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IN THE DISTRICT COURT OF MAYES COUNTY,

STATE OF OKLAHOMA.

THE STATE OF OKLAHOMA,

Plaintiff,)

-vs-

GENE LEROY HART,

Defendant.)

Case No. CRF-77-131
CRF-77-132
CRF-77-133

FILED IN THE DISTRICT COURT
MAYES COUNTY, OKLAHOMA

OCT 19 1978

PRELIMINARY HEARING

VOLUME XII

BY *Quanta* ^{ELOISE GIST, County Clerk}
Deputy

HEARD BEFORE: Honorable Jess B. Clanton, Jr., Special Judge

June 30, 1978

A P P E A R A N C E S

FOR THE STATE OF OKLAHOMA:

Mr. Sidney D. Wise
District Attorney
Mayes County, Oklahoma

Mr. S. M. Fallis, Jr.
District Attorney
Tulsa County, Oklahoma

FOR THE DEFENDANT:

Mr. Garvin A. Isaacs
Attorney at Law

Mr. Gary S. Pitchlynn
Attorney at Law

REPORTED BY:

Tracey Ferguson
Licensed Shorthand Reporter

VOLUME XII

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P R O C E E D I N G SJune 30, 1978

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2
3 THE COURT: CRF-77-131, 132 and 133, State of
4 Oklahoma versus Gene Leroy Hart.

5 For the record, show the Defendant is present with
6 counsel; State is present.

7 MR. ISAACS: Call Ted Lempke.

8 THE COURT: Where is he, Mr. Isaacs?

9 MR. ISAACS: He's down in Mr. Wise's office, Your
10 Honor.

11 THE COURT: Mr. Isaacs, are you still tied up on
12 the 5th of July?

13 MR. ISAACS: Yes, sir.

14 THE COURT: If that changes, I'd like for you to
15 let me know.

16 MR. ISAACS: Okay. Well, I can see about changing
17 it if --

18 THE COURT: There is a possibility on the 5th that
19 I might be able to change my afternoon schedule but we can
20 talk about that later.

21 MR. ISAACS: My only problem is I have a client
22 from out of state, lives in Hawaii. He will be in Oklahoma
23 City on the 5th for a matter there. If I could get permission
24 of the Court to make an arrangement to continue that matter.

25 THE COURT: Well, I think I could clear my afternoon

1 but not the morning.

2 Raise your right hand. Do you swear to tell the
3 truth, the whole truth and nothing but the truth, so help
4 you God?

5 THE WITNESS: Yes, sir.

6 TED LEMPKE,

7 called as a witness on behalf of the Defendant, having been
8 first duly sworn, testifies as follows:

9 DIRECT EXAMINATION

10 BY MR. ISAACS:

11 Q Mr. Lempke, would you state your full name for the
12 Court, sir?

13 A Sir, my name is Ted Lempke.

14 Q And what is your occupation?

15 A I'm Chief Inspector for the OSBI.

16 Q Directing your attention to June 13, 1977, did you
17 conduct an investigation into some homicides which occurred
18 at Camp Scott?

19 A Yes, sir, I received a call in reference to the
20 Camp Scott area.

21 Q What time did you arrive at the scene?

22 A Shortly after 10:00 a. m.

23 Q When you arrived there, did you coordinate the
24 activities of the OSBI Agents at that location?

25 A Yes, sir, I did.

1 Q As a part of your duties there as Chief Inspector
2 for the OSBI, did you interview Camp Scott personnel?

3 A No, sir.

4 Q Did you interview any of the campers at Camp Scott?

5 A Sir?

6 Q Did you interview any of the campers at Camp Scott?

7 A No, sir.

8 Q Did you interview any witnesses from the surrounding
9 area?

10 A No, sir.

11 Q Did you take any tape recorded statements from
12 anyone pertaining to the charges against Mr. Hart?

13 A No, sir; no, sir, I did not.

14 Q Mr. Lempke, as a part of your investigation, did
15 you conduct any searches?

16 A No, sir.

17 Q Did you supervise any searches that were made at
18 Camp Scott area?

19 A Yes, sir, I directed people.

20 Q Would you describe for me which searches you direct-
21 ed and what, if anything, was collected as evidence during
22 the course of those searches?

23 A Well, as far as the actual searches are concerned,
24 I sent people to the area to be searched.

25 Q Yes. Did you go to the Jack Shroff residence?

1 A I did after the crime scene had been processed
2 and evidence collected.

3 Q There was a burglary there that was reported on
4 the 13th day of June by Mr. Shroff to the Mayes County
5 Sheriff's Office. Did you participate in the investigation
6 of that burglary?

7 A Of actual investigation of the burglary, no. I
8 sent people there for that purpose.

9 Q Did you collect any evidence of any nature at Mr.
10 Shroff's house?

11 A No, sir, I didn't.

12 Q Now, there was a cave located south of Mr. Shroff's
13 house referred to in the Technical Report as Cave No. 3, is
14 that correct; am I right?

15 MR. WISE: Yes.

16 Q Did you go to Cave No. 3 at any time and conduct
17 any investigation?

18 A Sir, I don't know which cave you're referring to.

19 Q Do you know where Mr. Shroff's house is located?

20 A Yes, sir.

21 Q We've heard testimony that there is a cave south
22 of Mr. Shroff's house and there was writing on that cave wall?

23 A Yes, sir.

24 Q Did you go to that cave?

25 A Yes, sir.

1 Q As a part of your duties there as Chief Inspector
2 for the OSBI, did you interview Camp Scott personnel?

3 A No, sir.

4 Q Did you interview any of the campers at Camp Scott?

5 A Sir?

6 Q Did you interview any of the campers at Camp Scott?

7 A No, sir.

8 Q Did you interview any witnesses from the surrounding
9 area?

10 A No, sir.

11 Q Did you take any tape recorded statements from
12 anyone pertaining to the charges against Mr. Hart?

13 A No, sir; no, sir, I did not.

14 Q Mr. Lempke, as a part of your investigation, did
15 you conduct any searches?

16 A No, sir.

17 Q Did you supervise any searches that were made at
18 Camp Scott area?

19 A Yes, sir, I directed people.

20 Q Would you describe for me which searches you direct-
21 ed and what, if anything, was collected as evidence during
22 the course of those searches?

23 A Well, as far as the actual searches are concerned,
24 I sent people to the area to be searched.

25 Q Yes. Did you go to the Jack Shroff residence?

1 killer was here.

2 THE COURT: Excuse me, I don't understand that date
3 the way you gave it. Give it again, please?

4 A It had 77-6-17.

5 THE COURT: Thank you.

6 A And also said, "The killer was here. Bye, bye
7 fools."

8 Q Did you at any time take any paint scrapings from
9 the cave wall or order someone to take paint scrapings?

10 A No, sir, I did not.

11 Q Do you have an opinion as to what type of instru-
12 ment was used to make the marks which read "77-6-17" and
13 made the statement?

14 A It appeared to be that of a Magic Marker.

15 Q Was there anybody with you and the other investiga-
16 tors, other than law enforcement personnel?

17 A Sir, not that I recall; that's not to say there
18 wasn't but I don't recall any.

19 Q Have you spoke with a boy by the name of Darren
20 Creekmore?

21 A Darren Creekmore?

22 Q Yes, sir.

23 A That name does not ring a bell to me at all.

24 Q Have you spoken with a girl by the name of Becky
25 Wagnon?

1 A I, too, don't recall that name, sir.

2 Q We've had testimony given before your testimony,
3 concerning the Creekmore boy and the Wagnon girl and testi-
4 mony that the Creekmore boy had led some people to the cave.
5 Do you recall being led to the cave by a boy - by a young
6 boy in the age ranging from 17 to 20?

7 A I recall going on to Mr. Shroff's property. I
8 don't know what the boy's name was. I don't recall the boy's
9 name, in search of an area which was never found. However,
10 this particular area you're talking about, I don't - I don't
11 recall being led to this cave that you're talking about.

12 Q All right. This boy you went on to Mr. Shroff's
13 with, would you describe his physical appearance?

14 A Well, I only saw him momentarily. I was - the party
15 had left prior to my arrival. As I recall, he had brown hair,
16 he was stocky build, probably five-nine, was a young boy,
17 early twenties, I'd say.

18 Q Did you at any time participate in an investigation
19 in what has been referred to in the Technical Reports as the
20 cave-cellar area, or Cave No. 1?

21 A No, sir, I didn't participate in that particular
22 search of that cave. However, I was there some time later.
23 I just wanted to see where the area was at.

24 Q There was an area referred to in the Technical
25 Reports as Cave No. 2. It's located in the Skunk Mountain

1 region on the property of a man by the name of Auxier. Did
2 you go to that cave?

3 A Yes, sir, I did.

4 Q Would you tell me what you did when you went there,
5 Mr. Lempke?

6 A Well, I took numerous Agents, as well as people
7 from the Sheriff's Office, members of the highway patrol was
8 present. The area was photographed - numerous pieces of
9 evidence was obtained and I simply directed and coordinated
10 the Agents there on the scene.

11 Q And that was after a report had been given to the
12 investigative agencies that a man had been seen in that area?

13 A Yes, sir.

14 Q Did you interview any persons concerning a description
15 of the man scene in the area of Cave 2?

16 A I did not, no, sir.

17 Q Did anyone interview any persons in your presence?

18 A No, sir.

19 Q Did you see the footprint or the plaster casts of
20 the footprint made in the investigation of Cave 2?

21 A I saw the footprints there at the cave. I don't
22 recall seeing the plaster casts after they were made.

23 Q Now, there was a burglary that occurred at the
24 T & H Grocery Store, located at Sam's Corner. Did you parti-
25 cipate in the investigation of that burglary?

1 A No, sir, I did not. I sent people there.

2 Q Did you interview or take a statement from anyone
3 concerning the burglary at Sam's Corner grocery?

4 A No, sir.

5 Q There's also a burglary referred to in the reports
6 as the Grossman burglary, which occurred east of Locust
7 Grove. Did you participate in the investigation of that
8 burglary?

9 A No, sir, I did not.

10 Q Did you interview any persons or take any state-
11 ments from any persons concerning that burglary?

12 A No, sir.

13 Q Mr. Lempke, Gene Leroy Hart was arrested on
14 April 6th; is that correct?

15 A Yes, sir.

16 Q Did you participate in the apprehension of Gene
17 Leroy Hart?

18 A I was not present when Mr. Hart was arrested, no.

19 Q Did you interview any witnesses concerning the
20 whereabouts or the arrest of Gene Leroy Hart?

21 A No, sir, I did not.

22 Q Were any interviews conducted with witnesses at
23 your request?

24 A Pardon me?

25 Q Were any interviews with witnesses -- withdraw that --

1 were any interviews conducted with anyone concerning the
2 whereabouts of Gene Leroy Hart on or about April 6th?

3 A There were interviews conducted. However, I wasn't
4 present.

5 Q You said you sent Agents to Mr. Pigeon's residence
6 to arrest Mr. Hart. Was Agent Owlsley one of those people?

7 A Yes, sir, he was.

8 Q Where does Mr. Owlsley office?

9 A Oklahoma City.

10 Q What's his first name?

11 A Charles.

12 Q After Mr. Hart had been arrested and transported
13 to the Tahlequah Office, did you interview any persons?

14 A No, I did not.

15 Q Since that arrest of Mr. Hart, have you been to
16 Mr. Pigeon's residence?

17 A No, sir, I haven't.

18 Q Did some people go there at your instructions to
19 process the scene?

20 A Sir, I am sure I know of people being sent there at
21 the instructions of Inspector Mike Wilkerson.

22 Q Yes, sir. Mr. Lempke, did you personally conduct
23 any type of technical examination of any piece of evidence
24 submitted to the Oklahoma State Bureau of Investigation?

25 A No, sir.

1 Q Now, some blankets were taken from the Pigeon
2 residence and a radio was taken from the Pigeon residence
3 along with other items such as pecans and I believe a hunt-
4 ing knife and a hammer. Will you tell me why those particu-
5 lar items were taken from the Pigeon residence?

6 A Sir, that was Inspector Mike Wilkerson and I was
7 not present at the time of that search.

8 Q Mr. Lempke, testimony has been given about a fellow
9 by the name of Larry Dry. Are you acquainted with him?

10 A Yes, sir.

11 Q Mr. Lempke, I believe in April, Mr. Dry was taken
12 out of the Granite Reformatory; is that correct?

13 A No, sir, it was the last part of March.

14 Q Last part of March?

15 A Yes, sir.

16 Q Who made the request that Mr. Dry be released to
17 your custody?

18 A Deputy Director Dick Wilkerson.

19 Q When Mr. Dry was released to your custody, did you
20 have a meeting with him in Oklahoma City?

21 A A brief meeting, yes, sir.

22 Q Where was that meeting conducted?

23 A In the Oklahoma City Office.

24 Q When he was released from the Granite Reformatory,
25 was Mr. Dry given permission to live in the community?

1 A Yes, sir.

2 Q Which community was that?

3 A In the Locust Grove area.

4 Q Approximately what date was it when he was given
5 permission to live in that community?

6 A Sir, I don't know the exact time. However, it was
7 the later part of March.

8 Q Was Mr. Dry promised any money to help you find
9 Gene Hart?

10 A No, sir, he was not.

11 Q Was he promised any leniency on his present sentence
12 if he helped you find Gene Hart?

13 A No, sir, he was not promised anything.

14 Q Did anybody promise Mr. Dry that they would help
15 him get out of jail on a parole if he'd help you find Gene
16 Hart?

17 A No, sir.

18 Q Were you present when a tape recorded statement was
19 taken from Mr. Dry in Oklahoma City -- withdraw that -- it was
20 not tape recorded. Were you present when a court reporter
21 took a statement from Mr. Dry?

22 A No, sir, I was not.

23 Q Did someone take that statement at your request?

24 A I know that the statement was taken. However, I
25 don't recall who - whether it was myself or Inspector Mike

1 Wilkerson who directed that.

2 Q Mr. Lempke, do you know a fellow by the name of
3 Jimmy Don Bunch?

4 A Yes, sir.

5 Q When did Mr. Bunch contact you pertaining to my
6 visit to the State Penitentiary?

7 A Mr. Bunch did not contact me.

8 Q Oh, he didn't?

9 A No, sir.

10 Q Who contacted you?

11 A Inspector B. G. Jones from McAlester Office.

12 Q Have you interviewed Mr. Bunch since being contacted
13 by Mr. Jones?

14 A No, sir, I have not.

15 Q Do you know why Mr. Bunch was taken from the State
16 Penitentiary at McAlester to the Tulsa City Jail?

17 A No, sir, that wasn't under my direction.

18 Q Do you know when he was taken from McAlester to
19 the Tulsa City Jail?

20 A Not specifically, no.

21 Q Was anybody - anybody, either at your direction -
22 at your direction or in your presence, taken a tape recorded
23 statement from Jimmy Don Bunch?

24 A He was interviewed at my direction.

25 Q Where was that interview conducted?

1 A I'm sure it was done at McAlester. I have no way
2 of knowing the exact location in McAlester.

3 Q Which day was that interview?

4 A I don't recall the date, sir.

5 Q Was that interview conducted by Mr. Jones?

6 A Yes, sir, I believe so.

7 Q How were you notified that Mr. Bunch was to be
8 interviewed or wanted to be interviewed?

9 A Mr. Jones called me from McAlester.

10 Q Mr. Jones called you and told you that Bunch had
11 wanted to say something?

12 A That he wanted to talk to an Agent.

13 Q Do you know a guard at McAlester by the name of
14 Mike Pulchny?

15 A Who?

16 Q Mike Pulchny, I believe it is.

17 A No, sir, I'm not familiar with him.

18 Q P-U-L-C-H-S-N-E-Y?

19 A No, sir.

20 Q Now, testimony has been given that Mr. Hart's
21 underwear was taken out of the penitentiary for scientific
22 analysis by members of the OSBI; you're aware of that, aren't
23 you?

24 A I knew that some was brought out of there, yes.

25 Q And underwear has been taken out of the Mayes County

1 Jail for analysis by your chemist; is that correct?

2 A Yes, sir.

3 Q Mr. Lempke, do you recall the name of the man
4 who got the underwear from McAlester for you out of Mr. Hart's
5 cell down there?

6 A No, sir, I don't; Mr. Jones would have that
7 information. I don't have that information.

8 Q Do you know an inmate in McAlester by the name of
9 VanHess -- VanHuss, excuse me.

10 A No, sir, I do not.

11 Q Did any of the McAlester Agents of the OSBI contact
12 you about a fellow by the name of VanHuss?

13 A Yes, sir.

14 Q Which one of the Agents?

15 A Bill Sparks.

16 Q Did Mr. Sparks tell you Mr. VanHuss had something
17 to tell you?

18 A Yes, sir.

19 Q And what was that?

20 MR. FALLIS: If it please the Court, excuse me.
21 This was thoroughly examined yesterday, I believe with those
22 who were firsthand. This calls for hearsay and I object to
23 it on that grounds. We're getting a late start, we quit
24 early again yesterday, and we're taking up a considerable
25 amount of time again.

1 THE COURT: If he has no firsthand knowledge, I
2 believe it would be hearsay.

3 MR. ISAACS: Okay, I'll withdraw that.

4 Q Did he tell you what the substance of that conver-
5 sation was?

6 A Yes, sir.

7 Q What was the substance of it?

8 MR. FALLIS: If it please the Court, our same
9 objection we'd make. I don't know why counsel, when he
10 complains about being limited on time, is wasting so much
11 time unless he just wants to make the Court record longer.

12 THE COURT: I'll have to sustain it unless there
13 is an exception, Mr. Isaacs.

14 MR. ISAACS: Well, Judge, I don't think this falls
15 within the definition of hearsay. We're not offering it
16 to prove the truth of anything, just so that there was a
17 conversation that Mr. Lempke directed somebody to speak to
18 Mr. VanHuss. We'll recognize the exception is to prove
19 conversation, but this isn't even within that purview because
20 it doesn't match. I'm not offering it to prove anything, only
21 that there was a conversation. If I was offering it to prove
22 the truth of the conversation, it would be hearsay.

23 THE COURT: You have asked for the substance of
24 it and I take that to mean the contents and that would be
25 hearsay and inadmissible. The fact of the conversation is not

1 -- wouldn't be hearsay.

2 MR. ISAACS: Judge, I'm not offering it to prove
3 a truth of anything. I might say that on the record. If I
4 was offering it to prove a truth, I think it would be hear-
5 say.

6 THE COURT: Well, I have sustained the objection,
7 so let's move on.

8 Q This fellow Van Huss, Mr. Lempke, do you know if
9 after you were contacted by him that he was, in fact, inter-
10 viewed by someone?

11 A As I recall, he was interviewed.

12 Q Did they take a sworn statement or a written state-
13 ment from him?

14 A No, sir, I don't believe so.

15 Q Tape recorded?

16 A Of course, I wasn't there. I have no way of
17 knowing.

18 Q Do you know if any other inmates at McAlester have
19 contacted your agency and requested an interview?

20 A No, sir, I don't know that.

21 Q Mr. Lempke, did Mr. Jones and the other Agent inter-
22 view other inmates on Death Row about Mr. Hart?

23 A To my knowledge, no.

24 Q You didn't give the order for them to do anything?

25 A No, sir.

1 Q Mr. Lempke, has anybody seized any evidence at your
2 direction since Mr. Hart was arrested?

3 A Would you restate your question?

4 Q Has anybody gathered any items of evidence since
5 Mr. Hart was arrested, to your knowledge?

6 A Sir, you'd have to be more specific; I don't know.

7 Q What I want to know is what evidence do you have
8 in your possession or your agents have in their possession
9 that would show that Mr. Hart, since he was arrested, was
10 the person who would have committed these crimes - physical
11 evidence?

12 A Again, I don't know exactly what your - what speci-
13 fic point you are asking for.

14 Q All right. Let me ask you this. Has anyone
15 seized any item of clothing as evidence since Mr. Hart was
16 arrested?

17 A Yes, sir.

18 Q What item was that?

19 A I believe at the time of his arrest, his cut-off
20 jeans were seized.

21 Q They've got a belt from him; right and shoes?

22 A Possibly so.

23 Q And a tank top and a pair of glasses; is that
24 correct?

25 A Yes, sir.

1 Q Now, a little bit later on, some fellows went to
2 the Pigeon residence and picked up a quilt, blanket, pecans
3 - I have a list of those?

4 A Yes, sir.

5 Q Is there anything else that you can think of that
6 has been seized since Mr. Hart's arrest?

7 A Nothing other than the undershorts that came from
8 the Mayes County Jail.

9 Q Did anybody at your direction go to the Pigeon
10 residence and take some pictures?

11 A Not directly at my direction. If that was directed,
12 it would have been Inspector Mike Wilkerson, who is presently
13 in charge of this region.

14 Q So we go by region, then?

15 A Yes, sir. First of all, effective April 1st, I
16 am transferred to Oklahoma City as Chief Inspector and Agent
17 Wilkerson - correction - Inspector Mike Wilkerson took my
18 place as Regional Supervisor for the OSBI in this region.

19 Q Mr. Lempke, have your Agents provided us with
20 every piece of esculpatory evidence that they have in their
21 possession?

22 A Are you asking me if they have?

23 Q Yes, sir.

24 A Yes, sir, I'm sure that's produced.

25 Q Mr. Lempke, were you aware of that transcribed

1 stenographic statement taken from Mr. Dry on or about
2 April 15th?

