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IN THE CIRCUIT COURT FOR BALTIMORE CITY, MARYLAND

STATE OF MARYLAND,

vs.

Indictment No. 199103042-46

ADNAN MASUD SYED,

Defendant.

_____ /

REPORTER'S OFFICIAL TRANSCRIPT OF PROCEEDINGS
(Trial on the Merits)

Baltimore, Maryland

Wednesday, February 2, 2000

BEFORE:

HONORABLE WANDA KEYES HEARD, ASSOCIATE JUDGE
(and a jury)

APPEARANCES:

For the State:

KEVIN URICK, ESQ.
and
KATHLEEN C. MURPHY, ESQ.

For the Defendant:

M. CRISTINA GUTIERREZ, ESQ.

BRENDA D. TROWBRIDGE
Official Court Reporter
533 Courthouse East
111 North Calvert Street
Baltimore, Maryland 21202

FILED
FEB 2 2000
CLERK OF COURT
BALTIMORE, MARYLAND

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T A B L E O F C O N T E N T S

STATE'S WITNESSES:	DIRECT	CROSS	REDIRECT	RECROSS
Theresa Long	7	20	28/30	29
Margarita Korell	34	47	87	88
Irra Lynette Woodley	92	95	108	108
STATE'S EXHIBITS:	FOR IDENTIFICATION		IN EVIDENCE	
3	--		39	

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1 PROCEEDINGS

2 (2:10 p.m.)

3 (Jury not present upon reconvening.)

4 THE CLERK: All rise. The Circuit Court for
5 Baltimore City, Part 9, resumes in session, the Honorable
6 Wanda Keyes Heard presiding.

7 THE COURT: Thank you. Please be seated.

8 Before we bring the jury out, I do have a
9 scheduling issue for one of the jurors. Alternate Juror
10 Number One contacted my chambers. It says, "I never
11 received a response regarding the weekend trip starting
12 Friday, 2/11, through 2/13. This was Juror Number Six,
13 Alternate Number One.

14 MS. GUTIERREZ: And that would be Friday, a
15 week?

16 THE COURT: Right, Friday, the 11th, through
17 Sunday, the 13th. I had indicated in the past I would
18 find out what time she wants to leave on Friday, the
19 11th. Clearly, she returns on Sunday. So that is not a
20 problem for us for Monday. In fact, knowing me, I'm sure
21 I have a docket on Monday, the 14th. So we would start
22 sometime either in the late morning or after lunch. But
23 I would need to find out from her what time. So what I
24 will do is at the time we are approaching that particular
25 time, probably Thursday, the 10th, I'll find out what

1 time she is scheduled to leave.

2 MS. GUTIERREZ: That's fine.

3 THE COURT: Is there a problem with that, Mr.
4 Urick?

5 MR. URICK: Well, I just take that note to mean
6 that she would like a quicker response than the day
7 before. It sounds like she may want to make some
8 arrangements.

9 THE COURT: That is possible. We can ask her
10 to stay at the end of today and find out what time she is
11 scheduled to leave if you don't have a problem with that.

12 MS. GUTIERREZ: I have a problem with that. I
13 would just suggest that we at least reassure her that, of
14 course, we will work it out. Frankly, I think we might
15 be finished before it becomes an issue.

16 THE COURT: We might be.

17 MS. GUTIERREZ: So we won't have to address it.

18 THE COURT: Sure.

19 MS. GUTIERREZ: And obviously if we lose no
20 other jurors and we finish and they are deliberating,
21 then she is not an issue either.

22 THE COURT: Right.

23 MS. GUTIERREZ: But maybe just reassure her
24 that we will address it and work it out and she will be
25 allowed to go on her trip.

1 THE COURT: Also, my concern is that there is a
2 difference in catching a plane somewhere where she has
3 actually reservations versus driving where you might want
4 to leave at 2:00 but you don't get to leave until 6:00.

5 MS. GUTIERREZ: Right.

6 THE COURT: Again, that is something that we
7 can work out, but I did want to bring that to your
8 attention since we did get that through our voice mail
9 system. Okay. With that said, are you prepared for your
10 next witness?

11 MR. URICK: Yes, we are.

12 THE COURT: Perhaps you could have that witness
13 come in and sit down, because I see you have equipment
14 set up, and then we can bring the jury in.

15 MR. URICK: Okay.

16 (Brief pause.)

17 THE COURT: Just have a seat in the witness box
18 for a second. We are just getting situated since we have
19 some equipment. Ms. Gutierrez, you are welcome to move.
20 I know there has been a seat on the other side of that
21 wall. Is there a chair still sitting in that corner?

