

Gilliland-- Direct

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2 THE COURT: All right, Ladies and Gentlemen
3 of the Jury, we will take a recess. And we will stand
4 in recess until 3:00 o'clock. That's about 15 minutes.
5 You're excused.

6 Keep in mind the instructions that I have given
7 you.

8 (Whereupon, a recess was had, follow-
9 (ing which, the trial continued as
follows, to-wit:

10 THE COURT: Call your next witness.

11 MR. BUTLER: Your Honor, the State would call
12 Dr. Gilliland.

13 THE COURT: Dr. Gilliland.

14 MR. BUTLER: I don't believe she has been
15 sworn, Judge.

16 THE COURT: Raise your right hand.

17 (Whereupon, the witness was sworn.

18 THE COURT: Have a seat, please, ma'am.

19 DR. M. G. F. GILLILAND

20 called as a witness on behalf of the State of Texas, and
21 having been first sworn, testified as follows, to-wit:

22 DIRECT EXAMINATION

23 BY MR. BUTLER:

24 O State your name, please, for the record?

25 A M. G. F. Gilliland, G-i-l-l-i-l-a-n-d.

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Q And how are you employed, Dr. Gilliland?

A I am a Medical Examiner for Dallas County.

Q How long have you been so employed?

A Since the first of July, 1981.

Q And would you give the jury, please, the benefit of your education and training, prior to going to work for the Dallas Forensic Pathology Lab.

A I received my degree, a Doctor of Medicine, from Loyola University in Chicago. I did a year of internship at the Cleveland Clinic, followed by a year of medical residency at the same hospital. Then I did three years training in psychiatry at that hospital, followed by a year of practice of psychiatry in the City of Cleveland. I then changed to a different field in medicine called "pathology," and practiced -- or did a residency training in pathology at Case Western Reserve University, followed by a year of forensic pathology, a subspecialty in pathology, in the Coroner's Office in Cleveland. Then a year of forensic pathology training in Richmond, Virginia at the office of the Chief Medical Examiner. And that brings us to July of 1981, when I came to Dallas.

Q Would you tell the jury, please, what forensic pathology is?

A Pathology is the study of disease and injury, how it

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affects the human body, how it can cause death and disability. And forensic pathology is the same study applied to the field, particularly death and disability, cause of death, and a presentation of these facts in general audiences.

Q All right. Now, in determining what the cause of death of an individual is, what are some of the things that you do, or how do you go about that?

A We receive some information -- in many cases, the death is unattended or unwitnessed -- there is still a history of previous disease, that will give us some kind of a clue what the problems were. We then take the history that we're given, plus any circumstances from the scene, plus an examination of the body, either the entire body, an autopsy, or simply an external examination, to look for marks of injury. And, then, we often will use toxicology tests to round out the picture of what would be the cause of death.

Q Now, in that respect, did you have an occasion, on or about the 15th day of July, 1982, to do an examination and autopsy of the body of Jill Montgomery, Raylene Rice and Kenneth Franks?

A Yes, I did.

Q All right. And, specifically, regarding the body of Jill

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Montgomery, what did you do during that autopsy?

A We start with an external examination, view the body as it is received, and determine what, if anything, is with the body. In this case, the body was brought to us in what is called a "disaster pouch," which is a long black bag that is zipped shut. And when we opened the bag, we could see the body with some material on the body, in the fashion of a gag and other material around the wrists, in the fashion of bindings or ligatures. In addition to that, there were some ants and maggots, some fly eggs. And we continued the examination, to observe that she also had some jewelry on.

Q All right. Were you able to determine any apparent injuries, at that time?

A Yes. There were obvious injuries to her chest and to her neck. Most of the injuries were on the left side of the chest around the breast area. She, on closer examination, had additional injuries at the neck and some on her right hand.

Q All right. And in conducting your examination, did you have an occasion to clean the body, or clean the blood from the body?

A Yes, we did.

MR. BUTLER: Mark those.

(Whereupon, the instruments herein-
(after described were identified as
(State's Exhibits 22 through 27.

BY MR. BUTLER:

Q Let me show you what's been marked for identification
purposes as State's Exhibits No. 22 and 23, and ask you
if you can identify those, please?

A Yes, I can.

Q What are they, please?

A Those are photographs taken at the time of the autopsy,
after the body was washed, showing the injuries to the
hands of Jill Montgomery.

Q All right. Do they truly and accurately depict what they
purport to depict; and that is, the appearance of the
injury to the hand of Jill Montgomery, as you viewed it,
at that time?

A Yes.

MR. BUTLER: Your Honor, at this time, we'd
offer State's Exhibits 22 and 23 into evidence.

MR. HUNT: We have no objection to 22 and 23,
Your Honor.

THE COURT: State's 22 and 23 are admitted.

(Whereupon, the instruments above
(referred to were received in evidence
(as State's Exhibits 22 and 23, and
(copies of the same appear in this
(record at the pages shown in the
(Index hereof.

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BY MR. BUTLER:

Q Would you explain to the jury, please, what type of injuries you found to the right hand of Jill Montgomery, and what those indicate to you, as a forensic pathologist?

A These are cuts on the flexor, or palm surface of the fingers of the right hand. And there's another cut on the back of the right hand near the thumb. These are often called "defensive injuries" because they are frequently made when a person tries to put their hand up in the face of a sharp instrument, such as a knife being wielded, or to try to close their hand over the blade of a knife, to push it away, or to close their hand on it. This will cut their hand. The back of the hand is part of that same defensive gesture, of starting to reach toward it, or to block a blow to a more -- an area that you would prefer not to be hit. You will put your hand or your arm up, rather than be stabbed or cut in the face, or neck, or chest.

