CONSIDERED A DANGEROUS
6 DRUG BY MILITARY AUTHORITIES IS NOT CORRECT?

7 I GUESS YOU'RE CORRECT ON THAT.

8 Q. ALL RIGHT. NOW, AS YOU'VE NOTED, THERE WAS CONVERSATION
9 ABOUT WHETHER THE TESTING THAT HE DID WOULD BE ABLE TO DETECT
10 ANYTHING. AND WE'RE LOOKING HERE AT -- LOOKING HERE AT
11 ANOTHER SECTION OF THE TRIAL TESTIMONY. I BELIEVE YOUR
12 ATTORNEY, MR. KORNSTEIN, ASKED MR. BARBATO FOR AMPHETAMINES,
13 CAN YOU TELL US THE MINIMUM AMOUNT THAT YOUR EQUIPMENT WOULD
14 HAVE IDENTIFIED AT THAT TIME. AND DROPPING DOWN, YOU CAN SEE
15 YOUR ATTORNEY ALSO SAYS DOES IT MEAN THAT YOUR EQUIPMENT COULD
16 NOT AT THAT TIME DETECT LESS THAN THAT LETHAL DOSE OF
17 AMPHETAMINE?

18 AND HE ANSWERED, WELL, IT MEANS THAT -- IT MEANS THE
19 EQUIPMENT WOULD NOT BE THE EQUIPMENT OF CHOICE TO DO THAT TYPE
20 OF ANALYSIS. DO YOU SEE THAT THERE?

21 A. YES, I DO.

22 Q. SO, MR. BARBATO IS SAYING THE EQUIPMENT THAT HE USED IN
23 THE LAB WOULD NOT HAVE BEEN ABLE TO DETECT AMPHETAMINES AT
24 LESS THAN A LETHAL DOSE?

25 A. THAT'S MY RECOLLECTION OF WHAT HE'S TESTIFIED TO.

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1 Q. NOW, HE WENT ON TO TALK ABOUT OTHER EQUIPMENT IN THE LAB.
2 AND IF YOU COULD READ THE HIGHLIGHTED PORTION AT LINES EIGHT
3 TO NINE?

4 A. WELL, THERE WAS A GAS CHROMATOGRAPH THAT WAS AVAILABLE IN
5 THE LABORATORY, WHICH I WAS NOT AT THAT POINT QUALIFIED TO
6 USE. AND, IN FACT, IN THE YEAR AND A HALF THAT I WAS ASSIGNED
7 TO THAT LAB I NEVER USED THAT PIECE OF EQUIPMENT.

8 Q. SO, IN HIS LAB WHERE HE DID THE TESTING THERE WAS A
9 SEPARATE INSTRUMENT CALLED A GAS CHROMATOGRAPH THAT WAS
10 AVAILABLE, BUT HE JUST WASN'T QUALIFIED TO USE IT?

11 A. THAT'S WHAT HE SAYS.

12 Q. AND THEN DROPPING DOWN TO LINES 15 THROUGH 19, DO YOU SEE
13 ALSO THAT HE SAID THAT IN RETROSPECT THAT WOULD HAVE BEEN AN
14 INSTRUMENT THAT WOULD HAVE BEEN ORDERS OF MAGNITUDE MORE
15 SENSITIVE TO USE THAN THE INSTRUMENT THAT I DID USE, BUT,
16 UNFORTUNATELY, I WAS UNQUALIFIED TO USE IT SO, THEREFORE, IT
17 WAS BASICALLY UNAVAILABLE TO ME. DO YOU SEE THAT?

18 A. I DO.

19 Q. IT WAS AVAILABLE IN THE LAB, BUT NOT AVAILABLE TO HIM
20 BECAUSE OF HIS LACK OF TRAINING?

21 A. THAT'S WHAT HE'S SAYING, YEP.

22 Q. AND IN PARTICULAR HE WAS ASKED THE GAS CHROMATOGRAPH THAT
23 YOU SAID WOULD BE SIGNIFICANTLY MORE SENSITIVE WOULD HAVE BEEN
24 ABLE TO DETECT LESS THAN LETHAL DOSES OF AMPHETAMINES, TO YOUR
25 KNOWLEDGE, ISN'T THAT RIGHT? AND WHAT DID HE SAY?

