

STATE OF MAINE
KNOX, SS

SUPERIOR COURT
CRIMINAL ACTION
LAW DOCKET NO. 126

STATE OF MAINE,

Plaintiff

vs.

DENNIS J. DECHAIICE,

Defendant

JURY TRIAL
(VOLUME III)

BEFORE THE HONORABLE CARL O. BRADFORD, JUSTICE

Rockland, Maine

March 6-18, 1989

APPEARANCES OF COUNSEL:

On behalf of the States

Eric E. Wright, Esq.
Asst. Attorney General

On behalf of the Defendant:

Thomas Connolly, Esq.
George M. Carlton, Jr., Esq.

Reported by **Philip M. Galucki**, Official Court Reporter

1 (March 10, 1989)

2 -(The jury returned to the courtroom at 9:03)

3
4 THE COURT: Good morning, I believe we are ready
5 to proceed. Mr, Wright.

WILLIAM ALLEN, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

B MR* WRIGHT:

Would you state your name for the record?

A Willium Allen.

Your occupation?

A I'm a sergeant with the Maine Warden Service,

Q How long have you been with the Warden Service?

A I'm in my 18th years.

Q Tell us what your training and experience has been as a member of the warden service, and in *connection with that* what the primary responsibilities of the Warden Service are in this state?

A My training goes back to 1972 when I attended the Maine warden training service school at Orono, Since then I have been to a number of schools from search and seizure to palm

1 *sight investigations*, search and rescues, And the primary
2 function of the Maine Warden Service is to protect our
3 natural resources and to do search and rescue functions®

4 4 Have you had occasion to assist in the search for
5 individuals on a number of occasions?

6 A yes.

7 Any idea how many times you have been involved with such
8 things?

9 A Probably close to one hundred.

10 The present position you hold is that of a sergeant.
11 What does that work entail?

12 A I supervise 7 direct wardens in the *central Maine area*.

13 Let me here direct your attention to July 7th of last
14 year and ask you whether on that day the Warden Service and
15 the State bece involved in a search for a young girl by the
16 name of Sarah Cherry in the Bowdoin area?

17 A Yes®

18 0 When was the Warden Service alerted to their need in
19 this matter?

20 **A I believe it** was in the *morning hours of July 7th*.

21 0 You were among those who became *first involved*?

22 A I arrived shortly after the search had started to
23 relieve the supervisor who was there.

24 Q When was it would you say **you** arrived?

25 **A I** would say around **noon**®

7 T

1 Q At that time what appeared in terms of any *ongoing*
2 efforts to locate Sarah Cherry? What appeared to have been
3 going on?

4 A The search was getting organized. We had a fixed-wing
5 aircraft overhead*. There were a number of volunteers there
6 and a number of *game wardens* and troopers and people from
7 various police agencies*.

8 Q You mentioned a fixed-wing aircraft?

9 Yes,

10 Q What function was to be served by an airplane in
conjunction with *the search*?

A The aircraft can give us information from overhead as to
terrains as to fields in the areas direction of roadsp camps,
also times they can spot a person that we may be looking for
from the aircraft,

Q Prom what elevation?

A Generally its low-level flight; a very low-level
flight.

Q Are such aircraft equipped with any technical equipment
that assists them in the locating of bodies of humans?

A Our craft is not equipped with specialized *equipment*.
Such equipment does exist?

A Yes,

Q The nature of that equipment?

A The ones that we use from time to time are government

1 aircraft, usually helicopters with infrared equipment.

2 At-the outset of this search that kind of equipment was
3 not being utilized?

4 A No,

5 • Did there come a time when it became utilized?

6 A Yes,

7 Q How does that work in a general way?

8 A I have never worked with the equipments, but its my
9 understanding that it picks up heat. It will pick out a heat
10 source in the forest or field.

11 Q What items did you take when you first arrived at around
12 noon on the *7th to continue the search and organize an*
13 *organized manner?*

14 A We checked the woods roads in the area, Had tea go up
15 *the woods roads, We did a search along the edges of the*
16 *roads. We call it a ditch and culvert search where we spread*
17 *people out maybe four to six people deep from the edge of the*
18 *woods from the edge of the roads and we search the woods,*

19 • How deep or far into the woods alongside the roads would
20 that allow searches to be done?

21 A 20 to 30 feet at the maximums,

22 Q That was one of the first organized steps that were
23 taken after **you arrived?**

24 A **Yes,** That and the searching of the ***woods roads looking***
25 **for any tracks or whatever.**

1 Q Why begin in that fashion?

2 A It was possible the person we were looking for was just
3 off the edge of the road and we were on the woods roads
4 looking for *any signs or tracks* **or** *what have you,*

5 Q Those efforts went on for how long?

6 A *They went on all the first day, We also had what we*
called hasty teams which may be a four or five or six man
team that moves through a piece of wooded area quite fast
usually calling a n e or whatever.

Q That went on for, the use of the hasty teams went on for
how long?

I believe until dark on the first day. Then the game
wardens went into the woods and flagged off boundary lines
for a different type of search the next day,

Q *Did the area in which you were searching, from your*
perspective, was what and in conjunction with that tell us if
it presented any particular problems to you in conducting the
search?

A *It was a difficult search in that the vegetation was*
quite thick in a lot of areas, And the heat was extreme on
both *days,*

Q *Is it fair to say the area throughout for some miles*
around was described as heavily wooded?

A *It was quite thick.*

Q Was there **anything about** the topography **of** the land

1 itself, not just that it was wooded but the topography that
2 suggested anything to you about the possibility of where you
3 have might best be *looking for Sarah Cherry?*

4 A Yes, Generally it's been my experience a person,
5 especially if they are lost, as we suspected in this case,
 would end up in low country; gravity seems to *funnel them in*
 one area.

Q Down with the terrain?

A Yes.

 Why is that?

A Because its easier going *down hill than going uphill.*

 Were there areas of water that were of any concern in
 the overall area here?

A *No ponds that I* recall, There were some brooks and
 streams, One was called a river but it wasn't larger than a
 stream,

4 In your experience in other cases involving individuals
 who are reported as being missing who are either found later
 alive or dead, is there kind of a typical distance from any
 particular landmarks in which people often are found or is it
 very random in that sense?

A No, There is a method that we use. It's called the
 Sartop method, There is average distance depending upon
 what kind of activity that person is **involved** in that we use
 for lost hunters, hikers, children, old people.

1 Q What is the point of it? How far away from landmarks do
2 you typically find people?

3 A It depends upon the age and activity that they are
4 involved in, Hunters it may be a long ways away or hikers.
5 *Small children I don't recall just* what the distance is but
6 *its over a mile many times.*

7 Q How about individuals, who, as it turns out, have come
8 to meet with some foul play?

9 A The Sartop method does not speak to that. It would just
10 be field experience.

11 Q Tell us about that,

12 A Well, in my experience I felt if in fact there had been
13 foul play that the *person we were looking for probably*
14 *wouldn't be over a couple hundred yards from* the road because
15 they are not going to be lugged or dragged a great distance
16 generally.

17 Q Were there any other factors apart from the location of
18 the roads, topography of the land, which led you to
19 concentrate efforts in any particular area of the overall
20 area that the jury has heard about in the last couple of
21 days?

22 A Yes. Well, we concentrated on two areas in particular.
23 One around the house where Sarah had been baby-sitting and a
24 second *one* around the area where we found a vehicle or a
25 vehicle had been found the night before I think it was.

1 Q *Why concentrate in those two areas?*

2 A Well, one, we concentrated around the house because that
3 was the last place she was seen. The other area material
4 evidence that was found at the house and the finding of the
5 *truck and a person coming* **out out of** the woods *in that area*
6 led us to believe that that was a high probability area.

As the search continued ^d maybe you could do this going
through it from beginning Thursday through Friday upon the
discovery of Sarah's body, how many people would you say were
involved in the search?

A There were hundreds. I would say two or three hundred
people thereafter actually involved in *the search*. Probably
close to one *hundred in total*.

Q *Members of the Warden Service?*

A Yes.

In addition to members of the Warden Service were any
other organized groups **involved?**

A Yes, there were. There were **Navy** people that came from
Brunswick and from the SERE School at Rangely that came and
helped out.

The Brunswick Naval Air **Station?**

A Yes,

When did their involvement begin?

A On the *morning*, the **Friday** morning. I believe it was
the 8th.

1 Q Do you recall how that *involvement, the part of the*
2 Brunswick Naval Air Station came about?

3 A They called. I recall they found us at the *CP and*
4 offered their assistance, and we've used them in the past.
5 They are very well organized and well trained.

6 Q Could you tell us then after the initial efforts of men
7 walking along the sides of the road and the hasty teams going
8 quickly through an area that had been completed on Thursday,
9 how, following that up, you *conducted a wider ranging* search
10 and how did you *go about organizing that?*

11 A Thursday night I had *game wardens, two-man teams,*
12 *flagging off areas, We would break* the woods up into sectors
and flag the perimeters with the *next day, which would* have
been Friday, we would have a full fledged ground search *which*
would involve teams of 15 to 20 people accompanied by one or
two **or** three game wardens. They would **move through area**
in sight of each other, very close to each other actually so
that we knew everything that was there. There would be a
very small chance of missing anything*. They would move from
one base line to the next and then set down a base line and
move back back and forth moving through an area.

Q A base line is what?

A It would be the area of a line that was flagged with a
plastic surveyors' tape. We used those as boundaries.

Q **Were the searchers under specific instructions within a**

1 *given area established by various base lines to conduct the*
2 *search in any particular manner?*

3 A Yes. They were told to stay close to each other, to
4 stay in a straight as line as possible. They were told, one
5 team was told by me specifically prior to going into the
6 *woods not to go around anything; either go over it, under it*
7 *or through it but don't go Around anything because I want to*
8 *know when you clear that area that that is not the area we*
9 *should not be in. I don't want you to miss anythin **

10 Why did you take such particular care in *instructing the*
11 *searchers to act in that way?*

12 A This one particular team that I did instruct personally
13 was the team that was going to be searching the area that I
14 *felt had the highest probability.*

15 Q *Did you have any opinion about where within that area if*
16 *one were to be found where that person would be found?*

17 A Yes, I did,

18 Q Tell us about that,

19 A *I felt that Sarah, I felt that the area that this team*
20 *was searching was our highest probability area, What we do*
21 *when we organize a search is break a big area into smaller*
22 *areas and then assign a probability * This is done mostly*
23 *from experience and from the lay of the terrain. And with my*
24 *experience I felt that this was the highest probability area.*
25 *I personally felt that she was going to be located if she was*

I in that area *in a low area.*

2 Q Within a low area under what circumstances or conditions
3 did you have any idea?

A I don't understand.

Q To what extent did **you think if Sarah was to be found in a given grid say that she would be easily found within that area?**

A *Well, I felt she was going to be within a couple hundred yards of the road and I felt she would be in a low area and I felt that she would be in the area that they were searching in that particular area,*

Did you have any feelings whether or not her body - of course you didn't know it was there at the time - if you were to find it ►uld be in any fashion removed from view or left exposed?

A I didn't know..

Q Do you recall on that Thursday and Friday what the weather conditions were like?

A It was extremely hot. We had a shower Friday morning **fairly early so that the vegetation was all wets**

□ Let me here hand you what I will mark as State's Exhibit Number 22₀ **Do you recognize that?**

A It's a topographical map. This is the area we were searching.

• *It has some lines on it, does it not?*

1 A Yes,

2 • Do-you recognize the lines that *are drawn on* there?

3 A *Those lines* are what we had set up for base lines,

4 You were were you actually involved in the physical
5 search yourself?

6 A Only in that I was going around supervising, I wasn't
7 the woods on this particular days *I had gone in the* night
before. I felt strongly enough that Sarah was in this
particular area that I took another warden and said come on,
let's go in.

• What area was that?

A The area that she was found in,

□ Apart from that following day, that is Friday the 8th,
your role was to organize the search as you've described and
your presence then was where? Where did you keep yourself to
organize the search?

A I was all over, I had another sergeant at the command
post who was especially good with maps. I had him assisting
me drawing things out on the map and setting up base lines,
I was there, I was at the **various** sites where the searches
were.

□ *The question I will ask is whether the map which I've
hand you as **State's Exhibit** Number 22 you recognizes is
that map that you recognize that was **used** at the **command** post
with the grid lines **showing on** that map designating the areas*

1 *where searches were to be conducted?*

2 A *I don't recognize this particular map. I'm sure that*
3 *was the one that was probably there, but I don't see any of*
4 *my handwriting on it. I guess it would be Sergeant Pratt's*
5 *work, I have my map here.*

6 Q *Let me here show you what **I've** marked as State's Exhibit*
7 *Number 23. I got confused. Do you recognize that?*

8 A Yes

9 *That one is what?*

10 A *This is the map that belongs to the Warden Service and*
11 *its a map that I used from time to time. I notice some of*
12 *my writing on it. It's the map that I used as a reference.*
13 *I may well have used the other tap also. There were several*
14 *s floating around,*

15 *MR, WRIGHT: I would offer State's Exhibit Number*
16 **23..**

17 **MR. CONNOLLY: No objection.**

18 **THE COURT: Thank you, 23 is admitted.**

19
20 **BY MR. WRIGHT:**

21 Q Let me here put up behind **you** what is State's Exhibit
22 Number 1. Perhaps in conjunction with your use or by using
23 State's Exhibit Number 23, the **geological** survey map, you
24 could indicate now where **you had established base** lines, kind
25 of the areas you were concentrating **your** efforts. And you

1 had mentioned previously there was one area that you yourself
2 went to. t t you thought was the highest, gave the highest
3 probability of finding Sarah Cherry?

4 A That's correct.

5 Q Let me here hand you a blue parking pen and perhaps you
6 could using **the geological survey** map. Draw **the grid** lines
7 or the base lines that you utilized, describe how it went
about that you did setting that up with particular reference
to the area that you gave the *highest* probability of finding
her?

A The Henkel house is here, And we h *a base line that*
went generally around the house like this, This had been
flagged off with surveyors' tape. The idea was that the
searchers would work back and forth between the road and this
base line.

We had two other areas that were flagged off, this
being the first area. The pickup truck was found here. This
area of base line *was run into this Dead River* and then
somewhat parallel to this **Hallowell** Road down to the Dead
River Road and searchers were started in here going back and
forth and *going towards* the area where the truck was found.

The third area, and the highest probability area that I
felt it was, was approximately this area. This is the area
that I felt was **the highest probability.** **We had run by the**
time **the** search **had** round down **or ceased** *we had flagged off*

1 *other areas in the event we didn't find anything in these*
2 *areas, -A Sergeant from the Maine warden service and other*
3 *game wardens and volunteers were searching this area. Two*
4 *wardens, John Wayland and Barry Woodward, with Navy*
5 *personnel, with 18 Navy personnel were searching this area.*

6 Q Describe for us -- when you say this area what you've
7 *just mentioned is the area on the* northeast side of the
8 *Hallowell Road* and the Dead River Road?

9 A *That's correct.*

10 Q A moment ago you mentioned again the phrase this area
11 *and you at that time had pointed to* the area surrounding the
12 Henkel residence?

13 A *Yes.*

14 Q And the area in which you felt had the highe
15 *probability was located by description on the map where?*

16 A ***It would be west of the Hallowell Road, north of the***
17 ***Dead River Road. And Warden Barry Woodward, who, believe,***
18 ***with 16 to 18 Navy personnel, was searching this area.***

19 Q *Where?*

20 A ***The high probability area; the area west of the***
21 ***Hallowell Road north of the Dead River Road.***

22 ***Prior to going into the woods I met with them in the***
23 ***road, the Hallowell Road, and told them that I felt that this***
24 ***was the highest probability area. As a matter of fact, I***
25 ***believe I said if anyone is going to find her it's probably***

1 going to be this team; therefore *I want you to te*
2 *particular notice. I want you to do it right. You don't go*
3 *around anything,*

• Did **you also** instruct the wardens **to** be attentive **for**
5 fishing pole or fishing equipment?

6 A I don't recall. I know there was some talk about
fishing equipment. *We had mentioned the* day before, it would
have been the '7t', to be on the look out for any fishing
equipment,

Q Do you know whether any fishing pole was found in the
high probability area?

A Not that I'm aware f

Q Did you come then to learn of the discovery of a body?

A Yes,

15 • *When did you learn of that?*

16 A *It was around noontime. I was at --*

17 • *On what day?*

18 A On the 8th.

19 **Q** **You** were where?

20 A I was at the command post.

21 Q What did *you do in* response upon the learning of that?

22 A *I, along with three* state troopers, went down to the
23 area on the *Hallowell Road and met With* Warden Barry Woodward
24 and **some of the** Navy personnel.

25 **Q** **Did you** enter, yourself, **enter the woods** at **that** point?

A Yes, sir. Warden Woodward and I conferred in the road
2 *and I told him, he said that* he had flagged off the scene;
3 that by flagging it off he had run a solid plastic surveyors'
4 *tape around the* entire scene, and I told him that we should
5 flag a trail into the scene **and advise everybody** going **in** and
6 out that they were to stay on that ribbon and that way the
7 scene wouldn't be contaminated, This is what we did,

4 You then went in?

Yes.

Q What did you find?

A Warden Woodward **and I flagged all** the way in to what
appeared to be a pile *of brush, and* we flagged by it and
stopped. Warden Woodward *stayed there, which was a few feet*
from the body. I walked perpendicular to the body , made a
degree turn and walked straight in to Sarah's head; her
forehead was exposed. I touched her forehead. I told Warden
Woodward that I was going to check for vitals to be sure.
She was dead. I reached down and touched her forehead. It
was cold. I told Warden Woodward it was cold. I spoke her
name twice. No response. I then backed off and went and
stood with Woodward away from the body.

N. WIGHT: Thank you. That's all I have.

THE COURT: Mr. Connolly.

CROSS EXAMINATION

1

2

3

BY MR. CONNOLLY :

4

Good morning. You never filed a written report in this case?

5

6

A That's correct.

7

It is fair to say that this was a very thorough search,

8

one of the more thorough searches you^a ve conducted?

A I hope it was thorough.

I take it that is a yes answer?

A I hope it was thorough. I think it was.

Sir, on the map which has been marked as State's Exhibit Number 23 and also the map that had been marked as State's Exhibit Number 22 there are various grid co-ordinates that are mapped out in the area of what you call the *high probability area adjacent to it and running down the road* *
Those areas were searched?

A You mean other areas that are squared off?

That's correct.

A They **weren't searched as I recall in a shoulder-to-shoulder close quarter ground search.**

Is that to say they were not searched?

A They may have been searched by hasty teams. But I don't believe that they were searched as thoroughly as these other areas.

1

1 Q Which areas were thoroughly searched?

2 A These three *areas that I've mentioned,*

3 For the record, one is around the area around the house,
4 the Henkel residence?

5 A Right,

6 The second area is on the opposite side of the road in
the area that is marked truck and then the immediate adjacent
area to where ultimately where the body was found that has
been marked in blue ink on the west side of the Hallowell
Road; is that correct?

A Right,

Is it also fair to say that these areas in through here
were searched with hasty teams at least?

A I believe they were

Kindly, for the record, sir, would you *mark in green*
16 pen just the area you recall was searched by the hasty team
17 **in** reference **to** the westerly side **of** the **Hallowell** Road?

A This area?

Yes,

A This area 'm quite certain was searched _{by} the hasty
teams,

Again, since the court reporter is *writing this down,*
this area refers to the area?