O All right. Let me show you what has been marked for identification purposes as State's Exhibits 24, 25, 26 and 27, and ask if you can identify those, please?

A These are photographs of the body of Jill Montgomery, taken at the time of the autopsy, before the autopsy was begun, but after the body had been washed, showing

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the injuries.

Q All right. Do they truly and accurately depict what they purport to depict? And that is, the condition of the body after it had been washed, but before the actual autopsy was conducted?

A Yes, sir.

MR. BUTLER: Your Honor, we would offer State's Exhibits 24, 25, 26 and 27 into evidence.

MR. HUNT: We have no objections to 24 through 27, Your Honor.

THE COURT: State's Exhibits 24 through 27 are admitted.

(Whereupon, the instruments above (referred to were received in evidence (as State's Exhibits 24 through 27, (and copies of the same appear in this (record at the pages shown in the (Index hereof.

BY MR. BUTLER:

Q All right, now, Dr. Gilliland, State's Exhibit 27, would you describe for the jury the injuries that you found and observed on the body of Jill Montgomery?

A I numbered the wounds, just for purposes of description. This doesn't indicate the order that they were placed in, and it tends to be from the top down. And the injuries from the top down, include cutting wounds across the neck, including a fairly small one beneath the chin in the

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2 midline. It is a cutting wound, it does extend in
3 below the surface of the skin, but it doesn't damage any
4 of the major organs or any of the airway, any of the
5 organs right underneath. The next one is a fairly small
6 cut on the right side of the neck. And it is not seen
7 very clearly in this photograph. What is most obvious
8 in the photograph, in the neck area, is a very large
9 wound, which I called number three, that extends from
10 slightly to the right of the midline, all of the way
11 around to the left. And it gapes open, so that it shows
12 the underlying muscle and soft tissue below. This injury
13 does not involve the major blood vessels in the neck,
14 but it does cut across the voice box. So, there is
15 bleeding associated with it, but it doesn't immediately
16 cause death or complete disability. There is another
17 cutting wound on the chin that is just barely shown in
18 this photograph. There are other fairly shallow cutting
19 wounds in the center of the chest and along the right
20 shoulder near the collarbone. There is a partly cutting,
21 partly scraped injury on the left shoulder near the
22 surface of the shoulder. And, then, there are a series
23 of wounds that are shaped rather like a leaf that are on
24 the left breast and the left chest wall, a little bit to
25 the midline and slightly above the left breast. There

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2 are fourteen injuries that I described as "stab wounds"
3 in this area. Most of them are more or less oriented
4 vertically up and down. Nine of these wounds penetrate
5 into the chest cavity and damage the lung underneath,
6 and to some extent, the heart. Some of the wounds that
7 are closer to the center, reach in and damage the heart,
8 as well. Some of them are long enough to reach down into
9 the liver, and there is a great deal of bleeding into the
10 chest cavity from the injuries. One of the injuries was
11 right on the nipple. And I described that, at the time
12 of the autopsy and in my report, as "a shallow stab wound"
13 because there were several other injuries that it
14 resembled that did not reach into the body cavity, did
15 not damage the underlying organs, and were between a
16 quarter and half of an inch deep.

17 Q Now, Dr. Gilliland, are all of these injuries that you
18 have just described to the jury, depicted in the four
19 exhibits, State's -- the one that you have in your hand,
20 State's Exhibit 27 -- 24, 25, and 26?

21 A They are depicted, to some extent or another. This
22 Exhibit 27 shows most of the injuries to the neck, and
23 all of the injuries to the left chest and left breast
24 fairly clearly.

25 Q And these others are pictures of different closeup views

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of the same injuries that you have just described?

A Yes.

Q All right. Now, after conducting the external examination and the examination of the wounds that you have just described, did you have an occasion to do the actual autopsy?

A Yes.

Q And what all did that consist of, please?

A That consists of making incisions in the body and opening the body cavities, removing the internal organs, looking for evidence of injury, looking for evidence of pre-existing disease, anything which may have contributed to the death.

Q All right.

A Taking samples of the tissues, taking samples of the organs, taking body fluids for toxicology purposes.

Q And would you give the jury, please, benefit of the results of your autopsy examination?

A The autopsy revealed Jill Montgomery to be an otherwise healthy young woman, who had cutting wounds to her neck, as I described, and stab wounds of her left chest, some of which penetrated, some of which did not penetrate into the body cavity. In addition, she had blunt injury to the genitalia. That is to say, bruising about the vagina

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2 and internally at the cervix, that are consistent with
3 forcible penetration to the female tract. This was not
4 accompanied by evidence of semen or sperm on the examina-
5 tion for sexual assault kit that was obtained, at that
6 time.

7 Q Were you able to determine what caused the cutting and
8 stabbing injuries that you discovered and examined?

9 A The injuries are consistent with a knife, as the instru-
10 ment making these cutting and stabbing injuries. It is
11 a non-specific kind of injury, it does not label one
12 particular knife uniquely.

13 Q All right. Were you able to tell approximately what size
14 weapon, or knife, or object, or whatever it was, caused
15 those injuries?

16 A The injuries did have some characteristics that would
17 separate some kinds of sharp weapons from some other
18 kinds of sharp weapons. The blade left injuries in such
19 a way, that the blade would be between half and three-
20 quarters of an inch in width. The injuries were between
21 four and five inches in length, which suggests that the
22 blade could be at least that long. It might be shorter,
23 because the skin and the rib cage can give with a forceful
24 blow with a sharp instrument.