3 A Yes, sir.

4 Q How long had you been aware of that?

5 A Shortly after it was taken.

6 Q Okay, was Mr. Wise notified of that?

7 A I assume that he was, yes.

8 Q And Mr. Thurman knew about that, did he not?

9 A I'm not sure.

10 MR. ISAACS: I believe that's all.

11 THE COURT: Cross examination?

12 MR. WISE: We'd have no questions. Thank you.

13 THE COURT: You're excused.

14 MR. LEMPKE: May I be excused from this hearing?

15 THE COURT: Yes.

16 MR. ISAACS: I'd like to call Ernest Smith next.

17 THE COURT: Raise your right hand. Do you swear
18 to tell the truth, the whole truth and nothing but the truth,
19 so help you God?

20 THE WITNESS: I do.

21 ERNEST D. SMITH,

22 called as a witness on behalf of the Defendant, having been
23 first duly sworn, testifies as follows:

24 DIRECT EXAMINATION

25 BY MR. ISAACS:

1 Q Ernie, would you state your full name for the
2 record, please, sir?

3 A Ernest D. Smith.

4 Q Ernest D. Smith, what is your occupation or line
5 of business?

6 A Examiner of Question Documents.

7 Q Ernie, have you been requested by any law enforce-
8 ment agency to compare samples of handwriting?

9 A Yes, sir.

10 Q Will you tell me what sample of handwriting you
11 were to compare other writing to?

12 A It was actually hand printing. It was a message
13 on a cave wall, with two documents that bore the signature
14 of Gene L. Hart.

15 Q These documents that bore the signature of Gene L.
16 Hart?

17 A They are legal documents filed with the Court.
18 Motions were written in 1973 - printed.

19 Q Were those applications for post-conviction relief?

20 A I believe that's what they were. I didn't actually
21 read them.

22 Q These were a couple of letters that Mr. Hart wrote
23 pertaining to the post-conviction relief application, were
24 they not?

25 A I don't know who wrote them. They bear his name.

1 Q Now, Mr. Smith, did you go to the cave located
2 south of Jack Shroff's property some time in the past and
3 make a photograph?

4 A I went to a cave and I understand that was the
5 property it was on.

6 Q Would you tell me for what purpose you made the
7 photograph?

8 A To do a handprinting comparison later on and to
9 observe it myself, the writing on that wall.

10 Q What type of instrument was used to make the marks
11 on the wall?

12 A From my study and observation, I examined it using
13 an eight-power magnifying glass. I would say that it was a
14 felt tip marking pen that had a tip of a width of approxi-
15 mately 8/64ths of an inch wide.

16 Q What color?

17 A Black.

18 Q Did you find any felt tip marking pens in the cave
19 area?

20 A I didn't look for one.

21 Q Do you know if anyone else looked for one?

22 A No, not to my knowledge.

23 Q Do you know if anybody has found one?

24 A Not to my knowledge.

25 Q Mr. Smith, have you been able to make a comparison

1 between the writing that you have on the post-conviction
2 relief applications and the writing on the cave wall?

3 A Not at this time.

4 Q Are you presently attempting to make a comparison?

5 A Yes, sir, as my work load permits.

6 Q Would you like to have a copy of Gene Hart's
7 handwriting to make a comparison with?

8 A It would be helpful in view of the fact that these
9 other documents were Xeroxed copies and they're dated back
10 in 1973.

11 Q All right, if we would provide you with one,
12 could you give us what you want Mr. Hart to write, so we
13 can write it out?

14 A The same message that was on the cave wall, approxi-
15 mately fifteen to twenty times on a separate sheet of paper.

16 Q All right, would you like to be present when he
17 does that?

18 A I don't particularly need to be present as long as
19 say somebody from the District Attorney's Office and yourself
20 as witnesses.

21 MR. ISAACS: Okay, would the District Attorney like
22 to take a sample of Mr. Hart's handwriting?

23 MR. FALLIS: Yes, sir, but Your Honor, we would
24 like to qualify a couple of questions from Mr. Smith regarding
25 this.

1 THE COURT: Well, why don't you go ahead with
2 your direct.

3 Q Ernie, do you need printing or longhand?

4 A Printing and numbers. Printing is what the
5 photograph showed on the cave wall as well as numbers.

6 Q Mr. Smith, is it possible to make a comparison
7 of handwriting and writing on a cave wall?

8 A This is the first time that I have ever attempted
9 it.

10 Q How many years have you been in the business of
11 examining question documents?

12 A Twenty-one.

13 Q And at this time, you're principally employed by
14 Liberty National Bank of Oklahoma City, are you not?

15 A Yes, sir, and I have my own business.

16 Q Ernie, when something is written on a surface, such
17 as a cave wall or stone, is there some particular reason that
18 comparison of handwriting is more difficult?

19 A Well, in this instance, particularly, there are
20 three different facts that I have taken into consideration.
21 One, the writing instrument that was utilized; two, the
22 surface that it was written on and thirdly the suspect that
23 is suspected of writing this particular instrument. Mr. Hart
24 is an Indian. I resided in Pawnee many years. I'm familiar
25 with Indians and I do know they have - the majority of them -

1 have an innate artistic ability. I have seen Indians that
2 could write penmanship almost verbatim like in a penmanship
3 book. Of course, they're able to write worse than their
4 best capability. Of course, a person that writes poorly
5 cannot write better than his poor capabilities.

6 Q Mr. Hart has a good handwriting, does he not, good
7 penmanship, printing?

8 A If these documents were his, yes, he does have.

9 Q All right, Mr. Smith, will you be able to make a
10 determination of whether or not that writing on the cave
11 wall is Gene Leroy Hart's handwriting, if you were given a
12 sample of his printing - of his handwriting?

13 A At this time, I do not know. I will try to arrive
14 at a definite conclusion as to whether it is his or it isn't
15 his. However, taking into consideration the writing instru-
16 ment and the surface, I may not even be able to give a defi-
17 nite opinion at all.

18 Q In other words, what you're saying is a possibility
19 of being inconclusive is great?

20 A Well, I would say it would be a third.

21 Q And possibility of reaching some opinion would be
22 about one out of three?

23 MR. FALLIS: If it please the Court, we are going
24 to object at this point. This is his witness. He's already
25 asked him to conduct a test. He's already admitted he'd try

1 to do that. It seems to me we would save time by moving on
2 without having him debate the percentages as to whether he
3 can or can't. We don't know. The man is still working on
4 it.

5 THE COURT: Sustained. I think it calls for a
6 conjecture on the part of the witness at this point.

7 MR. ISAACS: Well, he's an expert. The State has
8 hired him as an expert.

9 Q Mr. Smith, do you have any other documents that
10 you need to compare Mr. Hart's handwriting to?

11 A Are you referring to something specifically?

12 Q I don't know. Have you been given any other docu-
13 ment that you need to compare Mr. Hart's handwriting to?

14 A No, sir, not that I have seen.

15 Q Do you know if any exist?

16 A No, not unless some have been mailed to me recently
17 and may be either at my office or at my house today, that I
18 don't know of.

19 Q We had some testimony in here some time ago about a
20 letter that a fellow by the name of Larry Dry received and he
21 said they came from Gene Hart. Have you seen those letters?

22 A I'm not familiar with them.

23 Q Do you know if they exist?

24 A I'm not familiar with the name of Larry Dry or any
25 other letters.

1 Q Okay. Mr. Smith, what writings do you consider
2 authoritative in the field of question documents?

3 MR. FALLIS: If it please the Court, at this point,
4 he's put him on and although he did not qualify him as an
5 expert, we will so stipulate. I see no reason for him to
6 cross-examine his own witness.

7 MR. ISAACS: I won't stipulate to his expertise.
8 The man hasn't given an opinion yet.

9 MR. FALLIS: He asked him for an opinion.

10 MR. ISAACS: Mr. Fallis objected when we started
11 talking about anything pertaining to an expert's opinion,
12 that objection was sustained. I don't stipulate to anybody's
13 qualifications.

14 THE COURT: Going back to the original objection,
15 it will be overruled. Two or three questions about his
16 authorities in his field that he considers authoritative
17 but try not to dwell too much longer in this area.

18 Q Mr. Smith, could you give me the names of some
19 learned books on question documents, ones that you consider
20 authoritative?

21 A I'll give you two that are direct and one indirect.
22 One would be Question Documents by Albert Osborne.

23 Q Okay.

24 A Another one would be Scientific Document Examinations
25 by Ordway Hilton.

1 Q Yes, sir.

2 A And a third would be found in a set of American
3 Jurisprudence, which have taken all of the texts from people
4 that have written books in that field and condensed them for
5 attorneys on the various subjects such as typewriting, hand-
6 writing comparison, qualification of experts and that would
7 be the easiest for an attorney to research.

8 Q All right. Is there anything else that might help
9 a lawyer understand question documents that you consider
10 authoritative?

11 A Sit down and visit with an examiner of question
12 documents, that's been done in the field for numerous years.

13 MR. ISAACS: Nothing further of this witness.

14 THE COURT: Cross-examination?

15 CROSS EXAMINATION

16 BY MR. FALLIS:

17 Q Mr. Smith, concerning exemplars, known exemplars
18 from a person, as an example, if I was to be asked by you
19 to make an exemplar or sample of my handwriting?

20 A Yes.

21 Q There is what is known in your professional field,
22 a so-called London letter, isn't there, sir?

23 A Yes.

24 Q And this is where you actually, the subject or
25 person who is giving the exemplar would know that the purpose

1 of exemplar as announced in the courtroom would be to make
2 a comparison, wouldn't it, sir?

3 A Yes.

4 Q Has that created some problems within your field?

5 A At times, yes.

6 Q And when you made reference to the idea and your
7 knowledge that certain Indian people sometimes have an
8 innate ability at artistic work, would that lend itself to
9 the possibility of camouflage concerning writing?

10 MR. ISAACS: Object to anything about the possibili-
11 ties, Judge. We're not dealing in speculation here. We're
12 dealing in fact.

13 THE COURT: If your question goes to his experience
14 in the field, I'll allow it but if it is in relation to this
15 case, I don't think --

16 MR. FALLIS: No, in reference to the known exemplars
17 such as the London letter.

18 THE COURT: Objection is overruled.

19 MR. ISAACS: I will object further upon the grounds
20 that this witness has not been qualified as an expert.

21 Q All right, Mr. Smith, how long have you been in
22 your field?

23 A Twenty-one years.

24 Q Would you list for the Court your background and
25 experience in this field, please?

1 A I attended the U. S. Secret Service Document
2 School held in Washington, D. C., which consists of approxi-
3 mately 140 hours of classroom work concerning the comparison
4 of handwriting, typewriting, ink comparisons, things of
5 that nature. In addition, I've served a two year apprentice-
6 ship to another Document Examiner at the Oklahoma State
7 Bureau of Investigation. I've attended several seminars at
8 the University of Oklahoma. I also attend yearly Internation-
9 al Association for Identification Conferences in which there
10 is a section for question document examiners to discuss prob-
11 lems in this field.

12 Q Mr. Smith, during the time that you have profession-
13 ally worked in this field, you have worked for governmental
14 agencies?

15 A Yes, sir.

16 Q What agencies, please?

17 A I spent eighteen years at the Oklahoma State Bureau
18 of Investigation as a Document Examiner and when I entered
19 private practice, I still worked for District Attorneys in
20 the State of Oklahoma on individual cases, for U. S. Secret
21 Service, for Postal Inspectors, State Insurance Commissioner
22 and various governmental agencies.

23 Q Now, you have been accepted as an expert in a
24 court of law?

25 A Yes, sir, I have.

1 Q Do you have any idea of how many occasions?

2 A I would say probably three thousand to thirty-five
3 hundred cases.

4 MR. FALLIS: We would offer Mr. Smith as an expert
5 at this time.

6 THE COURT: Very well.

7 Q Now Mr. Smith, in reference to the known-exemplars
8 again, whether --

9 MR. ISAACS: Show my exception.

10 THE COURT: Yes.

11 MR. ISAACS: Without waiving any right to cross
12 examining him at a later date.

13 THE COURT: You mean redirect?

14 MR. ISAACS: No, no, just let the record show that
15 I object to him being received as an expert.

16 THE COURT: Yes, all right.

17 MR. FALLIS: I assume he's concerned about what the
18 results of the tests might be, Your Honor.

19 Q In any event, Mr. Smith, when people give known
20 exemplars and know why they are giving them, are not attempts
21 made, depending on the individuals artistic ability to camou-
22 flage, to do just that?

23 A Yes, in that instance and conversely.

24 Q All right, sir. In reference to your work, is it
25 not true that a position in which a person physically is in

1 at the time they make the writings must be taken into
2 consideration?

3 A That is true.

4 Q You've seen this cave area; is that correct?

5 A Yes, sir.

6 Q That's not a large enough cave to stand up in, is
7 it?

8 A No, sir, it isn't.

9 Q Would it be large enough or high enough in the
10 area for a person to be sitting?

11 A Sitting or kneeling.

12 Q All right, sir. Of course, those are matters you
13 would have to take into consideration, I'm sure?

14 A Yes, and the wall of the cave being at a vertical
15 position.

16 Q Thank you, sir. Now counsel a moment ago made the
17 statement that you had seen some legal documents - I think
18 he referred to them as post-conviction relief matters, and I
19 think he asked you if you had seen these that were writings
20 by his client and you responded that you didn't know but it
21 was signed by Gene Leroy Hart; is that correct, sir?

22 A Yes.

23 Q And that's all you have had to work with so far?

24 A Yes, sir.

25 Q May I, in open court, if counsel would be willing

1 to stipulate that the exemplars Mr. Smith is working with
2 are the work of his client, Gene Leroy Hart?

3 MR. ISAACS: If he'd let me look at them, I think
4 they are. Yes, these are documents that were written by
5 Mr. Hart in 1973, Judge.

6 THE COURT: Since those have not been identified
7 from a case, is there a case number that would reflect a
8 case in which they had been filed?

9 MR. ISAACS: 1848.

10 MR. WISE: It was before we went to the CRF system
11 of court numbers and --

12 THE COURT: So this would be an old number then?

13 MR. ISAACS: I don't know where the originals of
14 those documents are. I assume they are in the files someplace.

15 MR. FALLIS: With that, Your Honor, we would have
16 no further questions and we will accept the stipulation by
17 counsel that those are the documents written by his client.

18 THE COURT: Redirect?

19 REDIRECT EXAMINATION

20 BY MR. ISAACS:

21 Q Mr. Smith, you don't have any idea at this time
22 who put the markings on the cave, do you?

23 A No, sir.

24 Q Therefore you don't know who put the writing on
25 the cave wall?

1 A Correct.

2 Q It could have been some kid playing a joke on
3 Sheriff Weaver or somebody, couldn't it?

4 A That possibility exists.

5 MR. ISAACS: Nothing further.

6 RE CROSS EXAMINATION

7 BY MR. FALLIS:

8 Q And of course, it could have been Gene Leroy Hart
9 while he was at the cave?

10 A That could have been true, too.

11 MR. FALLIS: Thank you.

12 MR. WISE: If it please the Court, as a matter of
13 information, the originals are in the original files of the
14 Mayes County District Court Clerk's Office, so there won't
15 be any confusion as to the stipulation that was entered into.
16 Perhaps these should be marked in some way to identify them
17 in open court.

18 THE COURT: Well, could they, by agreement, intro-
19 duced as a joint exhibit of some kind?

20 MR. WISE: Counselor, in order that --

21 MR. ISAACS: Yes, counselor?

22 MR. WISE: -- that we understand in the record what
23 we are stipulating to, may these be marked as a joint exhibit
24 so there won't be any confusion?

25 MR. ISAACS: I don't see why not.

1 THE COURT: Fine. They would be received. I
2 believe you may be excused. We'll take about a ten minute
3 recess unless you have something urgent lined up.

4 MR. ISAACS: Judge, there is a bunch of witnesses
5 that I want to get on before noon. This fellow has been up
6 all night and I've got one back in there.

7 THE COURT: Well, why don't we take a five minute
8 recess.

9 (Following a five minute recess, the proceedings
10 continued as follows:)

11 MR. ISAACS: Call Gary Shamel.

12 THE COURT: Raise your right hand. Do you swear
13 to tell the truth, the whole truth and nothing but the truth,
14 so help you God?

15 THE WITNESS: Yes, sir.

16 GARY SHAMEL,
17 called as a witness on behalf of the Defendant, having been
18 first duly sworn, testifies as follows:

19 DIRECT EXAMINATION

20 BY MR. ISAACS:

21 Q Gary, would you state your full name for the record?

22 A Gary David Shamel.

23 Q Gary, back on June 13th of 1977, what was your oc-
24 cupation?

25 A Policeman, Locust Grove.

1 Q During June of 1977, were you involved in the
2 investigation of the homicides at Camp Scott?

3 A Well, I was on the gate. I stayed at the gate at
4 the Camp Scott area.

5 Q Did you take any statements from any witnesses?

6 A No, sir.

7 Q Interview any people pertaining to the homicides?

8 A No, sir.

9 Q Mr. Shamel, did you participate in any investigation
10 of the burglary or burglaries which occurred at the Jack
11 Shroff residence?

12 A No, sir.

13 Q Did you participate in an investigation of any of
14 the three caves that we discussed earlier this morning?

15 A No, sir.

16 Q Did you participate in any searches involving
17 tracking dogs?

18 A Yes, sir.

19 Q Will you tell me which search that was and what
20 you did?

21 A It was at the burglary at the store at Sam's Corner.

22 Q Yes, sir.

23 A Went with the dog handlers from Pennsylvania on
24 the search.

25 Q Did you follow those dogs for a distance?

1 A Yes, sir.

2 Q What did the dogs do?

3 A They went west down 33 Highway.

4 Q That's the road that runs to Chouteau; correct?

5 A Yes, sir. They cut back to the north, then back
6 to the east.

7 Q Did they go north across the highway?

8 A Yes, sir.

9 Q And how far north did they go after they crossed
10 the highway?

11 A About -- I'd say about a half mile.

12 Q Then what did they do?

13 A They turned back - back to the east, kind of
14 southeasterly direction.

15 Q Did you seize any evidence while you were following
16 those dogs?

17 A I don't know if you would call it evidence but we
18 found an old cabin and out of the cabin we took a green plas-
19 tic sack, a pillow and a towel.

20 Q Will you describe for me the appearance of that
21 towel?

22 A Looked as if it had been there for quite some time.

23 Q Did it have any dark discoloration in any area?

24 A No, sir.

25 Q What color was the towel?

1 A I don't recall what color it was.

2 Q Was there any stain on the pillow?

3 A No, sir.

4 Q This green bag that you took out of there, was
5 that a trash bag?

6 A That's what it looked like.

7 Q Have anything in it?

8 A No, sir. It wasn't all there, just looked -- about
9 half of it was there.

10 Q How far is this cabin from the river out there?

11 A From the river?

12 Q Yes, sir?

13 A I would say about two or three miles.

14 Q Where did the dogs go after they led you back there
15 south - excuse me - north and then back south?

16 A They went on east to a pond that was near a creek
17 close to the cabin and there, they just kind of lost the scent.

18 Q Do you know the owner of the property where the
19 cabin was located?

20 A No, sir.

21 Q After participating in that search, did you parti-
22 cipate in another one involving dogs?

23 A No, sir.

24 Q Did you pick up any other evidence and turn it over
25 to the OSBI or any law enforcement agency?

1 A Picked up a few coins that was by a fence, close
2 to the cabin.

3 Q What kind of coins?

4 A I think two quarters and a nickel or something like
5 that.

6 Q Gary, did you interview any persons at any time
7 concerning the whereabouts of Gene Leroy Hart?

8 A No, sir.

9 Q Did anybody ever report to you at the Locust Grove
10 Police Station that a stranger had been in the area of Camp
11 Scott on the night of the homicides?

12 A Well, there was a man reported to me that he knew
13 someone that was supposed to have seen someone.

14 Q Who was supposed to have seen someone?

15 MR. WISE: If it please the Court, this is the
16 rankest type of hearsay. If we are getting into third parties.

17 MR. ISAACS: Judge, we're not offering to prove
18 the truth of anything.

19 THE COURT: Objection is overruled. He can tell
20 you who told him that.

21 A (By Mr. Shamel) Bill Grasset told me that someone
22 mentioned something to him about it.

23 THE COURT: I will agree that it is hearsay, though.
24 Ask your next question.

25 Q Mr. Shamel, did anybody else report to you seeing

1 any strangers in the Camp Scott area?

2 A Not that I recall.

3 Q While you were stationed at Camp Scott, was it
4 ever reported to you that a person had returned to Camp
5 Scott from the Shroff residence and had wandered around in-
6 side the Camp Scott area?

7 A I had heard rumors, that the Shroff burglary was
8 involved in this.

9 Q Who told you that?

10 A I don't recall who it was.

11 Q Mr. Shamel, were you present when anybody was
12 interviewed by any other law enforcement agency?

13 A No, sir.

14 Q Did you make any technical examination of any
15 evidence?

16 A No, sir.

17 Q Mr. Shamel, how many sets of dogs were used in
18 these tracking searches?

19 A Only one on the search that I went on.

20 Q Approximately how many days after the Camp Scott
21 homicides were these dogs called in?

22 A I'm not certain. I would - I really don't know.
23 Around four or five days.

24 Q On the 13th day of June, did you participate in any
25 search of the Kiowa Unit - Kiowa Unit being the unit where

1 the little girls were?