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1 A. HE SAID, YES, I BELIEVE THAT IS CORRECT.

2 Q. I'D LIKE TO TAKE YOU BACK TO THE INFORMATION THAT YOU
3 SAID OR THE INTERPRETATION YOU SAID THAT YOU GOT FROM MR.
4 MURTAGH, AND I SHOW YOU AGAIN JUST TO REFRESH YOU, THAT YOU
5 SAID THAT THESE NOTES WERE INTERPRETED BY MR. MURTAGH. AND
6 YOU SAID MY RECOLLECTION IS THAT IT WAS MR. MURTAGH WHOSE
7 INTERPRETATION OF THOSE NOTES I RELIED UPON.

8 MR. MURTAGH, THE PROSECUTOR, RIGHT?

9 YES, SIR.

10 DO YOU SEE THAT THERE?

11 A. I DO.

12 Q. WHEN DID YOU START USING THE PROSECUTOR, MR. MURTAGH, TO
13 INTERPRET THE SOURCE MATERIAL FOR YOUR BOOK?

14 A. I DON'T THINK I STARTED TALKING TO THE PROSECUTION UNTIL
15 -- I CAN'T EVEN REMEMBER THE FIRST TIME, BUT IT WAS -- IT
16 WASN'T RIGHT AWAY BECAUSE THEY WOULDN'T TALK TO ME.

17 Q. WELL, WHEN DID YOU STOP USING THE PROSECUTOR, MR.
18 MURTAGH, TO INTERPRET SOURCE MATERIAL FOR YOUR BOOK?

19 A. I WOULD SAY -- WELL, THE BOOK WAS PUBLISHED IN 1983. I
20 DON'T KNOW IF THERE WAS A DAY WHEN -- A DAY WOULD COME WHEN I
21 WOULDN'T ASK ANYBODY FOR ANY INTERPRETATIONS BECAUSE IT WAS
22 BEYOND THAT POINT.

23 Q. SO, IS YOUR ANSWER YOU DON'T REMEMBER WHEN YOU STOPPED
24 USING MR. MURTAGH TO INTERPRET THE SOURCE MATERIAL?

25 A. I CAN'T GIVE YOU A DATE.

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1 Q. HOW MANY TIMES DID YOU CONSULT WITH MR. MURTAGH ABOUT
2 WHAT SHOULD GO IN YOUR BOOK?

3 A. I WENT DOWN TO WASHINGTON AND SPENT SOME TIME WITH HIM IN
4 HIS OFFICE. I THINK JUST ONE DAY. AND WE WOULD TALK ON THE
5 PHONE FROM TIME TO TIME. I WOULD HAVE QUESTIONS ABOUT THEIR
6 TACTICS DURING THE TRIAL AND, YOU KNOW, OTHER THINGS WOULD
7 COME UP. AND IF I NEEDED TO CHECK SOMETHING THAT I KNEW HE
8 HAD BEEN INVOLVED IN AND HE COULD ANSWER A QUESTION, I WOULD
9 ASK HIM.

10 Q. DID YOU GIVE A COPY OF THE BOOK TO MR. MURTAGH BEFORE IT
11 WAS PUBLISHED?

12 A. NO, I DID NOT.

13 Q. HAVE YOU EVER CHANGED OR REVISED ANYTHING IN THE BOOK
14 BASED ON FURTHER INFORMATION RECEIVED FROM MR. MURTAGH?

15 A. NO, THE BOOK -- THE BASIC TEXT OF THE BOOK IS WHAT WAS
16 PUBLISHED IN 1983. I HAVE WRITTEN A COUPLE OF EPILOGUES
17 AFTERWARDS, BUT HAVEN'T GONE BACK AND CHANGED ANYTHING IN THE
18 BODY OF THE TEXT.

19 Q. AND DIRECTING YOUR ATTENTION AGAIN TO THE SCREEN. AGAIN,
20 ON YOUR TWITTER ACCOUNT, THIS WAS WEDNESDAY, YOU SAID IT LOOKS
21 LIKE BACK TO THE FUTURE, BUT GOOD TO RECONNECT WITH OLD PALS.
22 IS MR. MURTAGH ONE OF YOUR OLD PALS?