25 Q Could any of your -- or did any of your examination

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reveal exactly what that instrument was?

A No, sir.

Q All right. Are all of the injuries that you have described, consistent with a sharp instrument of some nature?

A Yes.

Q Now, as to the injuries to the female tract that you were speaking of, would that be consistent with the sharp object, also?

A No. That would be more consistent with a blunt object, not the sharp end of a sharp object.

Q All right. Were you able to determine by your examination what object that was?

A No.

Q All right. Were you able to determine how deeply that object penetrated?

A There was bruising all of the way up to the cervix, which is at the far end of the canal.

Q Did you conduct an examination for any sort of sperm, or anything that would indicate whether or not there was a rape?

A Yes, we did conduct such an examination?

Q And what were the results of that examination?

A There was no evidence of sperm or semen.

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O And what does that indicate to you?

A That indicates that, if there was penetration by a male organ, there was not an ejaculation of sperm or semen.

O All right. It does not say that there was not penetration by a male organ?

A That's correct.

Q Did you have an occasion to do an internal examination?

A Yes.

Q All right. And as a result of the external and internal examination, were you able to determine approximately the time of death?

A Yes. The changes that we used were the postmortem changes that I had alluded to in describing maggots and ants. Those were a part of how we determined the death. Some of the changes that occur in the body after death had begun to take place. That, plus information as to when the body was found, and something of what had been done with it between the time that it was found and it was brought to our office and I examined it, led to an estimation of the time of death to be the evening prior to the discovery. We were told that the body was found on the 14th of July. And I estimated that the time of death had been the evening of the 13th.

O All right. The evening of July the 13th. And did you

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have an approximation as to what time on the evening of July the 13th?

A Beyond late in the evening, no.

Q All right. Now, did you do any kind of chemical or toxicology test?

A Yes, we did.

Q All right. And what did that consist of, please?

A That consisted of examination for alcohol and body fluids and for drugs and narcotics. The alcohol screen revealed a small amount of alcohol to be present in the body fluids. This is -- there are two ways to understand that. One is, that it might be the result of a small amount of alcohol that the individual had ingested, or had had a drink before death. It is also possible, in that time, for this to be the early decomposition changes. A very small amount of alcohol is sometimes found in the body, with decomposition.

Q So, the amount that you found was exactly how much?

A Zero point one.

Q And zero point one would not be inconsistent with the natural body changes after death?

A That's correct.

Q And if it was indicative of alcohol consumed while the person was alive, it would be a very small amount of

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alcohol, would it not?

A That's correct.

Q And what were the results of the drug screens that you used?

A The drug screens revealed no drugs to be present in body fluids.

Q All right. And what screens did you use?

A What we call an "alkaline screen," that looks for the painkillers, some of the tranquilizer drugs. For the most part, what is written down as capital A, capital B, capital N, ABN drug screen, looks more for sedative like tranquilizers and sleeping pills sort of medication. Some of the medicines for seizure disorders are in that family of drugs.

Q All right. Now, Dr. Gilliland, I would like to remind you that everybody on the jury has got to hear. So, if you would, kind of keep your voice up.

A (Nodding head.)

Q Were you able to determine whether or not there were any drugs at all present in the body of Jill Montgomery?

A None of the drugs for which we test routinely were identified in quantities that we can recognize.

Q All right. Are there other screens available to use to check for other drugs?

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A There are other screens that are available. Not at our office, but other people do other things.

Q Did you check for everything that your office was able to check for?

A Yes.

Q Of the wounds that you have described for this jury instantly fatal? Are any of them instantly fatal?

A No.

Q All right. Do you have an estimate as to the length of time it would take a person to die after receiving the wounds of the nature of which you have described and which you have observed?

A Yes.

Q And what is that opinion, please?

A That is approximately an hour before the heart would stop.

Q All right.

A Would be about the longest one could expect a person with injuries like this to still have heartbeat.

Q And do you have an opinion as to whether or not a person would be conscious or unconscious during this hour?

A Yes, I do.

Q And what is that opinion?

A That person would be unconscious.

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O All right. Now, Dr. Gilliland, did you have an occasion, after making your -- you did make an autopsy report, did you not?

A Yes.

O And in that, you put the results of your examination?

A (Nodding head.)

Q And in that, you put what you thought the cause of death was?

A Yes.

O Is that correct?

A That's correct.

Q And I believe you said that it was multiple stab and cutting wounds of neck and left chest, is that correct?

A Yes.

Q Did you have occasion later to re-examine the photographs of the bodies of Jill Montgomery and Raylene Rice?

A Yes, I did.

Q Are you familiar with forensic odontology?

A Yes.

Q All right. Would you tell the jury what that is, please?

A Forensic odontology is the study of teeth, the works that the dentist does, odontology, presented in a court of law. It has to do with identification by teeth of individuals after death. It has to do with bite marks,

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2 it has to do with the teeth and their effect on people.

3 Q All right. You said that you had occasion to re-examine
4 the photographs that you took, or caused to be taken
5 during your examination. What was the reason for that,
6 please?

7 A The question as to whether or not there were bite marks,
8 in addition to stabbing and cutting injuries was raised.

9 Q All right. And when was that raised? Do you recall?

10 A My recollection is, it was in January, 1984.

11 Q All right.

12 (Whereupon, the instrument hereinafter
13 (described was identified as State's
(Exhibit No. 28.

14 BY MR. BUTLER:

15 Q Let me show you what has been marked for identification
16 purposes as State's Exhibit No. 28, and ask if you can
17 identify that, please?