22 MS. GUTIERREZ: No.

23 THE COURT: No?

24 MS. GUTIERREZ: No.

25 THE COURT: All right.

1 MS. GUTIERREZ: I think they had moved it up
2 here.

3 THE COURT: We may have. Well, you are welcome
4 to move those chairs back so that you can view the
5 screen.

6 MS. GUTIERREZ: Fine, Judge.

7 THE COURT: Okay. Thank you. Let's go off the
8 record.

9 (Whereupon, discussion was had off the record.)

10 THE COURT: All right. We can go back on the
11 record. Will you bring our jury in, please.

12 THE CLERK: Yes, Your Honor.

13 (Brief pause.)

14 (The jury returned to the courtroom.)

15 THE COURT: Please be seated. Ladies and
16 gentlemen, welcome back to Part 9. We are going to
17 proceed with this case. What we are going to do is ask
18 that Mr. Urick formally call the case just because we are
19 back on the record and the stenographer can note it, and
20 then your first witness' name.

21 MR. URICK: Good afternoon, Your Honor.

22 Calling the State of Maryland versus Adnan Syed, Case
23 Numbers 199103042 through 46. Kevin Urick and Kathleen
24 Murphy for the State.

25 MS. GUTIERREZ: Good afternoon, Your Honor.

1 Cristina Gutierrez on behalf of Mr. Syed.

2 THE COURT: Good afternoon. And your next
3 witness?

4 MR. URICK: The State at this time would call
5 Theresa Long to the stand.

6 THE COURT: Ms. Long, I need you to stand up,
7 please, raise your right hand, and listen to Mr. White as
8 he provides for you the oath.

9 THERESA MARIE LONG
10 a witness produced on call of the State, having first
11 been duly sworn according to law, was examined and
12 testified as follows:

13 THE CLERK: You may be seated. Please keep
14 your voice up and state your name and your assignment for
15 the record?

16 THE WITNESS: My name is Theresa Marie Long, L-
17 O-N-G. I'm a Forensic Chemist with the Maryland State
18 Police Crime Laboratory.

19 THE CLERK: Thank you.

20 MR. URICK: Good afternoon, Ms. Long.

21 THE WITNESS: Good afternoon.

22 DIRECT EXAMINATION

23 BY MR. URICK:

24 Q How long have you been employed by the Maryland
25 State Crime Laboratory?

1 A It will be nineteen years this March.

2 Q And what is your current job position there?

3 A Currently I'm a Forensic Chemist Manager of the
4 Biology Section.

5 Q And what are your job duties in that position?

6 A Generally speaking, my job duties are to
7 oversee the everyday operations of the different units of
8 that section. Those units are that of Serology.
9 Serology is the study of blood and other body fluids.
10 That's the unit in which the gross evidence is screened
11 and the presence of stains are detected. I oversee the
12 operations of the DNA typing units. We are currently
13 running two different types of DNA testing. And I
14 oversee the DNA database of convicted offenders.

15 MR. URICK: Would the defense be willing to
16 stipulate to this witness' expertise and training in the
17 area --

18 MS. GUTIERREZ: We were always willing to so
19 stipulate.

20 THE COURT: Very well. And the expertise will
21 be as?

22 MR. URICK: In the field of Forensic DNA
23 Profiling.

24 THE COURT: Let her be accepted then as an
25 expert in the area of Forensic DNA Profiling. Is it

1 typing or profiling?

2 MR. URICK: Profiling. That's the correct
3 term?

4 THE WITNESS: That would be correct.

5 THE COURT: All right. Very well. You may
6 proceed.

7 BY MR. URICK:

8 Q What is DNA?

9 A DNA is an abbreviation for the word
10 deoxyribonucleic acid. This is a molecule that is found
11 in the center of every cell of your body. The DNA is
12 contained within your chromosomes. You get fifty percent
13 of your DNA from mom in the egg cell, and fifty percent
14 of your DNA from dad in the sperm cell.

15 Q And where can DNA be found in humans?

16 A As I stated earlier, it is in the center of all
17 of your cells and it's packaged within your chromosomes.

18 Q Is it a generally accepted fact that everyone,
19 other than identical siblings, will have a different DNA?

20 A Yes, it is.

21 Q If you can explain briefly, what is Forensic
22 DNA Profiling?

23 A Ninety-nine percent of human DNA is the same.
24 That is why everyone has two eyes, one nose, one mouth.
25 There is one percent of DNA that differs between

1 individuals. What we want to do in forensics is actually
2 look at that one percent of DNA that differs between
3 individuals. We have a chemical way of removing the DNA
4 from the cell and determining what we have obtained.
5 What we do is we obtain a pattern or a profile from the
6 question evidence and we compare that to known standards
7 that we have obtained in that case.