A This would be west **of** the **Hallowell** Road, **north of** the
Dead **River Road** and west **of what I** consider **to** be the *high*

1 probability.

2 The area that has now been marked on State's Exhibit
3 Number 1-A, the area *with the* green box indicating a search
4 matrix; is that a fair statement?

5 A What?

6 The green square indicates a search area?

A Yes,

Q *Was there a more detailed search or just the hasty team?*

A *There were teams that moved through it and I don't believe that there was this close quarter search that I had described earlier in this area, The other lines on the map are base lines that we had planned to use if we continued to search.*

• *Thank you. Now, in your instructions to the search persons they were instructed obviously to look for the missing person?*

A **Yes,**

Q ***Were they instructed as to looking for any other ite ; anything that may appear to be of consequence?***

A ***Any tracks or anything anything out of the ordinary,***

Q ***That would include any items that would appear not to fit in with the natural terrain, man-made items?***

A **Correct,**

• ***To that effect you were brought a large number of odd things here and there during the course of the search?***

1 Not that I recall.

2 Q In your command post you have to anticipate that a large
3 number of people are going to be tracking through the woods
4 and you must take certain precautions; is that a fair
5 statement, in order to preserve their safety?

6 A We have them accompanied when we have such a large team
7 *as this; unless they are very well* organized search and
rescue team then we send wardens with them.

Q You have first aid kits back at the command post?

A I don't know if they had one or not. I believe there
was ambulance there at the scene.

And during these kinds of endeavors there is a certain
degree of risk of having a large *number of people walking*
around in the woods with turned ankles that you anticipate?

A There would be of course some risk.

Some kind of dehydration on *a very* hot day?

A Yes.

Q Cuts, bruises and scrapes from tracking through the
woods?

A Yes.

Q You indicated that there was no real large bodies of
water. How would you characterize the flow of the water that
was in the area, moderate **or significant or how?**

A Well, the Dead River was the only real significant
stream that I **recall. It was a very slow moving stream.**

1 In the area where the body was ultimately recovered and
2 in the area of the general quadrant near the truck *and* the
3 other side, if we look at that as one continuous area where
4 hasty teams as well as more **thorough** searches were conducted,
5 is it fair to say no items were found of any consequence
6 *except for of course the **missing person**?*

7 A *Not that I saw. Its my understanding later than on*
8 *something was found.*

 That is the rope; is that correct?

A Yes.

Q Would you have been in a position to be informed of the
discovery of any items discovered of any consequence?

A I would think so.

In the area right around the truck no items were found
whatsoever; is that a fair statement?

A I don't know, The truck was gone prior to my arriving
to takeover the search. I don't know what was found the
night before.

Q But in the area where your people were looking you had a
mark of where the truck, of where the truck had been?

A Yes.

Q In that area that area was searched close to
shoulder-to-shoulder kind of thing?

A The area around the truck I don't believe the searchers
*had gotten to the area of **the** truck where the body was found«*

1 *What was done by* personnel other than my department I don't
2 know. -

3 Q It's fair to say that the search around the truck was
4 conducted by police officers as opposed to your search unit?

5 A I was in the area around the truck several times *and*
6 looked around for myself. And I didn't notice anything
7 particular. Like I said, I can't say *for the other agencies,*

8 Q *As far as your search was concerned that was just in the*
9 *general area of the truck and not shoulder-to-shoulder in*
that general area?

A *Right. I don't know if* I made it clear before. The
searchers, the two search teams that were searching these two
areas I had one search team start in this area and the other
team start in this area working towards each other but on
opposite sides of the road so that they weren't constantly
coming out and getting mixed up and all of that, And this
team I don't **believe had gotten to** the area of the truck
where the body was found by *the second team,*

Q It's fair to say once the body was found the search was
abandoned?

A *Later that afternoon a* number of wardens, and myself
included, searched **around woods** roads **in** the area **for** more
evidence,

Q And turning **your** attention to the map that is marked as
State's Exhibit Nunber 1-A what areas did **you** search for

1 additional evidence? If you would mark them with green pen?

2 A We searched, warden Harris and I searched woods roads
3 that came off - I don't know how many. We searched along the
4 ditch here where we felt that Mr. Dechaine was picked up by
5 the sheriff's department thinking that something might have
6 been dropped there, tossed in the woods roads.

0 How closely did you search there; fairly close?

A Yes, close as we could with the naked eye, and we
also, I believe, we used a metal detector.

How long did that continue for?

A I would say probably two to three hours in the afternoon
of the 9th.

How many personnel were involved with that?

A I don't know.

I'm going to guess half a dozen to eight or nine game
wardens.

Those were more highly trained individuals than the
individuals that had been used earlier?

A Yes.

Q It's fair to say you found nothing?

A No, sir, we did not,

MR. CONNOLLY: Thank you very much.

1 Q You found no items by use of a metal detector?

2 A No.

3 MR. WRIGHT: **Thank you**

4 **THE COURT: Anything further?**

5 **MR. CONNOLLY: No further questions,**

6 **THE COURT: Thank you. You** may step down.

9 BARRY WOODWARD . being *first duly sworn* was examined and
10 testified r,s follows:

11

12 DIRECT EXAMINATION

13

14 BY MR. WRIGHT:

15 Would you state your name once again for the record?

16 A Barry Woodward.

17 **Q Your occupation?**

18 **A District game warden for the Maine Warden Service.**

19 **Q How long have you been with them?**

20 **A Four years.**

21 **Q What is your primary area of responsibility?**

22 **A Most of Lincoln County and some of Knox County.**

23 **Q You are a resident of what town?**

24 **A Town of Washington,**

25 **Q You became involved in the search for Sarah Cherry last**

j

1 summer?

2 A Yes.

3 Let me here get right to it. Were you among the team of
4 searchers that located a body in the woods?

5 A Yes, I was responsible for coordinating the team that
6 found the missing person.

With some particular reference to the area in which you were searching, can you describe that area in some detail?

A It was relatively lowland, It was fairly heavily wooded. A lot of underbrush and ferns and several small streams in the area,

If you would turnaround for a moment and take a look at the large map *which* is 1-A. Can you orient yourself to it. Tell us the area in which you were *conducting your search as the person primarily responsible in one single area?*

A The area that I was responsible for searching would be on the west side of the Hallowell Road to the north of the Dead River and the Sandy River Road, The blue shaded line *here* which runs perpendicular to the Hallowell Road and perpendicular to the Sandy River Road, this area was all flagged off with a vinyl-type tape, This area was the area I was responsible for searching,

Within that area how was it your team was going about conducting its search? What direction were **you** proceeding and so on?

1 A The area - the way we were *searching* I had people line
2 up along the Hallowell Road. We would turn and go in from
3 the Hallowell Road line perpendicular. When we had gotten to
4 the back line everybody would set over and we would walk
5 back*. We were searching first from east to west and west to
6 east.

Q Starting on the Hallowell Road and in a line you went
west, turned around in a line, and came back east?

A Yes.

Q Came back and turned around and continued *in the* search?

A Yes.

Q What was your particular role in conjunction with that
search?

A I was the team leader or coordinator. ^{What} ~~What~~ did I was
always the southern most person on the line. *What I did was*
as I went through when I started from the road I would take a
compass bearing. When I was headed westerly it was the
bearing of **240** degrees. I would flag a line right straight
back until I got to the back line. Then I was slightly ahead
of the team. When they got to the back line then we would,
*everybody would set **over**. When **everybody** was set over into*
that positions then I would take a compass bearing of 60
degrees coming back and I would flag a line just ahead of
them. That kept the base lines always parallel and kept my
search party pretty **close** and pretty tight*.

1 0 If you would, we haven't used on this map a red pen.
2 With the use of this red marker could you just draw - you
3 *don't have to do it* for each pass or sweep that the team was
4 making, but a line parallel to the direction consistent with
5 *the direction in which the team was moving as it went in a*
6 line through the woods and came back in a line?

7 A *It was basically parallel to the upper line* It would
have run at a bearing of 240 degrees across *here*. Once
everybody came out onto the back line we would set over and I
would run a bearing at 60 degrees and it *would run right*
parallel right back to the Hallowell Road, Then I would turn
around and set down again and turn around and make another
passe

*Essentially the direction was not quite east west but a
little?*

A About 30 degrees off from east and west.

A little southeast/northwest and reversed?

A Reversed, yes.

0 **South**, southwest **to north**, northwest, would that be it?

A Yes.

0 Sow many passes had you made before anything came to
your attention?

25 A **Seven complete passes, They constantly had been finding
stuff. They found old soda cans and cigarette packages and
old magazines, Every time somebody found something they**

1 would alert me and I would look at *it*. *Everything that* they
2 found in the first 7 passes appeared to me as though it had
3 been there a considerable amount of time and all the colors
4 on everything had been faded quite a lot.

5 Q Pieces of junk?

6 A Yes, Just debris in the wood.

Flow was it that it came to your attention that something might have been *found of* significance?

A On the 8th passives making a 60 degree run flagging, *I had just gotten to the road just ahead of the search team,* and I heard one of the searchers yell.

Q What was being yelled?

A I couldn't discern the words. It was quite high pitch and extremely loud. I realized that something had been found, and I turned and *I immediately ran to the location of* where everybody was,

Q When you ran to that location how long did it take you to get there from, at the *point you had been when you* heard the yelling start?

A It wasn't very long. Whatever it takes to run a couple hundred yards. I was on a dead run,

Q What did you then *find* when you arrived in the area from *which the* yelling had been coming when you ran into the woods and saw the individuals?

25 A **I found everybody** was standing adjacent to a stream and

1 they seemed quite excited. Just ahead of them up on the hill
2 you could see what appeared to be the top of a person's head
3 *sticking out of a* brush pile.

4 Having seen *that what, if any, efforts did you* make then
5 to take care of the scene so that it would not be disturbed?

6 A I immediately called the command post and notified the
7 *supervisors indicating that we found what I* believe we were
8 looking for, I had quite amount of flagging in my
9 possession, It's a vinyl type tape that comes on a roll, I
gave two of the searchers each of the roll and I pointed out
where I wanted the area to be flagged off and secured as a
crime scene Two of the searchers started doing that and
everybody else I asked to leave the area.

Let me here ask you if you could by use of the exhibit
which is State's Exhibit Number 2 to designate with the use
of the green marking pen where you then flagged from the
point at which the body had *been* found back to the road?
What route through the woods did you *use to mark with the*
flag?

A. We would have started I believe just off the map up
above where the body was located, What I had them do I had
them run with a flagging one steady* **unbroken** piece from out
in here somewhere, It would have run about, it would have
run toward the road like this and it would have **come** out like
this here. And I believe one of these didn't make it to the

a
2 road. This piece here I believe went all the way to the
road.

3 *I had them run a* constant unbroken piece just to be
4 sure to flag and secure the scene so nobody would be in
5 there,

6 • I hand you a series of four photographs which are marked
7 State's Exhibit Number *24, 25, 26 and 27* for identification.
8 Would you take a look at each of them. Tell us if you
recognize any of them?

A *State's Exhibit Number 24* shows a piece of the flagging
and also depicts the kind of underbrush that is there.

Q 24 also shows in *addition to growth on* the left-hand
side a road on the lower right-hand side of the photograph?

A Yes.

Q What road ^{is} that?

A That would be the Old Hallowell Road.

Is that *where* your flagging came out to the Old
Hallowell **Road?**

A I'm not sure that is the flagging to secure the scene or
later on we ran one piece of flagging directly to the scene
to keep people walking to the scene walk on one path.

Q *If you would, look at* the other photographs.

A State's Exhibit Number 27 depicts the piece of flagging
that was run directly into the crime scene. That there is on
these other **photographs**, because there is **not a lot of**

1 traffic on the flagging, I would say these were just the side
2 flags because the piece we used to run straight in was also
3 orange, but there was quite a lot of traffic on it at that
4 time.

5 Q Each of the **photographs shows** at **various points** in the
6 wood flagging in from the Hallowell Road to the area
7 surrounding the body?

8 A Yes.

9 MR. WRIGHT: I would offer State's Exhibit Number
10 24, 25, 26 and 27.

11 MR. CONNOLLY: No objection.

12 E COURT: 24, 25, 26 and 27 are admitted without
13 objection.

MR. WRIGH : I wonder if I could pass these to the
jury?

THE COURT s Certainly.

(Whereupon State's Exhibit Number 24 , 25,
26 and 27 were circulated among the jury)

BY MR. WRIGHT:

0 I'll show you next State's Exhibit Number 17. Do you
recognize that **as well?**

A Yes.

1 4 As being what?

2 A Its a piece of yellow rope that I located in the woods,
3 It would be after the crime scene had been secured.

4 You came upon that rope?

5 **A Yes, It was after the crime lab had secured the crime**
6 **scene,. I had a conversation with Trooper Bureau of the Maine**
7 **State Police, Trooper Bureau is a Canine handler, He was**
8 responsible for searching that area on the previous day, And
9 *he was unable to locate anything.*

He asked if I would take him back to where the crime
11 scene was with his dog to **see** if his dog would have any
12 reaction; maybe he *just missed it, I said I would, And we*
13 started in just to the north of the line flagging that we put
14 up to keep off from *work* walking in on. He wanted to put his
dog on a lead to see if his dog bec a alert on anything.
After we started in just a short distance I located that
piece of rope on the ground,

0 **You are unaware that Trooper Bureau also located it with**
his dog?

A *We were right there.*

0 **That looks as it appeared as it looked in the woods?**

A **Yes, I alerted Detective Gallant and also Pete Downing**
of the State Police crime lab who were still there, They
were securing the equipment in their van, They had come down
and secured it.

1 MR. WRIGHT: That's all I have.

2 THE COURT: Mr. Connolly.

3

4

CROSS EXAMINATION

5

6 BY MR, CONNOLLY:

Q Officer Woodward, how long have you been a game warden?

8 A Four years,

9 Q You have deep woods kind of training?

10 A As much as there is of this kind in this part of this
11 state,

12 Q Do you have training in order to become sworn as a game
13 officer; you have to go through certain training?

14 A Yes,

15 Q You described the vegetation in the area as heavy
16 underbrush?

17 A **Yes, Undergrowth, second generation type growths**

18 **It appeared this area at one time was farm fields and**
19 **abandoned long since and secondary growth has come up?**

20 A **The average tree I would say was from six to eight**
21 **inches on the bottom. There were a lot of small saplings**
22 **growing,**

23 Q **There were stone walls intermingled in the area?**

24 A **Yes®**

25 **Rather than a mature forest you wouldn't call it a**

I mature forest?

2 A That would be up to a person's sole discretion of what
3 mature Would be. *I've scene trees smaller than that*
4 harvested.

5 **You** were carrying a compass?

A Yes.

Q *That was so as not to get lost* and keep your lines
straight?

A Yes.

Q A number of debris was pointed out to you that appeared
to be of insignificant consequence; is that correct?

A That's correct,

Q What area were those items found in? I'm not asking you
to recall where every soda can was found, but in the general
areas where did you find those kinds of things? By the side
of the road?

A There was some stuff located all the way to the back
line. It was stuff that **had** been *randomly* scattered there.

Q To the back line of where. Turning *your attention to*
1^a-A?

A *We started in the search right where* this blue line in
this northeast corner. What we were searching was the area
bounded by the Sandy *Mill Road, this blue* line that was here.
A compass line that was flagged out by a warden and this back
line, that was flagged **out** prior to us getting there.

1 We started up in this northwest corner and walked our
2 way down this area back way back and forth * Most of the
3 debris it was closer to the road than back what I call the
4 back line which is this back blue line, but it was scattered
5 throughout, There was stuff every where throughout there.

6 Q *Is it fair to say that **your** search did not continue*
7 *after the body was found? Did you not search in this area*
8 *again?*

9 A No, we did not,

 When you heard the yell from the other searcher you
indicated that you ran to the location where everybody was;
that correct?

A When he started yelling ^{es.} you have to understand the
nature of the search When I line people up on the road they
were three to four feet apart There were 18 people lined
ups And I would say the area that we were covering was
probably no wider than this **room is long** * **When one** person in
the middle yells they were all right there. It was a close-
quarter search.

4 **When you are talking about everybody** was there, that was
about 18 people?

A ^{y es} I didn't do a head count; I assume they were all
there.

Q **Had** you searched the area where the **yellow rope** had **been**
found or had you not gotten that far yet?

1 A We had searched it.

2 Q Is it fair to say that was missed at first?

3 A They must have missed it, yes.

4 Q **That was in a shoulder-^ctc-shoulder search?**

5 A **Yes.**

6 Would it be fair to say they walked by it?

7 A I would have no idea. I would say they missed it for some reason or other.

Q What reason would there be *that they missed it? They either walked by it or it wasn't there?*

A I would say they they walked by it.

Q *The only alternative is that it wasn't there at the time?*

MR, WIGHT Objection,

THE COURT: Sustained.

BY MR. COOLLY

Q When **you** finally did find the rope, sir, that was with Trooper Bureau and his dog?

A That's correct.

Q *What is the dog's name?*

A Major, I believe,

Q And your testimony was that the dog was on lead at the time the rope was found?

A I believe he w, **yes.**

1 And turning your attention to State's Exhibit Number
2 two, which is the larger area of the detailed map, There has
3 been marked on the map earlier an indication of where the
4 rope was found, Is that generally marked on where the word
5 rope is on the map in the little dot? Is that where you
6 found the rope? Is that a fair and accurate depiction?

7 A Yes,

8 Q What direction were you coming from when you found it?

A We had just left the road. The line *that we had run to*
walk in on would have left the area of the crime scene and
gone out just beyond this and come in, We started just to
the north of that, We were just working our way in. He just
let the dog go, The dog *was going right* back and forth as
dog worked just ahead of us *

• I don't understand, sir, with the mark noted on the
bottom **of State's Exhibit** Number **two is** where the victim is
found, What area around there was searched?

A **We would have searched -- in the normal search you are**
talking about?

Q Yes,

A **We would have started the search to the north and worked**
down, When we approached - we approached from the lower left
hand corner of this sketch,

• **I'm still confused, I don't understand® Is it fair to**
say that the quadrant to the immediate left as facing the

1 left, is that that area right here was searched?

2 A We would have come from that direction.

3 Q It's fair to say that the area off the map was searched
4 thoroughly?

5 A *Should have been. Yes. We were searching coming*
6 *towards the road.*

7 Q Again turning to 1-A. The area in the area that is
8 marked Spaulding, that area was searched between the blue
9 line and to where the victim's body was found?

10 A We never got down that far.

11 Q Where did you go?

12 A There is quite a difference in scale between these two
13 maps. We spent from eight o'clock in the morning until noon
14 just getting down to here.

15 Q From where?

16 We started on this top line working back and forth and
17 **it took us four hours to get this far. I would say we**
18 **probably, on the scale of this map parallel to that orange**
19 **dot, I wouldn't say we got any further down than that.**

20 Q **Then you didn't proceed to check this area yourself?**

21 **No.**

22 MR, CONNOLLY: Thank you.

23 MR. WRIGHT: **Nothing further.**

24 **THE COURT: -Thank you. You may step down.**

25

1

2 *JAMES MCGEE, being first duly sworn, was examined and testified as follows:*

DIRECT **EXAMINATION**

BY MR. WRIGHT:

Would you state your name for the record once again?

James McGee.

Are you employed?

A United States Navy.,

• Where are you stationed?

A *In Brunswick. Maine.*

Q How long have you been in the Navy?

A Approximately 12 years.