18 A Yes, I can.

19 Q What is it?

20 A This is a photograph of the body of Raylene Rice, after
21 it had been washed, prior to autopsy.

22 Q All right. Was this one of the photographs that your
23 attention was drawn to in January of 1984?

24 A Yes, it is.

25 Q All right. And what particular area of that photograph

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was your attention drawn to?

A The area of the left shoulder below the clavicle, and above the breast and stab wounds.

O All right. Does that photograph accurately depict what it purports to? And that is, the body of Raylene Rice, after it was washed and cleaned up, but before you performed your autopsy on it?

A Yes.

MR. BUTLER: Your Honor, we would offer State's Exhibit No. 28 into evidence.

MR. HUNT: We have no objection to 28, Your Honor.

THE COURT: State's 28 is admitted.

(Whereupon, the instrument above referred to was received in evidence (as State's Exhibit 28, and a copy of the same appears in this record at the page shown in the Index hereof.

BY MR. BUTLER:

Q And after having an occasion to re-examine this photograph, did you form an opinion as to whether or not there was a bite mark depicted in that photograph?

A Yes, I did.

Q And what is that opinion?

A My opinion is, that there is a bite mark depicted in that photograph.

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Q And did you have occasion, also, to examine the photographs that are now in evidence as State's Exhibits 24, 25, 26 and 27?

A Yes, I did.

Q And do you have an opinion as to whether or not there are any bite marks depicted in those photographs?

A Yes, I do.

Q All right. And are there?

A Yes, there are.

Q And where are they located, please?

A On State's Exhibit 24, which is a photograph of the left breast of Jill Montgomery, the bite mark is on the nipple, and was described by me, at the time, as "stab wound 17." On re-examination, I can see that the injury is more consistent with a bite mark, and that it is a bite mark, rather than a very shallow stab wound. State's Exhibit 25, which is a photograph, or closeup of the neck of Jill Montgomery, shows a small red line at the edge of this gaping, cutting wound of the throat on the right side of the neck. On the right side of the neck, just above the collarbone, at the edge of the wound, there is a thin, slightly curved red line that is a bite mark. That same mark shows in State's Exhibit 26, which is an overall view, more from the right side, and shows the bite

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mark that I just mentioned, the edge of the gaping wound on the neck, as well as the wound on the nipple, is shown on this photograph. There is an additional slightly curved bruised area on the back of the right shoulder, that is consistent with a bite mark. State's Exhibit 27, which is a more direct frontal view of the body, shows the mark on the left breast, the bite mark at the edge of the gaping wound on the neck. The wound on the breast is more clear on the wound -- on the photographs that are taken directly above it.

Q Dr. Gilliland, in all of your experience that you told the jury about, how many times have you had occasion to see bite mark evidence?

A Prior to that time, I believe I had seen nine or ten bite mark cases, and they were of a more complete kind, in which the bite is an oval or round mark of most of the teeth, or many of the front teeth in the upper jaw, as well as the lower jaw. These are not that kind of marks at all. I have seen more since then. More recently, we are recognizing them when they are not a complete oval bite mark.

Q Was this the first time that you had had occasion to come in contact with or see bite marks that were not completely oval in shape, or possibly did not have opposing arches

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marking?

A I believe so. There is a photograph in the book, so I may have walked past an exhibit showing something like this, but I certainly didn't register it as a bite mark, prior to that time.

O All right. And as to the wound you described first as "a shallow stab wound" on the left nipple, would that be consistent with a nipple being excised or bitten off by teeth?

A Yes.

Q Approximately how deep was that wound, if you recall?

A Just a moment. Between a quarter and half of an inch.

MR. BUTLER: We pass the witness, Your Honor.

CROSS EXAMINATION

BY MR. FULLER:

Q Dr. Gilliland, we have met before, my name is Hayes Fuller.

A Yes.

O If I slip into calling you Mary, please forgive me, that's how we were introduced, I may do that. Since we're in the courtroom, I will try to keep it formal, okay? What time did the autopsy begin, and on what date?

A On -- at 2:00 P.M. on July 15, 1982.

O And where had the bodies been kept prior to that time?

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A They had been brought to the office and kept in the refrigerator briefly, I believe. I will have to get out all of my facts here. I have it recorded that the bodies were brought in at 3:30 in the morning of the 15th of July, and that they were placed in the refrigerator, at that time.

Q Could you tell the jury if refrigeration will have any effect, by way of dehydration or otherwise, on tissues of a human body?

A Over a fairly long course, yes, it would have some dehydrating effect.

Q These bodies were in there approximately eleven hours. Would that have some effect?

A Probably not. One, they weren't in there eleven hours, and, two, they were in -- at least Jill's -- was in a disaster pouch, which would eliminate the effect of drying. The pouch, if anything, retards drying.

Q Okay.

A The bodies were brought out for processing during the normal course of the day. When they are first brought out varies in the morning. They were out in the autopsy room, which is a large open area, during much of the morning, while the photographs were being taken and while they were being worked on.

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Q Okay. Now, just so we don't get our terms confused, when I say the autopsy, when did that begin? And you indicated, again, 2:00 P.M. By "autopsy," I mean everything that you did, the external examination and all of that. Are we on the same wavelength, in that regard? Or did this examination kind of take place throughout the day?

A It was the better part of that late morning and afternoon, that these three examinations were going on. The external examination is associated with photography. And while the photography is being done on the one, the external examination is being done on the others. So, announcement that the autopsies occurred at 12:00, 2:00, and 3:30, are relatively arbitrary times, referring to more the time of the internal examination, and just an arbitrary point to time some part of this activity that's being going on most of that day.