2 A I think it was on the 14th or 15th.

3 Q After the homicides?

4 A Yes, sir.

5 Q Tell me what you did in that search?

6 A We just went behind up north and south and went
7 west of the crime scene, through the woods.

8 Q Did you say north and south? What were your bound-
9 aries on the south?

10 A On the south?

11 Q Yes, sir.

12 A Was the fence line.

13 Q Fence line that's on Mr. Cavalier's property?

14 A I don't know whose property it is. It was a
15 boundary, from my understanding, of the Girl Scout Camp.

16 Q While involved in that search, were items of evi-
17 dence seized in your presence?

18 A No, sir.

19 Q Did you go west to the blacktop road called Twin
20 Bridges Road?

21 A We didn't go that far.

22 Q Were dogs used in that search?

23 A No, sir.

24 Q Did you participate in any other searches?

25 A No, sir.

1 Q Mr. Shamel, have you told me everything that had
2 been esculpatory, in other words that would tend to show
3 that Mr. Hart is innocent of these charges?

4 A As far as I know.

5 MR. ISAACS: Thank you. Nothing further.

6 MR. WISE: Gary, did you draw an 11:00 to 7:00
7 shift last night?

8 MR. SHAMEL: Yes, sir.

9 MR. WISE: Your Honor, we'd ask that he be permitted
10 to leave so he can get some sleep.

11 THE COURT: All right. You are excused.

12 MR. ISAACS: Gary, thank you for coming.
13 Judge, I'd call Jane Ketchum.

14 THE COURT: Raise your right hand. Do you swear
15 to tell the truth, the whole truth and nothing but the truth,
16 so help you God?

17 THE WITNESS: I do.

18 JANE WILCOX KETCHUM,

19 called as a witness on behalf of the Defendant, having been
20 first duly sworn, testifies as follows:

21 DIRECT EXAMINATION

22 BY MR. ISAACS:

23 Q Miss Ketchum, would you state your full name for
24 the record, please?

25 A Jane Wilcox Ketchum.

1 Q Miss Ketchum, on the 13th day of June, 1977, what
2 was your occupation?

3 A Camp Counselor.

4 Q In which camp?

5 A At Camp Scott.

6 Q The week preceding camp, were you involved in an
7 orientation period at Camp Scott?

8 A Yes.

9 Q During that time were any suspicious activities
10 reported to you?

11 A No.

12 Q Over the weekend, where did you reside?

13 A I went - I came to my home in Tulsa.

14 Q What time did you return to Camp Scott on Sunday,
15 the 12th of June?

16 A I believe it was 12:00 or 1:00 o'clock.

17 Q Miss Ketchum, what was your assignment at Camp
18 Scott?

19 A Cherokee.

20 Q Cherokee is located which direction from Kiowa Unit?

21 A Kiowa -- it's towards the Great Hall. It was the
22 farthest one. I don't know which direction.

23 Q Southeast from Kiowa?

24 A South.

25 Q How many campers did you have assigned to you?

1 A Twenty-eight.

2 Q Sunday afternoon, your responsibility was to unload
3 buses and settle your campers in; is that correct?

4 A Yes.

5 Q Did you see any strangers on the Camp Scott camp-
6 grounds on Sunday afternoon?

7 A No, there was parents and people like that, so --

8 Q Did you see anybody suspicious on Camp Scott camp-
9 grounds at any time on June 12th or June 13th?

10 A No.

11 Q Did anybody report to you having seen a suspicious
12 person?

13 A No.

14 Q How many years have you attended Camp Scott?

15 A That was the first year.

16 Q In the past have you worked as a counselor for
17 any other Girl Scout groups?

18 A No.

19 Q Miss Ketchum, on the morning of the 13th day of June,
20 when you were awakened, will you tell me what you did?

21 A Got up and --

22 Q Let me back up just a second.

23 A Okay.

24 Q On the night of the 12th, did you leave the camp?

25 A No.

1 Q Did you spend that evening in the Cherokee Unit?

2 A Yes.

3 Q With whom?

4 A With whom - with one of the other counselors part
5 of the time and then I was alone part of the time.

6 Q All right. What time was it when you got to bed
7 that night?

8 A It was about between 9:00 and 10:00.

9 Q Were you awakened at any time during the night?

10 A No.

11 Q On the morning of the 12th - of the 13th, tell me
12 what you did when you woke up?

13 A We woke up all the kids and went to the Great Hall.

14 Q Now, had it been reported to you that there had
15 been some homicides?

16 A No. One of the other counselors came around - the
17 bell rang early and one of the other counselors came to our
18 unit and said that we would be meeting earlier and to wake
19 everyone up and come to the Great Hall for breakfast.

20 Q Miss Ketchum, when you got to the Great Hall, were
21 you told?

22 A Yes.

23 Q And the rest of that morning was spent with the
24 children on hikes and such activities; is that correct?

25 A Yes.

1 Q After the children had been put on the buses and
2 sent home, were you interviewed by any law enforcement offi-
3 cers?

4 A Yes. I can't remember - I guess it was the Okla-
5 homa State Bureau of Investigation.

6 Q Did they ask you the same or similar type questions
7 as to what I've asked you here?

8 A Yes, sir.

9 Q Tell them anything different about what happened?

10 A No, sir.

11 Q Did anybody take any hair, saliva, blood samples
12 from you?

13 A No.

14 Q Miss Ketchum, did any of the counselors or any
15 campers report to you or make a statement in your presence
16 that they had seen strangers in the Camp Scott area on
17 either the 12th or the 13th?

18 A No.

19 Q You were aware, were you not, that there had been
20 a theft of some property on approximately the 13th; is that
21 correct?

22 A I was not aware of that.

23 Q Were you later told that by someone?

24 A I might have heard it in the news.

25 Q Okay, do you know if any girls had their purses

1 stolen?

2 MR. WISE: If it please the Court, she's already
3 testified that she doesn't know anything except what she's
4 read in the newspaper. If it please the Court, we would, at
5 this time, ask if there is not some reason that we are in to
6 this witness. This is all cumulative. There has been ab-
7 solutely nothing informative or additional derived from this
8 witness.

9 THE COURT: Objection is sustained as to that
10 question because a missing purse would be a theft.

11 Q Miss Ketchum, did anybody find any purses in the
12 Camp Scott area?

13 A Would you repeat the question?

14 Q Did any of the counselors or campers find any
15 purses in the Camp Scott area?

16 A Not that I'm aware of.

17 Q Were you later interviewed by any member of the
18 law enforcement agencies after the 13th?

19 A Oh, no.

20 Q Were you aware of a threatening note that was
21 left in one of the units on or about April of 1977?

22 A No.

23 Q There were some footprints in the tent where the
24 little girls were killed.

25 MR. WISE: Object. That's a leading question. This

1 is direct examination.

2 THE COURT: Overruled. You may ask her the question.

3 Q Were you later shown some tennis shoes or boots
4 by any member of any law enforcements agency?

5 A No.

6 Q Were you later shown any photographs or anything?

7 A No.

8 MR. ISAACS: I believe that's all of this witness.

9 MR. WISE: Nothing Your Honor.

10 THE COURT: You're excused.

11 MR. ISAACS: At this time, I'd call Mr. Hybarger.

12 THE COURT: Raise your right hand. Do you swear
13 to tell the truth, the whole truth and nothing but the truth,
14 so help you God?

15 THE WITNESS: I do.

16 DAVID LYNN HYBARGER,

17 called as a witness on behalf of the Defendant, having been
18 first duly sworn, testifies as follows:

19 DIRECT EXAMINATION

20 BY MR. ISAACS:

21 Q Mr. Hybarger, would you state your name, sir?

22 A David Lynn Hybarger.

23 Q Mr. Hybarger, what is your business or profession?

24 A I'm employed by the State Medical Examiner's Office.

25 Q In what capacity?

1 A Field Agent.

2 Q And as a Field Agent, do you sometimes aid and
3 assist investigators with the bodies of homicide victims?

4 A Yes, sir, I do.

5 Q What tests do you perform on bodies of homicide
6 victims in assisting investigators?

7 A We do nitric tests for pistols, X-rays, actually,
8 whatever needs to be done, photographs and black light tests
9 for semen fluid, that sort of thing.

10 Q Did you take any photographs pertaining to the
11 autopsy of the three victims of the Camp Scott homicides?

12 A Yes, sir, I did.

13 Q Did you use a black light to look for seminal fluid
14 on the bodies of those victims?

15 A Yes, sir.

16 Q What were the results of that test?

17 A The test was negative.

18 Q And was that light used on any certain part of
19 any of the bodies of the victims?

20 A No, sir.

21 Q In the past -- well, withdraw that -- did you see
22 any mud or leaves on the body of any of the victims?

23 A Yes, sir, I did.

24 Q Which of the victims was that?

25 A I believe it was the Milner girl.

1 Q Will you describe for me the area of the leaves
2 and mud on that girl's body?

3 THE COURT: Mr. Isaacs, why don't you have your
4 witness establish place and time.

5 Q You were there when the autopsy was conducted on
6 the 13th day of June; is that correct?

7 A Yes, sir, I was.

8 Q That's when all of this was done; is that correct?

9 A That's correct.

10 Q All right, would you describe for me the area where
11 the leaves and mud were?

12 A I don't - I can't do that with any degree of ac-
13 curacy at all.

14 Q Would it have been in the pubic region?

15 A I don't recall, I'm sorry.

16 Q On the legs?

17 A I don't recall.

18 Q When you run these black light tests, do you run
19 them on the leg area and the area of the pubic region?

20 A Yes, we do.

21 Q Over the entire body?

22 A Yes, sir.

23 Q Do you also run it in the anal region?

24 A Yes, sir, and all the clothing and sleeping bags.

25 Q As a result of running all those tests, I believe you

1 said that the test was negative for presence of seminal
2 fluid?

3 A Yes, it was.

4 MR. ISAACS: I have no further questions of this
5 witness.

6 MR. FALLIS: Just a moment, Your Honor.

7 CROSS EXAMINATION

8 BY MR. FALLIS:

9 Q Mr. Hybarger, you work under the direction of Neal
10 Hoffman, don't you?

11 A That's correct.

12 Q David, at the time you were working at the scene
13 of the autopsy of the three little girls, were you present
14 when Dr. Hoffman actually took smears and prepared slides
15 from those smears?

16 A Yes, sir, I handled the slides.

17 Q From the vaginal, anal and oral cavities?

18 A That's correct.

19 Q All right, and he did prepare those?

20 A Yes, we prepared two slides from each location.

21 One was air dried for the OSBI and one was sealed with an
22 affixant.

23 MR. FALLIS: Okay, no other questions.

24 MR. ISAACS: Thank you, that's all.

25 THE COURT: You're excused.

1 THE COURT: Raise your right hand. Do you swear
2 to tell the truth, the whole truth and nothing but the truth,
3 so help you God?

4 MR. JENSEN: I do.

5 GARY PAUL JENSEN,

6 called as a witness on behalf of the Defendant, having been
7 first duly sworn, testifies as follows:

8 DIRECT EXAMINATION

9 BY MR. ISSACS:

10 Q Will you state your name for the record, sir?

11 A Gary Paul Jensen.

12 Q What is your business or profession?

13 A I'm Chief Field Agent for the Office of the Chief
14 Medical Examiner in Tulsa.

15 Q Directing your attention to June 13, 1977, did you
16 aid Dr. Hoffman and Mr. Hybarger and other employees of the
17 Medical Examiner's Office in performing an autopsy upon the
18 bodies of Doris Milner, Michelle Guse and Lori Lee Farmer?

19 A I did.

20 Q Will you tell me what you did in aiding the autopsy?

21 A My main task in this investigation was to perform
22 the iodine and silver plate method in an attempt to find
23 latent fingerprints which may have been left on the bodies of
24 the victims.

25 Q Would you tell me how that test is performed?

1 A It is performed by heating solid iodine crystals
2 in a container which will allow you then to propel the fumes
3 given by heated iodine onto areas which mine contain a finger-
4 print left there by someone and if a print is seen, a 96
5 percent pure silver plate is then pressed against the suspec-
6 ted area and this plate is then exposed to high intensity
7 light. I believe the actual process which then takes place
8 is what they usually make tin-type photographs. It will
9 develop into a picture.

10 Q Mr. Jensen, were you able to locate any fingerprints
11 on any of the bodies or were any of the results of that iodine
12 vapor such that you thought that you located a fingerprint?

13 A Yes.

14 Q Tell me about that.

15 A Well, I did indeed think that I had found a finger-
16 print that was classifiable but I had heard later that it was
17 not that at all.

18 Q Who did you submit that fingerprint to?

19 A As I performed the functions mentioned, I handed
20 the silver plate to two people who were assisting in this
21 operation. One is an investigator, Chuck Marston, and I
22 believe he's from the Midwest City Police Department and his
23 supervisor, a fellow named Sergeant Jergen Schwartz and that
24 would expose them to the light. And they also took these
25 silver plates with them back to Midwest City or Oklahoma City

1 or Oklahoma City and from there, I don't know where they
2 went.

3 Q Which of the bodies was this fingerprint or suspect-
4 ed fingerprint removed?

5 A I do not recall.

6 Q Mr. Jensen, on or about -- well, on the same day
7 was another test performed on an area of one of the bodies
8 for a footprint or a bootprint?

9 A Yes, indeed.

10 Q Tell me about that?

11 A All of the clothing and the bodies of the victims
12 were exposed to an ultraviolet light. I think that's common-
13 ly called "black light" in an effort of detecting anything
14 which might fluoresce under this particular type of lighting
15 and that was the test that I think you asked about.

16 Q Were you able to find what you thought was a foot-
17 print?

18 A There was an area of suspect on one of the - on
19 one of the victims that did appear to be perhaps the edge of
20 an object like a shoe.

21 Q Was a photograph made of that area?

22 A There was an attempt to photograph it but I do not
23 believe that the attempt was successful.

24 Q Have you told me everything you did on that day in
25 reference to the autopsy? I know you were there for a long time.

1 A The first thing done, if I'm not mistaken - I'm
2 relying on memory - was the sleeping bags were all inspected
3 as we received them by numerous people from our office and
4 the OSBI, looking for any sort of evidence which might have
5 been left upon them. Then, after that was accomplished, Dr.
6 Hoffman instructed myself and Chuck Marston to start the
7 iodine efforts on one particular body, which we did, and when
8 we would complete our tests, we would then release the body,
9 so to speak, to Dr. Hoffman for the purpose of performing
10 the autopsy and I believe I must have spent six to eight hours
11 just doing that right there and then I went home at about
12 5:00 o'clock and that's all I did.

13 Q Five o'clock in the morning?

14 A In the evening.

15 Q Can you give me the approximate time when the autop-
16 sy was done on the Farmer girl?

17 A No, I do not remember.

18 Q You don't remember those?

19 A No, sir.

20 MR. ISAACS: I believe that's all of this witness.

21 THE COURT: Cross examination?

22 CROSS EXAMINATION

23 BY MR. WISE:

24 Q Do you know the origin - you described the process
25 it takes, as I understood you, a highly high silver content

1 plate to conduct this examination; is that correct?

2 A Yes, sir.

3 Q Do you know the origin of those plates? Where did
4 you get them?

5 A They were given to me by, once again, Chuck Marston
6 of the Midwest City Police Department.

7 Q So the plates that were used and processed you
8 have just described, were secured and procured from the
9 Midwest City law enforcement agency, who came and brought
10 their plate and assisted in this processing?

11 A Yes, sir, to my knowledge, that's correct.

12 MR. WISE: I have no further questions. Thank you.

13 REDIRECT EXAMINATION

14 BY MR. ISAACS:

15 Q How many prints did you find, Mr. Jensen, if you
16 know?

17 A I thought there was one.

18 MR. ISAACS: That's all.

19 THE COURT: You're excused, thank you.

20 Raise your right hand. Do you swear to tell the
21 truth, the whole truth and nothing but the truth, so help you
22 God?

23 THE WITNESS: I do.

24 CHARLES ROBERT CATE,

25 called as a witness on behalf of the Defendant, having been

1 first duly sworn, testifies as follows:

2 DIRECT EXAMINATION

3 BY MR. ISAACS:

4 Q Would you state your full name, please, sir?

5 A Charles Robert Cate.

6 Q Mr. Cate, what is your occupation or profession?

7 A Manager of Wal-Mart Store in Tahlequah, Oklahoma.

8 Q During the past year, have you been contacted by

9 Agents of the Oklahoma State Bureau of Investigation?

10 A I have.

11 Q For what purpose?

12 A They were just in the store looking.

13 Q And did they ask to make a comparison of a certain
14 item?

15 A Not that I recall.

16 Q Did they ask you to identify anything of any item
17 in their possession?

18 A Not that I recall.

19 Q What items were they in the store looking for?

20 A In the sporting goods department, in the hardware
21 department.

22 Q Do you know what particular item they were looking
23 for?

24 A Well, it was back in the camping area of the store.
25 They were looking in that area.

1 Q They never told you what they wanted?

2 A No, sir, not that I recall.

3 Q Did they ask you to compare any tags of any
4 merchandise?

5 A They was looking at tags and I explained to them
6 how we marked out merchandise.

7 Q Will you tell me how you mark your merchandise?

8 A Well, we have a coding system. We have thirty-six
9 department and the first number on the tags are the department
10 numbers and the last numbers on the tags, the weeks that they
11 came in. We have fifty-two weeks in the year, and the last
12 number is the year.

13 Q Was there a number between those two?

14 A No.

15 Q So you've got a code number for the department;
16 you've got -- that's the first number -- and the last number
17 is the year number and that's the only number that appears
18 on any item?

19 A The week number and the year number.

20 Q Is there any way that you can tell that a particular
21 item comes from a particular Wal-Mart Store?

22 A No, sir.

23 Q Does Wal-Mart have different color code tags for
24 different items?

25 A No, sir. We have different colored tags for different

1 events like when we run a sale, we use a red and white sticker
2 and our everyday tag is a green tag and our close-out merchand-
3 ise and our items that we're not going to carry anymore is
4 a yellow tag.

5 Q Have you told me everything you know about this
6 investigation?

7 A I really don't know that much.

8 Q The OSBI Agents who contacted you, do you remember
9 their names?

10 A I got the first subpoena -- the only person I
11 contacted to see what it was about was Agent Ted Lempke.

12 Q What was the purpose of that subpoena?

13 A Well, he just said that whenever I called him that
14 I probably would be asked to come up here to try to identify
15 a tagging system of some type. That's all I know.

16 Q Has anybody ever asked you to try to identify any
17 cash register receipts?

18 A No, sir.

19 Q Does Wal-Mart have a particular type of cash regis-
20 ter receipt which would make it identifiable from cash register
21 receipts of another business?

22 A Yes, we do and we have store numbers on our cash
23 register receipts like the store in Tahlequah is Store No. 10.
24 The store here in Pryor is Store No. 22.

25 Q So if the cash register receipt comes from Tahlequah

1 it would have that number?

2 A The Store No. 10 and the cash register number.

3 Q There's been a lot of paper and a lot of cash
4 register receipts, tags, seized as evidence at various
5 locations. Directing your attention to only the packaging
6 used by your store, paper sacks or what-have-you, is there
7 any particular marking on the wrapping on the paper bags
8 you use by your store which is identifiable?

9 A We use all the same type paper bags. We use securi-
10 ty tape in our outlying registers like sporting goods,
11 electronics, in the back. That's all.

12 MR. ISAACS: I believe that's all, Judge.

13 CROSS EXAMINATION

14 BY MR. WISE:

15 Q Had you talked to anyone else about this case
16 besides the Agent you have talked with? Have you talked to
17 Mr. Isaacs, in other words?

18 A Uh --

19 MR. ISAACS: Mr. Cussein, that's the fellow that
20 came here.

21 Q Did you give him the same information?

22 A Right.

23 Q So you came to Court and told them exactly what you
24 told them when they came to visit you?

25 A Right.

1 MR. WISE: Thank you.

2 REDIRECT EXAMINATION

3 BY MR. ISAACS:

4 Q We didn't ask you anything about any cash register
5 receipts, did we, or Mr. Cussein?

6 A No.

7 Q Did he ask you any questions about packaging?

8 A No.

9 MR. ISAACS: That's all.

10 THE COURT: You're excused. Raise your right hand
11 to be sworn. Do you swear to tell the truth, the whole truth
12 and nothing but the truth, so help you God?

13 THE WITNESS: I do.

14 CHARLES FOCHS,

15 called as a witness on behalf of the Defendant, having been
16 first duly sworn, testifies as follows:

17 DIRECT EXAMINATION

18 BY MR. ISAACS:

19 Q Would you state your full name, please, sir?

20 A My name is Charles Fochs.

21 Q What is your line of business?

22 A I'm Detective Corporal with the Tulsa Police
23 Department.

24 Q Back in June of 1977, were you sent to the Camp
25 Scott area to aid in the investigation of homicides that had

1 occurred there?

2 A Well, I was sent to Camp Scott to assist in a
3 search for a suspect of that homicide.

4 Q Where was that search conducted?

5 A Within probably a five mile radius of camp itself
6 in the wooded area that surrounds Camp Scott.

7 Q Was this in the area of the Skunk Mountain?

8 A If I am not mistaken, yes, sir, it was.

9 Q Tell me what you did when you went on that search?

10 A Well, I was -- they sent myself and about thirty
11 other Tulsa Police Officers out and we assisted a number of
12 other local law enforcement agencies in the search of that
13 area.