Q *How long have you been at the Brunswick Naval Air Station?*

A **The end of 1981.**

Q **What is your present position with the Navy at the Naval Air Station?**

A **I'm a supervisor of aviation machinists.**

Q **They work on jets?**

A **Yes.**

Q **How long have you done that work?**

25 A **A total of eight years. Now, I'm back into it again.**

So for a period of time you were out of it doing something else?

A Yes,

□ What were you doing when you were out of it not doing work as aviation mechanic?

A The **SERE** School teaching the Navy survival skills.

Q What does that stand for?

A SERE, survival, evasion, resistance and escape.

□ The SERE School is located at the Naval Air Station?

A Yes,

- One of many in the Navy across the country?

A There are two.

- How long had you been a member o the SERE School or teaching at the *SERE School*?

A April would have been four years that I would have been there.

Q Maybe its self[®] **explanatory from the survival, resistance and escape, but what kinds of things does the SERE School gauge in?**

A **Survival. We teach personnel in high-risk situations how to survive.**

Q **Do you from time to time at the SERE School become involved in state and local agencies in efforts that they may be undertaking for searches of individuals?**

A **Yes, we did.**

1 Q Had you been involved in any yourself?

2 A Yes,

3 H many times?

4 A *Approximately three to **four****

5 Q *You became involved in the search for Sarah Cherry last
6 summer in the Bowdoin area?*

7 A Yes

8 You were involved with the team that was acting under
9 the direction of Warden Woodward who was just in here from
10 the Warden Service?

1 A Yes,

12 Q *Tell us what your part of the search was, And he's
13 described for us the area, the quadrant where it took place*
14 You tell us what your part of the search effort was?*

15 A far as?

16 Q *That did you do?*

17 A *We made several passes from where the wardens had told
18 us where to start* They told us that it would be in the most
19 probable area that she would be **found**. It was just about
20 lunch time and the warden said let's make one more pass and
21 stop **for** lunch,*

22 *As we went into the woods we reached a certain
23 boundary, turned around to come back out we were on our way
24 back out when we found her,*

25 Q Tell us **about** finding her,

1 A We had come up to a stream bed and myself and a couple
2 *of others had noticed some different footprints. We marked*
3 them. The warden was with one of the other gentlemen doing a
4 skirmish line and we marked those. I had crossed the
5 riverbed and the person to my right was still in the
6 riverbed, We came out of the riverbed, and that's where we
found the body.

Q You mentioned footprints. Tell us about the footprints
you saw that appeared to be of any significance to you.

A They weren't of a boot footprint. They were not a boot.
That's the reason why our - attention we marked the areas and
marked them and we were going to talk to the *warden about*
them.

Q What were all of you wearing during the search?

A Military issued boots,

Q What was the soles of those prints like?

vinyl sole,

Q The footprints that you saw somehow appeared to be
different than that?

A *Yes.*

Q They appeared -- describe what you saw?

A They were an older footprint. They just weren't made
that we had found. A little bit worn out, A day or two old,
And that's about all I can say on the footprints.

Q Did they have the same **appearance** as the vinyl **sole**

1 print?

2 A No, It was more like a street show print. It was
3 definitely different from a booted print.

4 Q Was there any discernible pattern to the impressions
5 that you saw?

e-76 A The few that were found they were like scattered in the
7 area before the body and the stream bed there. We would find
8 one or two there. And the first one we found was up the
stream a little bit, then we found one or two down from that
10 area,

11 Q Let me here put this up. This is State's Exhibit Number
12 2. Why don't you turn and orient *yourself to the map*. Would
13 you tell us the area you *saw footprints that looked different*
14 *from the vinyl sole prints that you and the others were*
15 wearing?

~~16~~ A *The first ones we found, the distance I'm not sure on,*
17 *the first print we saw **was** up in this area before the bend in*
18 *the stream, because I had crossed the stream, This area*
19 *right here.*

20 *Go ahead and mark on the map if you would with tiny*
-21 *circles,*

22 A *Where we first saw the footprints?*

23 *Yes.*

24 A *Okay. I would say **approximately** right in this area*
—25 *here, The other gentlemen **that were with us found** more, **two***

1 or three more down in here,

2 • Any idea how many you saw?

3 Five **or six** total, I only **saw two or three** myself but
4 **the other ones in the search party found others,**

5 **Q You've put them pretty much within the confines of what**
6 **is labeled as intermediate stream?**

A Yes, They were more on the edges where it was muddy and
whatnot,

Q And within how far from where you located the body would
you say you saw those different appearing footprints?

A Ten to 12 feet, 14 feet up the stream before you go out
of the stream

Q Before you *go up* a b

A Yes,

V J
15 → Q Had you seen *any footprints of* a kind similar or like
16 those anywhere else during your search?

A *No, we did not,*
So just in that area?

A Yes,

There was a print discernably *different from the vinyl*
sole prints?

A Yes.

you found it?

A Yes,

Q Tell us what you saw of the body as you came upon it?

2 A When I first came up there I saw the pile of the girl
3 and I was just standing there. I was in awe, I couldn't say
4 **anything. And what I saw of the girl appeared to be her**
5 hair. To me it appeared that an arm was up over her head,
6 and I saw a shirt or **some** type *of clothing on the girl.*

Q What was there about the area immediately on or about
where you saw her head that prevented you from seeing
anything more?

A She was covered up with pine *needles* and sticks. The
area -- you could see where a dog had scraped up to pile this
stuff on up onto her.

Q A dog?

A That's the way I would explain it *

Q That was what it looked like?

A Yes.

Q Let me here show you what I've marked as State's Exhibit
Number 28 for identification. Do you recognize that?

A Yes *

Q Describe for us what it depicts?

A Her hair, a piece of clothing, a leg, it's out what I
saw right there. It's almost the same angle *

Q *That's the angle you approached from; that's pretty much*
what you saw?

A Yes,

25 Q How close did you get to the **body** when **you** came up from

J

1 .the stream bed?

2 A 6 to 8 feet.

3 Q *Did anybody get any closer to it?*

4 A **No. Somebody started but we stopped them before they**
5 **got any closer. They didn't see the body' and started moving.**

6 **MR. WRIGHT* I would offer State's Exhibit Number**
7 **28.**

8 ME. CONNOLLY: No *objection.*

9 THE UET 28 may be admitted. It may be
10 circulated,

11

12 (Whereupon the exhibit was
13 circulated among the jury)

14 MR. WRIGHT: *That's all I have.*

5 THE CRUET: Mr. Connolly.

16 MR, CONNOLLY: No questions, Your Honor.

17 **THE COURT:** Thank you. **You** may step down, I *think*
18 we'll not call another recess before our recess,

19 We'll be recess. Donal discuss this case during the
20 recess.

21

22 (A recess was had at 11:10)

23

24

25

1 JOSEPH ROY GALLANT, being first duly sworn, was examined and
2 testified as follows:

3

4

DIRECT EXAMINATION

5

6

BY MR. E RIGUT:

7

• **Would you state your name for the record?**

A **Joseph Roy Gallant.**

Your occupation?

A I'm a firearms examiner with the State Maine State
Police crime lab in Augusta.

• How long have you been with the State Police?

A About 13 and half years.

• You have been in the lab for some period of that time?

A Yes.

In addition to your work as a firearms examiner you also
**working at the lab have occasion to become involved in
examination of where scenes of crimes have occurred or where
bodies have been found,**

A Yes.

Q **That's one of the other things you do? Firearms have
nothing to do would this case?**

A **That's correct. The other part of my job is crime scene
processing and photographing autopsy and gathering evidence.**

25

Q **Were you asked to go to a scene in the Bowdoin on the**

1 8th of July last summer?

2 A Yes.

3 Q Let me here back up to the 7th and ask you what your
4 **initial** involvement in this entire matter was?

5 A On the 7th of July last summer I was requested to bring
6 the command post to the **Bowdoin** area. A command post is
7 simply a vehicle that the State Police have that they can set
8 up in a rural area to which you can hook up telephone lines
9 and power so *you* can have area to work out of if the
10 ~ investigators need to make a phone call and interview people.

11 That was pretty much your involvement on the 7th?

12 A Yes.

13 Did *you return to that same area the next day?*

14 A Yes.

15 Q When was that and what did you do?

16 A That was just prior to one o'clock. I received a call
17 *that a body had been found in the area,* and myself and Arthur
18 Downing, who is *a photo technician with the State Police*
19 *crime lab went to the scene to process the area of the*
243 *finding of the body for any possible items of evidence and*
21 *bring those items back to the laboratory.*

22 Q Was there anything about the *scene itself which*
23 *presented difficulties in processing?*

24 **A Yes, It** was **outdoor scene.** First **of** all that is
25 **probably** the **hardest scene to gather evidence** from, And the

I terrain was somewhat overgrown with vegetation and it was an
2 extremely hot day.

3 Did you during the course of your work that afternoon
4 come upon or be directed to a certain item that you later
5 retrieved?

6 A Other *than the body*?

Q Yes,

A Yes.

What was that?

A A length of rope,

I show you you State's Exhibit Number 17, Do you
recognize that?

A Yes, I do,

being the rope that you located?

A Yes,

Q There is a chart behind you which is State's Exhibit
Number 2. On that chart in the *central portion of it is an*
orange dot labeled rope, Do **you** recognize that to be the
area at the point in *which you* were directed or found this
rope?

A Yes,

Q I show you you next a paper bag marked as State's
Exhibit Number 290 It appears **to have handwriting on** the
outside, Could you tell **us if you recognize the handwriting**
on the outside and, secondly, **if you recognize** what is in the

1 bag?

2 A First of all, some of the writing on the outside is
3 mine® My initials are shown on the outside of the bag, It
4 states in my writing a length of rope approximately two
5 hundred yards from the body. Inside is the length of rope
6 from the scene.

7 Q Up on finding the rope what did you do with it?

A *I put it in the bag and brought it back to the crime
lab,*

Q Did you make any alterations to it whatever?

No,

Attempt to take care in the handling of it so as not to
change it *in any fashion?*

A Yes.

Q Does it appear to be in the same condition it was
when you found it, and if not how different?

A ***Substantially the same condition. However, the ends of
the length of rope have been taken a part and marked which
was not in that condition at the time.***

Q When you ^{say} marks, they are little labels?

A Yes.

Ap rt from the body itself, did you notice anything else
**in the area surrounding the body that appeared to be of any
significance to you in processing the scene?**

A **Yes. I noticed a short distance from the scene where**

the body was laying an area o, somewhat of a small opening in the midst of some small evergreen trees heavily laden with pine needles. I observed what appeared to be an area that was disturbed such, as I would say, as if there had been a struggle in that area. It would be from the body, it would be back towards the road from the body approximately 25 or 30 feet.

8 Q I hand you next a photograph which I've marked for identification as State's Exhibit Number 30, Do you recognize that?

• *Yes, I do. It would be the area that I had just described.*

Q *Does that photograph fairly and accurately depict that area in which you've just described to us a moment ago some feet away from the body?*

A Yes.

MR. WRIGHT: **would offer** State's Exhibit Number **30,**

HR. CONNOLLY: **No objection.**

THE COURT: State's Exhibit Number 30 is admitted.

BY MR. WRIGHT:

Q In using that **photograph if you would with the jury, please, would you stand and indicate to the jury perhaps - if it might be helpful for you to step down, those areas in the**

1 photograph that you had earlier indicated were of
2 *significance to you in the manner you* described?

3 A Sure, You can see where **columns of** the pine **spills** have
4 *been* roughed *ups* There were some **over** in this area too, It
5 was easier to see while you were standing there, Its a
6 **little difficult to** see from the **photographs** You can see
7 where some of those pine beds have been roughed up; they were
0 ! probably kicked up,,

Did you notice anything else in the area approximate to
10 the body?

11 A Yes, In the dry brook bed probably another, a^s ain,
12 about 30 feet from the body area in the dry brook bed
13 where there were several partial footprints in the bed, And
→ 1 one or two that were significant in that *although* they didn't
show the tread design of the shoe, that it showed the size of
the footwear.

Q Let me here show **you** next State's Exhibit Number 31 for
identifications Do you recognize that?

A Yes,

Q As being what?

A *one of the foot wear* **impressions in** the brook bed
→ 22 **that showed the entire foot wear sizes**

23 **Is there anything about the weather that had in your**
24 **opinion in processing the crime scene affected the impression**
25 **that you saw and is shown in that photograph?**

A Yes.

2 Q What?

3 A Because of heavy rain that had occurred the tread design
4 was gone, The whole brook bed had **been given somewhat of a**
5 **cratering effect. a pot-mark effect.**

6 Q **In addition to the foot impression. shoe impression in**
7 **this photograph. there is a shiny circular object in the**
8 **middle?**

9 A Yes.

10 Q That is what?

A A quarter.

12 That was placed there for what purpose?

A So from the photograph you could make a determination on
the size of the foot wear.

Q Does state's Exhibit Number 31 fairly and accurately
depict that **foot wear impression as you saw** it that day?

A Yes.

MR. WRIGHT: I would offer state's Exhibit Number
31.

MR. CONNOLLY: No objection.

THE COURT: 31 is admitted.

(whereupon state's Exhibit Number
31 was passed to the jury)

1 BY MR* WRIGHT:

2 Q *While the jury is looking at that photograph, could you,*
3 *with respect to the scuff marks that you earlier described*
4 *and shown to the jury, and also the foot wear impression by*
5 *using the chart just behind you, designate where you saw*
6 *these things? Let me here give you a green pen which had*
7 *previously been used to designate flagging by Warden*
8 *Woodward, I think we can distinguish your marks from h*
9 *Tell us first where the scuff marks that were found and where*
the pine needles?

11 A In this general area *

12 j Q You've made a blotchy circle just to the right as you
13 look at the chart of where the body was located?

14 A That's correct *

15 Q And the foot wear impression that is shown in State's
16 Exhibit Number 31?

17 A That particular foot wear impression was right near this
18 *bend in the brook* more to the side of where the victim was as
19 opposed to the other side of the brook *

20 Q That, for the record, is to the lower right in the
21 intermediate stream bed but closer to the side of the stream
22 where the body was found?

23 A Yes *

24 Q That is designated on the chart as another blotchy
.25 circle by **you**?

1 A Yes,

2 Q Thank you Do you happen to **recall** which *direction that*
3 *footprint was pointed?*

A It was pointed **in** the **direction as** if somebody was
5 *heading* back toward the road,

6 Q Now, you mentioned Per. Downing's name, Re's a
photograph technician?

A Yes.

While you were with him did he make any record of your
going in from the road to the body?

A Yes, Both in phot r p and in a videotape.

Q *You were present throughout* the filming or taping by Mr.
Downing on the journey in from the road?

A Yes,

MR. WRIGHT: *I've rked as State's Exhibit Number*
32 I would represent to the Court as being that videotape,
*would ask the Court's permission to play **

MR. CONNOLLY: *No objection, Your Honor,*

THE COURTS *Thank you. The video of the area in*
Exhibit 32 is admitted without objection, How long is it?

MR. WRIGHT: *Five minutes **

THE COURT: *Fine. Why don't you play it,*

(Whereupon the videotape was played to the jury)

1 BY MR. WRIGHT:

2 That videotape took us *at the beginning from what point?*

3 A *Out on the road between, standing right in front of the*
4 *red pickup truck you were standing in the road.*

5 Q Where the truck had been as you understood it?

6 A **Yes.**

Q *In along the flagging to the body?*

A Yes.

You went back to the stream to the body and the stre
and the scuff marks that you've described?

Yes

Q Let me here show you next two photographs marked as
State's Exhibit Number 33 and 34 for identification. Do you
recognize those?

A Yes, I do.

Q What do they depict?

A They depict what the scene appeared to be when I first
looked at the area where the **body** was lying.

Those are views of the area and debris and foliage over
the body from angles that **do** not show what was visible on her
body, is that correct?

A one of them you can bearly see *part* of the head.

Q The other one you cannot?

A No.

Q Was there anything that you noticed right close

1 immediately around the body in or on the ground level that
2 caught *your* attention?

3 A I noticed some pieces of branches of trees around the
area,"

5 Q **Did it appear any part of the foliage pine needles or**
6 **whatnot had been disturbed in any fashion around the body?,**

7 A **Yes.**

Is that shown in the photographs?

9 A Yes, it is,

10 *Which photograph or both tell us where in both?*

11 A *State's Exhibit Number 34 you can see it more, Its*
12 *sort of a raking effect around the area,*

13 Q Where are those areas of a raking effect in that
14 picture?

15 A *You can see it, it would be to the right- d middle of*
16 *that photograph.*

17 Q *And in State's Exhibit Number 33, the areas of raking*
18 *are shown there as well?*

19 A Somewhat, although its not as easy to see as the other
20 **photograph,**

21 Q Do you recall in relation to where the head was visible
22 where these areas that you've described as having this raking
23 effect were located?

24 A Well, generally all around **where the body** was **found.**

25 Q **Do these photographs fairly** and **accurately** depict the

I scene, although different views, of it as you saw it that
2 day?

3 **A Yes.**

4 *MR. WRIGHT: I would offer State's Exhibit Number*
5 *33 and 34.*

6 *MR. CONNOLLY: No objection,*

7 *THE GO : 33 and 34 are admitted, You may*
8 *circulate them.*

(Whereupon State's Exhibit Number 33 and
34 were circulated to the jury)

MR. WRIGHT: That's all&

THE COURT: Thank you. Mr. Connolly &

CROSS • AI^A ION

BY MR. CONNOLLY:

**Good afternoon. Sir, you were the person who brought
down the lab van or the control van?**

A I brought down the *command post on the 7th,*

**Q Is there *another vehicle that was brought down, an*
*evidence technician van?***

A That was the following day.

Q Did you bring that down?

A As I recall John Otis brought it down.

1 Q Were you there when it was brought down?

2 A I believe he arrived before I did®

3 Q Did you see where he parked it?

A It was parked not far from where the red pickup truck
5 had been parked,

6 Q On that side of the road?

7 A Yes,

Q Were there other police vehicles parked in the area?

A There was one *that had* the area cordoned off that I can
vice],

Where was that parked?

A That would be closer to the command post.

Q *the s e side of the road?*

If I recall it was more to the right side of the road.

Q Were there any vehicles parked on the left-hand side
the road?

A Not to my recollection.

**Sir, in addition to the items you've mentioned so far
this afternoon and this morning, you *found some other items*
as well; is that correct?**

A Yes.

**• Briefly discussing some of them with you *and asking you*
to turn your attention to the diagram which is directly
behind you, State's Exhibit Number 2, I would ask you if you
recall where most of those items were found? You have your**

1 *file right in front of you?*

2 A Yes,

3 Q *Peel free to turn your attention to refer to that. I'm*
4 *handing you a red marker. I would ask if you can mark where*
5 *items I'm asking you about were found, First, I'm interested*
6 *in what is marked L 88308. Do you recall that item?*

7 A Yes, I do,

8 Describe for the jury what that item is?

9 A That was what appeared to me to be a red fi t was
10 attached to a small branch of an evergreen tree not quite
shoulder height, perhaps three and half, four feet high.
That would have been ctually just in between the discussed
area near the body and the body.

Q That is what called your attention to it?

A Well, I was trying to look for hairs or fibers on
br ches around the scuffed up area on my hands and knees and
around the area where the body was found,

Q **L 88308** was ultimately **turned over to** the evidence
technician?

A Yes, To the chemist.

H was it situated? flow did you see it?

A I was looking at each and every branch of the trees,

Q Was it sticking out or flush against the tree?