Q Okay. So, actually, we probably started late morning, around noon?

A (Nodding head.)

Q And who was the first -- what was the first body examined?

A I record that Kenneth Franks' examination was at noon, and that Jill Montgomery's was at 2:00, and Raylene

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Rice's was at 3:30 P.M. on the same day, the 15th.

Q Now, referring, specifically, to the body of Jill Montgomery, I believe you indicated to Mr. Butler, and also in your report, that the first thing you do is, basically, the external examination, unzipping the bag and seeing what you've got, is that correct?

A Yes.

Q Okay. Now, at that time, you indicated Jill Montgomery has certain jewelry on the body?

A That's correct.

Q Okay. Would you tell us what jewelry she had on her body, at that time?

A At that time, she had a yellow metal necklace with a yellow metal heart. The necklace was broken and partly imbedded in the stab wound, or the cutting wound at the neck. She had blue hooped earrings with a little heart in them, and a yellow metal ring with a clear stone on her right forefinger. She had a Waxahachie High School ring on one of her fingers.

Q Okay. You also indicated that certain foreign matter had also been transported with the body?

A Yes.

Q Okay. And that would be, I guess, grass, insects, and things of that nature?

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A Right. Things that were at the scene. Dried vegetation.

O Okay. So, those are things that probably came with the body from the scene?

A Yes.

Q At the time of your external examination and noting the injury patterns on the body, could you make any determination as to whether or not the -- or Jill Montgomery's body had been the subject of any beating or bruising, consistent with a beating?

A The usual idea of a beating is blows about the head, or the arms, or the chest, or the legs. There were not bruises in those areas. The evidence of a beating, in terms of bruising about the head, or the arms, or the neck, the legs, the chest, no bruises.

Q You indicated that, from the stab wounds to the body, that someone could live from wounds of that nature for as long as an hour?

A That's an outside limit. That is based on observations of people who have been resuscitated, or partially resuscitated, who have been found, and a relatively disinterested bystander will say, when did the injury occur?

Q Uh-huh.

A And, then, when did the heart stop beating? An hour

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would be a very long time, with a chest full of blood.

Q In your opinion, what would be the inside limit?

A Probably ten or 15 minutes.

Q And along the same lines, in your opinion, how long would you think, after receiving a wound like that, someone would remain conscious?

A That would be very difficult to estimate. It would depend on how quickly the blood was lost. And if the loss slowed down when the person was knocked out, then the blood not having to flow so far from an upright position, the person may be able to retain consciousness a little longer.

Q Would you expect someone who had received a wound like that, to go into shock relatively quick?

A Fairly quickly; yes.

Q I know I would probably faint dead away, like that. You indicated that you were able to make a determination, based on your examination of the stab wounds, as to the type of instrument that you felt would be consistent with causing those injury patterns. In your belief, would you feel that would be -- would those wounds be consistent, say, with a knife?

A Yes.

Q Based upon your experience and previous examinations of

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similar wounds, in all probability, would you expect a knife?

A Yes.

Q Based on the depth of the wounds and the actual shape of the wounds, would a single edge knife be consistent?

A Yes.

Q Could those wounds, in fact, have been caused by a single edge knife, say, approximately half an inch to three-quarters in width, five inches long, and blades, say, being one-sixteenth of an inch thick?

A Yes.

Q In all probability, that would be the type of instrument that you would expect to cause such wounds?

A Yes. That doesn't mean it couldn't be three inches long and wielded with more force.

Q I understand.

A But as you have described it, would be a very typical weapon to produce injuries like this.

Q Okay. Similar to a Buck knife, or something like that?

A Yes.

Q Based on the angulation of the stab wounds, could you make any determination as to whether the individual who inflicted the wounds was, say, left-handed, or right-handed? Or am I getting into Quincy type stuff?

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A That approaches the Quincy type stuff.

Q Okay.

A As a matter of fact.

Q Well, you are the first pathologist I have ever cross examined, so don't hesitate to put me in my place, okay?

A Quincy is enough to cause papers to collapse.

Q Okay. So, you would say it would be -- could you make such a determination? Or would that be speculation?

A There's a slight favoring of a right-handed individual, when there are wounds on the left side, over a left-handed individual, since, if you're in front of somebody and you're stabbing the individual, that that's where most of them would be. There are many other possibilities, but that's at least 51 percent possible.

Q Okay. From your examination of the wounds, could you describe the -- and I don't know how to best express this -- could you describe the angle of penetration of the weapon? Was it straight in, or was it angled downward, or angled upward, as we face the body?

A The wounds were oriented from top to bottom, downward. Which means that the blade was held directly toward the body vertically.

Q Okay.

A The wounds in the body, go from front to back, and from

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above, somewhat downward, and a little bit from the left side of the body to the right side.

Q Okay. Can you make --

A A very slight angle from the left toward the midline. Mostly from front to back, to some extent, from above downward, and a little bit from left to right.

Q Okay. With that in mind, can you make any determination as to whether or not the wounds were inflicted while the body was in a prone position or standing position?

A These are more consistent with injuries to a body that's lying down, rather than standing up.

Q Down on the ground?

A It would be difficult to imagine how an individual could be receiving all of these similar blows, without collapsing and changing the orientation of the body to the knife, unless they were being suspended by something.

Q With regard to the injury to the vagina --

A Yes.

Q -- you indicated that was consistent with a blunt instrument?

A Yes.