14 Q Were tracking dogs used?

15 A No, sir, not to my knowledge.

16 Q This was a man, eyeball search for evidence?

17 A Right. Yes, sir.

18 Q During the course of that search, did you find and
19 retrieve any evidence?

20 A Yes, sir, I did.

21 Q Where did you find that evidence, Mr. Foch?

22 A We found it along a rocky ridge on the west side,
23 if I'm not mistaken, Skunk Mountain.

24 Q Mr. Fochs, up on Skunk Mountain, there was a cave or
25 ledge?

1 A Yes, sir.

2 Q Did you go to that area?

3 A Yes, sir.

4 Q See that area?

5 A Yes, sir.

6 Q Seize any evidence, gather any evidence from that
7 cave area?

8 A Well, we didn't actually gather any evidence from
9 the cave. There was a number of caves in that area that we
10 searched and we never found any evidence in those caves, but
11 up on this rocky ledge that runs north and south, the length
12 of this mountain, we did retrieve several empty cans of, if
13 I'm not mistaken, vienna sausage cans, cigarette butts where
14 apparently somebody had set up on this rocky ledge. It had
15 a very good view of the valley below where they could have
16 seen anyone approaching and set up on this and apparently
17 ate and smoked some cigarettes and we recovered those items.

18 Q Are you a hunter, Mr. Fochs?

19 A Pardon?

20 Q Do you hunt?

21 A Yes, I do.

22 Q Is that a region that's hunted, to your knowledge?

23 A I have no idea; I'm sure it is. I've never hunted
24 there myself.

25 Q Mr. Fochs, is there any indication as to how long

1 those cans had been there?

2 A They had not been there too awfully long because
3 some cans had ants in them, so there was juice.

4 Q Did they have any juice in them?

5 A A small amount, yes, sir.

6 Q Tell me about the retrieval of those items of
7 evidence, what you did?

8 A Well, myself and my partner, I was with another
9 Tulsa Police Officer by the name of Mike Higgins - we found
10 a can sitting on the rocky ledge and of course, we took a
11 stick and placed them in the cans to preserve any fingerprints
12 that might be on them. At that time, we had been walking
13 around up in these woods for approximately four hours and
14 we were pretty well lost. We called an OSBI spotter plane
15 in and they flew directly over us and gave us directions
16 by using, you know, by flying right over us. We waved at
17 them, they observed us, they were flying treetop level,
18 gave us directions as to how to get down to a waiting mobile
19 unit which would take us back to Camp Scott where an OSBI
20 mobile laboratory was set up.

21 Q Do you know if those cans were processed for
22 fingerprints?

23 A I turned the cans into an OSBI Agent, at the mobile
24 unit. As to whether or not they were processed, I don't know.

25 Q Mr. Fochs, would you describe for me the distance

1 and the location of the cans from that cave ledge area to
2 the best of your recollection?

3 A The best of my recollection, the rocky ledge on
4 which the can - which we found the cans, was on the west side
5 of what I believe to be Skunk Mountain. This rocky ledge
6 runs in a north-south direction.

7 Q Okay.

8 A As far as directions, like I said, we had been
9 up there for three to four, maybe five hours, walking around
10 and the terrain was really rough terrain, I believe, and
11 we really didn't have any good idea as to exactly what the
12 actual directions were.

13 Q How about distance? How far would you say it is
14 from the cave overhang to the area where you found those cans?

15 A Well, again, this rocky ledge probably runs for a
16 distance of maybe 150 - 200 yards, because if I recall cor-
17 rectly, we walked and checked the caves and the cans were
18 sitting directly on top of this ledge that overhangs the
19 caves, probably, you know, twenty or thirty feet from where
20 the caves would have been underneath this rocky ledge.

21 Q Mr. Fochs, did you gather any other evidence other
22 than what we have discussed?

23 A No, sir, I did not.

24 Q Participate in any other searches of any area out
25 there?

1 A We remained in the area for approximately three
2 o r four more hours searching but we found no other evidence
3 out there.

4 MR. ISAACS: Thank you. I believe that's all of
5 this witness.

6 THE COURT: Cross examine?

7 MR. WISE: We'd have no questions, Your Honor.

8 THE COURT: You are excused to leave.

9 MR. ISAACS: I call Linda Henderson.

10 THE COURT: Raise your right hand. Do you swear
11 to tell the truth, the whole truth and nothing but the truth,
12 so help you God?

13 THE WITNESS: I do.

14 LINDA ANN HENDERSON,

15 called as a witness on behalf of the Defendant, having been
16 first duly sworn, testifies as follows:

17 DIRECT EXAMINATION

18 BY MR. ISAACS:

19 Q Miss Henderson, state your full name, please?

20 A Linda Ann Henderson.

21 Q Back in June of 1977, were you a counselor at Camp
22 Scott?

23 A I was, yes.

24 Q Which unit?

25 A Quapaw.

1 Q Before going to the official opening at camp on
2 Sunday afternoon, did you attend an orientation period?

3 A Yes.

4 Q Anything unusual happen during the orientation
5 period?

6 A (Indicating no.)

7 Q Did anybody report -- you'll have to respond to the
8 question so she can take it down.

9 A Okay.

10 Q Did anything unusual happen during that week?

11 A Not that I recall.

12 Q Did anybody report to you or did you hear about any
13 strangers in the Camp Scott area on the week preceding the
14 Girl Scout camp?

15 A No.

16 Q On the weekend preceding Girl Scout Camp, did you go
17 back to Tulsa to stay with your folks?

18 A No. I stayed at camp.

19 Q You stayed at camp?

20 A Yes.

21 Q On the weekend from Friday afternoon until Sunday,
22 did you see anything unusual in the camp area?

23 A No.

24 Q Anybody report to you having seen strangers?

25 A No.

1 Q Who stayed with you at Camp Scott?

2 A Our Craft Director. Her name is Gwen -- I don't
3 recall her last name.

4 Q Anybody else?

5 A No.

6 Q Now on the weekend that preceded the opening of
7 camp, did you stay down in a unit?

8 A I stayed in the Quapaw Unit during the day and at
9 night, I stayed at the Nurse's hut.

10 Q Nurse's hut? Was Mrs. Alaback there?

11 A No.

12 Q Were other people at the camp with you and the
13 other Craft Director?

14 A No.

15 Q Did you have any visitors on the weekend at Camp
16 Scott?

17 A We had one man come in to - I believe to go fishing
18 and so we had to - he had - he asked for the key to the gate
19 where we come in.

20 Q What was that man's name?

21 A I don't recall.

22 Q Was he a white man, Indian man or black man?

23 A White.

24 Q Do you know who gave him permission to fish?

25 A No.

1 Q What type of automobile was the man driving?

2 A I don't recall.

3 Q What age was he?

4 A Middle aged; I don't know, I couldn't say.

5 Q Is that the only visitor that was in the camp, to
6 your knowledge?

7 A Yes.

8 Q Miss Henderson, I believe on Sunday, the campers
9 arrived about 1:00 o'clock; would that be correct?

10 A Right.

11 Q And your duty that Sunday afternoon had been to
12 settle in the campers?

13 A Right.

14 Q Did you see on Sunday, any strangers in the Camp
15 Scott area?

16 A No.

17 Q Did you see any strangers on Sunday night in the
18 Camp Scott area?

19 A No.

20 Q Did anyone report to you any incident or report
21 a sighting of any stranger or strangers?

22 A No.

23 Q How far is it from Quapaw Unit from the Kiowa Unit,
24 Miss Henderson?

25 A I just would have to guess, yards - I don't know

1 distance that well - 300 yards.

2 Q And in what direction?

3 A East.

4 Q On the night of the 12th, tell me what you did in
5 reference to your campers?

6 A Put them in their tents and made sure they were
7 okay, that's all.

8 Q About what time did you go to bed?

9 A I went to sleep about 10:30.

10 Q During that evening, did anything unusual happen?

11 A Nothing unusual.

12 Q The next morning, did you wake up at any time dur-
13 ing the night?

14 A Yes, sir.

15 Q For what reason?

16 A We had a girl who had nightmares in our unit.

17 Q Tell me about that?

18 A All of us woke up in the tent because we heard a
19 girl crying, and so we went and investigated it and calmed
20 the kids down and got them asleep.

21 Q Where did you find the little girl who was crying?
22 Was she in a tent? In the woods?

23 A Well, we had two girls crying. One girl in a tent
24 and there was one girl coming - apparently going toward our
25 tent. She was out in the unit.

1 Q We have on our board a diagram of the Kiowa Unit.
2 Is your unit similar to that one, these being the tents,
3 these X's (indicating)?

4 A No, we're more in a circle.

5 Q All right, would the counselor's tent be in approxi-
6 mately the same spot in the Quapaw Unit as in the Kiowa Unit?

7 A Those X's are the tents?

8 Q Yes.

9 A It's more of a circle than that.

10 Q Is the counselor's tent in the center then of the
11 Quapaw Unit?

12 A No, not in the center.

13 Q Facing the tents in the circle, would it be to the
14 left or the right, to the main body of tents?

15 THE COURT: Does that map show all of this?

16 MR. ISAACS: No, it doesn't. It shows the location
17 of the unit but it doesn't show the location of the tents.

18 Q How far was the little girl from your tent when you
19 heard her crying and went to investigate?

20 A Thirty yards.

21 Q Was she out in the woods?

22 A No, sir, she was in the unit.

23 Q Okay. So the girl - the other girl that was crying
24 was in the tent?

25 A Yes.

1 Q What was the name of the little girl out in the
2 woods?

3 A I don't remember. I don't think I knew then and
4 I don't remember.

5 Q About what time did this incident occur?

6 A I said shortly after midnight.

7 Q Did anything unusual happen during the night after
8 you had put these girls back into bed?

9 A No.

10 Q Did any of the campers report seeing any stranger
11 near the Quapaw Unit?

12 A But not to me - yes, they did, but not to me.

13 Q Did they, in your presence, report something?

14 A No.

15 Q Do you know the names of who made the report?

16 A I don't.

17 Q Tell me what you did the next morning when you woke
18 up?

19 A Get our girls ready to go to breakfast.

20 Q Did anybody tell you about the homicides that
21 morning?

22 A Yes, they did.

23 Q When did they tell you?

24 A Shortly after it occurred. Mrs. Day told us and
25 Dee Elder told us, too.

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Q Was that up at the Great Hall?

A No, she told us in our unit.

Q For the remainder of that day, you were with the girls conducting various activities; is that correct?

A Yes, sir.

Q After the girls were loaded on the buses and transported from the unit, were you interviewed by any law enforcement agency?

A Yes, sir.

Q Do you remember the name of the man that interviewed you?

A No.

Q Did you tell him basically what you've told me here today?

A He didn't question us much. He just asked about what time we went to bed and if I heard anything unusual.

Q Had you at that time heard any reports of strangers in the area?

A No.

Q When did you first know that some of the girls in your unit had seen men or somebody swinging on a latrine door?

A We had heard that report early in the morning.

Q On the morning of the 13th?

A Yes.

MR. WISE: If it please the Court, we would object

1 to this. She previously answered it was not related in her
2 presence. Total hearsay.

3 MR. ISAACS: I'm not offering it to prove the truth
4 of anything.

5 THE COURT: She's already answered it, Mr. Wise,
6 so overruled. Ask your next question.

7 Q About what time in the morning was that?

8 A That we heard?

9 Q That the report came to you?

10 MR. WISE: If it please the Court, we would again
11 object to the line of questioning. This witness has testi-
12 fied that no reports were made to her in her presence.

13 Q Well, what time did you hear about it?

14 A Before breakfast.

15 Q Breakfast was at 7:15?

16 A I couldn't say for sure.

17 Q Miss Henderson, who took you to the Camp Scott area
18 on the week preceding camp?

19 A I took myself.

20 MR. WISE: We object, Your Honor. It's cumulative
21 and totally of no value as evidence in this matter.

22 THE COURT: Sustained.

23 Q After you left camp, who picked you up?

24 A Myself. I had my own vehicle.

25 Q What kind of vehicle did you have?

1 MR. WISE: We make the same objection. How she
2 got there and how she left is irrelevant.

3 THE COURT: Overruled. She may tell you what kind
4 of car she left in.

5 Q Go ahead and tell me what kind of car?

6 A Okay, a Ford pickup, white.

7 Q Did you leave the campgrounds during the weekend
8 for any reason?

9 A No, sir.

10 Q Did you leave the campgrounds any on Monday morning
11 and return?

12 A No, sir.

13 Q Miss Henderson, since this happened, have you been
14 out of state?

15 A Yes, I have.

16 Q Where did you go?

17 A Twice to Arkansas.

18 Q Has anybody, after these homicides, shown you some
19 footwear such as boots?

20 A Yes.

21 Q What did they show you?

22 A Tennis shoes.

23 Q What kind of tennis shoes?

24 A Brown.

25 Q Have you seen that tennis shoe before?

1 A No.

2 Q What type of tread did it have on it?

3 A It had small circles on it.

4 Q Have you ever seen anyone in the Camp Scott area
5 wearing that type of tennis shoe?

6 A No.

7 Q Did anyone show you any photographs?

8 A Yes.

9 Q What was the photograph of?

10 A It was a picture of a counselor.

11 Q Did you know her?

12 A Yes.

13 Q Louise Liggins?

14 A Yes, sir.

15 Q Were you shown any other items by any investigative
16 agency?

17 A No, sir.

18 Q Do you know anything about those two items?

19 A No, sir.

20 Q Anybody take any blood samples or hair samples
21 from you?

22 A No.

23 Q Any samples of any kind?

24 A No.

25 Q Have you told me everything you know about these

1 homicides?

2 A I believe I have.

3 MR. ISAACS: Thank you.

4 CROSS EXAMINATION

5 BY MR. WISE:

6 Q Linda, have you talked to Mr. Isaacs before you
7 came here or any of his representatives?

8 A No.

9 Q Have you talked to him out in the hall?

10 A I talked to him in there.

11 Q Did you tell him the same things in there that you
12 told us just now?

13 A Yes.

14 REDIRECT EXAMINATION

15 BY MR. ISAACS:

16 Q Linda, I didn't talk to you but for about two min-
17 utes, did I?

18 A No.

19 Q So I couldn't have asked you all those questions,
20 could I?

21 A No.

22 Q Just a second. Did you get a letter through the
23 mail from Camp Scott asking you to appear so we could talk
24 to you?

25 A I did, yes.

1 Q We didn't get to talk then, did we?

2 A No.

3 MR. ISAACS: Thank you. That's all. Do you want
4 to go another one?

5 THE COURT: Do you have another one that is that
6 short?

7 MR. ISAACS: I don't think the others will be that
8 short, Judge.

9 THE COURT: Why don't we break until 1:15 at this
10 time for lunch.

11 (Following a lunch recess, proceedings continued
12 as follows:)

13 MR. ISAACS: Call Mike Wilkerson, Your Honor.

14 THE COURT: Raise your right hand. Do you swear
15 to tell the truth, the whole truth and nothing but the truth,
16 so help you God?

17 THE WITNESS: Yes, sir.

18 OWEN MICHAEL WILKERSON,
19 called as a witness on behalf of the Defendant, having been
20 first duly sworn, testifies as follows:

21 DIRECT EXAMINATION

22 BY MR. ISAACS:

23 Q Mr. Wilkerson, would you state your full name for
24 the record?

25 A Owen Michael Wilkerson.

1 Q Back in June of 1977, what was your occupation,
2 please?

3 A I was an Agent with the Oklahoma State Bureau of
4 Investigation.

5 Q Did you, on or about the 13th day of June, parti-
6 cipate in the investigation of the Camp Scott homicides?

7 A Yes, sir, I did.

8 Q Did you go there on the 13th?

9 A Yes, sir, I did.

10 Q After you had arrived at Camp Scott, what particular
11 duty was assigned to you?

12 A I was assigned to really take names and addresses
13 of the counselors to have short interviews with counselors
14 in case there was a hot trail or something like that to follow.

15 Q During the interviews with the counselors, did any-
16 one report to you seeing a stranger in the Camp Scott area?

17 A No, sir, not that I can recall.

18 Q Did you interview any campers? The little girls?

19 A Yes, sir, I did.

20 Q Did any of those little girls see any strangers in
21 the Camp Scott area, either on the 13th or the 12th?

22 A The best of my recollection, one little girl said
23 that -- no, let me back up just a moment. A counselor told
24 me that one little girl had said that they had heard whispering
25 outside of their tents down in the Kiowa area.

1 Q What was the counselor's name?

2 A I don't recall, sir, right offhand.

3 Q Do you recall the name of the girl?

4 A No, sir, I don't.

5 Q Did the girl, the counselor, give you a description
6 of the voices, a description of the people?

7 A One was low, they remembered that.

8 Q Did she know the sex of the person who was talking
9 outside of camp?

10 MR. FALLIS: If it please the Court, at this
11 point, we would object on the grounds it's hearsay.

12 THE COURT: Sustained.

13 Q Mr. Wilkerson, did you take any sworn statements
14 from any counselors or campers?

15 A No, sir, I did not.

16 Q After you had the interviews with the counselors
17 and campers, what was your next duty in the investigation
18 of those homicides?

19 A Just generally a working - general investigative
20 working, follow a lead here, a lead there. I was called out
21 also at that time to do other investigations so it was kind
22 of an off and on kind of an investigation for me.

23 Q Did you participate in the investigation of the
24 burglary at the residence of Jack Shroff?

25 A No, sir, I didn't.

1 Q Did you, during the course of your investigative
2 activity at Camp Scott, go to any of the caves which were
3 searched?

4 A No, sir. I went to an area up behind the Shroff
5 residence. I'm not familiar with the area at all. There
6 was nothing what I would determine as a cave in that area,
7 behind there that I visited.

8 Q Mr. Wilkerson, did you gather any evidence at the
9 Camp Scott area when you were supervising and interviewing
10 people at Camp Scott?

11 A No, sir, I did not.

12 Q Did you gather any evidence in the area behind the
13 Shroff house?

14 A No, sir.

15 Q Did you participate in the investigation of the
16 burglary of the Sam's Corner grocery store, also known as
17 T & H Grocery?

18 A No, sir, I did not.

19 Q Did you participate in the investigation of the
20 burglary of the Grossman Grocery Store?

21 A No, sir, I didn't.

22 Q There were several searches conducted with the
23 aid of tracking dogs. Did you at any time participate in any
24 of those searches?

25 A No, sir. I saw the dogs in the area. I knew the

1 searches were going on.

2 Q During the investigation at Camp Scott and the
3 Locust Grove area, did you have an occasion to gather any
4 item of evidence?

5 A No, sir. I took hair samples from the immediate
6 family of the deceased, all the parents and children; took
7 hair and pubic samples from these people.

8 Q Are you a technician of any type?

9 A No, sir, I'm not.

10 Q Experience?

11 A No, sir.

12 Q Did you take any written or sworn statements from
13 anyone?

14 A No, sir, I didn't.

15 Q Are you acquainted with a fellow by the name of
16 Larry Dry?

17 A Yes, sir, I do know Dry.

18 Q Now sometime in March, it's been testified to that
19 sometime in March, he was brought from Granite Reformatory.
20 Are you aware of the circumstances that surrounded his being
21 released from the Granite Reformatory to the Oklahoma State
22 Bureau of Investigation?

23 A I had no first hand knowledge of it, no, sir.

24 Q Were you present when Mr. Dry was interviewed?

25 A No, sir.

1 Q Were you ever present when Mr. Dry led agents on
2 a search of any location?

3 A No, sir.

4 Q Are you acquainted with a fellow by the name of
5 Jimmy Don Bunch?

6 A Just through reputation.

7 Q Have you interviewed him with reference to this
8 case?

9 A No, sir, I haven't.

10 Q Did anyone interview Mr. Dry at your request?

11 A No, sir, no.

12 Q Did anyone interview Mr. Jimmy Don Bunch at your
13 request?

14 A Yes, sir.

15 Q Who was that?

16 A Roger Chrisco.

17 Q When did Mr. Chrisco do that?

18 A That would have been the day before he testified.

19 Q Where was that at?

20 A It would have been the Tulsa County Jail.

21 Q Who had Mr. Bunch removed from the State Peniten-
22 tiary at McAlester?

23 A I don't know, sir.

24 Q Was Mr. Larry Dry promised any money to help you
25 find Gene Leroy Hart?

1 A Not to my knowledge, no, sir.

2 Q Was Mr. Dry promised any money to testify?

3 A To my knowledge, no.

4 Q Mr. Dry promised any leniency on his present
5 charges in Delaware County?

6 A Not to my knowledge, no, sir.

7 Q Have you heard that he was made a promise?

8 A No, sir.

9 Q Who was present when Mr. Chrisco - when he inter-
10 viewed Jimmy Bunch in the Tulsa County Jail?

11 A I really don't know, sir. I think -- I don't know
12 first hand who was present, probably just him and Mr. Bunch.
13 No, Frank Thurman was there, a Tulsa County Undersheriff of
14 the County of Tulsa.

15 Q Are you aware of any other interviews conducted
16 with Mr. Bunch?

17 A Yes, we had agents interview Mr. Bunch in McAlester,
18 I believe.

19 Q That was Mr. Jones?

20 A Yes, sir.

21 Q How many times did Mr. Jones interview Mr. Bunch?

22 A I don't know, sir.

23 Q Do you know the date of the first interview?

24 A No, sir, I don't.

25 Q Have you transported any evidence, either from the

1 Oklahoma State Penitentiary or the Mayes County Jail?

2 A No, sir.

3 Q On April 6th of this year, Mr. Hart was arrested
4 near Tahlequah. Did you participate in the arrest?

5 A Yes, sir, I did.

6 Q Will you tell me what you did when you went there
7 to arrest Mr. Hart?

8 A Well, we set down the arrest plan at about four
9 or five miles away.

10 Q Where was that?

11 A At a small store in that general area. I'm not
12 familiar with the geographical area there. It was at a
13 small store. Myself, Roger Chrisco and Jack Lay were to
14 go to the front of the house, up a small road, up the hill.
15 The remainder of the agents, which were five, were to come
16 to the side and to the back of the house.