8 What we are looking to do in general is to make
9 a conclusion, could the DNA from the question stains or
10 the evidence come from this donor or come from that
11 donor? Can I include someone as being the donor or can I
12 exclude someone from being the donor of that DNA?

13 Q Is this a new technology?

14 A No, it is not.

15 Q Okay. If you could, explain what RFLP analysis
16 is, and answer that question whether other fields use it
17 as well?

18 A RFLP, again, is an abbreviation for restriction
19 fragment length polymorphism. Restriction means to cut.
20 Fragment length is what we are looking at. Polymorphism
21 means that different forms exist in the population. With
22 RFLP, that one percent of DNA that differs between
23 individuals is actually the fact that the DNA has
24 repeated sections. And how individuals differ is the
25 number of repeats. I may have ten repeat units. Someone

1 else may have 100. Someone else may have 200. So we
2 restrict or we go in and we cut out these repeated units.
3 Then we are able to separate them out according to size.
4 We place them in a jell and we hook the jell to electric
5 current, and the jell is able to push these fragments out
6 and separate them. The smaller fragments can move faster
7 through the jell than the larger ones.

8 The ending result from that is a DNA profile
9 that sort of looks like a UPC code in the grocery store.
10 From that, we compare these patterns. Again, we are
11 seeing whether or not the known standard for one person
12 is matching the question evidence.

13 Other fields use this technology. In medical
14 fields, it's to diagnose diseases. In zoos, they want to
15 test animals to see whether or not they are related
16 before they breed them together, so that they generate a
17 viable stock of new animal. It's also used in paternity
18 testing and several other clinical aspects.

19 Q What other types of laboratories use RFLP
20 analysis?

21 A Again, medical, clinical, zoology. I
22 previously worked at the Armed Forces Institute of
23 Pathology, and they used a different type of DNA testing,
24 but, yet, it was DNA testing, to identify the war remains
25 from the Vietnam war.

1 Q Have you successfully completed any proficiency
2 tests at the Maryland State Police?

3 A We are required by the national standards and
4 also by Maryland legislation to perform two DNA tests
5 every year.

6 Q And if you would, explain what T-W-G-D-A-M is,
7 and answer whether or not the Maryland State Police Crime
8 Laboratory DNA unit adheres to its guidelines?

9 A That abbreviation has been called Twgdam, or
10 the Technical Working Group on DNA Analysis Methods. I
11 am currently a member of that group. What that is, is an
12 organization. When DNA was new, members from different
13 labs in this country and Canada and England got together
14 to write guidelines for how forensic labs should run DNA
15 testing, to develop protocols, and to oversee audit
16 procedures.

17 So this working group has a set of guidelines
18 for how to validate new technologies, how to run new
19 technologies, what types of training your personnel
20 should receive, and what types of operations you should
21 have in a forensic lab. And, yes, we currently follow
22 those guidelines, and we are audited yearly to ensure
23 that we do that.

24 Q Did there come a time when you and your
25 laboratory were requested to conduct DNA profiling

1 testing in the investigation of Adnan Syed?

2 A Yes.

3 Q Can you tell the court what samples were
4 submitted for your analysis?

5 A There was a blood sample from Hae Min Lee, a
6 blood sample from Adnan Syed, a blood sample from Jay
7 Wilds, and a blood sample from a shirt.

8 Q And who submitted that evidence to you?

9 A That was brought into the Maryland State Police
10 Crime Laboratory by a representative from the Baltimore
11 City Crime Laboratory.

12 Q And when was that evidence submitted for
13 analysis?

14 A It was submitted on September 24th, 1999.

15 MR. URICK: If I may approach the witness at
16 this time.

17 THE COURT: Yes, you may.

18 BY MR. URICK:

19 Q Now, at this time I'm going to show you what is
20 already in as evidence as State's Exhibit 28 and ask you
21 if you can identify that?

22 A Yes, I can.

23 Q And what is that?

24 A This is our Form 67 which is a chain-of-custody
25 form for the Maryland State Police. It has a list of the

1 items that I just stated on it.

2 Q And is that the form that was used to submit
3 the samples in this case?

4 A It is a copy of that form, yes.

5 Q Can you explain the procedures that are used by
6 your laboratory to conduct your testing? In short, can
7 you explain DNA and the testing performed? You might use
8 the overhead, if you need to, at this time.