Q Would that be -- or could that be consistent with -- well, say, you indicated a penis without ejaculation?

A Yes.

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Q Okay. Have you examined several -- in your experience -- numerous cases where you have seen similar injuries?

A Yes.

Q Okay. Could the injury have been caused by a male penis?

A Yes.

Q In all probability, was it probably caused by a male penis? And if I'm not entirely red, I'll proceed. So, that would be consistent with intercourse and no ejaculation?

A That's correct.

Q When you examined the bodies, you indicated ya'll did some toxicology tests, and things of that nature. Did you ever dust the bodies for latent fingerprints?

A Yes.

Q Could you --

A Some of -- not all of the bodies, one or two of them.

Q Did you dust Jill Montgomery's body?

A I believe hers was. Yes.

Q Okay. Do you know the result -- or, first of all, let me back up. How do you go about doing that?

A I asked Irving Stone, the Director of the Criminalistic Lab, to come in and do that examination, and he did. It was performed with two different means of trying to find

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the image of fingerprints on the skin, and neither of them revealed any fingerprints on the skin.

Q Okay. Were any tests done, to determine if, say -- now, again, stop me from getting in Quincy type stuff -- scrapings under the fingernails, or toenails, or things like that, for soil samples, or skin samples, or anything like that?

A The fingernails are part of the examination for sexual assault. And on Jill Montgomery, there were no foreign hairs found in any of this examination.

Q Okay. Would ya'll -- were ya'll requested to do tests, to determine whether or not, say, lake water -- the bodies had been in lake water?

A No.

Q Or at least the feet?

A No.

Q Would it have been possible to do such tests?

A Probably not, to produce anything of any evidentiary value.

Q How about soil from, say, a lake bottom in the toenails?

A The soil examination was done on the shoes of Kenneth Franks. Soil on the shoes was similar to soil in a vehicle and the location of the body. It was a fairly non-specific examination.

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Q Okay.

A We would have particular expected to find part of the scene on the body, the exchange of traces, when you scoop up the body. The exchange of traces, when you scoop up the body, the dirt and the ants, is certainly to be expected.

Q Okay. Did you do an examination of -- I believe you indicated one of the girls had binding on her wrists, and I think Jill Montgomery, in particular. Did you do an examination to determine if there were any foreign hair samples or specimens in the bindings, or in any of the articles accompanying the girls?

A I don't recall such. I don't have any record of doing such. I don't recall doing such.

Q Can you tell me when the autopsies were completed? Or do you have any record of that?

A I have no record of that.

Q I guess what I'm getting at, do you know when the bodies were released to the family? Or I don't know what your procedure is.

A We notified the funeral director, after the Justice of the Peace had notified us which funeral home to use. Jill Montgomery's body was released at 5:30 on the 15th of July.

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2 Q Does it show who that it was released to?

3 A I believe, Boss-Mitchell Funeral Home.

4 Q Is that in Waxahachie? Or do you have any knowledge of
5 that?

6 A I have no knowledge.

7 Q Can you tell from looking at the autopsy?

8 A It is a release signed by the family.

9 Q Okay. That's fine. Basically, pathology forensics
10 relates to law. Is that a good shorthand rendition of
11 it?

12 A Yes, sir.

13 Q Does the Southwest Institute of Forensic Sciences --
14 did I get that right?

15 A Yes.

16 Q Do ya'll have a forensic odontologist?

17 A Yes, we do.

18 Q In bite mark cases, is it your standard procedure to
19 bring -- well, who is that?

20 A Jim Hale, H-a-l-e.

21 Q And bite marks have been presented to Dr. Hale in other
22 cases?

23 A Yes.

24 Q In situations such as this?

25 A Yes.

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Q Now, you indicated that you have worked on bite mark cases before?

A Yes, sir.

Q Okay. And, so, you have identified bite marks before?

A Yes, sir.

Q Now, you indicated in those cases, the marks were very good marks. In other words, you had both arches, and were very complete, and you could pretty much identify them?

A Yes.

Q Would that be a fair statement?

A Yes.

Q In this particular instance, would it be fair to say that these are not very good marks? They certainly didn't jump out at you?

A I did not recognize them as bite marks, at the time of the autopsy. That's correct.

Q Okay. And, of course, you didn't put that in --

MR. FEAZELL: Your Honor, we're going to object to Mr. Fuller's multifarious questions. He can ask -- we move that he be instructed to ask his questions one at a time and not phrase them such as, they're not very good marks? Question: They didn't jump out at you? Wondering which question was answered.

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THE COURT: I overrule the objection.

MR. FULLER: Thank you, Your Honor.

BY MR. FULLER:

Q Let me see if I can get my train of thought going here, just a second. Now, you say that you didn't note them in your report, at that time?

A That is correct.

Q And that they were not called to your -- or the photographs were not called to your attention again until January of 1984?

A I believe that's correct.

Q Okay. Who called those to your attention?

A Mr. Butler.

Q Mr. Butler of the D.A.'s Office?

A Yes.

Q And, at that time, did you go back and look at the photographs?

A Yes, I did.

Q Did Mr. Butler indicate which areas he felt might contain bite marks?

A Yes, he did.

Q And after Mr. Butler had directed you to those areas, is that when you think that you found some marks that possibly could be bite marks, or in your opinion, were

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bite marks?

A That's when I recognized that this collection of injuries, which included ant artifacts and miscellaneous marks, included some non-miscellaneous marks, some marks that have a pattern to them, some bite marks.

Q Okay. Now, in your typical bite mark case, in some of the other ones that you have worked on, do you have a procedure that you would follow in preserving bite mark evidence?