17 Q Give me the names of the other agents?

18 A The other agents were --

19 MR. WISE: If it please the Court, this is repeti-
20 tious. He's been furnished the names of everybody who was
21 there by us and several times in testimony.

22 THE COURT: Sustained. It's cumulative.

23 MR. ISAACS: He hasn't furnished me the names of
24 anybody, Judge, and there's been some question of the names
25 of the agents who were in the rear of the house. He was there,

1 he supervised that operation and I think that man knows
2 better than anybody else.

3 THE COURT: You didn't ask him who was at the
4 rear of the house.

5 MR. ISAACS: I asked him who was in front.

6 THE COURT: Sustained as to all the agents who
7 were there. I don't know. Ask him your next question.

8 Q Was Mr. Owlesley there?

9 A Yes, sir.

10 Q Mr. Sparks?

11 A Yes -- wait.

12 Q Which Sparks?

13 A There were no Sparks there.

14 Q Was a man named Sharp?

15 A Sharp, yes, sir.

16 Q Which office was Mr. Sharp working out of?

17 A Oklahoma City, I think, sir.

18 Q How about Owlesley?

19 A I don't know.

20 Q Do you know Mr. Sharp's first name?

21 A Don.

22 Q All right. After you arrived at the Pigeon resi-
23 dence, Mr. Chrisco, Mr. Lay, yourself were in the front of
24 the house; is that correct?

25 A That's correct.

1 Q Tell me what happened then?

2 A As we were running up to the front of the house,
3 we heard someone shout "Halt" or "We'll shoot", something
4 in that vein. At that time, we speeded up our operation
5 and Jack hit the front door, kicked it open and told the
6 subject to freeze. By this time, Roger and I were there
7 also. The other people remained at the side and at the rear
8 of the house.

9 Q Was anybody else inside the house with Mr. Hart?

10 A No, sir.

11 Q Did you all conduct a search of the house?

12 A Yes, sir.

13 Q Find any weapons in the house?

14 A No, sir.

15 Q No guns?

16 A No.

17 Q A knife was seized from the kitchen table, was it
18 not?

19 A I don't know, sir.

20 Q What other items were gathered as evidence from
21 the Pigeon residence?

22 A I don't know. I did not make the search. I went
23 back to -- we transported Mr. Hart back.

24 Q Did anybody take photographs?

25 A Yes, sir, they did.

1 Q Who took those photographs?

2 A The best of my recollection, it was Harvey Pratt,
3 who took some photographs. I believe Jack Lay may have
4 taken a couple.

5 Q What kind of camera were those photographs taken
6 with?

7 A Sir, I don't know.

8 Q Polaroid?

9 A I don't know, sir.

10 Q Were those photographs taken for evidentiary
11 purposes?

12 A Yes and no, sir.

13 MR. WISE: If it please this Court, this whole
14 line of questioning is cumulative, repetitious, the same
15 information has been provided to this Court and to Defense
16 Counsel twice before.

17 THE COURT: Objection is sustained.

18 MR. ISAACS: Judge, I don't feel it is or I wouldn't
19 be asking it. I'm particularly concerned with what was done
20 with the evidence that was seized. They have a list of things
21 and I have reason to believe that there was other evidence
22 seized at that time. The man testified that he took pictures
23 of some of them for evidentiary purposes and my next question
24 is going to be what purpose were you going to use the pictures
25 for as evidence?

1 THE COURT: Well, that calls for speculation on
2 the part of the witness, so I probably would sustain the
3 objection.

4 Q What purpose were you going to use the pictures for?

5 MR. WISE: To which we would object, Your Honor.

6 MR. ISAACS: May I present argument before you
7 rule?

8 THE COURT: It hasn't been objected to.

9 MR. WISE: Yes, Your Honor, I'm objecting -- excuse,
10 Your Honor, I object to the question.

11 THE COURT: What is your argument, Mr. Isaacs?

12 MR. ISAACS: Judge, it is going to depict the way
13 the Defendant looked at that time. I'm going to ask then
14 what Mr. Hart was wearing, why none of those items - why they
15 were seized.

16 THE COURT: Objection is sustained, but you can ask
17 him what Mr. Hart was wearing.

18 Q What was Mr. Hart wearing?

19 A Shorts, tee shirt, striped tan tee shirt, small
20 short crop boots.

21 Q Why were those particular items retained as evidence,
22 Mr. Wilkerson?

23 A I did not retain them as evidence. They were taken
24 at the penitentiary is my understanding.

25 Q What particular value did those items have as

1 evidence?

2 MR. WISE: If it please the Court, it's asking
3 for speculative answers again.

4 MR. ISAACS: He ought to know. He's the one that
5 is running the investigation, Judge. He ought to know the
6 answer.

7 THE COURT: You can ask him what value they had.

8 Q What value did they have?

9 A Well, shoe comparisons, naturally; any forensic-type
10 examination could be done for possibility of hair, traces
11 of semen, if possible.

12 Q Were those items analyzed?

13 A Yes, sir.

14 Q What are the results of the analysis of the shorts
15 for semen?

16 A Sir, I know that they found acid phosphatase which
17 is indicative of semen.

18 Q Did they make a report of that?

19 A Yes, sir, I believe so.

20 Q What about the tee shirt? Find any semen on the
21 tee shirt?

22 A Not that I know of, sir.

23 MR. WISE: If it please the Court, I would object
24 to any further questions along this line of what forensic
25 tests were done when the witness has testified I didn't run

1 any of the forensic tests.

2 MR. ISAACS: It was at his direction.

3 THE COURT: Don't you have the results of the
4 tests on the Technical Report?

5 MR. ISAACS: In those Technical Reports, there is
6 no results on the shorts, tee shirt or boots.

7 THE COURT: Objection is overruled. The witness
8 may answer the question, if you know.

9 MR. ISAACS: It's not the same pair of shorts,
10 Mr. Hobbs.

11 THE COURT: Gentlemen, you'll talk to the bench
12 and not to each other.

13 Q Mr. Wilkerson, did anybody perform any analysis
14 on the boots for soil?

15 A To my knowledge, no, sir.

16 Q Did anybody perform any analysis on the boots for
17 blood?

18 A To my knowledge, no, sir.

19 Q Did anybody perform an analysis on any other items
20 of evidence seized at the Hart residence, such as blankets?

21 A I don't know, sir.

22 Q Now you were the person in charge of that investi-
23 gation at the Pigeon residence; is that correct?

24 A Yes.

25 Q And while in charge of that investigation, did some

1 people later come there and conduct a search of that property?

2 A Yes, sir, they did.

3 Q What items of evidence were seized as a result of
4 that search, other than the ones listed on the Technical
5 Report?

6 MR. WISE: To which we would object, Your Honor.
7 The person who conducted that has previously testified and
8 given, in response to counsel's questions, the list of what
9 was provided.

10 THE COURT: Objection is overruled but you show
11 him the report, Mr. Isaacs.

12 MR. ISAACS: Yes, sir.

13 MR. WISE: Could we ask a qualifying question, Your
14 Honor?

15 THE COURT: I think so.

16 VOIR DIRE EXAMINATION

17 BY MR. WISE.

18 Q Mr. Wilkerson, did you conduct that search?

19 A No, sir, I didn't.

20 DIRECT EXAMINATION (Continued)

21 BY MR. ISAACS:

22 Q Mr. Wilkerson, there was a number of things, a list
23 of items seized in the investigation at the Pigeon cabin.
24 Beginning at page 12 of Technical Lab Report S-77-332, would
25 you read through this list of items, beginning at Identification

1 No. XX-1, and tell me if you remember any other items being
2 seized at the location of the Pigeon cabin?

3 MR. WISE: To which we would object, Your Honor,
4 on the grounds that our qualifying question establishes
5 that this witness did not conduct the investigation; two
6 other agents did conduct that. They have been on the
7 witness stand and are the proper people and the direct place
8 in which to seek the evidence he's looking for.

9 THE COURT: Overruled.

10 A To the bottom of the page, counselor?

11 Q Yes, then turn to that next page.

12 A I see.

13 Q I believe this report runs to Item AA-19.

14 A Counselor, I had no personal knowledge of any other
15 items being taken, that was taken from there.

16 Q Mr. Reimer and another fellow went there and
17 processed the interior of the Pigeon cabin, did they not?

18 A Yes, sir.

19 Q What was the other fellow's name?

20 A Roger Chrisco.

21 Q And Mr. Reimer, being the technical man assigned
22 to process that scene; is that correct?

23 A Yes, sir.

24 Q Is Mr. Chrisco a technician of any sort?

25 A No, sir, he isn't; he's an agent.

1 Q Pardon?

2 A He's an Agent, he's not a Technician.

3 Q As a result of Gene Hart's apprehension at the
4 Pigeon cabin, did you interview anybody?

5 A I'm sorry, I don't understand.

6 Q Speak with anybody after his apprehension?

7 A Did I personally conduct an interview?

8 Q Yes, or was one conducted at your request?

9 A Not that I can recall, sir. Yes, yes, there was.

10 Q Who was that with?

11 A There have been several from time to time, just
12 small leads that came in that would need to be checked out.
13 I'm trying to think of the young man's name. I don't recall
14 right offhand but I am sure there have - it's almost daily.

15 Q Do you know a fellow by the name of Darren Creek-
16 more, Mr. Wilkerson?

17 A No, sir, the name doesn't ring a bell.

18 Q Do you know a girl by the name of Wagnon?

19 A No, sir.

20 Q This statement, "Halt or I'll shoot" which was made
21 when Mr. Hart was arrested. Do you know who made that state-
22 ment?

23 A To the best of my recollection, it was Larry Bowles.

24 Q That came from the rear of the cabin?

25 A That's correct, sir.

1 Q Mr. Wilkerson, did they bring Mr. Hart to the front
2 door or the door facing down the hill or the back door?

3 A Front door.

4 Q After he was brought out of the front door, tell
5 me what happened?

6 A He was laid on the ground, face down, I went around
7 to the back of the building, told the other guys to clear the
8 rest of the house.

9 Q Who was left with Mr. Hart?

10 A I believe Jack was, Jack Lay. Roger Chrisco was
11 also standing there.

12 Q Were you present when Mr. Lay was inside the
13 house to see if anybody was in the house?

14 A Mr. Lay didn't secure but one room of the house and
15 that was the room that Mr. Hart was in. Mr. Lay was outside
16 with Mr. Hart and the rest of the agents from the back cleared
17 the rest of the house.

18 Q Did they all go through the house and search?

19 A Pretty well, yes, sir.

20 Q Did you search the surrounding area?

21 A Yes, sir.

22 Q Were any items of evidence seized in the search
23 of the surrounding area, other than the things that are
24 listed there on the technical report?

25 A To my knowledge, no, sir.

1 MR. ISAACS: I believe that's all of this witness.

2 THE COURT: Cross examination?

3 MR. WISE: No questions.

4 MR. ISAACS: Oh, one other thing.

5 Q Have you told me about all the exculpatory evidence
6 that you know about, evidence that tends to show that he
7 is innocent?

8 A Yes, sir, to the best of my knowledge, I have, sir.

9 MR. ISAACS: Thank you, sir.

10 MR. WISE: No questions.

11 THE COURT: You may step down.

12 MR. ISAACS: Judge, we call Larry Mullins.

13 MR. WISE: If it please the Court, before that
14 witness takes the stand, we would like the Court to take
15 record of the fact that on page 12 of the Information that
16 Mr. Isaacs has been using now for several days and has
17 been furnished for us, on page 12, it shows the evidence
18 submitted by Mr. Bill Sparks on 4-18-78, included the pair
19 of cut-off shorts, the blue and white striped tank top, a
20 pair of suede boots, chuka boot style with crepe soles, a
21 brown leather belt, a pair of multi-colored socks, filter
22 cigarette and then subsequent pages 16 and 17, it shows the
23 lab reports showing the blood type was detected from the
24 pair of shorts and even showing that sperm or decomposed
25 sperm were found on the same pair of shorts. He has this

1 information, Your Honor, in his hand.

2 THE COURT: Does the Information give the Techni-
3 cian who performed that?

4 MR. WISE: It does, the forensic scientist that
5 was on the stand, Miss Janice Davis, yesterday morning.

6 MR. ISAACS: Judge, I want to point out for you
7 that my copy of this Technical Report is incomplete. We
8 cannot coordinate the number and letter of those technical
9 reports without asking any specific questions.

10 THE COURT: Let me see your copy, Mr. Wise.

11 MR. WISE: Certainly.

12 THE COURT: Mr. Wise, on the Defense copy, the
13 item numbers are not present in their entirety and occasionally
14 there are words that appear in the margin of your report and
15 not in the Defense copy.

16 MR. WISE: Is that a matter of Xeroxing, Your Honor?

17 THE COURT: It seems to be a problem in Xeroxing.

18 MR. WISE: If the Court Clerk would be glad to make
19 a copy, you can have any.

20 THE COURT: Perhaps we could swap things by recopy-
21 ing your copy.

22 MR. WISE: Very well, Your Honor, anything to speed
23 up matters. Thank you, Your Honor. May I ask the Court
24 Clerk?

25 THE COURT: Yes. Who did you say your next witness

1 MR. ISAACS: Mr. Mullins. He's right here, Judge.

2 THE COURT: Raise your right hand. Do you swear
3 to tell the truth, the whole truth and nothing but the truth,
4 so help you God?

5 THE WITNESS: I do.

6 MR. ISAACS: Judge, could you give us about five
7 minutes to get those copies back?

8 MR. WISE: I'll be glad to let him use mine, Your
9 Honor.

10 THE COURT: He'll let you use his.

11 LARRY MULLINS,
12 called as a witness on behalf of the Defense, having been
13 first duly sworn, testifies as follows:

14 DIRECT EXAMINATION

15 BY MR. ISAACS:

16 Q Mr. Mullins, you've testified previously, have you
17 not?

18 A Yes, sir, I have.

19 Q And I believe you testified concerning the days of
20 June 13th and what you did at Camp Scott in reference to
21 the homicides?

22 A Yes, sir, that's correct.

23 Q I want to ask you some questions about the investi-
24 gation of the Shroff burglary. Are you acquainted with that
25 location?

1 A Yes, sir, I am.

2 Q What day did you first go there, sir?

3 A June 14th, 1977.

4 Q At whose request?

5 A OSBI Agent Ted Lempke.

6 Q Tell me what you did when you arrived at the Shroff
7 residence?

8 A Upon arrival, Technician Esquinaldo photographed
9 the scene. Upon completion of photographing, plaster casts
10 were made outside the residence. The residence was then
11 processed for latent fingerprints.

12 Q And did you process the entire residence, the
13 windows and inside?

14 A No, sir, not the entire residence, no.

15 Q Tell me what part of it you processed?

16 A We processed the back door, I believe, the sliding
17 glass door.

18 Q Were you able to find any fingerprints on the back
19 door?

20 A No, sir, not on the back door.

21 Q What did you next process?

22 A Processed the sliding patio door.

23 Q Were you able to find any fingerprints on the
24 patio door?

25 A Yes, there were two of value.

1 Q To whom did those fingerprints belong?

2 A One fingerprint belonged to Jack Shroff, the owner;
3 the other print was not identified.

4 Q You say it was not identified?

5 A Yes, sir.

6 Q Did you, after you had processed the back door,
7 what did you do?

8 A We went inside and proceeded to look around for
9 any signs of disturbance of the house.

10 Q What signs of disturbance did you see?

11 A Mr. Shroff pointed out that he had a box of shotgun
12 shells which were sitting on the shelf beside the back door
13 which apparently had been moved.

14 Q Did you dust that box of shotgun shells or perform
15 some type of test to fingerprint it?

16 A The box was collected and transported to Oklahoma
17 City where a test was performed on it for latent fingerprints,
18 but not of value.

19 Q Did you find any on the box?

20 A No, sir.

21 Q Now after processing the box, what next did you do
22 in reference to investigating the Shroff burglary?

23 A The refrigerator door located in the kitchen was
24 also processed for latent prints, but none were found.

25 Q Process any other items in the house?

1 A I believe a door leading into a storage area was
2 processed but none were found.

3 Q Anything else?

4 A No, sir, not exactly that I can recall on the inside
5 of the house.

6 Q Mr. Mullins, did that house have a telephone?

7 A I believe it did.

8 Q Did you process the telephone?

9 A I don't recall.

10 Q The fingerprint that was found on the sliding glass
11 door that you testified about, directing your attention to
12 that, did you compare it with the fingerprints from the list
13 of suspects and list of elimination prints that you had?

14 A Yes, sir, it was compared to all of those people.

15 Q After you had conducted your fingerprint examination
16 of the house, what next did you do?

17 A There were two plaster casts made of shoe impressions
18 outside of the house.

19 Q You said shoe impressions or boot impressions?

20 A I don't recall. I didn't look at them. Mr. Esquinal-
21 do handled the actual pouring of the casts on those two.

22 Q Were those casts later compared by you with plaster
23 of paris casts taken from another location?

24 A No, sir, not by me.

25 Q Who does that?

1 A Mr. Bruce Plank.

2 Q Did anyone else examine the fingerprints lifted
3 from the door of the Shroff residence in attempting to make
4 an identification of some kind?

5 A I do not recall if Mr. Esquinaldo looked at it or
6 not. He may have.

7 Q How about Mr. Boyd?

8 A I don't believe Mr. Boyd did, no, sir.

9 Q I have a copy of your Technical Report, just to
10 be sure that I have covered everything, let me run through
11 it. There were, on the 18th, 1977, two sacks containing
12 various articles submitted by an Agent named Pat Wilkerson;
13 do you recall that sack of items?

14 A Yes, sir, I do.

15 Q And did you analyze each of the items in that
16 sack or perform some test on those items to determine whether
17 there were latent fingerprints which could be used for identi-
18 fication purposes?

19 A Yes, sir. These items were processed for prints.

20 Q And there were no latent prints of value?

21 A That's correct, sir.

22 Q On the 21st, some other items were submitted to
23 you from the girls - some of the girls' personal property.

24 Did you perform a test on each one of those items to determine
25 if there was any latent fingerprints?

1 A May I see your report?

2 Q Right here.

3 A Right.

4 Q I am going to take you through every one of them.

5 A Yes, sir, there were tests made on these items.

6 Q Were there any latent prints other than finger-
7 prints of the victims?

8 A No, sir, there were not.

9 Q On the 22nd, some other items were submitted to
10 you by Mr. Larry Bowles. Item 30, did you perform a test on
11 each of those items?

12 A Yes, sir, I did.

13 Q And no latent fingerprints on those?

14 A No, sir.

15 Q On the same date, Item 31 and 31-G were submitted
16 by Carey Thurman. Did you perform a test on each and all
17 of those items?

18 MR. WISE: If it please the Court, we are going to
19 object at this point. If all we're going to do is hand what
20 we've already given him back and forth, we might as well put
21 a hand puppet on Mr. Isaacs' hands so he can answer, one
22 side can answer the other.

23 THE COURT: Does the report give his analysis?

24 MR. ISAACS: It gives the results but it doesn't
25 say if they were all analyzed in each instance. I guess I

1 could speed things up by asking him to read the report and
2 tell me whether there was anything that he didn't analyze
3 contained in this report. Do you want to look at that?

4 THE COURT: Is that your report?

5 MR. MULLINS: Yes, sir, this is my report.

6 THE COURT: He probably knows what it says. I
7 think that is a good question.

8 Q What I am concerned with is that you didn't over-
9 look processing any of those items of evidence for finger-
10 prints?

11 A No, sir, any of the items that could be processed
12 were processed for prints.

13 Q At a later date, there was some bean cans, I
14 believe, that were found in one of the caves submitted to
15 the OSBI laboratory. Did you process those bean cans for
16 fingerprints?

17 A Yes, sir.

18 Q Were any fingerprints found?

19 A No, sir, there were not.

20 Q Now, we've got a long list of evidence, tons of it,
21 I guess. Did you process any of the items listed therein
22 and find fingerprints of value?

23 A I would have to look at my report, if I could,
24 please.

25 Q Let me say it this way. There was a number of

1 tobacco cans, bean cans, vienna sausage cans, beer bottles,
2 beer cans, some glass and items from other burglaries sub-
3 mitted to you?

4 A Yes, sir.

5 Q Is that correct?

6 A That's correct.

7 Q When you examined the items taken from the caves,
8 did you find any fingerprints that were not Mr. Hart's?

9 A No, sir, I did not.

10 Q Did you find Mr. Hart's fingerprints on any of these
11 items?

12 A No, sir, I did not.

13 Q When you were submitted any evidence from the T & H
14 Grocery burglary, did you make a comparison of Mr. Hart's
15 fingerprints with those items?

16 A With the latent prints of value, yes, I did.

17 Q Were any of the fingerprints Mr. Hart's?

18 A No, sir.

19 Q Did you compare the fingerprints, the latent finger-
20 prints, with fingerprints on file that had been given to you
21 in this case?

22 A The latent fingerprints of value, yes, sir, I did.

23 Q Were you able to determine whose fingerprints those
24 were at the Grossman burglary - excuse me, we're talking about
25 the T & H Grocery Store burglary at Sam's Corner.

1 A T & H Grocery Store?

2 Q Yes.

3 A Latent prints were submitted to me, three of those
4 latent prints were identical with the owner's of the store,
5 their prints.

6 Q All right. Were there any other latent prints of
7 value?

8 A No, sir, none of the other ones were of value.

9 Q Directing your attention to the Grossman burglary,
10 did you examine all the items of evidence submitted to you
11 and make a comparison of those items of evidence which had
12 latent fingerprints on them with the fingerprints of Mr.
13 Hart?