9 A I stated briefly earlier a few of the steps but
10 I will go through it again. We obtain evidence. We will
11 take a small cutting of that evidence. We will place it
12 in a tube and we add chemicals to that. What will happen
13 then is that the cells will be broken open and the DNA
14 will be exposed. We will then do a test to see if the
15 DNA is in good quality. What I mean by that is, because
16 we want to cut out fragments of interest of that DNA, we
17 want to make sure the DNA hasn't already broken down by
18 exposure to sunlight or chemicals or radiation. So if
19 the DNA is still in a nice long strand, we will continue
20 on with the test. What we do then is we use biological
21 scissors or restriction enzymes and we go in and we cut
22 out those repeated units, those fragments that we are
23 interested in. Then we take those fragments and we place
24 them on a jell and we separate them out using a current,
25 electrical field, and we will take that jell and transfer

1 that information onto a membrane, which is like a piece
2 of paper, and it just makes a permanent record. We then
3 take a probe, which is a piece of DNA of interest that
4 has been tagged with a chemoluminescence tag.
5 Chemoluminescence is a light energy. It's similar to
6 that found in fireflies that causes the light from the
7 fireflies. It will tag those fragments of interest. We
8 then take that membrane and we sandwich it in between two
9 pieces of X-ray film. That light energy will form bands
10 on the X-ray film where those fragments of interest are.
11 Then we use that final X-ray film as a way of doing our
12 comparison. That final film is called a lumigraph. I
13 can show you some of those.

14 MR. URICK: May the witness use the audiovisual
15 equipment?

16 THE COURT: Yes.

17 (Brief pause.)

18 THE COURT: Ladies and gentlemen, if you cannot
19 see the overhead, please raise your hand.

20 MR. URICK: It might be easier, Ms. Long, if
21 you came around on this side of the table.

22 THE WITNESS: Sure.

23 THE COURT: There is a light switch.

24 MS. MURPHY: Your Honor, may we use the laser
25 again?

1 THE COURT: Yes, you may.

2 SHERIFF: Judge, do you need the light switch
3 turned off?

4 THE COURT: Yes, the light switch is back here
5 (indicating).

6 SHERIFF: Okay. (Indicating.)

7 THE COURT: Thank you. That will work.

8 THE WITNESS: What I have put up here is a
9 lumigraph from this particular case. It has the case
10 numbers on it. It also has what I haven't mentioned to
11 you before, is we are looking at six different locations,
12 six different chromosomes, in order to try to
13 individualize these stains. So this particular lumigraph
14 is for D10S28. The "D" stands for DNA. The "10" stands
15 for chromosome number ten, and then section 28.

16 In this particular lumigraph, you can see four
17 lanes -- it probably would be easier for me just to point
18 -- four lanes that have what looks like a ruler or ladder
19 on those. We use those to help us measure how long those
20 fragments are. In these ladder lanes are bands of known
21 sizes. I know, you know, that this size, for example,
22 could be 2,000, and this size could be 1,000, and the
23 computer can help tell me that this one is, you know,
24 1,800 base pairs long.

25 What we have on here also for an AC and MS,

1 those are two controls that we run within our laboratory.
2 Those pieces of DNA must generate a certain banding
3 pattern with bands in a certain location in order for
4 this jell or these results to be valid. In this
5 particular case, all the controls worked properly. You
6 can see here that you have a banding pattern for the
7 victim. There is a band right here (indicating) and a
8 second band here (indicating). There is one for suspect
9 Syed, which has two bands right here, one right here
10 (indicating) and one here (indicating). Then there is
11 one for suspect Wilds, a band here (indicating) and a
12 band here (indicating). Then if you go across here, this
13 is the shirt, 4Q2/23, and you can see that this banding
14 pattern has bands in a similar location as that to the
15 victim. It's not similar to either one of the suspects
16 and, therefore, those two people are excluded as being a
17 possible donor of that DNA.

18 We go on to computer size these to actually
19 determine what the lengths of these are according to the
20 rulers, and the computer sizing also indicates that the
21 shirt matches the blood standard from the victim. That's
22 for chromosome number ten.

23 Now, I'll just show you a couple other ones.
24 This one is chromosome number one, section number seven.
25 Again, the controls worked properly. You can see the

1 victim's banding pattern, a band here (indicating) and
2 one here (indicating). Here is one suspect (indicating)
3 and here is the other suspect (indicating). They are
4 excluded from the shirt's banding pattern. Again, these
5 bands are lining up in similar locations. The victim
6 cannot be excluded as being a donor of that stain.