23 A. I'D SAY I CONSIDER HIM A FRIEND NOW, YEAH. AND WITH MR.
24 SMITH TOO. IT WAS GREAT TO SEE WADE AGAIN. AND JIM
25 BLACKBURN, IT WAS GREAT TO SEE HIM TOO.

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1 Q. LET'S GO BACK TO YOUR BOOK, SIR, AND I'VE GOT IT ON THE
2 SCREEN FOR YOU, *FATAL VISION* PAGE 613. AND I'LL SUMMARIZE
3 THIS BECAUSE I'D LIKE TO MOVE ALONG.

4 MR. WILLIAMS: AND, YOUR HONOR, IF I COULD, I WOULD
5 JUST COMMUNICATE TO THE COURT I BELIEVE IF I COULD HAVE UNTIL
6 1:15, I THINK WE COULD FINISH THIS AND ALLOW THE WITNESS TO
7 TRAVEL HOME IF THAT'S ACCEPTABLE TO THE GOVERNMENT AND THE
8 COURT.

9 MR. BRUCE: NO OBJECTION.

10 THE COURT: SURELY. THANK YOU.

11 BY MR. WILLIAMS:

12 Q. YOU SAID IN THE BOOK THAT USE OF THREE TO FIVE ESKATROL
13 SPANSULES PER DAY COULD HAVE HAD A MARKED EFFECT ON A PERSON
14 AND YOU WENT THROUGH THE *PHYSICIANS' DESK REFERENCE* AND YOU
15 NOTED THE SYMPTOMS; MARKED INSOMNIA, TENSENESS, IRRITABILITY,
16 HYPERACTIVITY. I WON'T REPEAT ALL OF THEM, BUT I'M REFERRING
17 TO THAT SAME LIST THAT YOU READ EARLIER. DO YOU SEE THAT
18 THERE?

19 A. YES, I DO.

20 Q. YOU WERE ASKED ABOUT THIS AT THE CIVIL TRIAL AND IN
21 PARTICULAR I BELIEVE THE QUESTION THAT WAS ASKED WAS THIS,
22 THE QUESTION WAS HOW MANY PEOPLE -- WHO DID YOU TALK TO THAT
23 SHOWED -- THAT TOLD YOU THAT DR. MACDONALD MANIFESTED SYMPTOMS
24 OF OVERUSE OF ESKATROL IN THE WEEKS BEFORE FEBRUARY 19 -- OR
25 FEBRUARY 17TH, 1970? DO YOU SEE THAT QUESTION?

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1 A. YES, I DO.

2 Q. HOW MANY PEOPLE DID YOU TALK TO, IT SAYS, TO SEE IF DR.
3 MACDONALD MANIFESTED THESE SYMPTOMS. AND WHAT WAS YOUR
4 ANSWER?

5 A. I SAID NO ONE. I NEVER ASKED ANYONE THAT QUESTION.

6 Q. YOU ALSO SAY IN YOUR BOOK AND, AGAIN, I'M HIGHLIGHTING
7 PORTIONS YOU'VE ALREADY QUOTED, THAT A PERSON CAN HAVE A RAGE
8 REACTION, ESPECIALLY WHEN THEY HAVE SOME PRE-EXISTING OR OTHER
9 PSYCHOLOGICAL CONDITION. AND YOU CAN SEE THERE THAT IT
10 REFERENCES OUTSIDE STRESSES. IT REFERENCES SLEEP DEPRIVATION.
11 IT ALSO TALKS ABOUT A PERSON SUFFERING FROM A NARCISSISTIC
12 PERSONALITY DISORDER.

13 AND I BELIEVE IN YOUR BOOK, AT LEAST AS I UNDERSTAND
14 IT, YOU MENTION THAT YOU FELT LIKE SLEEP DEPRIVATION COULD BE
15 AN ISSUE AND THE WAY THAT YOU SPECULATED HE INTERACTED WITH
16 WOMEN, PERHAPS, A NARCISSISTIC PERSONALITY DISORDER COULD BE
17 AN ISSUE.