14 A You said the Grossman burglary?

15 Q Yes, sir, that's the one east of Locust Grove,
16 near Locust Grove?

17 A I'm not familiar with the Grossman burglary.

18 Q Mr. Mullins, there was evidence given this morning
19 about a fingerprint - possible fingerprint lifted from one
20 of the bodies of one of the victims. Have you seen that
21 item?

22 A I have seen a photograph of the latent print, yes,
23 sir.

24 Q Whose latent print is that?

25 A It was determined to belong to a Midwest Police

1 Dispatcher.

2 Q So in truth and in fact, we did not have a finger-
3 print on the slide that was taken from the girl's body; is
4 that right?

5 A There was a print on the plate. It had been
6 placed there prior to application to the girl's body.

7 Q Are you familiar with the iodine vapor or process
8 of lifting fingerprints from the body?

9 A No, sir, I'm not that familiar with it.

10 Q Have you ever used that?

11 A No, sir, I never have.

12 Q Mr. Mullins, did you receive any items of evidence
13 taken from the Sam Pigeon residence?

14 A No, sir, I did not.

15 Q Do you know if any attempt was made to lift any
16 fingerprints at the Pigeon house?

17 A I was not at the residence; I don't know what the
18 agents did there.

19 Q Okay. Did you take any statements from any witnesses
20 at any time?

21 A No, sir, I did not.

22 Q Have you told me all the Technical Reports you
23 performed - all the technical duties that you performed regard-
24 ing the investigation at Camp Scott?

25 A Yes, sir, I have. There were a couple of other items

1 that were submitted later on, which I don't know if you have
2 reports or not but no latent prints were found of value on
3 the subsequent items.

4 Q What items were those, if you recall?

5 A There was a tobacco pouch, a --

6 Q Tobacco pouch? Do you mean one of those Prince
7 Albert --

8 A No, sir, it was a paper - some kind of pouch. I
9 don't remember the name of it. There was -- I'd have to
10 check my report, what the items were.

11 Q Okay, but on any of the items that you processed
12 and found latent prints, none of them were Mr. Hart's, were
13 they?

14 A No, sir, there were not.

15 Q Have you analyzed any photographs for fingerprints?

16 A No, sir, not that I can recall.

17 Q Did you yourself seize any items of evidence per-
18 taining to this investigation in the homicides at Camp Scott
19 which we haven't talked about?

20 A Not that I can recall at this time, no, sir.

21 Q Have you told me about all exculpatory evidence
22 that you have had access to?

23 A Yes, sir, I have.

24 MR. ISAACS: Thank you.

25 THE COURT: Cross examination?

1 MR. WISE: We'd have no questions.

2 THE COURT: You're excused.

3 MR. ISAACS: Just a second, Judge.

4 Q Do you recall who submitted the tobacco pouch?

5 A Agent Harvey Pratt.

6 Q Do you know where it came from?

7 A No, sir, I do not.

8 MR. ISAACS: That's all.

9 THE COURT: You're excused. Thank you.

10 MR. ISAACS: I believe we'll call Mr. Clodfelter.

11 THE COURT: Are you the Ron Clodfelter who testi-
12 fied earlier?

13 MR. CLODFELTER: Yes.

14 THE COURT: You are still under oath. Please take
15 the stand.

16 RONALD CLODFELTER,

17 called as a witness on behalf of the Defendant, having been
18 first duly sworn, testifies as follows:

19 DIRECT EXAMINATION

20 BY MR. ISAACS:

21 Q How are you today, Mr. Clodfelter?

22 A Fine, thank you.

23 Q I wanted to ask you some questions about the items
24 that you examined and I didn't ask you about the other day.
25 What is your specialty as an OSBI Agent, Mr. Clodfelter?

1 A I function in the serology trace evidence section
2 of the laboratory.

3 Q Did you perform any tests on evidence taken from
4 the burglary at the Jack Shroff house?

5 A So much of the evidence that I performed analysis
6 on, I do not know the origin. I simply refer to them as
7 laboratory numbers.

8 Q Directing your attention to your Technical Report
9 S-77-332, concerning a roll of black tape. You've testified
10 about this tape, have you not?

11 A Yes, sir, I did last time.

12 Q Do you know the origin of that tape, where it came
13 from?

14 A I do not.

15 Q Is that a special type of tape?

16 A It is a black duct-type tape.

17 Q Did you perform any tests on any similar tape taken
18 from any residence in the area?

19 A Any black tape?

20 Q Yes, sir?

21 A Again, I'd have to refer to the items as laboratory
22 item numbers. I am not familiar with the origin.

23 Q Were you ever at Camp Scott to perform any technical
24 investigation on the scene?

25 A No, I was not.

1 Q Did you perform any serology examinations on
2 evidence seized in this case?

3 A No, I did not.

4 Q The tape found at the cave-cellar area, the masking
5 tape, was compared by, I believe, Mr. Plank; is that not
6 correct?

7 A I am not familiar with who made the comparison.

8 Q Did you ever examine that tape?

9 A I examined some masking tape, yes.

10 Q Mr. Clodfelter, those glasses that were taken from
11 Mr. Hart, when he was arrested have black tape on them. Have
12 you seen those glasses?

13 A Not to my knowledge. Possibly I have seen them but
14 not in a professional capacity.

15 Q Did anybody compare the black tape of those glasses
16 with the tape found on the bodies of the little girls?

17 A Not to my knowledge.

18 Q Did you perform any other analysis of any trace
19 evidence found in any of the locations we have mentioned?

20 A I looked at several items, yes, I did.

21 Q What were those items?

22 A I examined some plastic that was sent to the labora-
23 tory for comparison. However, I did not find that these had
24 matching edges.

25 Q Which Technical Report are you reading from?

1 A This is the one which contains the analysis of
2 black tape and masking tape.

3 Q All right. Now, when you compared those items
4 was there a significant difference in color?

5 A There were shades of color variation on the plas-
6 tic, yes.

7 Q Were there any matching torn spots, such as the
8 piece of masking tape to the tape found at the scene of the
9 crime?

10 A No, sir, there were not.

11 Q Did you perform any other comparisons or tests on
12 any other trace evidence?

13 A Yes, I did.

14 Q What was that?

15 A These were two laboratory evidence, bearing the
16 numbers H-1 and H-2. These were a type of rope.

17 Q All right. What were the results of that test?

18 A I found that H-1 and H-2 are consistent in chemical
19 and physical properties and could have shared the same common
20 origin.

21 Q Do you know where the rope came from?

22 A Not of my personal knowledge, no.

23 Q Did you perform any other tests on trace evidence?

24 A I examined several other items to begin with
25 Laboratory Nos. B-1 and B-3. These were tape - black tape

1 similar to the other type of duct tape. However, they did
2 not have matching edges or they did not have matching edges
3 to the other tape that was submitted. There was a small
4 piece of plastic, Item Q-1. I examined it as a possibility
5 that it would fit the plastic that was torn from the plastic
6 covering the lens of the flashlight and it seemed to be
7 inconsistent with that.

8 Q Could I see a copy of your Technical Report concern-
9 ing your comparisons on the cord and the plastic?

10 A The cord and plastic, yes, sir. This is my analy-
11 sis of the cord and my analytical report. This is in refer-
12 ence to my plastic.

13 MR. ISAACS: Judge, I've never been furnished with
14 a copy of these two Technical Reports and I ask at this time
15 that I be permitted to have Xerox copies of them.

16 THE COURT: Very well.

17 Q This is concerning the cord; is that correct?

18 A Yes, sir, it is.

19 MR. WISE: Would you tell us the numbers on those?
20 Is it F-77-332, Supplemental Reports by Clodfelter?

21 MR. CLODFELTER: Yes.

22 MR. WISE: Well, we furnished you a copy of this.

23 Q What was the content of the fiber?

24 A May I see my analysis notes? Much more thorough.
25 I found it to be a polypropylene olefin rope and --

1 Q Is that nylon cord?

2 A It's synthetic like nylon, yes, but it's different
3 from nylon.

4 Q What gauge, Mr. Clodfelter?

5 A I did not determine the gauge.

6 Q Can you approximate the thickness of that rope?

7 A To the best of my memory, approximately a half
8 an inch, possibly a little smaller.

9 Q Do you have a list identifying Item H-1 and H-2
10 in your possession?

11 A I have information concerning that but I don't
12 believe it indicates origin, if that's what you're referring
13 to.

14 Q Yes, sir.

15 A The only notes I have here is an envelope contain-
16 ing H-1, which was the plastic bag containing a rope and
17 H-2, which is also a rope. I did not have indication of
18 origin.

19 Q Do you have indication of who submitted that evi-
20 dence to you?

21 A I received this from Dennis Reimer on 6-29-77.

22 Q Okay, did you analyze or process any other items
23 of evidence?

24 A I examined cord removed from Laboratory No. A-7,
25 A-69 and A-38. These were small cords which appeared to be of

1 cotton composition and I examined a cord Y-7, which I
2 believe was obtained from the Girl Scout camp, from one of
3 the storerooms and it appears to be nylon, inconsistent
4 with the previous mentioned smaller cords and --

5 Q Approximately what diameter was the cord of H-1
6 and H-2?

7 A Approximately half an inch, a little smaller.

8 Q And the cord taken from the bodies of the girls,
9 what diameter in thickness?

10 A Approximately three-eighths of an inch, around in
11 that category.

12 Q Was the cord used for analysis purposes which was
13 taken from Camp Scott the same diameter or thickness?

14 A The Y-7, yes, it was approximately the same size.

15 Q That was the same thickness as the type that was
16 analyzed in H-1 and H-2?

17 A No. No, the Y-7 is not. H-1 and H-2 are the
18 largest ropes. They were the only two of that size.

19 Q All right.

20 MR. ISAACS: Mr. Wise, this is your copy, I believe,
21 is it not?

22 MR. WISE: Yes.

23 MR. ISAACS: The page that I need to examine this
24 witness on is not in his copy of the report. It's page 4.
25 Could we have a recess to find this other page?

1 THE COURT: You don't have 4, Mr. Isaacs?

2 MR. ISAACS: Well, I've got a page 4, but as you
3 can see, I can't do too much with it.

4 THE COURT: Well, I understand there is an audio
5 problem in Courtroom B. Why don't we take a ten or fifteen
6 minute recess and maybe we can resolve both of our problems.

7 (Following a fifteen minute recess, the proceedings
8 continued as follows:)

9 Q Mr. Clodfelter, we were talking about some compari-
10 sons of rope which you made in reference to items H-1 and
11 H-2. I believe you said their thickness was about three-
12 eighths of an inch; is that correct?

13 A One - H-1 and H-2, approximately a half an inch,
14 around in that category.

15 Q What was the fiber composition of H-1 and H-2?

16 A They were polypropylene olefin.

17 Q And you analyzed another section of cord or rope
18 that was submitted to you?

19 A Yes.

20 Q Do you know where that item came from?

21 A During recess, we tried to familiarize me with that.
22 The A-1 which I referred to earlier was removed from Milner's
23 body. The A-69, from Milner's wrist and A-38 from Guse's
24 wrist.

25 Q You say that all those items appear to be the same

1 rope, the same type of rope?

2 A The same type cotton rope. Actually, it would be
3 a cord instead of rope.

4 Q What was the approximate thickness of the cord
5 removed from the bodies of the victims?

6 A Approximately three-eighths of an inch, smaller
7 than that, possibly, but it was not consistent with the rope
8 H-1 and H-2.

9 Q Did you perform any other comparisons or any other
10 examinations of evidence submitted to you?

11 A Nothing other than what we discussed before recess.

12 Q I believe I asked you if you took any statements
13 and you told me you had never been to Camp Scott and conducted
14 any field investigation?

15 A No, I have not.

16 Q Could you give me the report number on the plastic
17 bag that we were talking about, the piece of plastic?

18 A This would be on the same one that references the
19 black tape and masking tape.

20 MR. ISAACS: Okay. I believe that's all of this
21 witness.

22 CROSS EXAMINATION

23 BY MR. WISE:

24 Q If I understand you correctly, you have just
25 described some of the rope or the binding cord, more or less,

1 that was taken from the deceased victim Milner?

2 A Yes.

3 Q And you compared that against samples that were
4 taken from various areas of Camp Scott, like the chick hut,
5 et cetera?

6 A Yes, the storeroom near camp.

7 Q All right, and were they consistent?

8 A No, they were not.

9 MR. WISE: Thank you, I have no other questions.

10 THE COURT: Anything further, Mr. Isaacs?

11 MR. ISAACS: No, sir.

12 THE COURT: You're excused. Thank you.

13 MR. ISAACS: I'd call Ann Reed at this time, Judge.

14 THE COURT: You have been previously sworn?

15 MISS REED: Yes, I have.

16 ANN REED,

17 called as a witness on behalf of the Defendant, having been
18 first duly sworn, testifies as follows:

19 DIRECT EXAMINATION

20 BY MR. ISAACS:

21 Q Miss Reed, directing your attention to the -- excuse
22 me -- state your full name for the record?

23 A Ann G. Reed.

24 Q Miss Reed, you testified some days ago, did you not?

25 A Yes, sir, I did.

1 Q I want to ask you some questions about some other
2 items of evidence which you examined?

3 A Yes, sir.

4 Q And which you made hair comparisons in.

5 A Yes, sir.

6 Q Directing your attention to Item S-77-332?

7 A Yes, sir.

8 Q Do you have a copy of that one?

9 A I've got a number. What's the date?

10 Q Report of October 3rd.

11 A Okay, here it is, yes, sir, I have that one.

12 Q Did you compare hair found on those items to hair
13 taken from the tent at Camp Scott?

14 A No, sir, I did not.

15 Q And why was that?

16 A I compared it to hairs from - that were found in
17 a cave, I believe I did not, because normally I do not
18 compare unknown hair with unknown hair unless specifically
19 requested to do so. If I do not know the source of one hair,
20 I don't compare the two.

21 Q So you don't know the source of hairs on any of
22 those items?

23 A No, sir, I do not.

24 Q And from TT-6-C, there were Caucasian hairs; is that
25 correct?

1 A Yes, sir, that's correct.

2 Q And all three came from one of the caves, did they
3 not?

4 A I don't know where those came from. All I know is
5 that the hairs were removed from clothing labeled GRS for
6 girls and that's all I know.

7 Q When you analyzed the items contained in that
8 Technical Examination Report, the one dated October 3rd of
9 '77?

10 A Yes, sir.

11 Q Did you find any Mongoloid type hair?

12 A No, sir, I did not. Among the hair submitted to
13 me from those items, I did not, except JJ-1.

14 Q Did you compare any of those hairs with hair
15 samples submitted from suspects?

16 A No, sir, I did not.

17 Q Directing your attention to Preliminary Lab Report
18 7-7-77 and the hair submitted to you under the laboratory
19 No. JJ-1, hairs from Cave No. 2?

20 A Yes, sir.

21 Q Did you make a comparison of those hairs with hairs
22 found in the tent at Camp Scott where the victims had been
23 sleeping?

24 A Yes, sir, I did.

25 Q What were the results of those comparisons?

1 A The hairs from JJ-1, when compared with some of
2 the hairs on the floor of the tent from materials swept from
3 the tent floor, they were consistent to four of them. Four
4 pieces of the hair from the material swept from the floor
5 of the tent were consistent with hairs from JJ-1, which are
6 hairs from Cave No. 2.

7 Q Did you later compare those hairs with anybody
8 else's hair?

9 A Yes, sir, I did.

10 Q Whose hair was that?

11 A Mr. Hart's.

12 Q And what were your findings when you compared the
13 hair from the cave and the tent floor to Mr. Hart's?

14 A Three of those pieces of hairs I was able to get
15 a very good consistent comparison with known hairs from Mr.
16 Hart. One piece of them had the same basic hair characteris-
17 tics, but I was not able to one-to-one match.

18 Q Did you compare those hairs found in the Cave 2 and
19 in the tent floor with hairs from anyone else?

20 A No, sir, I don't believe I did.

21 Q You state there in your report the results of
22 comparisons of other hairs in this case that follow in a later
23 report. Have you since that time made such a comparison?
24 That was dated 7-7-77.

25 A Yes, I believe a further report did come out in 4-6-78.

1 Q And that's when you made the comparison with Mr.
2 Hart's hair; is that correct?

3 A I believe that was quite a long list of items that
4 were compared. I don't believe I mentioned Mr. Hart's hairs
5 in those.

6 Q Did you make the comparison of Mr. Hart's hairs?

7 A That was report -- could I -- I'm sorry.

8 Q Yes, ma'am. Please explain.

9 A That was report -- the comparison with Mr. Hart's
10 hairs was reported on 5-4 of '78, I believe.

11 Q You went over to the hospital on April 6th and you
12 got a piece of hair; right?

13 A I believe it was.

14 Q From Mr. Hart?

15 A I don't believe that's the correct date.

16 Q Well, some time in April; I think you're right.

17 A Whenever it was, I did not see the hairs taken
18 but I was in the hospital when they were taken.

19 Q Now after the hair was taken from my client and
20 after the hair was transported to the laboratory, what was
21 the first thing you did with the hair before you conducted
22 any comparison?

23 MR. FALLIS: If it please the Court, I object to it
24 on the grounds that it's been asked and answered during a
25 very lengthy cross examination on the day of June 13, 1978, of

1 this witness.

2 MR. ISAACS: Judge, let me say this.

3 THE COURT: I don't understand the direction your
4 testimony will take.

5 MR. ISAACS: Let me ask a couple of more.

6 THE COURT: What are you seeking to show?

7 MR. ISAACS: I want to know what comparison was
8 made, when and in what order.

9 THE COURT: Does the report not state that, Mr.
10 Isaacs?

11 MR. ISAACS: No.

12 THE COURT: Objection is overruled.

13 Q Miss Reed, you compared the hair in the tent with
14 the hair in the cave, didn't you?

15 A Yes, sir, I did.

16 Q And that was done a long time ago?

17 A Yes, I believe it was.

18 Q Now, when Mr. Hart's hair sample was taken over
19 there at Grand Valley Hospital, or Green Valley Hospital,
20 which comparison with other hairs was the first you made?

21 A Well, it would be what I believe I did. I believe
22 of course, I measured the hairs and mounted them and measured
23 them before you compare them and I believe the first compari-
24 son I made was with the hairs from CC-2.

25 Q That was the hair from the body of the victim?

1 A That was hair from the tape.

2 Q Okay. What was the length of the hair from the
3 tape, taken from the tape?

4 MR. FALLIS: If it please the Court, I'm going to
5 object to this on the grounds that this was the subject
6 of a very lengthy cross-examination on June 13, 1978, counsel
7 is spending time of the Court.

8 MR. ISAACS: Spending Mr. Fallis' time, that's
9 all right with him, but Mr. Hart's time is something else,
10 Judge, and I'd ask for a little bit of latitude on this
11 matter at this time.

12 MR. FALLIS: If it please the Court, in that re-
13 gard, we'll be here at the Court's hour that the Court has
14 set. I recall very specifically the Court addressed counsel
15 to speed along and we would object to this cumulative testi-
16 mony. It has not only been asked and answered in the past
17 but by counsel of this very same witness and certainly it is
18 plowing the same ground.

19 MR. ISAACS: I'll challenge the record on that.
20 I haven't asked her the length of the hair at any time.

21 MR. FALLIS: She described in detail, Your Honor,
22 how the hair was mounted, the length of the hair being measured
23 and so on in her last testimony.

24 Q Did you describe the length of the hair?

25 THE COURT: Objection is overruled. She may answer

1 about the length of the hair.

2 Q Did you tell me the length of Mr. Hart's hair in
3 the last testimony?

4 A I don't believe I did.

5 Q And you didn't tell me the length of the hair
6 removed from the tape either?

7 THE COURT: Just have her tell you. I'm satisfied
8 that she didn't.

9 MR. ISAACS: Thank you.

10 Q Now Mrs. Reed, what was the length of the hair
11 taken from the tape?

12 A Okay, there were three pieces of hair that we're
13 discussing. One was a little over 11 centimeters; the other
14 was 4 centimeters and one was 1.2 centimeters. Now, these
15 weren't entire hairs; they were pieces of hairs. Now the
16 length of Mr. Hart's hair, I'd have to refer to my notes,
17 Your Honor. I'm sorry, I don't recall all of the lengths.

18 Q Do you have those notes with you?

19 A I do have them, I believe. Do you want each length
20 or could I tell you the range they covered, I mounted --

21 Q Tell me the range in order to expedite things.

22 A All right, the shortest hair --

23 Q Let me ask you this question. On the head hair
24 that was taken, what was the range of the length?

25 A Okay, the head hair, the range of the length was -

1 the shortest was 2.25 centimeters and the longest I had was
2 15 centimeters, I believe.

3 Q Length of hair from the arms?

4 A Excuse me, I'm sorry, I can't remember.

5 THE COURT: Let me inquire. Is it possible for you
6 to give him a copy of the report that shows them?

7 MISS REED: I don't have a report that reflects
8 the length of the hair.

9 THE COURT: You don't?

10 MISS REED: There is a report that reflects my
11 results but not of the length of each of these.

12 THE COURT: All right.

13 A I don't believe I measured the arm hairs as such.
14 I usually measure the head hairs and that's usually -- and my
15 foreign hairs, I do measure those. But I don't measure each
16 and every pubic hair or body hair.

17 Q You don't measure the hairs from the armpit region?

18 A No, sir, not usually, no, sir.

19 Q Just hair from the head?

20 A Yes, this is where I concentrate, the length, measure-
21 ment.

22 Q So that's the only measurement ranging of his head
23 hairs?

24 A On his known hairs, yes, sir.

25 Q Now, comparison was made between the hair taken from

1 the tape and hair found in Cave No. 2, was it not?