7 For chromosome number four, again, all the
8 controls worked properly. Here is the victim's banding
9 pattern, these two bands here (indicating). You can see
10 it matches the shirt here (indicating). It does not
11 match either one of the suspects. The suspects are
12 excluded. The victim is still included.

13 And then we have three more of these for three
14 other chromosomes where, again, it matched the victim's
15 blood standard.

16 BY MR. URICK:

17 Q And based on all six analyses, were you able to
18 reach a conclusion?

19 A Yes, I was.

20 Q And what was that conclusion?

21 A That the victim cannot be excluded as being a
22 possible donor of the blood from the shirt.

23 Q And have you explained the basis for that
24 conclusion through showing those lumigraphs?

25 A Yes, I have.

1 Q And can you tell the court whether you reached
2 a conclusion concerning the frequency of this DNA profile
3 occurring in the population?

4 A Yes, I did.

5 Q What is that frequency?

6 A I would need to refer to the report again.

7 Q Okay.

8 A Thank you. The chance of finding or the
9 probability of selecting an unrelated individual at
10 random from a caucasian population having a DNA profile
11 that matches that on the shirt would be one in 1.7
12 billion, with a "B", and for an African-American it would
13 be one in 4.1 billion, with a "B".

14 Q Are all the procedures that you just described
15 generally accepted in the scientific community?

16 A Yes, they are.

17 Q If any of the steps in this analyses had not
18 worked properly, what result would have been obtained?

19 A There are generally two results that are
20 obtained when something is not working properly. It is a
21 no result or we get no banding pattern or an inconclusive
22 one where it smears so much that you can see some
23 smearing occurring in the victim's blood standard but not
24 to the point that there wasn't a band there. We will get
25 a smearing where we will have to call that result

1 inconclusive.

2 Q Is this case work and the conclusions drawn
3 from it subject to peer review?

4 A Yes, they are.

5 Q How does that process work?

6 A In our standard procedures at the Maryland
7 State Police Crime Laboratory, it is required that a
8 second qualified analyst go through the whole case
9 folder, all the procedures, all the notes and the report,
10 and must agree to that conclusion also.

11 Q Again, to a reasonable degree of scientific
12 certainty, what are your opinions concerning the
13 conclusions of this case?

14 A That the blood stain from the shirt, the victim
15 cannot be excluded as being a donor for that blood stain,
16 and that Adnan Syed and Jay Wilds can be excluded as
17 possible donors of that blood stain.

18 MR. URICK: Thank you. Witness with the
19 defense.

20 CROSS-EXAMINATION

21 BY MS. GUTIERREZ:

22 Q Ms. Long, you didn't perform this analysis, did
23 you?

24 A No, I did not.

25 Q And you were not the second qualified analyst?

1 A Yes, I was.

2 Q Okay. So you looked over these results after
3 the person who performed them got them, right?

4 A That's correct.

5 Q All right. Now, in layman's terms, when you
6 say can't be excluded, that's not the same as saying that
7 is the blood of that person; is it?

8 A No, it is not. We give a probability if it's a
9 chance of being someone else.

10 Q And that's that one point whatever?

11 A That's correct.

12 Q One point some billion?

13 A Billion, in the billions.

14 Q All right. Now, you gave those probabilities
15 as to a caucasian population, correct?

16 A Correct.

17 Q And that probability for the caucasian
18 population is different than the probability for an
19 African-American, correct?

20 A Yes.

21 Q Were you aware that the victim in this case was
22 an Asian?

23 A I am aware now, yes.

24 Q But you weren't at the time this was done?

25 A I did not generate this report.

1 Q You just reviewed it?

2 A It is standard Maryland State Police Crime
3 Laboratory procedures to give statistics on these two
4 racial groups because they are the highest racial groups
5 in the State of Maryland, and what we are reporting is
6 not a chance of finding it for that person that we are
7 matching it to, it's what is the chance of finding it in
8 someone else.

9 Q Okay. And you were aware or you have become
10 aware that one of the so-called suspects was also an
11 Asian?

12 A That's correct.

13 Q And you are aware that an Asian is a different
14 racial classification than either a caucasian or an
15 African-American?

16 A That's true.

17 Q Now, your records indicate that the blood
18 samples of the four that you mentioned, the blood sample
19 of the victim, of Adnan Syed, of Jay Wilds, and the
20 retrieved blood sample from the shirt, were all submitted
21 to your lab on September 24th?