A Yes.

Q If you recognize bite marks?

A Yes.

Q Would that procedure include such things as, one, photographing the bite mark, in particular?

A Yes.

Q Okay. As opposed to an injury pattern of the body as a whole?

A That's correct.

Q And that photograph, I guess the best way to do it, would it be to take the photograph from a 90 degree angle, so you eliminate distortion and have the plane right?

A Yes.

Q Would you want both photographs -- and I'm going to use some technical terms here -- unwashed photographs, before

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you cleaned the bodies, and, say, after you cleaned the bodies?

A Yes. With bite marks, when the bite mark is visible, to begin with. Sometimes it's -- sometimes the mark is made in blood, so that, if you wash the blood off, the mark goes away. So, you have to do your photography first.

Q Certainly.

A Where the blood simply covers over the mark, you may or may not record a sheet of blood obscuring something. If there seems to be something gained from looking at a photograph, in any light, with the camera directly overhead and the light from the side, sometimes that will show something in relief in a bite mark. So, we do those things.

O Okay.

A Yes, we look to see whether or not there is something to be photographed with the blood. If there isn't, don't. If there is, photograph, wash it off, photograph it again.

Q Assuming the bite marks on a curved surface and not on a flat plane, would you want to take photographs, say several photographs, from different angles, following the contour, in order to have an accurate representation?

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A This is another part of it. Some of the details of the photography go to the photographer himself, who has more specific training in forensic photography than I do.

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Q Okay. I assume you would want both a scale, --

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A Yes.

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Q -- in the picture, so you could determine the size of the mark?

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A Yes.

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Q And you probably would want to take another photograph without the scale in there, to show that you weren't covering anything up? Would that be a fair statement?

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A That is frequently done, too.

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Q Okay. Can you identify -- well, I'm not sure, I'm getting into some science areas, so I hope I get this out to you. From saliva samples of an individual, I believe it's possible, through scientific methods, to determine whether or not a person is a secreter or not?

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A Yes.

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Q And if someone is a secreter -- if I've got this right -- you possibly could determine the blood type from the saliva. Would that be correct?

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A Yes.

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Q And that is a means of possible identification?

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A Yes.

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Q Many times, a bite mark case, you may find saliva actually still in the mark or the sample, is that correct?

A Yes. Particularly, if the body is relatively fresh.

Q Okay. So, if you recognized a bite mark, you probably would want to take a swab of the mark?

A Yes.

Q For future study?

A Yes.

Q I'm just going over some general procedures. In any event, since you didn't note the bite mark originally in this case, none of that was done?

A That's correct.

Q Okay. Going back to when you did your external examination of the bodies, was there evidence of bug bites on the bodies?

A Yes.

Q And, again, when you determined the cause of death, you indicated that you would base that on several points. I don't know if I got it all down. Basically, changes in the body after death, would be one thing that you would consider?

A To determine the time of death.

Q Right.

A I would use that.

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Q Okay. That's where I'm going.

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A You said "cause." And I --

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Q I'm sorry. I mean the time of death?

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A (Nodding head.)

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Q Okay. And in your internal examination, would, say, food in the stomach be something that you could use to determine the cause of death?

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A Time of death.

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Q Time of death? Excuse me.

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A Yes. If a known meal is still present, that gives us an estimation of when the death may have occurred. If there is recognizable food present, then, the best you can say is, within several hours, at the outside, of the time of eating, and not be able to say that, since it looks like an evening meal, it must have been had at 6:00 o'clock promptly. People don't necessarily eat hamburgers or pizza at 6:00 o'clock promptly.

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Q Sure. Was food found in the stomachs of any of the victims?

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A Yes.

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Q Okay. I guess the easiest way to do, would be take it by victim. Was food found in the stomach of Kenneth Franks?

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A Kenneth Franks, yes, there was approximately a pint of

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fluid, with a few fragment that looked like hamburger meat and fragments of French fries.

Q Assuming that a meal of hamburgers and French fries had been eaten, say, between 6:30 and 7:30 immediately preceding the evening of the death, or the evening of the death, would that assist you in narrowing down your time of death?

A To some extent; yes. It would say that some part of the death sequence began within approximately two hours of that time. Now, whether that was being kidnapped -- which would set all of the digestive juices onto the back burner, and the whole of the body is set for trying to plead a situation, or get out of a situation, overcome the situation, and you stop digesting your hamburger, at that point.

Q I guess what I'm getting at, you have estimated the time as being between, say, 9:00 and 12:00 -- or 9:30 and 12:30 -- I forget which?

A Yes.

Q Would it be closer to the 9:30, or closer to the 12:30, based on the facts that I have already given you?

A That's about as close a range as we could get, with any reasonable certainty. Beyond that, is kind of shady and speculation.

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Q Okay. One of the problems of having a partner is, he keeps passing you notes, that you've got to... You indicated that -- well, let me see. Let me see how I am going to ask this. Okay. As far as whether the body was in a prone position or an upright position when the wounds were inflicted, you have indicated that, in all probability, the body was prone, unless somebody was suspended up, or whatever, supported up?

A (Nodding head.)

Q Okay. If someone were suspended up, okay, would there be any changes to the body, where you could determine that, make that determination, with any medical probability, such as stretch marks in the upper arms, or something?

A There would probably be some kind of bruising or marks, if the body were held under the arms, or if someone had grabbed the victim around the waist and held her up while the upper part of the body was being stabbed. There might be some marks. There weren't any other marks which is why I tended to favor the notion that they were inflicted while she was lying down.