2 A Yes, sir, there was.

3 Q What were the lengths of the hair found in Cave 2?
4 Maybe you'd better keep it out. I want to ask you about
5 thickness next.

6 A Okay. They were 9, 9.5 and 11 centimeters, in that
7 range. Some of them were a little longer than 11 centimeters.

8 Q In inches, about how long is a centimeter?

9 A A centimeter? Well, there's 2.5 centimeters in an
10 inch, approximately. 2.54 to be exact.

11 Q When the comparison was made with Mr. Hart's hair,
12 the first comparison that was made was from the hair taken
13 from the tape; is that correct?

14 A Yes, sir, it is.

15 Q And then, after you made that comparison, did you
16 make a comparison of Mr. Hart's hair to any other hairs that
17 had been submitted to you?

18 A Yes, sir, I did.

19 Q What hair was that? Would that have been the hair
20 from the cave?

21 A Yes, I did compare with the hairs from the cave.

22 Q Was that your next comparison?

23 A No, sir. I believe my next one I believe it was
24 with the hairs from sweepings.

25 Q In the tent?

1 A Yes, sir.

2 Q All right. Could you give me the length range
3 on the sweeping hairs?

4 A Yes, sir. 8.5, 3.5 and 3.5 were the ones that
5 characteristics were consistent.

6 Q All right, thank you. Do you have in your notes
7 there the shape of the sweeping hairs?

8 A The shape, you mean --

9 Q Yes, ma'am, is there anything noteworthy about the
10 shape of the hairs found in the floor of the tent where the
11 little girls were at?

12 A You mean the condition they were in or the actual
13 shape?

14 Q Were they round, flat?

15 A They tended to be round as Mongoloid hairs would
16 be but they were not absolutely round. They were slightly.

17 Q Oval?

18 A Elliptical, oval in shape. There again, we don't
19 do cross-sections. This is based on observation under the
20 microscope.

21 Q You didn't do a cross-section?

22 A No, sir, we do not.

23 Q Now, Miss Reed, do you have an opinion as to the
24 shape of the hair taken from the tape, the ones that we have
25 been talking about that were removed from the tape that was

1 on the bodies?

2 A Again, it would be the same shape. They're tending
3 to be round, but they are more of an elliptical or an oval
4 in shape. They are not physically round.

5 Q What was the shape of the hairs taken from Cave
6 No. 2?

7 A Again, this shape would be much the same. And
8 again, it is not based on a cross-section.

9 Q Isn't it true that any Mongoloid hair is going to
10 have an oval shape to it?

11 A No, sir. Mongoloid hair is round in shape. If it
12 is completely, absolutely and carries all the characteris-
13 tics of just being Mongoloid. Negroid hair is flat. Your
14 Caucasian hair tends to be oval and then you have ranges
15 between these areas and also you have ridging in some hairs
16 that completely throws the shape off.

17 Q So was there anything about these hairs other than
18 the color, shape, thickness and length which you used before
19 you rendered an opinion?

20 A Yes, sir.

21 Q Is there any characteristic - what characteristic
22 was that?

23 A Well, I looked at cuticle thickness, I looked at
24 the variation of the cuticle.

25 Q By "cuticle", what do you mean?

1 A Cuticle is the outer surface of the hair. The
2 hair is somewhat like a pencil and best described as a pen-
3 cil. The inner area or the lead of the pencil would be
4 your medulla, the center section of your hair. The outer,
5 wooden part of the pencil would be the cortex, the color
6 containing part of the hair. Then the cuticle, which is the
7 outer surface of the hair would be like the paint on the
8 pencil. That is probably the best comparison I could give
9 you.

10 Q Did you make any comparison with any other hair
11 other than the ones that I have asked you about?

12 A You mean with Mr. Hart?

13 Q Let me say it this way. Did you compare Mr.
14 Hart's hair with any hair other than the ones found on
15 the tape, ones in Cave 2 and ones from the sweepings in the
16 tent floor?

17 A Yes, sir. One of the ones from the pajama top,
18 I believe it was from the little Milner girl.

19 Q Yes, ma'am?

20 A I believe there was a hair removed from there.

21 Q Would you give me the length of that hair?

22 A Yes, sir, just a moment.

23 Q Would the shape of that hair be oval?

24 A Oval to round, yes, sir. It was 4.4 centimeters,
25 I believe.

1 Q Do you have an opinion as to what part of Mr.
2 Hart's body this pajama top hair came from?

3 A I believe my report says it was consistent with
4 hair from FF-5, which is from the head area or scalp hair.

5 Q Did you compare Mr. Hart's hair with any other
6 hair found in the tent or on any item of clothing or the
7 bodies of the victim?

8 A There was a small piece of pubic hair. I will
9 have to go back to see where it was from and I did compare
10 it but I wasn't able to get a consistent comparison and
11 there was - it was not reported as consistent.

12 Q From which one of the girls was that small piece
13 of hair taken?

14 A I believe it was from the sleeping bag. Well, it
15 would have been from A-4.

16 Q There was hair found on a band-aid in Cave No. 2.

17 A Yes, sir.

18 Q Is that correct?

19 A Yes, sir.

20 Q Was that hair attached to the band-aid when you
21 received it?

22 A Yes, in fact, I removed it from the band-aid.

23 Q Did you compare Mr. Hart's hair with that tape?

24 A Yes, sir, I did.

25 Q What were your findings?

1 A That it was consistent in microscopic characteris-
2 tics.

3 Q Miss Reed, there were a couple of blankets or a
4 couple of quilts taken from the Mayes County Jail and sent
5 to the OSBI. Did you remove any hairs from those blankets?

6 A Yes, sir, I believe some hairs were removed.

7 Q Did you ever make any comparison with those?

8 A I made a few, but very few because --

9 Q Then we decided to give you some?

10 A We received some knowns and it became irrelevant.

11 Q There were some quilts taken from Sam Pigeon's
12 residence and some blankets. Were the purpose of removing
13 those blankets and quilts to find hair to make the comparison?

14 A I don't know what the purpose for removing them
15 was. I did receive some hair from them.

16 Q Did you remove those yourself?

17 A I didn't remove them. They were removed by, I
18 believe it was Dennis Reimer.

19 Q Did you make a comparison of those hairs?

20 A Yes, with the unknowns. I did not compare them
21 with the knowns when they came in.

22 Q What do you mean with the unknowns?

23 A These are the hairs that I had in my possession at
24 the time from the tape, from the tent floor, from the pajama
25 top, from the cave and from the band-aid at the cave.

1 Q Were any of those findings consistent?

2 A Yes, sir.

3 Q Were some of them inconsistent?

4 A Well, the hairs -- any sample of hair is going to
5 cover a range. I have considerably more hairs from the
6 bedding than I had from the unknowns, so of course, there was
7 some hairs in the knowns that I did not have hairs like that
8 from the scene. However, all of the hairs from the scene
9 were consistent with hairs from the sheet, if that makes
10 any sense.

11 Q The sheet from the Pigeon residence?

12 A Yes, sir. I did find consistent characteristics
13 there.

14 Q Did you make any other -- you've got hair off the
15 band-aid, you've got a piece of pubic hair from one of the
16 bodies?

17 A Yes.

18 Q You've got hair from the pajama top?

19 A Yes.

20 Q Hair from the floor of the tent, hair from the tap,
21 hair from Cave No. 2, you've got hair from the Pigeon residence
22 off the blankets?

23 A I believe it was off the sheet, sir but I'm - I think
24 it was just one sheet, but I'm not sure.

25 Q Okay. Miss Reed, were those the only hairs that you

1 compared that were taken from the Pigeon residence, the
2 hairs from the blankets and the sheets?

3 A As I said before, I believe it was only hairs
4 from the sheet. Again, I didn't pick those off. I don't
5 believe - I believe Mr. Reimer - Dennis Reimer did, and I
6 believe he took them from the sheet. I'm not sure. Just
7 a moment and I think I can tell you.

8 Q Okay.

9 A I think.

10 Q Let me ask you this, Miss Reed, maybe --

11 A Sorry.

12 Q -- it would speed things up a little bit. That
13 sheet and that bedding and those other items from Mr. Pigeon's
14 house were transported to one of the Bureau laboratories; is
15 that correct?

16 A I believe so, sir.

17 Q Isn't it true that hair was removed from that sheet
18 and that bedding and then given to you for analysis?

19 A Yes, sir, some was.

20 Q Did you remove that hair or did Mr. Reimer remove
21 that hair?

22 A Mr. Reimer, I believe, removed it.

23 Q How was that hair transported to you for analysis?

24 A It was folded in a piece of paper and inside a
25 white envelope, I believe.

1 Q Have you made a technical report on that compari-
2 son?

3 A I don't believe I did because as we said, shortly
4 after that, we did receive some knowns.

5 Q Did you throw that hair away?

6 A No, I still have it.

7 Q Good. Do you have the hair that came from the
8 band-aid?

9 A Yes, sir.

10 Q Let me ask you, do you have all the hair that
11 you made comparisons from?

12 A Yes, sir, I believe I have it or it is in the
13 possession of the Court, I mean.

14 Q Mr. Wise, you mean?

15 A Well, it is in our possession or it has been
16 brought to Mayes County. I believe some was brought to him
17 but I'm not sure. The hairs that actual comparison was
18 made on are in my possession.

19 Q And those hairs that you used for comparison purpos-
20 es were the ones that we gave you then?

21 A Yes, those were the ones I based my final comparison
22 on, yes, sir.

23 Q Were there any other samples of hair from any other
24 places submitted to you such as from a jail cell or the
25 penitentiary cell, labeled from the cell of Gene Leroy Hart,

1 that you used for comparison?

2 A I believe some were brought in. I think some
3 from, let's say a hairbrush and things of this type. But
4 again, I don't believe I used any of those for comparison.
5 Like I said, we obtained knowns and once there was knowns,
6 I didn't need those.

7 Q Okay. Give me the names of the other - the names
8 of the knowns from other persons which you compared to hairs
9 on the tape?

10 A Okay. Well, the knowns - the other knowns that
11 I have looked at have not been Mongoloid in characteristics
12 and there was - I have not compared them with hair from the
13 tape.

14 Q Give me the names of the knowns that you have
15 compared with the floor of the tent?

16 A Once again, the only Mongoloid hairs or hairs
17 with basically Mongoloid characteristics that I have looked
18 at this state have come from Mr. Hart and those are the
19 ones that I have compared. The others have not had any of
20 these Mongoloid characteristics and therefore were not
21 compared.

22 Q So we can say that no other Mongoloid hair was
23 compared to the pubic hair; is that correct?

24 A That's correct.

25 Q And no other Mongoloid hair to the hair on the pajama

1 top?

2 A To the one that I had the Mongoloid -- basically
3 Mongoloid characteristics, no, sir.

4 Q And also the piece of pubic hair - piece of hair
5 found in the pubic region; is that correct?

6 A Pardon me, sir?

7 Q No other Mongoloid hair was compared to the strand
8 of hair found in the pubic region of one of the bodies; is
9 that correct?

10 A I don't believe I testified there was a hair four
11 in the pubic region. I said pubic hair.

12 Q And where was that pubic hair found?

13 A All I know it was labeled as having come from
14 A-4, which is --

15 Q That's okay, A-4 is listed right here on page 1
16 of S-77-332.

17 A Yes, sir.

18 Q How many other Mongoloid hairs did you compare with
19 the band-aid found at Cave No. 2?

20 A Only those which were submitted to me and the only
21 basically Mongoloid hairs that I have.

22 Q Were submitted to you were from Mr. Hart; is that
23 correct?

24 A That's correct.

25 Q Now Miss Reed, would your answers be the same to the

1 hair found in Cave 2?

2 A Yes, sir.

3 Q Would your answers be the same concerning the hairs
4 picked from the sheets at the Pigeon residence?

5 A There, again, I don't believe - did I testify
6 that I had compared the knowns with the hairs from the sheets?

7 Q Let me --

8 A I don't believe I did.

9 Q Did you compare the knowns to the hairs on the
10 sheets?

11 A No, sir I did not.

12 Q Did you make any other hair comparison?

13 A Yes, sir, but I believe most of them are reflected
14 in my report.

15 Q Did you make any comparison of Mr. Hart's hair to
16 any other item other than the ones we have talked about?

17 A I don't believe so.

18 Q The only hair comparison we have made of a Mongo-
19 loid with any hair submitted into evidence is a hair from
20 Gene Leroy Hart; is that correct?

21 A That's correct.

22 Q Miss Reed, your office is in Oklahoma City, is it
23 not?

24 A Yes, sir.

25 Q And you receive evidence from all over the state,

1 don't you?

2 A Yes, sir.

3 Q Are there any other hair examiners in the Oklahoma
4 City Office?

5 A Yes, sir.

6 Q Who are they?

7 A Mel Hedge, one of the chemists; Susan Land does
8 some. We all do some hair, all the chemists who work in
9 serology and trace do some hair comparison.

10 Q How many chemists in serology and trace?

11 A In Oklahoma City?

12 Q Yes, ma'am?

13 A There are nine of us at this time.

14 Q How many chemists out of the Tulsa Office do
15 serology and trace?

16 A I don't believe we have any chemists in the Tulsa
17 Office.

18 Q How about in Tahlequah?

19 A One.

20 Q Mr. Reimer?

21 A Yes, sir.

22 Q Was Mr. Reimer consulted concerning the comparison
23 of any of the hairs in this case?

24 A No, sir, he was not.

25 Q Were any of the nine chemists in the Oklahoma City

1 Office consulted?

2 A We discussed hair comparisons but I couldn't tell
3 you if I specifically had one to do a comparison. We just
4 discussed them in general.

5 Q Have you told me all of your comparisons that you
6 have made between Mr. Hart's hair and hair in your possession?

7 A I believe so, yes, sir.

8 MR. ISAACS: I believe that's all of this witness,
9 Judge.

10 CROSS EXAMINATION

11 BY MR. FALLIS:

12 Q Miss Reed, concerning a point here, counsel had
13 asked you if you had compared Gene Hart's or any other Mon-
14 golid or hair at least with some Mongoloid characteristics
15 with the hair from the little girl Milner?

16 A Yes.

17 Q Or from the tent, other than Gene Hart's hair and
18 you said no, is that correct?

19 A That's correct.

20 Q As a matter of fact, back on July 7th, 1977, long
21 before that Defendant had been caught, you did make a compari-
22 son of a hair from Cave No. 2?

23 A Yes, sir, I did do that.

24 Q Yes, ma'am, and you compared it with the hairs from
25 the tent sweepings and hair from the body of the Milner girl;

1 is that correct?

2 A Yes, sir, I did.

3 Q And at that time, you didn't know whose hair that
4 was, did you?

5 A No, sir, I did not.

6 Q But you did find that the hair from the tent
7 sweepings and the hair from the little girl's body matched
8 in each and every characteristic with hair from Cave 2; is
9 that correct?

10 A That's correct.

11 Q And later, when they get this man or get this
12 person, they get him and get his known hair, then it matched
13 in every characteristic with those two same items, doesn't
14 it?

15 A Yes, sir, it did.

16 Q Now, ma'am, counsel was asking you this question
17 and these are the words that he used because I wrote them
18 down.

19 MR. ISAACS: That doesn't mean they're right, Judge.

20 MR. FALLIS: Well, Your Honor, may I have my
21 opportunity?

22 THE COURT: You may.

23 Q Do you have any opinion as to what part of Mr.
24 Hart's body the hair came from, reference to the hair on the
25 pajama top of the little Milner girl; do you remember that

1 question?

2 A Yes, sir, I do.

3 Q What was your answer, please, ma'am?

4 A I said my report reflects it was consistent
5 in characteristics with hair from FF -- I believe it was
6 FF-5, which was from the head of Mr. Hart.

7 Q Do you have an opinion as to what part of Mr.
8 Hart's body the hair came from there in the tent floor
9 sweepings?

10 A Again, it was head hair and it was consistent
11 with the head hair from Mr. Hart.

12 Q Do you have an opinion as to what part of the body
13 head hair or otherwise, the hair in Cave 2 came from?

14 A Again, it was head hair and it was consistent
15 in characteristics with hair from the head of Mr. Hart.

16 Q Now, hair that you examined according to measure-
17 ments that counsel asked you about, came in different lengths
18 didn't it?

19 A Yes, sir, it did.

20 Q How does hair get in different lengths?

21 MR. ISAACS: Judge, I object to that. The answer
22 is obvious.

23 MR. FALLIS: Well, maybe counsel knows but I think
24 we need to have the answer.

25 THE COURT: Overruled.

1 Q No, sometimes it doesn't grow, does it, ma'am?

2 A Well, it can be cut, it can be broken.

3 Q Broken; that's what I was getting at. Can it
4 be torn out in a struggle?

5 A Yes, sir, it can.

6 Q Can it be broken off in a struggle?

7 A It can.

8 Q And hairs get to be different lengths on those
9 occasions, doesn't it?

10 A Yes, sir, it could.

11 Q Counsel asked you about the following characteris-
12 tics. The shape of the hair, the cuticle of the hair, the
13 pigmentation of the hair, characteristics and of course,
14 something you testified about earlier and that's to the
15 characteristics of the hair - in his case, partially Mongo-
16 loid characteristics mixed with something else; is this
17 correct?

18 A Yes.

19 Q Can you tell me, first of all, ma'am, the hair
20 that you found up in - or at least that came from Cave No. 2
21 on the band-aid?

22 A Yes, sir.

23 Q Did it match in all respects with the characteristics
24 with the known sample of Gene Leroy Hart?

25 A With hairs from known samples, yes, sir.

1 Q And the hairs in Cave No. 2, but was not on the
2 baid-aid, did it match in all these same characteristics
3 that counsel has asked you about with known samples from
4 Gene Leroy Hart?

5 A Yes, sir.

6 Q And the hairs from between the tape on the little
7 Milner girl, did it match in each of these same characteris-
8 tics with the hairs from Gene Leroy Hart?

9 A With some of the hairs, yes, sir.

10 Q And the hairs from the sweeping of the tent floor,
11 did they match in all characteristics with the hair from
12 Hart?

13 A The three pieces, yes, sir.

14 MR. FALLIS: Your Honor, we have no additional
15 questions.

16 THE COURT: Redirect?

17 MR. ISAACS: No, thank you.

18 THE COURT: You're excused.

19 MR. ISAACS: Judge, do you want to take a short one
20 before the break?

21 THE COURT: We'll do a short one before recess.

22 MR. ISAACS: Call Paul Boyd.

23 THE COURT: Raise your right hand. Do you swear to
24 tell the truth, the whole truth and nothing but the truth, so
25 help you God?

1 MR. BOYD: I do.

2 PAUL BOYD,

3 called as a witness on behalf of the Defendant, having been
4 first duly sworn, testifies as follows:

5 DIRECT EXAMINATION

6 BY MR. ISAACS:

7 Q Mr. Boyd, you testified earlier, I believe - your
8 name is Paul Boyd; is that correct?

9 A Yes, sir, it is.

10 Q Mr. Boyd, your line of business is a technical
11 investigator, is it not?

12 A It's true, yes, sir.

13 Q You aided in the processing of the bodies of the
14 little girls from Camp Scott, is that not correct?

15 A Yes, I did.

16 Q Pertaining to any part of this investigation, did
17 you do anything in the way of lifting or comparing finger-
18 prints, sir?

19 A Yes, I have.

20 Q Tell me about that?

21 A The alleged print that was on the silver plate.

22 Q Yes, sir.

23 A I made the examination of the plate, identified
24 that with a subject.

25 Q Who was it?

1 A The Dispatcher from the Midwest City Police
2 Department.

3 Q Marston?

4 A No, sir.

5 Q What?

6 A Charles Cleo Childers.

7 Q Did you make a comparison then - excuse me - of
8 any fingerprints that were submitted to your laboratory in
9 Oklahoma City?

10 A Yes, I did.

11 Q What other fingerprint is that?

12 A One inside of the flashlight.

13 Q That was a partial of a print?

14 A Partial print.

15 Q No identification was made?

16 A No identification, that's correct.

17 Q There was another fingerprint that Mullins told
18 us earlier today found on the glass sliding door at the
19 Shroff residence. Do you recall ever examining that print
20 and making a comparison of that one?

21 A I have no knowledge of that print, no, sir.

22 Q Did you do anything else in reference to any finger-
23 prints?

24 A No, sir.

25 Q Did you do anything else in reference to the

1 investigation of the Camp Scott homicides or Gene Leroy Hart?

2 A I was never at Camp Scott.

3 Q And your involvement was merely of technical
4 nature?

5 A Yes, sir, that's true.

6 Q And you've told me everything you've done that was
7 of a technical nature?

8 A To the best of my knowledge.

9 THE COURT: Cross examination?

10 MR. FALLIS: No questions.

11 THE COURT: You're excused. We'll take about a
12 ten minute recess at this time.

13 (Following a ten minute recess the proceedings
14 continued as follows:)

15 THE COURT: Raise your right hand. Do you swear
16 to tell the truth, the whole truth and nothing but the truth,
17 so help you God?

18 THE WITNESS: I do.

19 PATRICK JOSEPH WILKERSON,

20 called as a witness on behalf of the Defendant, having been
21 first duly sworn, testifies as follows:

22 DIRECT EXAMINATION

23 BY MR. ISAACS:

24 Q Mr. Wilkerson, would you state your full name,
25 please?

1 A Patrick Joseph Wilkerson.

2 Q What is your occupation or profession?

3 A I'm an Agent with the Oklahoma State Bureau of
4 Investigation.

5 Q On June of 1977, did you participate in an investi-
6 gation at Camp Scott area, near Locust Grove?

7 A Yes, sir, I did.

8 Q Did you go there on the 14th of June?

9 A That's correct.

10 Q After arriving there, what did you do?

11 A I arrived at approximately 1:00 p. m., sir. I
12 probably -- the first thing I did was meet with Ted Lempke
13 and he briefed me on what the situation was and then I got
14 in on an interview of Susan Emery.