A **I recall it was on a small branch sticking out a**
couple of inches, an inch.

1 Q Did it appear wet?

2 A No.

3 • Secondly, turning your *attention to* the next item, L 883
4 09104. Do you recall what that item ® can you describe what
5 that item was and mark it on the map where you found it,
6 please?

7 → That item would appear to me to be a ns1 r--4

8 ***Human hair or hair of any kind?***

9 A That would be up to the chemist to decide. It appeared
10 to be a hair. It was attached to a branch fairly low;
11 perhaps a couple of feet off the ground, I'm trying to
12 recall the heights but it was approximately there. It was
13 right near the victim, If I recall it ***was right in this area***
14 ***here, Right around the body*** were several small evergreen
15 trees, I was concerned about that area looking very closely
16 for any hairs off fibers.

17 • You have marked on the map with a red ***dot again which is***
18 ***a little larger and*** is directly under the M on victim?

19 A Yes. \it would be beside the victim is where it was
20 found.\

21 • ***Turning your*** attention to L 88308109. Can you describe
22 what those are *and* where they were located?

A CI ***have it as five hairs or plant material from the area***
24 ***near the victim's buttocks.***

Q **That was directly on the victim. Could you mark that**

1 *directly on where the victim was located?*

2 **A Yes,**

3 ***Again that was handed over to the chemist?***

A Yes,

5 **4 Finally, sir, L €8309110, tell us what that was and**

6 **describe where that was located?**

→ **A That was a cigarette butt from the area where the suspect's truck was found,**

And can you mark where that was located?

A *Generally in the area to the side of the vehicle.*

On the driver's side?

A I recall it was the passenger side, although I'm not sure how the vehicle was set in,

If I were to show you a *photograph you had not seen* where it was so you couldn't identify it?

- - - 26 A **I had not** seen where it was.

17 ! **Q As you face the location where you believe the pickup truck to be from the roadway was it on the right or left-hand side?**

20 **A As I recall it was on the left-hand side fairly close to where the vehicle was ***

22 ***Is it fair to say you aren't exactly certain?***

24 *he° I'm not positive* There were other items there such as cigarette packages, although it was obvious they were very,*
25 *very old.*

This particular one was not particularly old?

2 A It appeared to be relatively new,
3 You aren't certain whether it was on one side or the
4 other?.

5 A Just in that area.

6 You looked at it and it didn't appear to be wet or
7 stained in the sense of weather?

8 A I didn't handle it with my fingers, bare fingers, so I
9 wouldn't be able to say whether it was actually wet, although
I say it appeared to be fairly new because it *hadn't faded*
such as items like that might after being out for a while.

0 It was not faded?

A Right. It was not,
That was marked with *a red dot, although that was*
subject to one side of the van or the other?

A Yes.

7 **0** **You** on the map placed **it on** *the* left-hand side, but **you**
18 *aren't certain that is the case?*

19 A I don't know in relation to the vehicle how many feet
20 away it would have been, ~It could have been 20 feet, It
21 could have been ten feet.

22 ! Q It was somewhere in the vicinity of the truck is the
23 best estimate you could make?

24 A **Yes,**

25 **MR. CONNOLLY:** **Thank you very much.**

1 MR * WRIGHT: Nothing else.

2 THE COURT: Thank you, You may step down. May he
3 be finally excused?

4 MR. CONNOLLY: Yes, sire

5 MR, WRIGHT: Yes,

6 **THE** COURT: Thank you.

7 We'll be in recess until **1015** for lunch, Please do not
8 *discuss this case, Thank you.*

9

10 Whereupon the jury was in recess at 12:15)

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1 (The jury returned at 1:25)

2
3 THE COURT: Mr. Wright, you may call your next
4 witness.

5
6 RONALD ROY, being first duly sworn, was examined and
7 testified as follows:

8
9 DIRECT =ANIMATION

10
11 BY MR. WRIGHT:

12 State your name for the record?

A Ronald Roy.

Q Your occupation?

A I'm a forensic pathologist and chief medical examiner
for the State of Maine.

Q How long have you been with the office of chief medical
examiner?

A Since April 1979.

Q Could you briefly tell us the duties and functions of
the medical examiner's office this state has given by
statute?

A The medical examiner's office is empowered to
investigate deaths and to determine the cause of death and
25 the manner of death and when *necessary the identification of*

the deceased.

2 Q Could you also tell us a little bit of how the medical
3 examiner's office is set up? How does the system work in
4 this state?

5 A The office consists of two forensic pathologists, Doctor
6 Henry Ryan and myself. We have two assistants and two
7 secretaries and a volunteer army of physicians across the
street who will attend scenes for us when our presence isn't
absolutely necessary.

10 Q You say you are a physician and pathologist. Would you
11 tell us first of all what pathology is?

12 A Pathology is a subspecialty of medicine that we know
13 primarily as a hospital laboratory, examining frozen sections
14 of a person, running the lab itself, these sorts of function.

Q Within the field of pathologists do you have a further
16 subspecial?

17 A Yes. I limit myself to forensic pathologists which is
18 what I've described what the medical examiner's office does,
19 which is investigate death.

20 Q Would you tell the jury, please, what your educational
21 background is including your training as a pathologist and
22 forensic pathologist?

23 A Yes. I received my doctor of medicine degree from St.
24 Louis University in 1968. I did about 13 months of anatomic
25 pathology training at St. Louis University. I was drafted

2 into the army, served two years at Valley Forge Hospital as
3 chief anatomic pathologist. I emigrated to Canada where I
4 completed five years of anatomical pathological training.
5 I'm certificate as a fellow of the Royal Canadian Physicians
6 of Canada as a general pathologist. I then served as an
associate pathologist in Stratford Hospital in Stratford,
Ontario for two years before taking additional training in
pathology at McMaster University in Toronto, and have the job
I now have you. I'm a member of the National Association of
Medical Examiners,

You've had occasion to testify in court with respect to
findings that you've made in conjunction with your work on a
number of occasions?

A Yes,

• Any idea how many occasions you've testified to?

A I would guess around two hundred.

In what courts?

A All the courts in the State of Maine as well as the
federal court,

Is there a commonly utilized method by which you go
about determining the cause and manner of defendant as a
forensic pathologist?

A The general procedure is to perform an autopsy in
addition to sometimes investigation of the scene is necessary
to arrive at that, Other times we have to do additional

1 studies such as toxicology. But the primary tool is the
2 postmortem examination.

3 Q First of all, occasionally you go to locations where
4 bodies are present. In a general way can you have tell us
5 what you find useful or what kinds of things you may be
6 looking for when you go to those locations?

7 A The position of the body, the *condition of* the body, the
8 presence or absence of rigormortis or other parameters like
9 that related to the body, objects you might find at the
10 scene, evidence of disruption at the scene. There is a whole
11 range of things you may or may not be looking for.

Q Can you, in looking at scenes, determine whether a
person has been killed where the person's body was found?

A Sometimes.

Q That sometimes can be determined?

A Yes.

Q Based upon what kind of factors?

A The physical parameters of the scene, the presence of
blood. It's difficult to describe without a specific
example.

Q There are a variety of circumstances which would lend
themselves to reaching a conclusion with respect to that
issue?

24 I A That's correct.

25 Q With respect to an outdoor setting and more particularly

2 a setting in this case of a woods setting, were there certain
3 significant facts which contributed to you reaching a
4 conclusion as to whether or not the body had been killed
5 where found?

6 A Well, the most significant factor in that regard was the
7 presence of blood on the ground *beneath* the body around the
8 area of the head.

9 Now, you mentioned - I'll get back to some of this
10 later. Occasionally you find it's significant to know the
11 position of the body at the scene; is that correct?

12 A Yes.

13 Why would that be useful? What would that tell you?

14 A Again, without a specific example I don't know how to
15 answer that question.

16 Q Let's turn our attention to the matter which brings us
17 here today rather than talking in generalities. Let me ask
18 you if you did become involved in the investigation of the
19 death of Sarah Cherry last July in Bowdoin?

20 A Yes, I did.

21 What was your initial involvement in that?

22 A Well, we were called at the office that the body of the
23 young girl had been found partially buried in the woods. It
24 was thought to be possibly Sarah Cherry, and proceeded from
25 the office in Augusta to the scene.

Upon your arrival what did you do in consequence with

1 respect to your work?

2 A I waited. A very usual procedure. I was there for
3 **awhile and then when - I don't know why I was waiting; there**
4 were things that had to be accomplished first. After some
5 period of time I proceeded *into the woods with my assistant*
6 and people from the Maine State Police crime laboratory who
7 proceeded me.

8 Q How did you get into the woods; was it a particular
9 route?

10 A Yes, We all followed a single file. We approached some
11 tape where the scene was sealed off itself.

12 Q Tell us what your initial observations were keeping in
13 mind your interests and your profession at the scene?

14 A My first observation was that I *had a difficult time*
15 finding the body. It had to be pointed out specifically to
16 me because it was not all that evident. It had been fairly
17 well covered except for the head. It was evident that some
18 forest debris, dead leaves and twigs had been disturbed on
19 the forest floor which had been used to cover the body.
20 That, for the time being, those were my initial observations.

21 Q Did that fact alone suggest anything to you or
22 contribute anything to you in reaching a conclusion in
23 determining the manner of death?

24 A Which?

25 Q The piling and debris and whatnot?

j

A Its almost entirely confirmatory of homicide.

Q Let me show you three photographs, State's Exhibit Number 28, 33 and 34. Do you recognize those?

A Yes.

5 Q As being?

6 A As photographs of the actual seen where the body was
7 found.

8 Q Now, was there anything, *again keeping in mind your work,*
9 *in the immediate proximity of the body and given the forest*
10 *debris and so forth on top of the body that was of*
11 *significance in the areas around the body that caught your*
12 *attention?*

13 A As I say, near the foot end of the body a lot of the
14 debris, the leaves and sticks had been removed and soil was
15 exposed. This wasn't true around the head end or the
16 backside of the body. I was told also that there were some
17 prints nearby in the mud, but I didn't go look there.

18 Q The areas of disturbance in the forest floor were at the
19 foot end of the body not the head end?

20 A That's correct.

21 Q **In your experience in** examining of scenes did that
22 suggest anything to you?

23 A **Well, it appeared that's where the person who covered**
24 **her was standing. He simply picked the material up and put**
25 **it onto** the body from there. From **that** vantage point you

1 cannot tell that certain parts of the body were still
2 exposed; you had to go around to the head end where you could
3 see some of the hair.

4 Q How much debris, foliage, sticks were covering the body,
5 do you recall?

6 A I would estimate about two large garbage bag fulls.
7 Some of the *sticks* wouldn't go into bags.

8 Q They were long sticks?

9 **A Yes.**

10 **Q** If you remember estimating or **trying to take, in any**
11 sense, the depth of material that had been piled on top of
12 the body?

13 A It was about five or six inches.

14 Q **Could you in the context of what you saw and the**
15 surrounding area make any determination or reach any opinion
16 as to where Sarah Cherry had been killed?)

17 **A** Just from that, from what I saw there, **no.**

18 Q Were there any other factors that you can take into
19 account which would lead you to a conclusion in that respect?

20 **A** Well, other than where the debris had been removed from
21 the ground there didn't appear to be a great deal of
22 destruction in the surrounding area.)

23 Q **Upon further examination of the body** were there other
24 **significant factors which** led you to reach any conclusion?

25 A After we removed all the debris off the body exposing it

1 and photographs were taken, the body was briefly examined and
2 then when it was determined that we could do no more with
3 what we had, at *that point the body was* picked up and removed
4 to a body bag. At that point it was evident there was a fair
5 amount of blood beneath the head on the ground

6 Q Was that suggestive to you or helpful to you in
7 determining the location of the death?

8 A That suggested to me she was bleeding right there,
9 actively bleeding.

10 Q You mentioned the term rigormortis. What is that?

11 A Post-muscle stiffening of the body.

12 Q How does that work?

13 A It's a chemical reaction related to acidity that causes
14 the muscles to actually contract right down, stiffen and
15 become hard so the body can maintain the position it died. It
16 takes a certain amount to develop and it takes a certain
17 amount of time to leave.

18 Q Are there pretty recognized specifics as to the time in
19 which the onset of rigormortis occurs and then its leaving or
20 does that vary under different conditions?

21 A There are general rules of thumb you have to know.
22 There are variances regarding to circumstances, yes . There
23 are general rules of thumb.

24 Q What was the condition of rigomortis in this case upon
25 the removal of the debris from the body and further

30 hours or more
could be at least
on July 7th noon.

July 8 noon
July 7 noon

2 days prior
takes us to 6th - at noon - observation

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examination?

A Rigormortis was still present but it was broken relatively easily; in my opinion it was passing off.

Given the body that *you found, could you* reach any conclusion as to the time of death?

A *The passing off of rigormortis* suggested that we are talking probably 3 hours or more.) And I do know when she disappeared and the changes are *consistent* with that time, *consistent* with that having occurred two days

Q Are there any factors in an outdoor setting *such as this* that could be useful or for complicating determining the time of death upon the discovery of the body?

A Yes.

Q Such as?

The body lying in the full sun will heat up and rigormortis will come on quickly and disappear more quickly; where the body is laying in a shaded area it will maintain itself. It will disappear more slowly.

Q What natural effect is there on the body after death? Obviously at some point it's going to decompose. Can you explain that process and how it would be affected by various factors particularly as it regards to the scene in this case?

What factors do you want me to discuss?


Q Such as temperature, sunlight, weather conditions?

Well, temperature as I said, will hasten all the

7-7

1 processes. An elevated temperature will speed it up and make
2 its onset quicker and its disappearance quicker. If the body
3 is put in a cooler it may never go into rigormortis until its
4 temperature is raised and it will come on then. Stenuous
5 physical exertion may hasten the onset of rigormortis.
6 Elevated body temperature, somebody with a high temperature
7 it would be speeded up. People with poor muscle structure,
8 **babies or old women may not develop** rigormortis. There are
9 **many factors.**

10 Q Was there anything to suggest in-this case given the
11 location of the body under debris and so on anything
12 inconsistent with what you've already: suggested to have been
13 the passage of time between death and discovery of the body?

14 A Well, somebody found in the woods in August who had been
15  dead for two days I would expect to find more fly activity;
16 but her body was covered with debris which accounts for why
17 it is not as advanced as I would have expected it.

18 Q Fly activity meaning what?

19 A Flies who land on the body lay on the body at sites of
20 injury and the eyes.

21 Q And work their ways **into the body and** hasten
22 **decomposition?**

23 A Yes.

24 Q In removing the debris from the body what efforts, if
25 any, did you take not to disturb the body position?

1 A The body position wasn't disturbed at all. The material
2 was lifted off and placed in bags.

3 Q In removing the debris why is it significant to remove
4 it carefully so as not to disrupt the body itself?

5 A Obviously you have something in mind here. I don't know
6

Q You removed all of the material, the the debris as
carefully as possible to see exactly what you've got without
interfering exactly with the way it rested before the debris
was piled up; is that correct?

A Yes.

Q After after you removed the debris, the forest debris
from the body can you describe for us what observations you
14 made?

15 A Well, she was

16 First of all, let's talk about the physical position of

17 Q the body as you saw it?

18 A She was lying on her back with most of her torso turned
19 to the left. Her face was turned towards the **left** Her legs
20 ifere flexed up towards she&stomach and were laying on their
21 **left side** Her hands were in front of her and they **were tied**
22 together by plastic rope.

23 Q Let me hand you a brown paper bag with an **item inside of**
24 **it which I've labeled** for identification as State's Exhibit
25 Number 35. I would ask you to **take the contents out** and ask

1 you whether you recognize what is inside?

2 A Yes. This is the rope that was removed from her hands.
3 And its initialed with my initials.

4 Q Who removed the rope?

5 A I did.

6 Q That was later *during* the autopsy process?

7 A Yes.

8 How did you go about removing the ropes? What parts of
9 the ropes did you cut?

10 A The noose is cut, and in the process the cut ends are
11 taped and labeled so we know what was original and what I
12 created.

13 Q There appears to be a knot in the rope?

14 A Yes.

15 Q Did you cut away from the rope so as to leave that
16 intact?

17 A Yes. I cut over here.

18 Q The rope also seems to loop around. If you put it
19 together a couple of times how many times around the wrists
20 of Sarah Cherry was this rope?

21 A There are three strands here.

22 Q Were both wrists together with one overall loop?

23 A Yes. A little together but twisted together.

24 Q And the rope wrapped three times around?

25 A Yes.

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1 Q Then not with the knot that appears?

2 A Yes,

3 Q How tightly around the wrist was the rope?

4 A It was moderately tight. It could have been tighter.
5 It would be difficult to remove your hands.

6 Q How about *clothing on* the body?

7 A She had on a light purple colored shirt, a short sleeve
8 shirt and there were blue jeans which were pulled down to
9 around her knee level so they were pulled down beyond her
10 feet. You could not see her feet. There was no underwear.
11 No lower underwear. And at the autopsy I also found she was
12 wearing a brassiere.

13 Q The T-shirt that you found, what was its position on the
14 body as you saw it?

15 A It was formally positioned folded right down to the
16 waist level as you would wear it.

17 Q I hand you what I've marked for identification as
18 State's Exhibit Number 36, I would ask if you recognize the
19 contents of that bag?

20 A Yes. That is the shirt.

21 Q *That's the shirt that you* found on Sarah's body?

22 A Yes.

23 Q Did you make any observations as to th -shirt as to
24 its condition, not it location but it's condition when you
25 saw it?

1 . The top half was bloodied on both sides. There didn't
2 appear to be any defects in it.

3 Q No holes or anything?

4 A No, There was one small hole in the right armpit area.
5 Left armpit area.

6 Q Cutting or tearing?

A It looked like a tear,

Q **In the seam?**

A **I don't recall.**

Q **It will be here when it's examined. State's Exhibit
Number 37 next, Do you recognize that?**

A **Yes. That is the brassiere.**

Q **Does it appear to be in the same condition as it was
when you found it?**

A **There are some changes; some fabrics have been removed I
presume from the crime laboratory for testing.**

18 Q **What other observations did you make of the body at the
scene?**

19 A **There was a gag in her mouth. It was apparently part of
20 a blue bandana and it it was held in place by a woolen
21 article that appeared to be a scarf. It was not on the right
22 side. The remainder of the scarf went around the neck very
23 *tightly and was also not on* the right side.**

24 Q **There were two knots in this scarf?**

25 A **That's correct.**

1 Q *I next hand you what I've* marked as State's Exhibit
2 Number 38 for identification. Do you recognize that?

3 A Yes. This is the bandana that was in the mouth. It was
4 **all rolled up in a ball at the time I saw it.**

5 Q Did you make any changes as you did to this item?

6 A **No. That** was given directly to the lab technicians.

7 Q I would ask you with respect to the T-shirt *and*
8 brassiere, did you make any changes to them?

9 A No. The only alteration had to be to the *scarf and* the
10 same.

11 Q Let me next *show you item number 39* for identification.
12 Do you recognize that?

13 A That's the scarf that was around her mouth and neck.

14 Q You've indicated that it was looped twice, I believe?

15 A Yes.

16 Once around where?

17 A Right around the lower part of the face.

18 Q Did it cover her mouth?

19 A Yes.

20 Q **And the other loop was where?**

21 A Around the neck just about in this area; a **few inches**
22 down.

23 Q Would you hold the scarf up so as to give the jury an
24 idea of the loopes and their size?

25 A **This is the** portion around **the** lower portion of the head

1 and this was around the neck.