Q That would be the most probable?

A Yes.

Q Okay.

MR. FULLER: I don't believe I have any ques-

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tions -- more. Thank you.

REDIRECT EXAMINATION

BY MR. BUTLER:

Q Dr. Gilliland, you did prepare a written autopsy report, did you not?

A Yes, I did.

MR. BUTLER: Judge, I'm going to show her a copy of the report she prepared, and ask her if that is an accurate copy, and we will introduce a copy.

Do ya'll have any objection to introducing a copy rather than her original?

MR. HUNT: We'll have to look at -- no, we have no objection to introducing a copy instead of the original. But that isn't to say we won't have any objection to the autopsy report.

MR. BUTLER: Pardon?

MR. HUNT: I said, we have no objection to a copy instead of the original, but I'm not saying that we don't have an objection to introducing it as a whole.

BY MR. BUTLER:

A This is a copy of the autopsy report and the affidavit that was affixed to the report when it is sent to our office. That the report is a true copy of the -- it's a true copy of the six pages of the report and the diagram

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2 that I sent with the autopsy report.

3 Q All right. That is a true copy of the official report
4 that you filed with McLennan County, is that correct?

5 A Yes.

6 (Whereupon, the instrument above
7 (referred to was identified as State's
(Exhibit No. 29.

8 MR. BUTLER: We would offer what has been
9 presented as State's Exhibit No. 29 into evidence, that
10 being a true copy of the autopsy report prepared by Dr.
11 Gilliland.

12 MR. HUNT: We have no objection to 29, Your
13 Honor.

14 THE COURT: State's 29 is admitted.

15 (Whereupon, the instrument above
16 (referred to was received in evidence
17 (as State's Exhibit No. 29, and a copy
(of the same appears in this record
(at the page shown in the Index
(hereof.

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19 (Whereupon, the instruments herein-
(after described were identified as
20 (State's Exhibits 30 through 32.

21 BY MR. BUTLER:

22 Q Let me show you what has been marked for identification
23 purposes as State's Exhibit No. 30, and ask if you can
24 identify that, please?

25 A Yes.

Q This is the brown and beige terry cloth material that was

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used as a ligature tied around the wrists of Jill Montgomery.

Q All right. Would you explain what you mean by the word "ligature," please?

A A tie. It's a -- it was tied around her wrists.

Q All right. That's what was used to bind her hands together --

A Yes.

Q -- behind her back --

A Yes.

O -- as you described the way she was when you had occasion to conduct the autopsy?

A Yes.

Q All right. Is that the binding or ligature that you cut off of the wrists of Jill Montgomery?

A Yes.

Q All right. Let me show you what has been marked for identification purposes as State's Exhibit 32 and State's Exhibit 31, and ask if you can identify that, please?

A Yes. This is the pullover that was used as a gag. In the process of being cut off, it got cut into. So, it is now two pieces. The top of a blue pullover with a white collar, and the bottom is the rest of the blue pullover.

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Q All right. And that is the material that was used to gag her mouth?

A Yes.

Q And that is the material that you cut off?

A Yes.

Q How did you identify those, please?

A It came out of a bag that we looked at earlier that has the carbon copy of the sheet that I prepared at the time of the autopsy. It is tied with a string in the way that I tie things. It certainly looks like the material that I tied up.

Q All right. Is that as you recall it being at the time you cut it off?

A Yes.

Q Does these appear to be the same cuts that you made?

A Yes.

MR. BUTLER: Judge, we would offer State's Exhibits 30, 31 and 32 into evidence.

MR. HUNT: Your Honor, we have no objections.

THE COURT: That's 30, 31 and 32? They're admitted.

(Whereupon, the instruments above referred to were received in evidence as State's Exhibits 30 through 32, and the same are in the custody of the Court Reporter for the 54th Judicial District.

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BY MR. BUTLER:

O Mr. Fuller was asking you earlier about whether or not you could determine whether a person was left-handed or right-handed from the location or angle of stab wounds. And you said that it is some indication, if the wounds are on the left side of the person's body or the chest area, that's some indication that they're right-handed. But is it not also true that most people's heart is on the left side of their body?

A Yes.

Q And if the heart was the intended target, then, it wouldn't make any difference whether a person was left-handed or right-handed, would it?

A That's right.

Q They would stab in that area?

A That's right.

Q And as Mr. Fuller suggested, if you had noticed the bite marks, or identified the bite marks, certainly, the photographs would have been taken in a different manner, would they not?

A That's correct.

Q But since you didn't notice them, they were taken in the same manner in which you take all autopsy photos?

A That's correct.

Hooker

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2 MR. BUTLER: We pass the witness, Judge.

3 MR. FULLER: No further questions.

4 Thank you, Dr. Gilliland.

5 THE COURT: You may step down, Doctor. Thank
6 you very much.

7 May this witness be excused?

8 MR. FEAZELL: Yes, Your Honor.

9 MR. FULLER: Yes, Your Honor.

10 THE COURT: You're excused. Thank you very
11 much.

12 MR. BUTLER: Judge, could we have just one
13 moment?

14 THE COURT: Yes, sir.

15 (Whereupon, Court stood at ease
16 momentarily,

17 THE COURT: Call your next witness.

18 MR. FEAZELL: Your Honor, the State would call
19 Reverend Eric Hooker

20 THE COURT: All right. Eric Hooker.

21 Reverend Hooker, if you would, just come
22 right around here.

23 All right, sir. And you have already been
24 sworn. Just have a seat.

25 THE WITNESS: Thank you.