18 A. BASED ON THE READING I'VE DONE ABOUT THE NARCISSISTIC
19 PERSONALITY DISORDER, THERE WERE ELEMENTS IN HIS CHARACTER AND
20 PERSONALITY THAT WOULD SEEM TO PUT HIM IN THAT CATEGORY.

21 I BELIEVE DR. STONE CAME OUT AS AN EXPERT WITNESS
22 AND TESTIFIED, A PSYCHIATRIST FROM NEW YORK, TESTIFIED AT THE
23 CIVIL SUIT IN 1987 ABOUT THIS ASPECT OF IT.

24 Q. HE DID. DR. STONE, WHO NEVER EXAMINED DR. MACDONALD, IS
25 THAT CORRECT?

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1 A. NO, I DON'T THINK HE EVER DID.

2 Q. RIGHT. SO, HE MADE AN OPINION WITHOUT SEEING THE
3 PATIENT. BUT IF I COULD TAKE YOU BACK TO THIS TRANSCRIPT, I
4 WANT TO ASK YOU ABOUT THE SLEEP DEPRIVATION BECAUSE IN YOUR
5 BOOK YOU MENTION THAT DR. MACDONALD, A PHYSICIAN WITH THE
6 ARMY, ALSO DID SOME MOONLIGHTING. IN OTHER WORDS, WORKED PART
7 TIME AT OTHER AREA HOSPITALS. AND THERE WAS SOME SPECULATION
8 ABOUT SLEEP DEPRIVATION FROM THAT.

9 AND SO THE QUESTION WAS ASKED OF YOU IN THE PREVIOUS
10 TRIAL; ALSO BY JANUARY, OF COURSE, HE WAS MOONLIGHTING AT CAPE
11 FEAR VALLEY -- AND THEN THE PARTICULAR QUESTION IS PUT ON THE
12 NEXT PAGE, IT'S THIS; MY QUESTION TO YOU NOW IS DID YOU TALK
13 TO ANYONE AT, LET US SAY, CAPE FEAR WHO KNEW OF THE
14 MOONLIGHTING THAT DR. MACDONALD HAD BEEN DOING? AND WHAT WAS
15 YOUR ANSWER?

16 A. NO, SIR.

17 Q. ANOTHER HOSPITAL. DID YOU EVER TALK TO ANYONE AT HAMLET
18 HOSPITAL, ANOTHER PLACE THAT YOU SAID THAT HE WAS
19 MOONLIGHTING? AND WHAT WAS YOUR ANSWER?

20 A. NO, SIR. AND THEN I SAY, IF I COULD?

21 Q. SURE.

22 A. THANK YOU. I SAID I KNEW THAT HE HAD WORKED A 24 HOUR
23 SHIFT AT HAMLET HOSPITAL IN THE TIME PERIOD IMMEDIATELY
24 PRECEDING THE MURDERS AND THEN HAD BEEN UP ALL DAY AND WAS
25 STILL UP AT -- I KNEW THAT HE WAS EXHAUSTED, SO EXHAUSTED THAT

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1 HE WAS LYING DOWN FALLING ASLEEP NEXT TO HIS DAUGHTER
2 KIMBERLEY ON THE RUG AT SEVEN O'CLOCK THAT NIGHT AND THEN AT
3 TWO O'CLOCK IN THE MORNING HE'S UP WASHING DISHES.

4 Q. AND, OF COURSE, WHETHER HE WAS EXHAUSTED HE WOULD KNOW
5 THAT. AND SO YOU WERE ASKED THE QUESTION DID YOU EVER ASK DR.
6 MACDONALD HOW MUCH SLEEP HE HAD THE NIGHT BEFORE THE ASSAULT?
7 AND WHAT WAS YOUR ANSWER?

8 A. NOT THAT I RECALL. BECAUSE THERE CAME A POINT IN TIME
9 WHEN I RECOGNIZED THAT HE WAS BEING UNTRUTHFUL IN ALL OF HIS
10 ANSWERS TO ME. SO, THERE WAS NO POINT IN ASKING HIM A
11 QUESTION IF I JUST KNEW HE WAS GOING TO LIE.