2 Q The smaller loop was the one around her neck?

3 A Yes,

4 Q That appears to be in the diameter, the smaller loop,
5 *about what?*

6 A Three inches, two and half three inches.

7 Q Is there anything about the knots that you noticed in
8 examining them?

9 A Not really.

10 Q Were they firmly in place or losely in place?

11 A They were firm.

12 Q As you uncovered the body at *the scene in addition to*
13 that which you've already described was there anything else
14 of significance to your work as deputy chief medical
15 examiner?

16 A Yes.

17 Q Any particular observations?

18 A There were bird sticks, one stuck in the vagina and one
19 in the rectum protruding from these orifices.

20 Q After you kind of sized up what you had at the scene and
21 made the observations that you had made what was done then
22 with the body?

23 A The body was placed in two body bags and carried to our
24 *van and* taken directly to the morgue at the Kennebec Valley
25 Medical Center.

1 Q Was there anything placed on the body before its
2 removal?

3 A Paper bags were placed on it as so not to lose any trace
4 evidence.

5 Q Is it true sometimes you find trace evidence in these
6 cases and sometimes you don't?

7 A That's correct.

8 Q You then took Sarah's body to Kennebec Valley Medical
9 Center for an autopsy?

10 A Yes.

11 Q Did you who perform an autopsy?

12 A I did.

13 What time?

14 A Four o'clock that day.

15 Q Tell use if you would, what more careful observations
16 once you were at Kennebec Valley you were able to make of
17 *Sarah's body?*

18 A Well, I might have mentioned at the scene I found a hole
19 under her chin which at the time I thought was a small
20 caliber bullet wound. At the hospital upon further
21 examination I determined this was not a bullet wound; in fact
22 it was a stab wound. I told the police we were dealing with
23 a small caliber bullet originally. Further examination of
24 the body showed that she had a knife or some sharp instrument
25 had been run across her neck and she had been stabbed in the

1 head the neck and the chest.

2 Q Tell us about the *marks on the neck, not* the stab wounds
3 but the marks on the neck?

4 A These were superficial insessions in the surface of the
5 skin averaging two to three inches long all on the left side
6 roughly parellel about five or six centimeters depending upon
7 how you count the appearance.

8 Q Perhaps it would be helpful to chart the injuries that
9 you saw. You've got a marking pen, I've *now marked a* large
10 chart that shows what?

11 A These are standard anatomic diagrams used by many
12 medical examiner's office, They have been enlarged.

13 Q That is State's Exhibit Number 40. Using that could you
14 and your marking pen draw the location of the superficial
15 marks on the neck that you saw, putting the number on them
16 and the location, as best you can?

17 A I can't draw those exactly as they were. But they were
18 very similar to this. All on the left side of the neck
19 beginning about the midline and extending over.

20 Q To where?

21 A The longest was two and half, three quarters inches
22 long.

23 Q Did that cut or break the skin?

24 A Just the very surface of the skin.

25 Q Did you reach any conclusion as to -- first, I think

1 you've indicated they were inflicted with a sharp instrument?

2 A Yes.

3 Q Did you reach any conclusion as to the manner in which
4 those were inflicted?

5 A I would expect that a knife was dragged across the skin
6 several times in a row.

7 Q Did that suggest anything to you as to the manner of
8 what was going on when those were being inflicted?

9 A That sounds like torture to me. I can't think of any
10 other reason for doing it.

11 Q Were those marks contributory or have any effect upon
12 Sarah's physical condition as to death or contributing to
13 death?

14 A No.

15 Q You also mentioned there were some stab wounds?

16 A Yes.

17 Q Could you draw those on there as well?

18 A I may have to refer to the diagrams I made myself.
19 There was one wound **which was shaped like an L. I can't be**
20 **sure if it's one wound or two. She could have moved, the**
21 **knife could have moved or there could have been another wound**
22 **over the first one. We don't know if there was one or two.**

23 You realize that these are intersecting the **longitudinal**
24 **incision marks on** the neck. In addition there was the one I
25 mentioned on the chin. There is another here on the left

1 temple area. And on the head there is another small one
2 behind the right area,

3 Q You said you realized that some of the stab wounds were
4 intersecting or intersected by the longitudinal marks on the
5 neck. What if any significance the location of those is
6 there in conjunction with one another?

7 A It suggests to me that the incisions were first and the
8 stab wounds intersected them: so the stab wounds came second.

9 Q So that tells us something about the sequence of the
10 injuries that were inflicted?

11 A Yes.

12 Q How many stab wounds altogether were there in the neck?

13 A As I say four, possibly five.

14 Q Then one or two in the head?

15 A Two on the head on each side and one in the chin area,
16 we are talking about seven, possibly eight.

17 Q In the head and neck area?

18 A Yes,

19 Q How big were these?

20 A These were all relatively small as stab wounds go. They
21 are quite short. They were all on the average of about a
22 centimeter long, which is less than half an inch.

23 Were you able to determine how deep any of them entered
24 into the body?

25 A Not any of these. It was too difficult to do, It was

1 just the way the anatomic structures do. Its difficult to
2 measure in this area.

3 Q You may be seated. Let's remain in that area during the
4 autopsy process for a while before we move on. You have made
5 an internal examination of the body?

6 A Yes,

7 Q What if any findings can you relate to us with respect
8 to internal injuries caused by any of the wounds that you saw
9 in the head and neck area?

10 A One of the stab wounds in the neck had gone through this
11 muscle on *the* side of the neck called the sternocleidomastoid
12 and puncturing the jugular vein on the left side. That would
13 cause bleeding from this area.

14 Q Would that have been *fatal in and of itself*?

15 A Yes. It well could be fatal.

Q In how long a time period?

A It's difficult to say for sure. .The ligature confuses
the situation; it may be stopping the bleeding. It's
difficult to say. would think significant blood loss would
have occurred probably within half an **hour causing her to be**
in grave difficulty

Q Upon the *infliction of* injuries such as you saw with the
stab wounds in the head and neck area, what **kind of** immediate'
24 bleeding if any would **one get from those wounds**?

25 A Maybe not much external bleeding. The **only significant**

wound is the one in the jugular; it goes right through the sternocleidomastoid muscle. Itⁱs flexure tissue it will role together and seal up. Most of the bleeding was behind the muscle surface of the spinal column and in back of the larynx.

Any other other observations of the *head injury that* were of significant to you?

A There were some abrasions and bruises on the lips. Throughout the whole body there were small marks which appeared to be hen bites or some sort of insect bites. There were other bites on the neck. It was difficult to describe because the appearance had been altered since there were decompositional *change on* the surface of the skin. They were probably contusions with scraping and they related very nicely to the ligature; they were in the same distribution as the ligature of the neck.

Let me ask you to think about the area of her eyes and whether you saw anything of significance in and of itself, and keeping in mind the ligature which was around her neck?

A There were petechiae hemorrhages of the eyes. They are pinpoint hemorrhages which occur under various conditions, but are one of the strong hall-marks of asphyxiation.

The presence of the those hemorrhages was consistent with strangulation?

A Very much so.

1 Q And manual strangulation?

2 A It could be manual. In this case we don't need to
3 invoke that because the ligature is there.

4 Q Do you see petechiae hemorrhages in people that are
5 hanged?

6 A About 25 percent of the time,

7 Q What is the difference between people who are hanged and
8 in a case such as this as to the presence or absence of that
9 hemorrhage?

10 A It's a difficult question to answer, There is
11 disagreement. The position of the body is suspended in
12 hanging; there is far less struggling since most hangings are
suicides. They just drop. There isn't much struggle
involved. It's difficult to be precisely sure why,

Does the presence of petechiae hemorrhage indicate
anything about a struggle prior to strangulation?

A The asphyxial deaths are not quick deaths, It's not
uncommon to see somebody who has strangled either manually
with a ligature who has incurred some other form of life
20 trauma such as the head beaten in with something or the
21 person being stabbed because, very simply, asphyxial death is
22 not that quick.

23 Q How long does it take to strangle somebody?

24 A There are documented cases where people have moved after
25 four or five minutes and if the hands were let go they

1 started breathing all over again. Its a difficult
2 procedure.

3 Q Could you reach any conclusion, Dr. Roy, with respect to
4 what kind of an instrument would have caused the stab wounds
5 that you saw in the neck area?

6 A Yes. It was impression by the small size of the wounds,
7 and the one that I did measure was relatively short, and it
8 suggested we are dealing with a small knife, like a penknife
9 that somebody might carry.

10 Q Was there any way to determine the angle of entry of
11 wounds this small; that is where somebody, the assailant,
12 would have been in relation to the wounds: behind the body,
13 in front of the body, whether somebody is right or
14 left-handed?

15 A I personally have not found any way to be satisfied that
16 I can tell if the assailant was left or right-handed. I
17 think that is a bit of magic hocus-pocus myself.

18 Q *Tell us, if you would, you referred to it* several
19 moments ago, of hemorrhage to the neck area consistent or
20 underneath where the scarf was wrapped around her neck?

21 A Yes.

22 Q Tell us a little more about that? Where it was located
23 and how did you find it, what did it suggest to you?

24 A Most of the hemorrhage was on the left side of the neck
25 and was deep in the tissues. And it was invisioned when I

1 looked at the skin. When I looked at the larynx you could
2 clearly see the hemorrhage that was there.

3 Q Hemorrhage occurs under what circumstances?

4 A During life. It could be postmortemly with blood. It's
5 usually a significant act of circulation is required for any
6 type of hemorrhage.

7 Q With respect to the stab wounds whether you had an
8 opinion as to whether or not they were inflicted before or
9 after death?

10 A Those occurred while she was alive.

11 Q As to each and every one of them?

12 **A** Yes.

13 Q I had meant to ask you another question about the
14 T-shirt. You mentioned there was blood on the upper part of
15 it?

16 A Yes.

17 Q Do you recall whether there was any on the right
18 shoulders neck/shoulder area?

19 A It was on both sides. It was worse on the left.

20 Q Most of the stab wounds were on the left in the neck
21 area?

22 A Yes, They were all on the left.

23 Q Are you able to account for the presence of any blood on
24 the right shoulder area of the shirt given the fact that the
25 body was laying on its back twisted onto her left side?

1 A It means she was in a different position at one time.

2 Blood does not run uphill, so the blood had to have seeped
3 over to this area where her head body was in a different
4 position or she moved herself.

5 Q at further examination did you make of the body moving
6 down from the neck?

7 A When the chest was examined it also disclosed stab
8 wounds.

9 Q We'll use another chart, State's Exhibit Number 41.
10 We've now put up State's Exhibit Number 41. What is that?

11 A Those are full-size anatomic drawings.

12 Q Could you, again using your marking pen, describe the
13 *number and location* of any injuries that you saw during the
14 autopsy process as you worked down from the neck area?

15 A Here again we have the same situation; we have either
16 *four or five stab wounds*. These are not drawn exactly to
17 scale. You have to realize they are small. To put them in
18 this scale they would be little dots. They are all clustered
19 above the left breast. One was only a pinpoint. So I'm not
20 committing myself. It appears to be a stab wound, but I'm
21 not positive. We have four, possibly five.

22 Q Again, you've indicated those were small and consistent
23 within size with the stab wounds to the neck?

24 A Yes. I was able to measure the depth of one of these
25 three in the chest wall.

1 Q How deep into the body upon *internal* examination were
2 you able to find any of these wounds?

3 A Of the four that I know are stab wounds only two
4 penetrated the chest wall and both of them punctured the
5 surface of the lung. These are not, from my experience,
6 these are not deep stab wounds. The longest one I was able
7 to measure was an inch and an eighth. Everything appears to
8 be consistent with a small blade.

Q Again, with the same kind of instrument that had
inflicted the injuries to the neck?

A Yes.

Q Such as a penknife?

A Yes.

That physical injury or incision through the chest wall
into the lung what damage would that cause?

A It did not cause a great deal of damage. There was some
bleeding. There was a small quantity of blood in the chest
18 cavity; not a great deal. The lung being punctured will lose
19 air; every time you breathe air will seep out. If the air
20 can escape, fine, it's no problem. If it cannot escapee
21 eventually the lung will collapse and push to the other side,
22 1 which could give her serious problems.

23 Q Over some period of time?

24 A That's correct.

25 Q Such wounds as that might or might not be, given the

1 circumstances of passage of time, fatal?

2 A Yes, It might or might not be serious. It might not
3 even be fatal over a long period of time.

4 • Did those wounds, if you could tell, appear to have been
5 *inflicted before or after death?*

6 A The hemorrhaging?

7 Q Yes,

8 A The lungs indicate they were during life.

9 Q You have earlier indicated that upon examination you
10 determined that Sarah Cherry was wearing a brassiere?

11 A Yes.

12 Q *Its location as you found it* upon examination at the
13 *autopsy was what?*

14 A It was pulled up above her breast.

15 • And in relation to the chest wounds just above the left
16 breast the brassiere was where?

17 A Practically covering them.

18 Was there any damage to the brassiere itself?

19 A Well, just looking at it now there appears to be one cut
20 in it, but I can't be certain that was there at the time. I
21 don't recall.

22 Q If I were to suggest to you that was in fact made later
23 by the lab, what, if anything, would that suggest to you with
24 respect to any sequence of events?

25 A The brassiere was pulled up after she was stabbed.

1 Q There was blood on the brassiere?

2 A Yes.

3 Q With respect to the T-shirt. You mentioned blood on it.
4 Do you recall anything about its appearance apart from the
5 blood, the manner in which it lay on the body?

6 A It was hung normally as you would wear a T-shirt.

7 Q Do you recall anything about the neck, the angle or lay
8 of the *neck of* the T-shirt?

9 A No.

10 Q Given the injuries that you saw, the stab wounds that
11 you saw in the neck and in the chest, your conclusion, as I
12 take it, this was a homicide?

13 A Yes.

14 Q You earlier said just the location of the body
15 absolutely confirmed homicide?

16 A Yes.

17 Q *That would of course* indicate an assailant; somebody
18 else had inflicted the injuries?

19 A Yes.

20 Q What would you expect, given the nature of the injuries,
21 the size their depth, their location, the manner in which any
22 blood loss would occur from them, what would you expect to
23 find in the way of any blood transfer from Sarah Cherry to
24 her assailant just from those facts?

>25 A These are relatively small wounds. I wouldn't be

1 surprised at all that there wasn't any blood transferred at
2 all.)

3 Q Did you examine her arms?

4 A Yes,

5 Q Did you make any specific findings, *anything of*
6 significance on any of the arms?

7 A There were some bruises **on the left arm** around the elbow
8 and the right arm around the elbow and the *front, right*
9 around the front,

10 Q **Why don't you** mark that on the exhibit with your pen the
11 location and approximate size?

12 A Those are about an inch a piece, Those are on the front
13 of the right elbow area. There was a bruise on the left arm,
14 the upper arm above the elbow joint that was a little over
15 *two inches long. Probably an* inch and a half.

16 There was another inside this area on the inside of
17 the elbow where its hard to see. There were roughly four on
18 the arms.

19 Q Could you reach any determination as to the manner in
20 which those bruises were inflicted?

21 A Bruises generally come from blunt impact or force, some
22 sort of force **applied**. It could be that she was struck. You
23 can see bruises sometimes with forceful gripping and *pulling*.
24 There are a number of **possible** reasons for them.

25 Q Now, you earlier indicated at the scene **her hands** were

1 put in a plastic bag to preserve any trace evidence?

2 A Paper bags.

3 Q Trace evidence is what?

4 A It could be anything. Paint chips, it could be hair, it
5 could be a spot of blood. Anything.

6 Q Did you make any observations either at the scene or at
the autopsy of her hands in particular?

A There was blood under the *fingernails*. There was a
small amount of blood underneath her *fingernails*. I recall
removing some hairs or fibers from her hands and arms.

By the way, where exactly were her hands when you found
them?

A They were in this area. In front of her chest.

Q Up by her neck?

A Just a little bit below that.

Based on just your observations of blood under her
fingernails, the location of her hands on her neck, the
presence of blood in the chest area and on the neck, could
you reach any conclusion with respect to whose blood was on
her hands *under her fingernails?*

21 A Almost always it's the decedent's own blood under the
22 fingernails. Unless there had been a bloody altercation
23 where both people had been wounded, generally there isn't any
24 transfer of blood.

25 Q What if there were a scratching of another individual?

2 Would you expect to find the assailants blood under the
3 **fingernails** in that circumstances?

4 A No Scratching doesn't raise blood. We've all been
5 scratched and not bled from them. Even when you do find that
6 the blood starts to form in a few seconds later. When you
7 scratch somebody you don't come away with bloody fingernails.

8 Q Do you recall what, if any, fibers, hairs and the like
9 you found on hands, wrists, arm area?

10 A I can say that I removed some material. I don't know
11 what else I can say beyond that. Light color hair, dark.

12 Q Say again for us?

13 A There was a dark colored object, fiber on the right
14 wrist and a similar dark colored fiber on the right forearm.

15 Q That's all you recall?

16 A Yes,

17 Q Were any items taken from the body during autopsy
18 presence?

19 A In this case I did fingernail clippings because there
20 was blood. Any trace fibers or hairs or anything that looks
21 like it doesn't belong there is generally removed. The items
22 of clothing of course are given to the lab. Blood is almost
23 always taken for serological purposes.

24 Q *It was in this case?*

25 A *Yes.*

Q Whole blood?

1 A Yes.

2 Q How about samples of hair?

3 A Yes. They are taken. If there are any foreign bodies,
4 such as a bullet, those are given to the crime lab as well.

5 Q Dr. Roy, if I were to suggest to you that certain fibers
6 that you had found on her hand *and* wrist areas were
7 consistent upon later examination with threads of a scarf,
8 would that be indicative to you?

9 A It indicates she had contact with the scarf.

10 Q Would that be consistent or inconsistent with presence
11 of the blood under her fingernail being her own or somebody
12 else's?

13 A Yes, That would explain that.

14 Q As being consistent?

15 A She could have been trying to pull the ligature away and
16 gotten blood under her fingernails and transferred the fibers
17 at the same time.

18 Q You had earlier indicated certain observations at the
scene were made as you proceeded to further examine the body.
What else did you do? What other observations did you make?

A We are now speaking of the perineum. Sticks were
present as I mentioned one in the vagina and one in the
rectum. They were about probably around an inch, maybe a
little less in diameter. And the stick in the vagina
measuring eight inches long and had been inserted three and

1 quarter inches into the vagina. The stick in the rectum was
2 nine inches long and had been inserted four inches.

3 After I removed them there was evidence that there
4 *were injury to* both the vagina and the rectum.

5 Q Let me hand you these together. I've had them marked as
6 State's Exhibit Number 42 and 43 for identification.

7 A Yes, These are similar to the sticks. I can't be
8 certain those are the sticks. I didn't initial them. They
9 are similar in appearance.

10 Q What I meant to ask you is if you would take them out
11 and show them actually to the jury, please. You've got right
12 now 43; that then being the one that is labeled having been
13 in the rectum?

14 A Yes.

15 Q Just hold it up to them. That you said is about nine
16 inches long?

17 A Yes.

18 Q And it was inserted four inches?

19 A Yes. Half way.

20 Q You are holding a nob out to one side of the stick?

21 A Yes.

22 Q Do you recall whether that was within or outside the
23 anus itself?

24 A I don't recall.

25 Q Next would be 42.

1 A Yes. This is similar.

2 Q Hold that up for the jury's benefit. That I think you
3 said was about eight inches long and had been inserted three
4 and quarter inches?