22 A That's correct.

23 Q September 24th, 1999?

24 A Yes.

25 Q This fall?

1 A Yes.

2 Q Were you aware that the victim's blood sample
3 was collected back in February on February 10th, 1999?

4 A No, I was not aware of that.

5 Q And were you aware that the defendant's blood
6 was collected on March 21st, 1999?

7 A No, I had no knowledge.

8 Q Or that Jay Wilds blood was collected sometime
9 in later March, 1999?

10 A No, I did not know.

11 Q Or that the blood sample that is identified as
12 coming from the shirt, that that shirt was collected by
13 the police on February 28th, 1999?

14 A I believe that that may have been stated in our
15 cover letter. I would have to refer back to that.

16 Q Okay. Now, when those blood samples were
17 gotten really wouldn't impact on what your lab did,
18 correct?

19 A No, that does not have an effect.

20 Q But your lab is capable of conducting the
21 analysis that you describe at anytime that samples are
22 submitted to it by a police agency; are you not?

23 A As long as they are of suitable quality and
24 quantity, yes.

25 Q And these blood samples were of suitable

1 quantity and quality, correct?

2 A Yes, that's correct.

3 Q And if they had been submitted to you at the
4 time that they had been collected or sooner thereto, your
5 lab would have been able to conduct the same kind of
6 analysis?

7 A Yes.

8 Q Now, the blood that is identified as coming
9 from a shirt, were you given that shirt?

10 A No.

11 Q You were only given a sample of blood that had
12 been collected by someone from the Baltimore City Crime
13 Lab, correct?

14 A That's correct. They have their own screening
15 unit.

16 Q Okay. And there is nothing abnormal about
17 that, correct?

18 A No, it is not.

19 Q All right. And you were not submitted a sample
20 from anywhere else that was identified as something other
21 than blood?

22 A No, these were the four samples in total that
23 we received.

24 Q All right. Were you ever made aware that there
25 was another suspected stain on the very same shirt that

1 at least was suspected of being biological fluid from the
2 victim though perhaps not blood?

3 A Now, let me refer to my notes.

4 Q Yes.

5 (Brief pause.)

6 A It states in the notes that what was received
7 labeled as blood samples from shirt were actually three
8 cuttings, two of which were used to perform the DNA
9 testing and one we saved in case additional testing was
10 needed.

11 Q Okay. So the only thing that was submitted to
12 you was that which some other analyst had already
13 determined to be blood?

14 A Correct.

15 Q And when you got that blood, you, of course,
16 also confirmed that, in fact, it was blood; did you not?

17 A No, I did not.

18 Q Are you secure that your testing would reveal
19 if, in fact, it wasn't blood?

20 A It is not my purpose to determine that. My
21 purpose is to determine that human DNA is there.

22 Q Okay.

23 A It could be from blood or something else.

24 Q And you determined that, correct?

25 A Yes.

1 Q But there was no sample ever submitted to you
2 that was indicated to be some other bodily fluid from
3 this victim?

4 A No. As I stated before, we received these four
5 samples only.

6 Q Okay. And your lab is, of course, capable of
7 conducting DNA analysis on biological evidence other than
8 blood; is it not?

9 A That's correct.

10 Q It is capable of conducting the same kind of
11 analysis, say, on something suspected to be another
12 bodily fluid such as semen?

13 A Yes.

14 Q Or mucous from the body?

15 A As long as there are cells there.

16 Q And you would expect there to be cells in a
17 quantity of mucous that is expelled from the body; would
18 you not?

19 A You would expect it if it was in good quality
20 and quantity, yes.

21 Q And good condition?

22 A Yes.

23 Q And if it was put on the same source, i.e. the
24 shirt from which the blood was extracted, at the same
25 time, you would expect it to be in good condition; would

1 you not?

2 A I really can't state that. Different areas of
3 an item could have different contaminants on there or
4 whatnot.

5 Q Okay.

6 A So I really can't say that for sure.

7 Q But in any event, no other biological sample of
8 any fluid of any kind was ever submitted to you to
9 identify in any way?

10 A No, just the four previously stated items.

11 Q Now, Ms. Long, you said the fundamental
12 question that you start out with is could the DNA in this
13 evidence, relating to the evidence that was submitted to
14 you that came from the shirt, come from any of the
15 samples that were also submitted to you, correct?

16 A Correct.

17 Q And to answer that question in regard to Adnan
18 Syed, after you conducted your testing, your answer is an
19 unequivocal no; is it not?