12 Q. IF YOU KNEW HE WOULD DO THINGS LIKE QUOTE SOURCE MATERIAL
13 INACCURATELY?

14 A. WHAT I SAID WAS LIE.

15 Q. LET ME ASK YOU NEXT ABOUT THE NARCISSISTIC -- OR THE
16 NARCISSISM, IF YOU WILL. YOU WERE ASKED THE QUESTION DID YOU
17 TALK TO ANYONE THAT YOU CAN RECALL THAT YOU WOULD SAY WERE
18 FRIENDS, RELATIVES, CO-WORKERS OR COLLEAGUES TO ASK WHETHER
19 THEY HAD OBSERVED ANY BEHAVIOR THAT COULD BE TERMED
20 PATHOLOGICAL NARCISSISM? AND WHAT WAS YOUR ANSWER?

21 A. NO, I DID NOT.

22 Q. YOU WERE THEN ASKED SOME LARGER QUESTIONS, SIR, ABOUT
23 WHETHER OR, I'M SORRY, WHEN. DO YOU SEE AT THE BOTTOM OF THE
24 PAGE? WHEN DID YOU COME TO THE CONCLUSION THAT DR. MACDONALD
25 MAY HAVE BEEN TAKING THREE TO FIVE ESKATROL SPANSULES A DAY?

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1 AND WHAT WAS YOUR ANSWER?

2 A. I DON'T KNOW THAT I EVER CAME TO THAT CONCLUSION. I
3 THINK IT'S MORE SUGGESTED ALONG THE LINES OF A POSSIBILITY
4 BASED ON AMBIGUITY IN HIS OWN NOTES AND BASED ON THE EVENTS OF
5 THAT NIGHT.

6 Q. YOU WERE ALSO ASKED ARE YOU SAYING THAT THAT'S NOT A
7 SURMISAL, THAT PART OF THE MOTIVATION FOR THE CRIMES WAS THE
8 EFFECT OF THE AMPHETAMINES? AND WHAT WAS YOUR RESPONSE?

9 A. I'M CERTAINLY SAYING THAT I PRESENT IT AS A POSSIBILITY
10 AND TWO PARAGRAPHS LATER, AS I ASKED, MIGHT IT BE TOO MUCH TO
11 SURMISE? MY OWN ANSWER TO THE READER IS PERHAPS, WE JUST
12 DON'T KNOW THAT. WE DO KNOW WHAT HAPPENED.

13 Q. RIGHT. NOW, LET ME TAKE YOU BACK -- AND WE'RE GETTING
14 TOWARD THE END. LET ME TAKE YOU BACK AGAIN TO YOUR BOOK WHERE
15 YOU QUOTE THIS PART ACCURATELY ABOUT THE WEIGHT LOSS PROGRAM.
16 DR. MACDONALD WROTE I HAD LOST 12 TO 15 POUNDS IN THE PRIOR
17 THREE TO FOUR WEEKS. DO YOU SEE THAT?

18 A. YES, I DO.

19 Q. I WANT TO DIRECT YOUR ATTENTION TO A LETTER THAT YOU
20 WROTE TO DR. MACDONALD DATED JANUARY 16TH, 1980. IT SAYS,
21 DEAR, JEFF -- YOU CAN SEE -- GOT THE FIRST TWO TAPES
22 YESTERDAY. USEFUL AND KEEP THEM COMING. DO YOU SEE THAT?

23 A. YES. YES, I DO.

24 Q. AND THAT'S REFERENCING, I BELIEVE, THE TAPES THAT YOU
25 DISCUSSED EARLIER WHERE DR. MACDONALD WAS GIVING YOU

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1 ADDITIONAL INFORMATION?

2 A. YEAH, HE WOULD MAKE THE RECORDINGS AND SMUGGLE THEM --
3 HAVE SOMEBODY TO SMUGGLE THEM OUT OF THE PRISON.

4 Q. AND AT THAT POINT YOU, YOURSELF, WERE GOING THROUGH A
5 WEIGHT LOSS PLAN. AND IF YOU WOULD, PLEASE READ THE SECOND
6 YELLOW PORTION IN HIGHLIGHTS THERE THAT DESCRIBE IT FOR US AS
7 YOU DESCRIBED IT IN YOUR LETTER.