5 A Yes.

6 Q Was there any substance on either of those sticks upon
7 their removal?

8 A There was feces on the other stick. There was some
9 blood on both of them. There was some creamy material or
10 discharge on this one.

11 Q were you able to account for that?

12 A Well, no. I don't do anything further with that. That
13 was given to, the swab was given to the crime lab for further
14 characteristics.

15 • Did you as part of the autopsy make an internal
16 observation of the vagina and rectum?

17 A Yes.

18 Q What, if anything, did you find first of all in the
19 vagina?

20 A Well, the hymen was torn around and there was fresh
21 bleeding from the torn hymen. There was bruising of the
22 labia on either side above the vaginal opening. There was
23 an area of deep discoloration of the vagina itself not far
24 from the cervix. There was a small tear near the cervix.
25 There was no hemorrhage with this second tear.

1 Q Was there with the other tear?

2 A Yes. It all showed hemorrhaging.

Q What did that suggest to you?

4 A That the injuries that created this were done during
5 life,

6 Q Were the injuries that you saw in the vagina all
7 consistent with the assertion of the stick and it having been
8 left as originally inserted or indicative of anything else?

A That would account for the hymen lesions, but it
wouldn't account for the lesions above the hymen.

Q What would account for those?

A Possible manipulation.

Q So insertion of the stick and movement of the stick once
it had been inside?

A Possibly, yes.

Q *How about internal* examination of the rectum, what did
that reveal?

18 A There were two tears in the rectum: one at the 12 and
19 the other at the one o'clock position. These had some
20 hemorrhages associated with them.

21 Q That again would suggest?

22 A That would suggest an act during life.

23 Q So insertion of both sticks before death?

24 A Yes.

25 Q How much hemorrhaging was there?

1 A There was not a great deal.

2 Q What did the fact that there was hemorrhaging indicate
3 that it was inflicted during life indicate to you?

4 A It suggested that it was the possible final act. She
5 may have *been* dying at this time. There was still evidence
6 of circulation.

7 Q Dr. Roy, the injuries to the vagina and the rectum
8 caused by the sticks as you saw them, were they in any way
9 lethal or contributory to death?

10 A No.

11 Q Did they serve any purpose to kill or cause death?

12 A No.

13 Q *In your opinion what if any significance or whether*
14 *given that fact that you just stated, do you have any opinion*
15 *as to the manner in which these were inflicted?*

16 A Again, it appears to be torture or sadism; something
17 along those lines.

18 Q You've already said you drew blood?

19 **A** Yes.

20 Q Whole blood for later testing purposes?

21 A Yes.

22 Q Are you able to tell us anything about the normal
23 digestion process of a human being?

24 A Generally speaking after food is ingested it will be
25 expected to have moved on from the stomach fairly completely

within two to four hours. There is passage into the intestines from the stomach. This is done with radioisotopes studies, and we see how long it takes to leave the stomach with radioisotopes,

5 Q Did you examine gastric and stomach contents?

6 **A Yes.**

7 Q What did you find - - first of all, what appeared to be
8 there?

A Well, there were several pieces of relatively undigested hot dog.

Q When you say relatively undigested, could you give us any opinion as to prior to infliction of injuries to the onset of death when Sarah Cherry would have last eaten?

A I can only refer to those studies; two to four hours. Thatⁱs the only thing I can conclude.

Q Are there factors which affect the normal digestive process that either slower or hasten it?

18 A I donⁱt *know about hastening it*, There are many factors
19 that can slow down digestion. Strong alcohol. Notably
20 stress will do it. It's not uncommon for people under great
21 stress and find out later that they still have not digested
22 the meal from the six or 12 hours or the day before, Those
23 are the prominent factors.

24 Q Dr. Roy, if you were to know that Sarah Cherry was last
25 spoken to at **noon on** the 6th of July and that there were

1 remanents of hot dogs at the house where she was
2 baby-sitting, those were found at the homeowner's return at
3 around 3:30, would you be able to reach any conclusion as to
4 time of death in this case? Does it suggest to you that the
5 hot dogs appeared to be eaten for lunch?

6 A Yes, This is consistent with her *last known meal. And*
7 that death occurred within a few hours of eating her last
8 meal.

9 Q Finally, I take it as part of the autopsy process you
10 examined all of the internal organs?

11 A Yes.

12 Q Heart, brain, liver and so forth?

A Yes,

Q Did you, with respect to any of the other any internal
organs, find anything of significance?

A *No.*

Everything appeared to be perfectly normal?

A Yes,

Q Do you have your marking pen with you?

20 **A** **Yes.**

21 Did you measure Sarah Cherry's height?

22 A Yes. She was five feet tall.

23 Q And would are you able to take her weight?

24 A Yes. Her scale weight was 93 pounds.

25 Q Would you put that on a place that appears available for

1 writing on State's Exhibit Number 41. You've already
2 indicated that you reached the conclusion the manner of death
3 in this case was homicide?

4 A Yes,

5 Q Finally, all things taken into account from what you
6 said, did you reach a conclusion as to the cause of death in
7 *this case*?

8 A I will refer to the specific report: asphyxiation due to
9 strangulation and multiple stab wounds of the neck and chest.

10 Q So she was stabbed and strangled to death?

11 A Yes.

12 MR. WRIGHT: Thank you.

13 THE COURT: Mr. Connolly

14

15 (Whereupon a sidebar conference was held)

16

17 MR. CONNOLLY: I think this would be an appropriate
18 time to take an afternoon recess.

19 THE COURT: How long do you anticipate your cross
20 to take?

21 MR. CONNOLLY: It wouldn't be that long. I would
22 anticipate 30, 40 minutes.

23

24 (Thereupon the sidebar ended)

25

1 THE COURT: Mr. Foreman and Ladies and Gentlemen of
2 the Jury, before we proceed with cross examination we'll take
3 a ten minute recess. We'll take another brief recess in 30
4 minutes after the conclusion of Dr. Roy's testimony. Again,
5 don't discuss the case.

6

(The jury was in recess at 2:46 and
returned to the courtroom at 3:03)

THE COURT: Mr. Connolly.

CROSS EXAMINATION

BY MR. CONNOLLY:

Q Good afternoon, Dr. Roy. You and I have had an
opportunity to discuss some of these issues previously; is
that correct?

18 A Yes,

19 Since that time you've had an opportunity to think over
20 your position a little bit to some extent?

21 A Yes.

22 It's a learning process for you to some extent?

23 A Yes,

24 Dr. Roy, first, let's talk about location of where the
25 homicide took place. You can't say where it took place, can

1 you?

2 A I can't say with absolute certainty, no.

3 () Your indication that it most likely took place at the
4 wooded scene is due to the blood loss behind the head?

5 A Yes.

6 Q That would also be consistent, would it not, with
7 generalized *bleeding due to gravitational factors* from the
8 wound?

A No. There isn't going to be much gravitational bleeding
from the wounds.

Q It most likely was at that location?

A Yes,

Q Can you state, sir, *that the wounds* themselves were
inflicted at that site where the body was recovered or
nearby?

A I'm going to presume that they were inflicted there
because the bleeding was there.

Q You cannot say that the wounds were not inflicted ten
19 feet to one side or to the other and the body moved to the
20 location where it was found?

21 A Yes. That is true.

22 Q In fact, there is an *indication of movement* due to the
23 staining of the shirt *in the back*, is that correct, due to
24 the fact that there is blood *staining on the back* of the
25 *T-shirt*?

1 A Yes

2 Q Which indicates movement?

3 A Yes,

4 Q The debris that was found on the decedent was of
5 consequence in its depth and dimensions?

6 A What do you mean?

Q The covering of the body?

A Yes.

• That was significant in the amount of material that was
placed on top of her?

A It was a significant enough to hide her, yes.

Q It was a large mass of dirt and plant material and
sticks and debris?

14 **A Yes,**

15 Q And it was moist?

16 A Underneath, yes, it was,

17 Q You cannot state or can you the location of the person
18 who committed these injuries; whether the person was in the
19 front or from behind, can you?

20 A Which injuries?

21 Q The stab wounds.

22 A No, I can't.

23 Q It is most probable that the asphyxia was done by the
24 ligature; isn't that correct?

25 A Yes.

1 Q That would most probably have been done from the front?

2 A Probably.

3 Q Due to the bruising around the neck?

4 A That, again, I can't be certain what position she was in
5 when that was tied.

6 Q If that is the case that subjects the body was moved,
7 does it not?

8 A No.

9 Q Why not?

10 A When you say that suggests movement, the fact that there
11 is blood on her right shoulder means that blood got there in
12 such a way that she was positioned forward to get there
13 whether she was lying front on her back and her left shoulder
14 was higher than her right. She could have died in that
15 position and moved subsequent. It means at one point blood
16 was able to get to her right shoulder. Somebody may have
17 moved her.

18 Q It indicates some movement of the body?

19 A *Right at that location,*

20 Q Yes, sir. But it indicates that the body had been moved
21 from the transference from the right shoulder to the opposite
22 shoulder?

23 A Yes. As I've explained.

24 Q In reference to the time of death, Dr. Roy, it would be
25 fair to say that it was reasonably elastic in the sense you

1 cannot be precise as to the time of death?

2 A That's correct.

3 Q The variable would be at a minimum a six hour period,
4 perhaps even longer?

5 A I wouldn't accept six hours, no. Not at all.

6 Q You indicated with reference to the digestive process
7 the fact that stress is induced. I recall in your testimony
8 that you stated that it could be anywhere from six hours to
9 24 hours?

10 A That is related to digestion. I'm including in my
11 estimate rigortorus, and that isn't a six hour rigormortis.

12 Q It most likely occurred within the first few hours after
13 her disappearance?

14 A The assault?

15 Q Yes.

16 A Yes, I would think so.

17 Q Again, what kind of time frame do we have as to the time
18 of death in reference to the disappearance? Is there any way
for you to state?

A The parameters of rigormortis suggests probably a
minimum of 30 to 36 hours and it could well be longer. The
presence of food in the stomach indicates it happened most
likely a short time after she ate, so I know she is missing
two days. All of these findings are compatible with the fact
when I saw she her she had been dead two days.

1 Would you be able to state she was dead as of three
2 o'clock or four o'clock or five o'clock on July 6th?

3 A No.

4 Q it is fair to say that the time of death is July 6th
5 and nothing more; is that a fair statement?

6 A That's a fair statement.

7 Q So it could be as late as ten or eleven o'clock on July
8 (6th), it's possible?

9 A Yes.

10 Q It's possible it could be as late as midnight?

11 A I don't see why not.

12 Q In reference to the hands, doctor I want to discuss
13 some things with reference to that. I'm handing you a series
14 of photographs that have been marked as Defendant's Exhibit
15 Number 9, 10 and 11 for identification purposes and ask if
16 you could identify those, and we'll go from there.

17 A Yes, These are photographs of her hands.

18 Q Are those a fair and accurate depiction of the way that
19 you found her hands bound at the scene and subsequently?

20 A Yes, they are.

21 MR. CONNOLLY: Your Honor, I would offer into
22 evidence Defendant's Exhibit Number 9, 10, and 11.

23 MR. WRIGHT: No objection.

24 THE COURT: They are admitted without objection.

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1 BY MR. CONNOLLY:

2 Q For the jury's benefit, Dr. Roy, the hands are in this
3 position?

4 A Yes.

5 Q I would have *to look at those again*.

6 Q Please do.

7 A Well, it's clear, as clear as one can be, it's something
8 like this.

9 Q It's fair to say that one hand is covering some of the
10 fingers of the other *hand; is that a fair* statement?

11 A I can't be certain from these photographs.

12 Q Based upon your memory can you make a statement as to
13 that?

14 A No.

15 Q It is fair to say that the fingers are pointed in
16 opposite directions?

17 A No. They seem to be roughly parallel, not crossed like
18 this.

19 Q They are more *in that type* of position, which is almost
20 folded together?

21 **A** Yes.

22 Q In reference to the hands themselves, doctor, there are
23 notations that you make reference to bruises, scrapes or
24 *abrasions; isn't* that correct?

25 A That's correct.

1 j Q And in reference to the hands, the wrist portion, there
2 is no indication of bruising caused by the rope; isn't that
3 correct?

4 A That's correct.

5 Q It is fair to say, doctor, is that you cannot comment
6 upon consciousness at the time of the infliction of the
7 injuries?

8 A I see nothing to have rendered *her unconscious*. I have
9 no reason to assume that she was unconscious.

10 Q Would the bruises to the facial area be consistent or
11 inconsistent with consciousness or make no determination?

12 A I think that is meaningless with regards *to determining*
13 consciousness.

14 Q What would be an indication of consciousness?

15 A Internal head injury.

16 Q You found none?

17 A No.

18 Q Turning your attention to the shirt, the T-shirt. The
19 wounds that are on her body imply that the T-shirt was lifted
20 at the time of the stab wounds?

21 **A Yes.**

22 Q However, the placement of the brassiere as found would
23 indicate that that was moved after the administration of the
24 **stab wounds?**

25 **A Yes.**

1 Q You found no underwear on her on her bottom part?

2 A No, I didn't,

3 Q You found no earrings on her?

4 A No.

5 Q You did find a small bracelet on her left-hand wrist?

6 A Yes.

7 Q The T-shirt collar itself indicated stretch marks
8 consistent with a turning or it being used with the ligature
9 or don't you recall?

10 A I don't recall anything *about that*.

11 Q *The shirt itself was blood sustained on the left and*
12 *right hand parts?*

13 **A** Yes.

14 Q Both the front and some on the back?

15 A Yes.

16 Q It is fair to say that that bleeding occurred prior to
17 death?

18 A Yes,

19 Q The brassiere itself had blood stains?

20 A Yes.

21 Q The scarf had blood?

22 A I believe so. When I looked at it a short while ago it
23 appeared to have blood.

24 Q The bandana found in the mouth had a safety pin in it?

25 A Yes.

1 And had a small tear in it; is that correct?

2 A I'm not certain. I know when I examined it there was a
3 tear, and the technician said she had made that removing that
4 sample of the cloth. I don't know of any other tears.

5 Q When the body was placed in the bag there was a
6 significant amount of seepage into the bag itself during
7 transport?

8 A I don't know.

9 Q When you received the body at Kennebec Valley was there
10 blood loss at that time?

11 A I don't recall.

12 Q The stab wounds, these stab wounds were approximately a
13 total of 12?

14 A 11 to 13.

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15 (2- All of which are consistent with=er very small knife?

16 A That's correct.

17 Q The maximum dimension of the knife would be an inch and
18 one eighth due to the fact that it was the deepest depth?

19 A That is the wound that I could measure. I'm not certain
20 that some of the wounds in the neck aren't longer. The one I
21 was able to measure readily was an inch, approximately an
22 inch.

23 Q If a small knife were to have contact such as that it
24 would certainly - there would certainly be blood on the
25 knife?

1 A I would expect so, yes.

2 Q *You cannot make any inference or determination as to*
3 *left-handedness or right-handedness?*

4 A No.

5 Q If such a small knife were to be used you would likely
6 *have contact* between the perpetrator's hand and the recently
7 open wound if the knife was placed into the maximum depth?

8 A It depends on how it's held.

9 Q It is likely that would occur?

10 A I don't know if it's likely. It's entirely possible.

11 Q Doctor, you indicated that you find indications of
12 hemorrhage in the eye area *indicating asphyxia?*

13 A Yes.

14 Q That would have occurred after the *administration of* the
15 *stab wounds?*

16 A Yes, I believe so.

17 Q That is due to the fact of the blood not being in a
18 position to seep or flow following death by asphyxiation; is
19 that correct?

20 A No. I think the only reason - I think the
21 asphyxiational process occurred after the stabbings. The
22 relationship of the ligature to the stab wounds, I believe it
23 was put on after the stab wounds and after the cuts had been
24 there.

25 Q It's your feeling that the ligature was placed on after

1 the stabbing?

2 A Yes.

3 Q Doctor, you testified that you would not be surprised if
4 there was no transference of blood?

5 A Yes.

6 Q You also testified, did you not, that the blood on the
7 descendent's hands under her fingernail was consistent with
8 her own?

9 A That's correct.

10 Q How is it possible, doctor, for herself to get blood on
11 her hands by touching the wound and *the* person who was
12 administering strangulation to come up with the same type of
13 transference?

14 A *First, it's a ligature strangulation.* There was no
15 indication that *hands were placed on the neck as such.* A
16 stabbing can occur in a very brief period of *time in a matter*
17 of seconds just plunging a knife it, at which time there has
18 not been enough time for blood to reach the surface. You
19 could very rapidly wrap a ligature on the right side and on
20 the right side and not have any **blood on - -**

21 Q If the descendent was alive at the time she placed her
22 **hands on the** wound thus causing the transference of blood to
23 **herself**, during the period of time it would take to **ligature**
24 **strangle her** the blood would be seeping, would it not?

25 ! A That's correct.

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1 Doctor, it is true if the body was moved from the
2 position it was originally and during the administration of
3 *the stab wounds* a transference of blood is likely?

4 A I don't agree.

5 Q Isn't there a transfer of blood from the left to the
6 right on the - -

7 A There is no transference.

8 Q There is seepage?

9 A An indirect flow. There is blood on the right side.

10 Q That occurred most probably during life?

11 A Yes,

12 Q If that is a case, if there is movement of blood, is
13 that a fair statement?

14 A Yes.

15 Q If there is movement of blood from the left to the right
16 side based upon movement and staining of the T-shirt, there
17 is most likely going to be blood available for transference;
18 isn't that true?

19 A No, I could explain it without that theory at all.

20 Q We are talking about what is most probable?

21 A Yes.

22 Q **How** would that be?

23 A Well, she is laying on her back. She has blood on both
24 sides. We know that her legs and thighs are turned to the
25 *left and that it is a logical position to put* her legs and

1 thighs to insert those sticks. There are no hands up near
2 the chest or neck at all. In doing that the body turns so we
3 know that the body has been turned somewhat.

Q How did she get the blood on the right-hand side?

5 A If she was laying entirely on her back she may have
6 , turned during life itself and had moved.

7 Q If the T-shirt is pulled up during the administration of
8 the wounds and there is a flow from the left to the right--

9 A I don't know if it's coming from the chest or the neck;
10 there is no way of knowing which.

11 Q There is still a movement of blood from the left to the
12 right when the T-shirt is up; is that correct?

13 A Blood got to the right shoulder. That's all I can tell
14 you.

15 Q During that process the T-shirt was most probably up?

16 A Yes, The bottom of the T-shirt is not bloodied; just
17 the top.

18 Q I understand that, You indicate it's possible that
19 there was a frenzied action with the stabbing motion?

20 A Possibly.

21 Q During that procedure it's likely that there would be
22 blood on the knife being removed and there could very well be
23 a splattering effect?

24 A It's a very small knife; it may not carry practically no
25 blood with it. I can relate to other cases where there has

1 been substantial blood deposit around the scene and none on
2 the decedent because in the process the blood gets thrown off
3 the end of the weapon; it flies away.

4 Q *If that were true* and there are 11 to 13 wounds it's
5 highly unlikely that that motion could result in blood being
6 placed upon the person doing the stabbing?

7 A I wouldn't agree with that at all. In fact my *opinion*
8 is that these *wounds left* realitively little blood on the
9 assailant.