20 A That's correct, he is excluded.

21 Q Meaning the blood that was identified and
22 tested as coming from a shirt could not have come from
23 Adnan?

24 A That is correct.

25 Q All right. And you also answered that question

1 absolutely in the negative in regard to Jay Wilds; is
2 that correct?

3 A That's correct.

4 Q And although you phrase your answer differently
5 saying that the victim could not be excluded, given the
6 probabilities that you have expressed, it is likely, is
7 it not, that the blood on that shirt came from the victim
8 identified to you by blood?

9 A Yes, it's highly likely.

10 MS. GUTIERREZ: Okay. All right. I have
11 nothing further.

12 THE COURT: Anything further from the State?

13 MR. URICK: Extremely briefly.

14 REDIRECT EXAMINATION

15 BY MR. URICK:

16 Q Do your signatures appear on the reports as one
17 of the original signatories of the report?

18 A My initials appear on each page.

19 Q And you stated that there was a sufficient
20 sample left of the stain such that if any independent
21 test had been requested, it could have been done?

22 A Yes, that's correct.

23 Q And how many analyses a year does your
24 laboratory perform?

25 A We receive about 600 cases a year. Depending

1 on the items, I believe we did about ninety RFLP cases
2 last year.

3 Q And what criteria do you use in terms of
4 determining priority for performing these tests?

5 A Priority is given to the severity of the test,
6 whether the case is a homicide, sexual assault, child
7 abuse case, whether or not it has a court date. We try
8 to ensure that every case is done in time for the court
9 date.

10 (Brief pause.)

11 MR. URICK: No further questions.

12 THE COURT: Recross.

13 RECCROSS-EXAMINATION

14 BY MS. GUTIERREZ:

15 Q Ms. Long, you were aware that the very first
16 time that you were asked to look at any evidence from
17 this case to make any kind of identification was on
18 September 24th, 1999, correct?

19 A That's correct.

20 Q Prior to that date, no evidence was submitted
21 to you; was it?

22 A That's correct.

23 Q And nobody asked your lab to conduct any type
24 of analysis; is that correct?

25 A We had not received the case by then, no.

1 Q Okay. And were you aware that when you
2 received the case on 9/24 that the very first trial date
3 in this case involving Adnan Syed was just about a week
4 away? Were you aware of that?

5 A Yes, I was aware of that.

6 Q All right. And when did you complete the tests
7 that you initialed?

8 A This case was completed and signed back into
9 the evidence vault on November 15th.

10 Q November 15th. And were you aware that that
11 date was months beyond the first trial date in the Adnan
12 Syed case?

13 A According to my notes, it was one month beyond.

14 MS. GUTIERREZ: Thank you.

15 RE-REDIRECT EXAMINATION

16 BY MR. URICK:

17 Q And do the notes reflect that Melissa Stangroom
18 had completed the initial results before the prior trial
19 date and was prepared to testify orally without a written
20 report at the first trial date?

21 MS. GUTIERREZ: Objection.

22 THE COURT: Sustained. Where are we going with
23 this? I mean, at this point, you know, are there any
24 further questions, Mr. Urick?

25 MR. URICK: No.

1 THE COURT: Ms. Gutierrez?
2 MS. GUTIERREZ: No, Your Honor.
3 THE COURT: May this witness be excused?
4 MR. URICK: Yes, Your Honor.
5 MS. GUTIERREZ: Yes.
6 THE COURT: May she be released from the
7 subpoenas?
8 MS. GUTIERREZ: Yes.
9 THE COURT: Mr. Urick?
10 MR. URICK: Yes.
11 THE COURT: Very well. Thank you very much.
12 THE WITNESS: Thank you, Your Honor.
13 THE COURT: You are released from your subpoena
14 at this time but I must remind you that you are still
15 technically a sequestered witness, which means that you
16 cannot discuss your testimony with anyone who is yet to
17 be a witness in this case. You may, if you would like,
18 remain in the courtroom and observe the trial in that you
19 are now released from your subpoenas, or you are free to
20 go.
21 THE WITNESS: I need to go.
22 THE COURT: Very well.
23 THE WITNESS: Thank you.
24 MR. URICK: Might the court be willing to take
25 about a five or ten minute recess at this time while we

1 take down the audio-visual equipment and get the next
2 witness?

3 THE COURT: You certainly may do that. While
4 you are doing that -- well, is it going to take a little
5 while, do you think?