15 Q Yes, sir.

16 A And I got in on about half of it. Miles Zimmerman
17 was the individual that really interviewed her.

18 Q Did you participate in any other interview that date?

19 A No, sir.

20 Q What did you do for the rest of that day, Mr.
21 Wilkerson? Did you participate in any searches of the Kiowa
22 Unit or surrounding area?

23 A Yes, sir, behind the counselor's tent.

24 Q Did you find anything during that search?

25 A Yes, sir, I found a suede belt.

1 Q What was done with that belt?

2 A I submitted it to the OSBI.

3 Q Did you ask the counselors in the Kiowa Unit if
4 any of them had lost a belt?

5 A I did not personally, no, sir.

6 Q Do you know if it was identified as some of the
7 property taken from the counselor's tent?

8 A I don't know.

9 Q Did anybody -- during your investigation at Camp
10 Scott, during the time that you were there, did any of those
11 counselors report to you that they had seen strangers in
12 the area?

13 A No, sir. The only individual I had occasion to
14 speak with, the only counselor that I had occasion to speak
15 with, was just that partial interview of Miss Emery.

16 Q Did you interview any of the campers, Mr. Wilker-
17 son?

18 A Any campers?

19 Q The little girls?

20 A No, sir.

21 Q Other than the belt which you found on the 14th,
22 did you find any other items of evidence which were submitted?

23 A On the 14th?

24 Q Yes, sir?

25 A No, sir, not on the 14th.

1 Q And the following days at Camp Scott, did you
2 interview any persons?

3 A Not at Camp Scott, no, sir.

4 Q Did you interview anyone away from Camp Scott -
5 Denver, Colorado?

6 A Yes, sir.

7 Q Who was that?

8 A Jerry Hinsman.

9 Q For what purpose?

10 A Myself and Agent Linville traveled to Denver,
11 Colorado, after we had received a call that he was possibly
12 a suspect in this matter.

13 Q I see here in the Technical Examination Report
14 on June 22nd, blood samples were taken from Mr. Hinsman,
15 saliva samples and controlled swabs, hair samples?

16 A Yes, they were submitted on the 22nd, yes, sir.

17 Q What is Mr. Hinsman's race?

18 A He is a white male, I believe - I mean he is a
19 light colored individual.

20 Q You also submitted a blue and white tee shirt on
21 the 18th of June of '77. Will you tell me where you found
22 that tee shirt?

23 A That was in the Camp Garland area, the Boy Scout
24 camp, approximately a quarter of a mile southwest of - not
25 actually on the camp property.

1 Q Mr. Wilkerson, did you participate in the interview
2 of any of the Boy Scouts at Camp Garland?

3 A No, sir, the only -- let me qualify that answer.
4 The only Boy Scouts I spoke to were two scouts that showed
5 me where this area was where I found the tee shirt.

6 Q Would you describe for me the distance from Camp
7 Scott to where you found the tee shirt?

8 A Very roughly, sir, two miles.

9 Q Did you seize or transport any other item of evi-
10 dence other than the ones I have asked you about?

11 A There were other articles at the place where I got
12 the tee shirt.

13 Q What items were those?

14 A There were food, some dried apricots, some fishing
15 line, swivels, there was several cigarettes - Winston cigaret-
16 tes - there were several articles like this at this location at
17 Camp Garland.

18 Q How far from Camp Garland were these items seized?

19 A Approximately a quarter of a mile southwest.

20 Q Was that on a creek?

21 A Yes, sir.

22 Q Had somebody been camping down there?

23 A No, sir, it was in a cabin, an old, abandoned cabin
24 out there.

25 Q What else was in the cabin?

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A There was an old stone for sharpening knives.

Q Mr. Wilkerson, I've heard rumors since I've been here, there's a cabin south of Locust Grove that had a typewriter in it, guitar, some of these other items. Was there a typewriter there?

A No.

Q Was there a guitar in that cabin?

A No, sir.

Q Anything other than what we've talked about here today?

A There was a toy cowboy, I remember, just a little manikin in there.

Q By "cabin", describe for me the cabin, size, shape and construction?

A Somewhat of a rough frame cabin - it was a wood frame cabin. It was approximately 15 by 30 in length. It did have an upstairs, a little loft area. There was a mattress in it. Basically, that was it.

Q Did you call the technical boys for technical?

A No, sir.

Q Inspection of the area?

A No, sir. It didn't appear that anybody had been there in quite some time.

Q So nobody took any hair from that area or analyzed any of the contents of that cabin for blood; is that correct?

1 A No, sir, there was no blood that I saw.

2 Q Who went with you to the cabin?

3 A It was myself, Agent Collins - Joe Collins of the
4 OSBI - Harry Benson, who is the individual that first con-
5 tacted me about this cabin.

6 Q Is the cabin on Mr. Benson's property?

7 A No, sir, he's a Boy Scout. I guess you could call
8 him a counselor. At least, he's a leader in the Boy Scouts.
9 His son, Lee Benson and Lee Benson's friend, who is another
10 Boy Scout.

11 Q Mr. Wilkerson, were you later able to find out
12 who had been living in that cabin?

13 A Only through talking with Mr. Benson. He told me
14 it was an individual he knew only as Mike.

15 Q Did he describe Mike for you?

16 A He stated that he was a male individual, dark hair,
17 blue eyes, that's basically all the description he could give
18 me.

19 Q Could it have been Mike Chaffin?

20 A I have no idea, sir.

21 Q Did you find any poetry or anything of that nature
22 in the cabin?

23 A No written material that I can think of at all.

24 Q Did you later interview this Mike fellow?

25 A No, sir.

1 Q Did you participate in the investigation of the
2 cave-cellar area where some pictures were found?

3 A No, sir.

4 Q Did you participate in the area around Jack Shroff's
5 house or in the investigation of the burglary of the Jack
6 Shroff house?

7 A No, sir.

8 Q Were you involved in the investigation of the
9 burglary at the Sam's Corner grocery?

10 A No, sir.

11 Q At the Grossman grocery store?

12 A No, sir.

13 Q Did you go on any searches with tracking dogs?

14 A No, sir, only - not on any searches, no, sir. We
15 just scented the dogs. I never went with the dogs.

16 Q Tell me what you used to scent the dogs with?

17 A We had several articles. There was a gold piece
18 of carpet.

19 Q That would have been the carpet from Mr. Shroff's
20 place?

21 A Yes, sir.

22 We had a flashlight - red flashlight.

23 Q Anything else? We've heard testimony that a hat
24 of some kind, a straw hat used to scent the dogs?

25 A Yes, sir, I do recall the straw hat.

1 Q Where did that straw hat come from?

2 A It was my understanding it came from Mr. Shroff's
3 house.

4 Q Did you use anything else to scent the dogs?

5 A Not that I recall, no, sir.

6 Q During these - I call them searches, tracking
7 ventures with the dogs, did you seize or transport any
8 evidence as a result of those investigations?

9 A No, sir, I didn't.

10 Q When these dogs were used, were you one of the
11 members of the parties that followed the dogs?

12 A No, sir.

13 Q Do you know a fellow by the name of Larry Dry?

14 A I've heard of him, sir.

15 Q Have you ever interviewed Larry Dry?

16 A No, sir.

17 Q Or been present when an interview was held?

18 A No, sir.

19 Q Do you know Jimmy Don Bunch?

20 A No, sir.

21 Q How about a fellow by the name of VanHuss that's
22 an inmate in the State Penitentiary?

23 A No, sir.

24 Q You were at the Camp Scott the 14th through 18th;
25 is that correct?

1 A That's correct.

2 Q During that time, how many burglaries of the Jack
3 Shroff residence were reported?

4 A I only knew of one burglary, sir.

5 Q Have you told me of all the exculpatory evidence
6 that you know about?

7 A Yes, sir, that I can think of.

8 Q Did you take any photographs of any kind?

9 A No, sir.

10 Q Mr. Wilkerson, were there any items of clothing in
11 that cabin down by the Boy Scout Camp?

12 A The only one was a tee shirt.

13 MR. ISAACS: I believe that's all.

14 MR. WISE: We'd have no cross examination, Your
15 Honor.

16 THE COURT: You may step down.

17 MR. ISAACS: Call Mr. Pittman.

18 THE COURT: Raise your right hand. Do you swear
19 to tell the truth, the whole truth and nothing but the truth,
20 so help you God?

21 THE WITNESS: Yes, sir.

22 THOMAS EDWARD PITTMAN,

23 called as a witness on behalf of the Defendant, having been
24 first duly sworn, testifies as follows:

25 DIRECT EXAMINATION

1 BY MR. ISAACS:

2 Q Mr. Pittman, would you state your full name, please
3 sir?

4 A Ted Pittman, Thomas Edward Pittman.

5 Q What is your business, profession or occupation,
6 sir?

7 A I have Pittman Enterprises, investments, several
8 businesses, several small businesses.

9 Q During June of 1977, did you investigate the
10 homicides at Camp Scott?

11 A No, sir.

12 Q Have you examined any item of evidence pertaining
13 to the homicides at Camp Scott?

14 A I examined some handwriting in a cave.

15 Q Where was that cave located, sir?

16 A About three or four miles - to the best of my
17 ability, three or four miles west of this Camp Scott.

18 Q Do you have a background in handwriting?

19 A Yes, sir.

20 Q Have you testified at other trials concerning hand-
21 writing?

22 A I have never testified in Court.

23 Q Did you go to the cave that we've been referring
24 to as - is it Cave 2 or 3? Cave 3, located south of Jack
25 Shroff's house?

1 A I don't know Jack Shroff and I don't know what
2 you're talking about, Cave 3.

3 Q Let me put it this way, in that cave, was there
4 some writing up on the wall that had a date and something
5 about the killer was here?

6 A Yes, sir.

7 Q Did you obtain any scrapings from the wall of
8 that cave?

9 A No, I didn't retain any scrapings.

10 Q Make any photographs?

11 A I was provided with some photographs. I didn't
12 take any.

13 Q Who provided those for you?

14 A The Sheriff's Department, I believe, is where I
15 got them.

16 Q Have you known Mr. Weaver for a long time?

17 A No, sir.

18 Q Are you a friend of Mr. Weaver?

19 A No, sir. I met him August 4th, I guess it was,
20 of last year.

21 Q What schools in handwriting expertise have you
22 attended?

23 A Well, I'm graduate of the International Graph
24 Analysis Society in Chicago, which is a worldwide school in
25 handwriting identification and principles.

1 Q What particular authorities do you consider to
2 be learned in the area of question document examination?

3 A Just by a couple of certificates from International
4 Graph Analysis Society.

5 Q Well, let me ask you it this way, Mr. Pittman.
6 Of the books that you reviewed upon - when you make an
7 examination of handwriting, which books do you consider to
8 be most authoritative?

9 A I don't know as I can recall the titles or the
10 authors of them right now. There are several.

11 Q Would you consider the FBI Bulletin authoritative?

12 A I don't know about the FBI Bulletin. Most of the
13 books that we have in our organization are written by M. N.
14 Bunker.

15 Q Yes, sir. Have you worked for the police department
16 in the past, Mr. Pittman?

17 A I have assisted the Muskogee Police Department on
18 one or two occasions.

19 Q Have you assisted the FBI or Treasury Department
20 or any law enforcement agencies?

21 A No, sir, not in a legal capacity. I have a friend
22 that worked for ATF - the Federal, but I - what I looked at,
23 it wasn't in the capacity of being called as a witness. I
24 examined a gun report.

25 Q Okay, going to the cave and looking at the handwriting

1 on the wall is the only reason you have been called in to
2 help in this investigation?

3 A I don't know if that's the only reason I went to
4 the cave and examined and then studied various materials
5 for about three weeks before I gave a determination.

6 MR. ISAACS: I don't have any other questions of
7 this witness, Your Honor.

8 THE COURT: Any cross examination?

9 MR. WISE: Yes.

10 CROSS EXAMINATION

11 BY MR. WISE:

12 Q Did you make a comparison of this photograph from
13 the cave and anything else?

14 A I made comparisons of the cave and the photograph
15 of the cave and some five or six letters that purported to
16 be that of Gene Leroy Hart and compared those too.

17 Q I'll hand you what's been marked as Defendant's
18 Exhibit 4 and State's Exhibit 87. Do those look familiar to
19 you?

20 A Yes, sir.

21 Q All right. Having made that comparison, do you
22 have an opinion as to what your comparison is?

23 A Yes, sir.

24 MR. ISAACS: Judge, I object to him giving an opinion.
25 I don't think he's qualified as an expert.

1 THE COURT: Sustained.

2 MR. WISE: We'd have no further questions, Your
3 Honor.

4 THE COURT: Anything further?

5 MR. ISAACS: Nothing further. Thank you.

6 Q Just one thing. You said four or five letters, Mr.
7 Pittman - you didn't mean four or five documents, did you?

8 A Yes, sir, just like that.

9 Q Well, do you have some letters in your possession
10 that were allegedly written by Gene Leroy Hart to someone?

11 A I have photostats of them.

12 Q Well, would that be letters that he wrote to the
13 District Court - District Judge John Quincy Adams of Pryor,
14 Oklahoma?

15 A The letters look like that and similar letters,
16 yes.

17 Q All of them written from the State Penitentiary?

18 A Yes, sir.

19 MR. ISAACS: That's all.

20 MR. WISE: We'd have no further cross examination,
21 in view of the Court's ruling. Thank you, Mr. Pittman.

22 THE COURT: You're excused.

23 MR. ISAACS: Judge, before I call my first newspaper
24 personnel, could I have about a thirty minute break to use a
25 highlighter?

1 THE COURT: Bearing in mind we will not proceed
2 past 5:00 o'clock this evening. We'll take a ten minute
3 break.

4 (Following a ten minute recess, proceedings
5 continued as follows:)

6 MR. ISAACS: Judge, I want to call Miss Witt,
7 Susan Witt.

8 THE COURT: Raise your right hand. Do you swear
9 to tell the truth, the whole truth and nothing but the truth,
10 so help you God?

11 THE WITNESS: I do.

12 SUSAN WITT LUDEMAN,
13 called as a witness on behalf of the Defendant, having been
14 first duly sworn, testifies as follows:

15 DIRECT EXAMINATION

16 BY MR. ISAACS:

17 Q Miss Witt, would you state your name, please?

18 A Susan Witt Ludeman.

19 Q What is your business, profession or occupation?

20 A I'm a reporter for the Tulsa Tribune.

21 Q Susan, you covered this Girl Scout homicide since
22 it happened, have you not?

23 A Yes.

24 Q You've written a lot of articles about what happened
25 over there and have been here during the investigation, have

1 A Yes.

2 Q I want to ask you questions about some of these
3 articles.

4 On the 14th day of June, 1977, in the Tulsa Tribune
5 there appeared an article by Jack Weimer and Susan Witt and
6 I hand you that article and direct your attention to points
7 highlighted with the yellow marker.

8 A Yes.

9 Q I want to ask you about those two items. You state
10 in that article --

11 MR. FALLIS: If it please the Court, at this point
12 we would object on any examination from the newspaper article
13 as being hearsay. Totally improper. If he wants to do this,
14 we'll have to, perhaps, subpoena newspapers from coast to
15 coast and the reporter who wrote the story.

16 THE COURT: I'll overrule you at this point, Mr.
17 Fallis. I don't know what he's getting at. It may be her
18 personal knowledge.

19 Q Miss Witt, that newspaper item contains a report
20 that some type of spray was used at the camp and it was a
21 special chemical designed to reveal evidence, not otherwise
22 visible. Can you tell me about the information that gave
23 rise to you writing that report?

24 A I didn't write that portion of the report.

25 Q Mr. Weimer write that?

1 A I assume so.

2 Q I hand you a copy of the Tulsa Tribune article
3 for June 17 of '77, entitled Lie Detector Test is Given Here
4 for Girl Scout Slayings by Don Hayden and Susan Witt, and I
5 direct your attention to the yellow underscored portion of
6 the second page of that article?

7 A Okay.

8 Q In that article, you state that three clear finger-
9 prints had been obtained from the girls' body. How did you
10 come into having that information?

11 MR. FALLIS: If it please the Court, at this
12 point, I would ask for the privilege of asking voir dire
13 questions of this witness.

14 THE COURT: Very well.

15 VOIR DIRE EXAMINATION

16 BY MR. FALLIS:

17 Q Miss Witt, the items that are being asked of you
18 at this time, are they matters that were related to you by
19 other sources or sources of other information?

20 A Well, that matter was never related to me.

21 Q This was not within your knowledge?

22 A No.

23 MR. FALLIS: I object to it on that grounds.

24 THE COURT: Sustained.

25 DIRECT EXAMINATION (Continued)

1 BY MR. ISAACS:

2 Q Miss Witt, directing your attention to the month
3 of April, 1978, to the arrest of Gene Leroy Hart and your
4 newspaper report concerning that arrest, did you at any
5 time go to the Sam Pigeon residence located near Tahlequah?

6 A No, I did not.

7 Q Did you speak with anyone involved in the arrest
8 of Gene Leroy Hart?

9 A Yes, I did.

10 Q What person was that?

11 A I spoke with Mike Wilkerson, I spoke with Jack Lay,
12 I think those are the only two agents that I spoke with.

13 Q Did you see any of their reports of what they did
14 concerning the arrest of Gene Leroy Hart?

15 A No, I didn't.

16 Q Now Miss Witt, directing your attention to reports
17 made by OSBI Agents, have you ever read any of those reports?

18 A No, I haven't.

19 Q Have you ever read any of the reports in the possess-
20 ion of Mr. Wise, the District Attorney of Mayes County?

21 A No, I haven't. I think at one time I had an excerpt
22 from a report read to me.

23 Q Do you remember what time and what report that was?

24 A I don't remember the time and I just remember it
25 was an item from an autopsy report.

1 MR. FALLIS: If it please the Court --

2 MR. ISAACS: Thank you, that's all I have.

3 MR. FALLIS: Your Honor, I would like to interpose
4 an objection along any lines of questioning concerning news-
5 paper reporters or the matters that they have reported in
6 the paper, unless they are something that they observed
7 themselves, matters of their own firsthand knowledge. We
8 all know as a matter of knowledge, that newspaper operations,
9 they must either learn from observation or learn from talking
10 with other people or the reports. It would be hearsay.

11 THE COURT: I think your comment is well taken.
12 Do you have any other questions?

13 MR. ISAACS: Judge, I'm not asking about the
14 contents of the report. I'm going to ask if she read the
15 report and I have reason for doing so.

16 MR. FALLIS: Well, if it please the Court, it's
17 incompetent as far as the issue before this Court, as to
18 what somebody read.

19 THE COURT: I don't know what you're pursuing, Mr.
20 Isaacs. Ask your next question and maybe I'll find out.

21 Q Miss Witt, did you ever read the report of any
22 FBI Agents involved in the investigation of the case?

23 A No, I didn't.

24 MR. ISAACS: That's all of this witness, Judge.

25 THE COURT: Any cross examination?

1 MR. FALLIS: No, Your Honor, no cross examination.

2 THE COURT: You're excused. Any other witnesses?

3 MR. ISAACS: Do you want to take one more?

4 THE COURT: If you can finish about 5:00 o'clock,
5 we'll take another one.

6 MR. ISAACS: I think we ought to stop. Mr. Hicks
7 is going to be my next witness, but I haven't gone through
8 his newspaper reports.

9 THE COURT: All right. I have not received any-
10 thing from you, Mr. Isaacs, regarding the Motion by the State
11 to Cease.

12 MR. ISAACS: I have one right here someplace,
13 Judge.

14 THE COURT: If you will submit those within the
15 next ten minutes, I'll appreciate having any response today
16 that you might have and I still have that Motion under
17 advisement.

18 MR. WISE: We would urge that Motion, Your Honor.

19 THE COURT: Court will be in recess until 9:30 a. m.
20 on Monday morning. I'm told that the Graham Community
21 Building has something scheduled this weekend, so those in
22 Courtroom B should leave no personal property at that location.
23 We are adjourned.

24 MR. ISAACS: Judge, could I show in open court that
25 I file a copy of my brief in response to Plaintiff's Motion

1 for cessation of the Preliminary Hearing?

2 THE COURT: Do you have any authorities that you
3 have Xeroxed or --

4 MR. ISAACS: They're cited there in my brief and
5 I think the brief speaks for itself. The Court may want to
6 look at some of the cases but most of them are cited there
7 and the paragraph from the authorities that I rely upon
8 cited there.

9 THE COURT: Fine, I'll give this some more consid-
10 eration until Monday Morning. We are adjourned until Monday
11 morning at 9:30.

12 MR. WISE: Before the Court adjourns, I would like
13 in open court to reflect the withdrawing of endorsement of
14 two witnesses, a Mr. and Mrs. VanBruski?

15 MR. ISAACS: Buskirk.

16 MR. WISE: Buskirk. We would not be calling these
17 two witnesses and have agreed and have shared this information
18 with Mr. Isaacs in hopes of speeding this procedure.

19 THE COURT: I appreciate that.

20 MR. ISAACS: Could we enter into a stipulation about
21 them a little later on?

22 MR. WISE: I'm sure we can.

23 THE COURT: Okay. We are adjourned until Monday
24 morning at 9:30.

25 (Whereupon, the proceedings are adjourned.)