10 Q I'm going as to the basis for your opinion. The basis
11 of your opinion is that since it was such a small knife -

12 A The nature of the wounds, the nature of what happens
13 with blood when a weapon is pulled away and flicked away: it
14 flies away from the victim:)

15 Q Isn't it inconsistent for her to have a transfer o
16 blood from left to right side if there isn't?

17 A No® Because there will be bleeding after the fact.
18 Eventually the neck wound will.

19 Q When you found her position finally it was such that the
20 transference from the left to the right would not have taken
21 place?

22 A That's correct. If her shoulder was lifted just enough
23 it was against gravity.

24 Q If that was the case the flow from right left to right
25 | occurred prior when she was alive and prior to strangulation?

1 A I don't know about that. It occurred when she was in a
2 different position.

3 Q Doctor, you testified on direct that the bruises on her
4 arm as outlined in State's Exhibit Number 41, those bruises
5 on her arms would be *consistent* with a person holding her by
6 the arms; is that correct?

7 A It's possible, yes.

8 Q Which would most likely given their position be from
9 behind, sir, since there are two and two or two and one?

10 A No. It could be from the side.

11 Q Is it possible to hold a person from the side such as
12 that; is that what you are saying?

13 A Yes. Grab somebody by *the arm and pull them*.

14 Q Doctor, if we find blood under her fingernails we would
15 anticipate that the hands themselves would have a significant
16 quantity of blood on them if it was due to seepage; isn't
17 that true?

18 A Due to seepage?

19 Q Due to contact with the wounds or due to some blood
20 being gravitationly placed upon the hands?

21 A Not necessarily. There is no way of knowing if there
22 would be a great deal of blood or a little.

Q If there was blood under the nails you would expect the
24 top of the nails to have blood, would you not, if it was
25 caused by that by contact with the wound?

1 A Possibly, except there is no crease to hold it and it
2 can be wiped and disappear with the moisture.

3 Q You would expect

4 A The reason *that the* blood is so visible under the
5 fingernails is because it's transported in the crease between
6 the *nail and* the skin.

7 • You can't wipe it off when your hands are tied?

8 1 A No.

9 Doctor, when you examined the body you make *notations*
10 as to the feet; isn't that correct?

11 A Not always.

12 Q In this case?

13 A I didn't.

14 Q Had there been anything of consequence on the feet you
15 would have noted it?

16 A *Possibly, I don't know. I* may have been so taken with
17 the case I didn't notice the feet. It's a moot case, I
18 would have expected I would have, but I'm not certain I did,

19 Q It's fair to say you did not know that there was
20 anything unusual about the feet?

21 A That's correct.

22 Q You did not note any scratches on the feet or any
23 debris?

24 i A No, I didn't make any mention of that.

25 Q That would be a a significant factor to look at during

1 the course of medical examination?

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2 A It all depends. It depends upon the circumstances of
3 the case.

4 Q When you do a medical examination you are not always
5 aware of all of the circumstances in the case, are you?

6 **A No.**

7 Q One of the reasons why you were careful about making
8 notations is so that later on you can look at them to refresh
9 your recollection?

10 A Yes. I don't often look at the bottoms of the feet,
You did make a notation that she was barefoot however?

12 A Yes.

Q That implies that you looked at the feet, doesn't it?

-°-tA^m A Yes, it does.

15 MR. CONNOLLY: I have no further *questions*.

16 THE COURT: Mr. Wright.

17

18 RE-DIRECT EXAMINATION

19

20 BY MR. WRIGHT:

21 Q How likely is it that Sarah was still alive till 11 on
22 the July 6th if she was last heard of at noon and given the
23 information you know about the remnants of lunch or what you
24 found in the digestion of hot dog?

25 A I couldn't rule it out.

1 Q What is the likelihood?

2 i A I don't know.

3 Q You don't?

4 A No.

5 Q Is it also possible that rather than the T-shirt being
6 lifted up to do the stab wounds, that the T-shirt was pulled
7 down?

8 A I suppose that could be also.

9 Q If that were the case one might find distention or
10 distortion of the be fabric?

11 A Yes. Of the garment?

12 A Yes.

13 Q The presence or absence of blood on one's hands or on an
14 instrument, such as in this case a small knife, might also
15 depend upon circumstances to which there is no information
16 such as the individual or the assailant washing himself or
17 the instrument?

18 A Yes.

19 Q So even if one were to have inflicted these injuries and
20 *gotten some blood on his* hands it could disappeared in a
21 short period of time if they washed them?

22 A Yes.

23 Q Particularly if there was a source of water nearby?

24 A Yes.

25 Q Why was it you indicated that the ligature was put on

1 after the stab wounds?

A The relation of the stab wounds are not evident when the ligature is in place; its only after you remove it. Some of them are covered.

Q If the scarf ligature around the neck had been placed on the neck before the stab wounds one would expect to find stab wounds, stab holes in the material itself?

8 A Yes.

9 Q Do you recall seeing any such holes in the scarf?

10 A No.

Q You had begun to explain a situation where you were familiar in which one would have expected to find considerable blood splattered on one *occasion, but it wasn't* there?

A Yes,

Q Could you tell us about that and how far it might relate to the presence or absence of blood on any individual in this case?

A This was a case several years ago where the man was
20 laying on his stomach with the *assailant standing over him at*
21 waist level chopping his head with an action. There was a
22 **tremendous amount of blood** splatter on the ceiling and halls
23 **and even to the side, but the** assailant got none **on him**
24 **because in each** process the blood was thrown to **the** walls and
25 **ceiling.** In fact each blow could be counted because the

1 evidence *technician told me how many* chop wounds there were
2 before inquiring in my autopsy results,

3 Q It was consistent *with what you found?*

4 A Yes, *There was no blood, practically no* blood on the
5 deceased himself from his shoulders on back. This is not
6 uncommon. People expect to transfer lots of blood. You
7 transfer blood when you are, if you hit somebody with a bat
8 and you create a pool of blood. And if you start hitting at
9 that pool of blood I would be surprised if there would be no
10 transfer, You are splattering blood all over the place. But
these are small relatively shallow stab wounds until we get
to the jugular. That is deep inside the neck protected by
muscle skin and fat. It eventually, once it fills you will
have spraying? The back will go forward and like out the
front but it wouldn't happen for some time.

Q All of which says given the relative sizes and location
of the wounds that it would be in your opinion how *probable*
the assailant would have any blood on him?

19 A I don't like to give probabilities. I would say I would
20 not be surprised if there was no blood on the assailant.

21 • Did you find any flesh or skin adhering to the fingers?

22 A I didn't see any.

23 • The absence of such would be suggestive of what, if
24 anything?

25 A Well, the presence of it would indicate scratching. You

are going to take skin before you take blood.

Q So conversely the absence of it indicates the digging into ones self or somebody else?

4 A Yes. I would agree with that.

5 Q The presence however, as I understand what you are
6 saying with the blood under the fingernails could be consist
7 with struggling with the ligature, reaching under it after it had been applied still during life?

A Yes.

Whereas on the other side or the outer side of the fingernails one would not see blood because its smoother?

A You have may expect to see blood. You may or may not.

Q Its however not surprising that one does not find any on the outside on the exterior of the fingernails?

A I'm not surprised by that, no,

MR. WRIGHT: Thank you.

MR, CONNOLLY: Nothing further.

18 THE COURT: Thank you, doctor. You may step down.

19

20 (Whereupon a sidebar conference was held)

21

22 MR. WRIGHT: Rather than call Detective Hendsbee
23 just for a limited purpose, what I plan to do is go through
24 the lab stuff. Before we get to Judy Brinkman we need to get
25 that out of the way. Tom indicates he would be willing to

1 stipulate that Detective Hendsbee with Doctor Edward Kitfield
2 from Wiscasset went to the Lincoln *County Jail and Doctor*
3 *Kitfield withdrew* blood from Dennis Dechaine which was turned
4 over to Detegtive_Eeadqbee and he turned it over to the lab.
5 So if we could announce that and if I could have a few
6 minutes to get organized for the rest of the afternoon with a
7 few of the lab people.

THE COURT: Are you going to stipulate that if Detective Hendsbee were to take the stand he would testify that he and Doctor Edward Kitfield went to the Lincoln County Jail and withdrew a blood sample from Mr. Dechaine and that Detective Hendsbee turned that over to Dr. Judy Brinkman or what.

MR. WRIGHT: *She isn't a doctor.*

THE COURT: It was turned over to Judy Brinkman.

MR. WRIGHT: On July 11th, ^{||}low \A-

(Whereupon the sidebar ended)

19

20 THE COURT: Mr. Foreman and Ladies and Gentlemen of
21 the Jury, we'll take a brief recess. Before I do, there is
22 another stipulation that counsel have entered into. Counsel
23 will stipulate that if Detective Hendsbee were to take the
24 stand and testify he would state that *on July 11, 1988 he*
25 accompanied Dr. Edward Kitfield to the Lincoln County Jail at

1 which time Dr. Kitfield withdrew a blood sample from Dennis
2 Dechaine's arm, and that after that blood sample was
3 withdrawn by Dr. Kitfield from Dennis Dechaine that Detective
4 Hendsbee transported that blood sample to Judith Brinkman at
5 the State Police crime lab in Augusta. This was on July 11,
6 1988. You may accept that as a stipulation of fact by
7 counsel in this matter.

8 We'll take another brief recess before we call
9 our next witness. Please don't discuss the case. Thank you.

10

11 (A recess was had at 3:43 and the jury returned at 3:59)

12

THE COURT: There has been another stipulation
between counsel. That is David Haggett, Sheriff Haggett, if
called to the stand, would testify that on July 8th, 1988,
that he did a fingerprint Dennis Dechaine, that he did
fingerprint Dennis Dechaine.

Mr. Wright, you may call your next witness.

24

25

1 RONALD RICHARDS, being being first duly sworn, was examined
2 and testified as follows:

3

4

DIRECT EXAMINATION

5

6 BY MR. WRIGHT:

7 Q Would you state your name for the jury once again,
8 please?

9 A Ronald Richards.

10 MR. WRIGHT: Before beginning direct examination of
11 Detective Richards I have an offer in agreement with Mr.
12 Connolly what I have labeled as State's Exhibit Number 44;
13 that is the fingerprint card of Dennis Dechaine taken by
14 Sheriff Haggett on the 8th of July as just announced.

MR. CONNOLLY: That's a correct statement. No
objection.

THE COURT: State's Exhibit 44 is admitted without
objection.

BY MR. WRIGHT:

Q Would you give the jury your name?

A Ronald Richards.

Q Your occupation?

A I'm a latent fingerprint examiner with the State Police
25 crime lab.

Q How long have you been with the State Police?

A 20 years.

Q How long have you worked as a latent fingerprint examiner?

5 A A little over nine years.

6 Q *Getting back* to the fingerprints, Let me ask you, in addition to doing fingerprint work from time to time do you assist in the handling of evidence received at the crime lab?

A Yes, I do.

Q Let me invite your attention to the 8th of July of last year and ask if you had occasion to assist in the search of a vehicle at the State Police crime lab in Augusta?

A Yes.

Q What vehicle was that?

A That was a red Toyota pickup truck, 1981.

Q Did it have a license tab?

A Maine registration 39676-V, victor.

Q Did you assist in the search with anybody else?

A Yes. Forensic chemist Judy Brinkman assisted me.

Q This is State's Exhibit Number four and five, Do you recognize those?

A Yes. That's the pickup truck.

Q That's the truck we are talking about?

24 A Yes,

25 Q Describe for us, if you would, Detective Richards, the

1 general condition of the truck as you looked into it and
2 started to go through it?

3 A It had quite a bit of items on the floor of the vehicle
4 as well as in and around the seat and underneath the seat in
5 the back of the vehicle. The truck itself on the inside
6 appeared to be quite dirty.

7 Q What kinds of items were scattered about?

8 A A whole list of items. Papers, paper books, small items
9 like matchbooks, good humor cones, beer cans, Certs candy,
10 one receipt from Brunswick Hardware. I can go on and on with
11 the various items.

12 Q Just a whole variety of pieces of paper and other small
13 objects?

14 A Yes.

15 Q Did you retrieve certain items from the truck yourself
16 and later turn them over to anybody else for further
17 examination?

18 A Yes.

19 Q Let me show you what I've marked for identification as
20 State's Exhibit Number 45. Do you recognize that, sir?

21 A Yes. State's Exhibit Number 45 I picked up on the 8th
22 out of the vehicle and placed it in my bag. And it has my
23 identifying mark on it. It's a brown leather wallet.

24 Q Did you do anything with that?

25 A No.

1 Q You turned it over to somebody?

2 A Yes.

3 Q To whom?

4 A Detective John Otis,

5 Q For what purpose?

6 A For latent fingerprint examination.

7 Q Why didn't you do that work yourself?

8 A Because he was the primary examiner on this case,

9 Q Next I've marked for identification as State's Exhibit
10 Number 46.

11 A Yes. State's Exhibit Number 46 is a brown ice cream
12 wrapper which I picked up on the 8th and put in my bag and
13 put my identifying mark on it.

14 • That, by the way, was found where?

15 A That was beneath the front seat.

16 • As was the bag that says under driver's seat?

17 **A Yes.**

18 • Next, State's Exhibit Number 47 for identification?

19 A State's Exhibit Number 47 contains a Maine Sportsman's
20 magazine which I picked up on the 8th on the front floor. It
21 has my identification mark on it.

22 Q Did *you do anything with* the ice cream wrapper, 46, and
23 the Maine Sportsman's magazine, number 47?

24 A I didn't do *anything*.

25 4 Turned them over to Detective Otis?

1 A Yes.

2 Q Now, detective, you had indicated earlier that your
3 position at the lab was as a fingerprint examiner?

4 A Yes.

5 Q Can you first of all tell us how much of your work is
6 devoted to examination of fingerprint evidence?

7 A Approximately 80 percent of our time.

8 Q *On how many occasions* have you lifted or been able to
9 examine latent fingerprints; hundreds, thousands?

10 A Yes.

11 Q Would you tell us what training you've had in the area
12 of latent fingerprint *examination*?

13 A I'm a graduate of the Canadian Police College of
14 Identification and in 1980 in the city of Ottawa I took a
15 nine-week course in fingerprint identification and also
16 photography relating to fingerprints *. I'm also a graduate of
17 the advance identification course at the Canadian Police
18 College. I attended the FBI crime scene school in Quntico,
19 Virginia which relates to a lot of fingerprint identification
20 at crime scenes. I'm a member of the International
21 Association for Identification and also a member of the
22 Canadian Identification Society and I'm also a certified
23 latent fingerprint examiner with the Association for
24 *Identification*.

25 Q You have been at this for how long?

A A little over nine years.

Q Can you tell *the jury what a* latent fingerprint is?

A The word latent means hidden from view. Today's usage refers to a fingerprint found at a crime scene or on an object at a crime scene; you can't see it. There are latents you can see however, such as a fingerprint that would be on a window glass. Sometimes you can see it with the naked eye with sidelight. You are able to see the print and you don't have to develop it.

Q What text are available to you to try to make a latent fingerprint?

A Depending upon the surface that you are dealing with, if it's a porous surface, meaning it will absorb moisture, if it's a porous surface we generally use chemicals. And we have three basic chemicals that we use iodine fuming and silver nitrate. If it's not a non-porous surface such as a hard smooth surface, like a desk top, a window glass, something of this nature, then we would probably use a super-glue treatment; the type of super-glue that you would normally pick up in hardware store in a small tube. We use it to examine different items for fingerprint.

19
20
21
22 The gas take that comes out of the glue will, if
23 it's, if the object is in an airtight container will fill
24 that entire container with the gas and you can actually see
25 it's a white gas. Over a period of time if you leave it set

1 if there are any prints on an object then the gases will
2 adhere to the object and form a white latent print. Then
3 what we do once we look and observe the item with the white
4 *latent prints we will* dose them with either black or white
5 powder, depending upon the surface color, and develop the
6 *print and actually lift it* off from the surface and place it
7 on a back.

8 I Q It's lifted how?

9 A Using a lifting tape, clear plastic tape and place it on
10 a white sheet if you are using black powder,

11 Q What characteristics are there that fingerprints can
12 make them useful for identification?

13 A There are basically four types of characteristics. If
14 you look at your ridges on your hands, and everybody has
15 them, on their fingers and palms of your hands and soles of
16 your feet, If you look at those ridges you would think they
17 would all be continuance; many of them are not. Some of them
18 will enter from the side of your finger and run for a certain
19 distance then stop abruptly. This is what we call an ending
20 ridge. That's a characteristic.

21 Then others will run for a certain distance and separate
22 and almost look like a fork which we call a bifurcation.

23 That's another characteristic. Then a ridge will start *and*
24 end abruptly. It looks just like an island. That's what we
25 call it. It's a characteristic called *an* island. And the

1 fourth characteristic would be where a ridge will separate and
2 run parallel to each other or bifurcate and form one ridge
3 again and it looks like an enclosure or a lake. Those are
4 the four basic characteristics an examiner looks for when
5 he's doing a comparison.

6 What usefulness do those have; we've all got islands and
7 ridges and bifurcations and so on. How do you go about or
8 using those characteristics to make an identification?

9 A What we do is we use five-power *magnifying glasses and*
10 look at the latent impression. Say I have a latent
11 impression in front of me on a piece of plastic that I lifted
12 off of an object. I put a glass on that latent impression
13 and if I have sufficient amount of characteristics that I
just talked about, sufficient amount to that I feel I can
identify the print, then I go from that print to ink
impressions on a fingerprint card that have been submitted to
me or I have obtained from State Bureau of Identification,
whatever the case. I find a starting point. A
characteristic might be a ridge ending or an enclosure. Then
I go from one print to another. If I find a print in the
location on the latent impression then I go to the ink
impression. And say I find that same characteristic on an
ink impression, then I go back to the latent impression and
find another one that may be one or two ridges from either
side of this one. If I find another characteristic then I go

1 to the ink impression again. And it has to be located in the
2 same location. I **do** *this* continuously as long as there are
3 no inconsistencies; in other words there are no
4 characteristics that aren't the same. Once I count ridges
5 back and forth characteristics and when I myself feel that
6 there are, these characteristic are in an identical sequence,
7 these two prints are the same.

8 Were there any specific numbers of characteristics that
9 you must find in your work to to be able to reach a
10 conclusion that two fringer prints match each other?

11 A There are no set numbers of characteristic needed. It
12 depends upon the uniqueness of the *print you are looking at*.

13 Have you ever *known* two people to have the same
14 fingerprints?

15 A No,

16 Does a person's finger present change over time?

17 A The size of the print will change. Of course the ridges
18 begin about the forth month of fetal life and they'll
19 continue to grow while the child grows and becomes an adult.
20 The size of the impression will grow but the characteristics
21 wouldn't change; unless you have an accident where you have a
22 deep cut on your finger. This may cause a permanent scar.
23 That would be the only change.

24 With that kind of background, in addition to the items
25 that you took out of the truck, some of which you've

1 identified here today, I understand there were a whole host
2 of other things. Did you attempt to find any latent
3 fingerprint evidence in or on the truck itself?

4 A Yes.

5 Q How did you go about it? Did you find any that were
6 comparable of useful value and if so where?

7 A Yes.

8 Q Tell us about it.

9 A Prior to dusting, in other words, applying fingerprint
10 powder to the inside of the vehicle, I placed what we call
11 hard evidence strips. Its cyanoacrylate, peeled a part
strips in the vehicle for overnight fuming. The strips once
you place them in the vehicle and you shut the doors of
course you have somewhat of an airtight chamber inside the
vehicle. The strips will fume throughout the evening and
night and if there are any impressions of course you hope to
develop finger impressions in the truck.