8 A. I'M FINALLY BACK TO RUNNING AN HOUR A DAY, THREE DAYS A
9 WEEK FOR A WHILE, BUT, MAN, ON ONLY 1,000 TO 1,200 CALORIES
10 PER DAY I SURE DO RUN SLOW AND FEEL WEAK, BUT FIVE POUNDS ARE
11 OFF AFTER ONLY TEN DAYS OF DIET AND TWO DAYS OF RUNNING.

12 SO, BY THE TIME I'M BACK OUT THERE AT THE END OF
13 FEBRUARY OR BEGINNING OF MARCH, I OUGHT TO BE DOWN RIGHT
14 SVELTE. PALE AND TREMBLING, BUT SVELTE.

15 Q. WOULD YOU AGREE WITH ME THAT IF A PERSON LOST FIVE POUNDS
16 IN TEN DAYS AND THEN CONTINUED TO LOSE WEIGHT AT THAT SAME
17 RATE THAT IT WOULD BE TEN POUNDS IN 20 DAYS AND 15 POUNDS IN
18 30 DAYS? WOULD YOU AGREE WITH THAT?

19 A. I GUESS THAT'S THE ARITHMETIC, YEAH. BUT ALTHOUGH, YOU
20 KNOW, THE FIRST FIVE POUNDS COME OFF A LOT EASIER THAN THE
21 ONES THAT ARE AFTER THAT.

22 Q. WELL, NOW, I'LL ASK YOU AGAIN, IF THE PERSON LOST IT AT
23 THE SAME RATE, FIVE POUNDS IN TEN DAYS, IF THEY CONTINUED THAT
24 FOR A TOTAL OF 30 DAYS, IT WOULD BE TEN POUNDS IN 20 DAYS AND
25 THEN 15 POUNDS IN 30 DAYS, CORRECT?

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1 A. THAT'S CORRECT.

2 Q. AND THAT WOULD BE THE SAME LEVEL OF WEIGHT LOSS THAT DR.
3 MACDONALD DESCRIBED IN HIS NOTES?

4 A. THAT'S RIGHT.

5 Q. BIGGER PICTURE, SIR. TALKING ABOUT YOUR BOOKS, YOU FIRST
6 PUBLISHED *FATAL VISION*, THE HARD COVER, IN 1983, RIGHT?

7 A. THAT'S CORRECT.

8 Q. IT LATER CAME OUT IN PAPERWORK?

9 A. YES. ACTUALLY, THE FOLLOWING YEAR.

10 Q. IT LATER CAME OUT IN AN AUDIO VERSION?

11 A. THE AUDIO PROBABLY WAS THE SAME TIME AS THE HARD COVER.

12 Q. AN E-BOOK EDITION HAS COME OUT AUGUST 29TH?

13 A. JUST THIS YEAR, THAT'S RIGHT.

14 Q. AND A NEW AND BIGGER PRINT EDITION IS ON THE WAY?

15 A. IT'S ACTUALLY HERE.

16 Q. ONE FINAL QUESTION FOR YOU, SIR. WOULD YOU AGREE THAT
17 THERE IS NO ONE WHO HAS PROFITED FINANCIALLY MORE OFF OF THIS
18 STORY THAN YOU?

19 A. I CAN'T THINK OF ANYONE WHO WOULD BECAUSE NO ONE'S DONE
20 THE WORK I'VE DONE.

21 MR. WILLIAMS: THANK YOU, YOUR HONOR.

22 THE COURT: MR. BRUCE, LET'S STOP FOR THE WEEKEND.

23 MR. BRUCE: THAT'S FINE, YOUR HONOR.

24 THE COURT: WE'RE GOING TO TAKE A RECESS TILL MONDAY
25 AT 9:00 A.M.

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1 (WHEREUPON, THESE PROCEEDINGS RECESSED AT 1:03 P.M.,
2 TO RECONVENE AT 9:00 A.M., ON SEPTEMBER 24, 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 21, 2012