And you can go in the morning and open up the truck and
air it out keeping in mind the gas is very toxic. You have
to be careful how you handle it. In examining the interior
of the vehicle you are looking, of course, for traces
transferred of this cyanoacrylate on to a finger latent print
that might be in the vehicle.

24 Q Did you find any prints of comparable value?

25 A Yes.

1 Q Any prints that had sufficient ridge characteristic that
2 you might be able to make an identification?

3 A Yes.

4 Q Where?

5 A I found four latent impressions once I started dusting
6 for prints inside and outside. I found four latent
7 impressions: one was from the inside passenger door window,
one was from the outside passenger door window, one was from
the front hood area and another one from the front hood. So
two from the front hood and the others were from the windows,
passenger door windows.

Q Were any *fingerprints* submitted to you for comparison
purposes?

A I obtained a fingerprint card from Detective John Otis,

Q Let me show you what I've marked as State's Exhibit
Number 44.

A Yes, This is the fingerprint card that I obtained from
John Otis to compare with the latent impressions that I
developed.

20 Q That's the fingerprint card as listed as Dennis
21 Dechaine?

22 A Yes.

23 Q Have you initialed the card to show that it was the card
24 that you used?

25 A Yes, I did.

Q *Your initials are way up at the corner?*

A Yes.

Q Did you then make a comparison of those fingerprints *that you had found with* those that you described with the fingerprint card?

6 A Yes, I did.

7 Q What if any conclusion were you able to reach about that comparison?

A I marked all the latents R-1 through R-4, four latent impressions that were lifted and placed on backers. They were actually marked R-1. Backer number R-4 did not contain sufficient amount of characteristics to be identified.

Q That was the print located where?

A On the hood. Latent R-1 was identified to be to the left middle impression on the fingerprinted card. R-2 was latent to the left thumb impression. R-3 was an impression *of the right palm impression and right arm. On latent R-3 I*

18 had two lifts on that same backer. They were located in the
19 same area.

20 Again, R-1 was from the inside passenger door window; is
21 that correct?

22 A R-1 from the inside passenger door window, yes.

23 Q R-2 was the outer passenger door?

24 A Yes.

25 Q R-3 you had a palm impression from the front hood?

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1 A Yes.

2 Q Each of those was identified by you as being consistent
3 *with prints showing on the* defendant's fingerprint card?

4 A **Yes.**

5 Q You had no fingerprints of Sarah Cherry to check, did
6 you?

7 A I did not, no.

8 Are there, Detective Richards, circumstances which make
9 it more or less likely *that one might find* fingerprint
evidence?

A You mean on an object in a vehicle?

Q Yes. What kinds of things might affect your ability to
find a fingerprint?

A Of course the person would have had to have touched an
object in order to obtain an *impression*. The condition of
the object, whether it was clean or dirty would have an
affect. Also if the object was conducive to latent
18 development. Some items are very difficult to develop
19 latents on because of their irregular surface.

20 Q Do all people leave fingerprints with the same ease?

21 A Some people perspire more than often and they would
22 leave a better *impression* than other people would.

23 Given the truck as you saw it and searched through it,
24 would you have had any indication of the likelihood of
25 *finding* fingerprints on or throughout the vehicle?

A Its hard to determine whether you are going to find any prints. You do the best you can with what you've got. And I did develop some prints. The items that I seized to be examined later on, I did that because I thought that there is always a chance you might develop prints on the items that I did take.

Q By the way, I should ask one last question. The fact that you found in this case or in any case you find latent fingerprints and able to make an identification of comparable value, are you from that able to tell how long a fingerprint has been present in the location you found it?

A No.

It could have been placed very recently or depending upon the number of circumstances known or *unknown some --*

A It depends, Often times on an exterior surface such as on a truck it depends whether or not that truck had been rained on previously in a short period of time. Often times a strong hard rain will wash away any latent impressions on an object.

MR. WRIGHT: Thank you. That's all I have,

THE COURT: Mr. Connolly.

CROSS EXAMINATION

BY MR. CONNOLLY:

1 Good afternoon. It's Detective Richards?

2 A Yes.

3 Q It's not surprising to find fingerprints of the owner of
4 a vehicle inside a vehicle, is it?

5 A No.

6 Q That can be expected more or less?

7 A Yes,

8 Q I'm handing you a series of photographs which have been
9 marked as Defendant's Exhibit Number 7, 8 and 12 for
10 identification purposes. I would ask-if you could identify
11 those, sir? Can you identify them?

12 A *State's Exhibit Number 12?*

4 Defendant's Exhibit Number 12.

A It is the red Toyota pickup truck which is parked inside
bay one of the State Police crime lab, The other two I don't
recall, They could be the inside of the vehicle.

You have no recollection of what the inside of the
vehicle looks like or are those photographs not fair and
accurate representations?

20 A Well, I don't recall what the inside of the vehicle
21 looks like. But this one here I recognize, State's Exhibit
22 Number F.

23 Q Number 7?

24 A Yes, I recognize that because of the way the steering
25 wheel, I remember the steering wheel was secured.

Q The other photograph you don't recognize?

A Not really. I can't remember the papers on the seat and so forth.

Q Are the ones you can identify, which are Defendant's
5 Exhibit Number 7 and 12 fair and accurate representations of what that truck looked like at the time you did your fingerprinting?

A Yes,

MR. CONNOLLY: I would move into evidence Defendant's Exhibit Number 7 and 12.

MR. WRIGHT: **No objection.**

12 THE COURT: Defendant's Exhibits 7 and 12 are
13 **admitted.**

14

15 BY MR. CONNOLLY:

16 Q Detective Richards, turning your attention to the
17 exterior of the vehicle. You used what procedure in order to
18 determine if there were prints of comparable value on the
19 vehicle itself?

20 A I dusted the exterior with a black printing powder.

21 Q I'm going to turn your attention to what has been marked
22 as Defendant's Exhibit Number 13 and *hand you* something that
23 has been marked as Defendant's Exhibit Number 13 for
24 identification purposes. I would ask if you can in a general
25 way describe what that portrays?

1 A It portrays the red pickup truck,

2 Q Is that, although not to scale, a fair and accurate
3 representation of what the outline of the pickup truck would
4 look like?

5 A Yes.

6 MR. CONNOLLY: I would move into evidence
7 Defendant's Exhibit Number 13.

MR. WRIGHT: No objection.

9 THE COURT: Admitted.

10

11 BY MR, CONNOLLY:

Q Handing you a blue marker and turning your attention to
Defendant's Exhibit Number 13, I would ask you if you can
approach the diagram to put some markings on it for me?

A Sure,

Q Can you identify where you found R-1?

A If I look at my latent list.

Q Do you have the actual list with you?

A Yes.

Q R-1 is located where?

21 A Inside passenger door window.

22 Q Where would that represent on the vehicle?

23 A It would have been approximately in this area.

24 Q You have the actual prints there. Could we attach them?

25 A Sure.

Q *I'm handing you - -*

A That's on the ininside passenger door window.

Q Perhaps it would be easier for you to mark it R-1.

A R-1 would be on the inside in this area here.

5 • Mark it R-1. And R-2?

6 A That is on the *inside* passenger window. R-2 is outside,
7 it would be on the outside passenger door window; that would
8 be the location of R-2. R-3 is on the front hood. You don't
9 have a hood drawn on here.

10 Q If you could place it approximately in the midpoint
11 where you believe it would be located?

12 A Right above the hood line here; that's R-3.

13 Q Where R-4 located?

14 A You want to know where R-4 was?

15 Q Yes,

16 A Right *there*,

17 Q Those are the latents that you developed from the truck
18 exterior and from the truck itself?

19 A Yes,

20 Q And the actual latents are in your hand now?

21 A Yes.

22 Q *I'll mark them. They are two or three sheets?*

23 A Three.

24 Q We'll mark these Defendant's Exhibit Number 15, 16 and

25 17. These latents that you have also, sir, have a sketch of

1 where they were located?

2 A Yes,

3 Q These are the actual latents taken from the vehicle?

4 A Yes,

5 MR. CONNOLLY: Your Honor, I would offer

6 Defendant's Exhibit Numbers 15, 16 and 17.

7 **MR. WRIGHT: No objection.**

8 THE COURT: Thank you. Defendant's Exhibits Number

9 115, 16 and 17 are admitted.

10

11 **BY MR. CONNOLLY:**

12 Detective Richards, were there any other prints whether

13 of comparable of value not located on the exterior of the

14 vehicle?

15 A I did not see any.

16 Q As to the interior of the vehicle, were there any

17 latents themselves of comparable value or not?

18 A No, there were not.

19 Q Turning your attention to the items that were taken from

20 the vehicle itself, it is a lengthy list?

21 A Yes.

22 Sir, turning your attention to what has been marked as

23 Defendant's Exhibit Number 14, and ask if in a general sense

24 you could identify what this attempts to portray?

25 A It tends to portray the inside of the vehicle, the seats

and the dash area, steering wheel.

For comparison purposes, is that a fair and accurate representation of what the inside of the automobile looked like?

A Yes.

MR. CONNOLLY: I would offer 14.

MR, WRIGHT: No objection.

THE COURT: 14 is admitted.

8

9

10 BY MR. CONNOLLY:

11 Q Sir, you have your log and list items that were taken
12 from the vehicle by yourself?

13 A Yes,

14 • And without going to the items per se, do you have a
15 recollection of where they were located?

16 A I would have to look at my list.

17 • Looking at your list could you tell where they were
18 located?

19 A Yes.

20 Q Starting on the list with items number. Is that the
21 list of items taken from the interior of the vehicle?

22 A Yes.

23 • Turning your attention to the diagram marked as
24 Defendant's Exhibit Number 14. Could you turn and mark on
25 that where 30936 was located and inform the jury what that

1 was?

2 A This was

3 MR. WRIGHT: I would like to be heard at side bar.

(Whereupon a side bar conference was held)

MR. WRIGHT: I think he has an absolute right to go
through everything if he wants. I have want to register an
9 objection unless we can shed some relevance to spending what
10 could be a considerable period of time of going through this
11 whole list of stuff. I'm trying to save a little bit of
12 time. I don't care *if he wants to do it. It's going to take*
13 a long time.

14 THE COURT: What kind of list are we talking about?

15 MR. CONNOLLY: 30 items, This is really important
16 to the defense.

17 THE COURT: If it's important to the defendant you
18 have a right to do it.

19

20 (Whereupon the sidebar ended)

21

22 BY MR. CONNOLLY:

23 Q Item **30936** is what?

24 A A brown paper bag.

25 Q Where was that located? Could you just mark 36 on the

1 *location where that was found?*

2 A I take it this is the driver's front seat?

3 Q Yes.

4 A It was located on the front seat.

5 Q Item number 37 is described as one empty tampo box.

6 Where was that located?

7 A On the front driver's seat.

8 Q Would you mark 37 for me. 38 was a paperback book?

9 A Yes, Driver's front seat,
Item number 39 was the brown wallet, Where was that
located?

A From the driver's side floor.

Would you mark that?

A Yes, This being the floor?

Q Yes, Number 40 is a book of paper matches?

A Again, driver's side floor,

Q **41 is a Good Humor ice cream wrapper?**

A Beneath the driver's seat, 41.

Q And 42, one empty Tuborg beer bottle?

20 A Behind driver's seat.

21 Q Item 43, a cash register receipt?

22 A In a was taken by chemist Judy Brinkman.

23 Q You yourself did not take that one?

24 A Right.

25 That was number 43?

1 A Yes.

2 Q And number 44, a buttons Where was that located?

3 A Behind driver's seat,

4 Q Would you mark that kindly? 46 was a cigarette pack?

5 A From behind driver's seat.

6 Q Do you recall the brand on that? Was that Vantage?

7 A Yes.

8 Q Can you mark that, the number 46?

9 A Right there.

10 Q Number 47?

11 A A pair of black sunglasses from dash passenger side.

12 Q 48 was a series of assorted papers?

13 A Assortment of papers from front seat passenger side.

14 Q 50 was a chalk box that was located where?

15 A Counsel tray. This being the counsel tray,

16 Q 51 was canister of cloth tape?

17 A From counsel tray.

18 Q 52?

19 A One (inaudible)

20 Q 53?

21 A Two containers of certificates candy from counsel tray.

22 Q 54 was a role of tape?

23 A Counsel tray 53 and 54.

24 Q 55 is a container of dental floss, sir?

25 A Counsel tray,

Mark that as well, please. One pack of Dentene chewing gum, 56?

A Counsel tray.

Q 57 is two pieces of paper?

5 A Counsel tray.

6 Q 58, one Maine Sportsman magazine?

7 A Floor passenger side.

8 Q Maine Sportsman magazine.

59, two sheets of paper?

A One mailing list from passenger floor.

Q Number 60 Shaw's Supermarket cash register receipt and set of respirator instructions?

A Passenger side, passenger floor side.

Q Number 61 plastic drink bottle?

A *Floor passenger side.*

62, a pair of scissors?

A Floor passenger side.

18 Q 63 a socket wrench extension?

19 A Floor passenger side.

20 Q Number 64, a glass jar?

21 **A** Four passenger side.

22 Q Number 65, Direto snack food bag?

23 A Floor passenger side.

24 Number 66, a mirror?

25 A Floor passenger side.

1 Q 67, plastic shopping bag?

2 A Behind passenger seat.

3 Q 68, beer cans, six 12-ounce Millers and four 12-ounce
4 Coors lites?

5 A 2 16-ounce Miller lites and four 12-ounce Miller lites.
6 From behind passenger seat.

7 Q 69, Tropicana fruit juice bottle?

8 A Behind passenger seat.

Q Number 70, tampax?

A Beneath passenger seat.

Q 71, a syringe.

A Beneath passenger seat,

Q One 16-ounce lite bear can, 73?

A Beneath passenger seat.

Q Number 77, miscellaneous papers?

A Beneath passenger seat.

Q Are those the only items that you yourself seized from
that vehicle?

A Yes.

Q Please return to your seat. Where are those items now?

A Detective John Otis has them in his possession.

Q Did you yourself test those items for fingerprints?

A No, I did not.

Q Based upon your knowledge did Detective Otis?

A Yes.

Q It's true, is it not, that one factor in the leaving of a latent impression is perspiration?

A Yes.

Q So that a person with a hand that has perspiration is more likely to leave a latent impression?

A Yes.

Q That is particularly true if it's upon a surface that is a good conductive surface?

A Yes.

Q Glass is a very good conductive surface?

A Yes.

Q Hard plastic is a very good conductive surface?

A Yes.

Q Some types of paper is a good conductive surface,

Q Cardboard is a good conductive surface?

A Yes.

Q Many of the items that are labeled on Defendant's Exhibit Number 14 are good conductive surfaces?

A Yes.

Q The theory of fingerprints is a person may leave them behind without realizing it and that we can determine something about the nature of activity based upon the discovery of a latent or not?

A Yes.

Q So the fact that fingerprints are not in a particular

1 place does not exclude the fact that a person was there,
2 correct?

3 A Correct.

4 Q But the fact that a latent was there is strong proof
5 that a person was there?

6 A Yes,

*Q Now, sir, you indicated you, yourself, had no prints of
the victim in this case?*

A No, I did *not*.

Q Are you aware that those prints were available however?
Yes.

Q Is it fair to say that other members of the Maine State
Police had those prints available?

A Whose prints?

Q The decedents?

A There was only one set of prints taken. That was taken
at the morgue and I was there when they were taken.

18 Q Who had those prints *in their possession?*

19 A Detective Otis,

20 *Q Did you, yourself, take any* latent impressions from the
21 Henkel residence?

22 A No.

23 Q Were you there **when** that procedure was done?

24 **A No.**

25 Q Are you aware that the procedure was done?

1 **A Yes.**

2 **Q** Did you yourself take any prints from the notebook or
3 receipt which was found in the driveway?

4 **A** No.

5 **Q** Are there any other latent impressions or attempts that
6 you've made to recover them other than what you've discussed
7 here so far?

8 **A** No,

Q So the only ones you've dealt with directly are the
items you yourself took from the truck, and you yourself
examined those four plus the ones that you have been
identified previously and the Sportsman's Magazine and the
other one?

A I didn't examine those.

Q You did not?

A No.

18 **Q** So the only examinations you did were as to the four as
to the interior and exterior of the truck?

19 **A** Yes.

20 **MR. CONNOLLY:** I have no further questions of this
21 **witness.**

22

23

RE-DIRECT EXAMINATION

24

25 **BY MR. WRIGHT:**

1 Q Out of all of the truck those are the only fingerprints
2 *that you could come up with of* comparable value?

3 A Yes.

4 Q Those four?

5 A Yes.

6 Q Three of those were of the defendant?

7 A Yes.

The syringe that you found; what was its condition?

9 A It was in a wrapper.

10 Q Opened or unopened?

11 A Unopened.

12 Q What kind of a syringe was it?

13 A It was a syringe - I'm not familiar with syringes.

14 Q Is dirty glass a good surface to get prints?

15 A No.

16 Q Were those windows dirty or clean?

17 A Not to the point where you couldn't get a print off of
18 them.

19 Q You would have expected and indeed you got prints off
20 the glass?

21 A Yes.

22 Q How about the surface within the truck; were they good
23 surface to get prints from?

24 A No. Because when you are dealing with the inside of a
25 vehicle it's difficult to obtain any impressions at all from

1 the dash area. The regular surface, the seats, whether they
2 be cloth or of vinyl material; they are also very difficult
3 to obtain impressions from.

4 Q I take it it's not *terribly surprising to you* you didn't
5 get any useful prints from within the truck, in the cab, at
6 various point on the seats or dash, on the seat belt, on the
7 door, you name it?

A I'm not surprised, but I have in the past.

Q Sometimes it happens, sometimes it doesn't happen?

A Yes.

Q The absence of latent ant prints does not mean that a
person was not present, true?

A True.

MR. WRIGHT: Thank you,

FURTHER CROSS EXAMINATION

BY MR. CONNOLLY:

19 Q The absence of prints, however, is consistent with a
20 person not being present; isn't that true?

21 MR. WRIGHT: Object. He's explained it.

22 THE COURT: Sustained. Argumentative.

23 MR. CONNOLLY: I have no further questions.

24 MR. WRIGHT: Nothing further.

25 THE COURT: Thank you. You may step down.

1 Mr. Foreman and Ladies and *Gentlemen of* the Jury, it's
2 now ten minutes of five. It's Friday. It's been a long
3 week. We are going to recess at this time until Monday
4 morning at 9:30.

5 I'm going to repeat again, as I've repeated since we
6 started this trial, the most important ingredient you carry
7 into that jury box is an open *mind* and your committment to us
8 is that you will keep an open mind until after all of the
9 testimony and the evidence is in.

 You will remember-on Monday and *again on Tuesday* when
some of us spoke that you were told *that in* most cases the
testimony of, the last person to testify in a trial is just
as important as the first person who testifies in the case.
If you start thinking about a case or discussing a case or
start tellAng someone what you've heard thus far you are
subconsciously planting that version in your mind before
you've heard all of the evidence. So, please, avoid at all
18 costs, media coverage of this trial. *Do not* permit anyone
19 under any circumstances to engage you in any discussion about
20 this case whatsoever.

21 *Again, thank you for your close attention that you've*
22 *been paying in this trial. Thank you for your patience with*
23 *us. And we'll recess at this time until 9:30 Monday morning.*
24 Have a week good weekend. Thank you.

25

(The jury was in recess for the weekend at 4:54)

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