6 MR. URICK: We also want to check on the
7 witness and make sure that she is here from the Medical
8 Examiner's office.

9 THE COURT: All right. Why don't we then let
10 the jury take a walk, and not a long walk. I am just
11 going to ask Deputy Sheriff Church just to walk you
12 around to the jury room, and you can stretch your legs
13 and use the facilities, but he is going to bring you
14 right back. When I say a short recess, Mr. Urick, I mean
15 a short recess. Okay?

16 MR. URICK: Yes.

17 THE COURT: Okay. You can leave your note pads
18 face down. As I have told you, until the end of this
19 case, do not discuss the testimony. We are going to
20 bring you right back. I am not leaving the bench, but my
21 staff, the stenographer and the courtroom clerk, if you
22 would also like to stretch your legs, you are welcome to
23 do so, and counsel as well. Mr. Church, thank you very
24 much.

25 (The jury was excused from the courtroom.)

1 THE COURT: Well, actually I am going to leave
2 the bench for a moment. Mr. White.

3 THE CLERK: All rise. This court will take a
4 brief recess at this time.

5 (Brief recess.)

6 -oOo-

7 (Jury not present upon reconvening.)

8 THE CLERK: All rise. This court now resumes
9 in session.

10 THE COURT: Please be seated. Are we ready to
11 proceed with the next witness?

12 MS. MURPHY: Yes, Your Honor.

13 THE COURT: Oh, I see we are. Very well. Have
14 a seat. Mr. Church is going to bring the jury back.

15 (Brief pause.)

16 (The jury returned to the courtroom.)

17 THE COURT: Please be seated. Okay. Your next
18 witness.

19 MS. MURPHY: Thank you, Your Honor. At this
20 time, the State calls Doctor Korell.

21 THE COURT: Doctor Korell, please stand, raise
22 your right hand, and listen to Mr. White as he provides
23 the oath.

24 MARGARITA KORELL

25 a witness produced on call of the State, having first

1 been duly sworn according to law, was examined and
2 testified as follows:

3 THE CLERK: You may be seated.

4 THE WITNESS: Thank you.

5 THE CLERK: You're welcome. Please keep your
6 voice up and state your name for the record?

7 THE WITNESS: I'm Doctor Margarita Korell, K-O-
8 R-E-L-L.

9 THE CLERK: And state your business address for
10 the record?

11 THE WITNESS: 111 Penn Street, P-E-N-N,
12 Baltimore, Maryland, 21201.

13 THE CLERK: Thank you.

14 THE COURT: You may proceed.

15 MS. MURPHY: Thank you, Your Honor. Good
16 afternoon, Doctor Korell.

17 THE WITNESS: Good afternoon.

18 DIRECT EXAMINATION

19 BY MS. MURPHY:

20 Q Could you please state your title for the
21 ladies and gentlemen of the jury?

22 A I'm an Assistant Medical Examiner at the Office
23 of the Chief Medical Examiner in Baltimore.

24 Q What are the duties of the Office of the Chief
25 Medical Examiner?

1 A The duties are to determine the cause of death
2 in people who have died suddenly, unexpectedly,
3 violently, like in homicides, suicides, accidents, or in
4 cases in which somebody dies while not under the care of
5 a physician. That means an unattended death.

6 Q What are your duties as an Assistant Medical
7 Examiner?

8 A My duties are to determine the cause of death
9 in homicides, suicides, accidents and unattended deaths.

10 Q And your work includes the performance of
11 autopsies?

12 A Yes, ma'am.

13 Q How long have you been practicing in this
14 field?

15 A As an Assistant Medical Examiner, since October
16 of '78. Before that, I was three years an Associate
17 Pathologist -- that's a training type job -- at the same
18 office. Before that, I was an Associate Pathologist also
19 at the Coroner's Office in Pittsburgh, Pennsylvania.
20 Then I have been doing forensic pathology all that time.
21 Then before that, I did training in anatomical and
22 clinical pathology -- that's hospital type pathology --
23 at Fordham and Collier (phonetic) Hospitals in the Bronx,
24 New York.

25 Q What type of education do you have to be an

1 Assistant Medical Examiner?

2 A Well, I'm a physician, and I became a physician
3 at the University of Buenos Aires, Argentina. Then I did a
4 rotating internship at Fordham Hospital in the Bronx, New
5 York. Rotating means going through the several specialties
6 available at that hospital. Then I did my forensic
7 pathology in Pittsburgh, Baltimore and then as an Assistant
8 Medical Examiner since October of '78. And I'm licensed to
9 practice medicine in this State.

10 Q During your career in the Office of the Chief
11 Medical Examiner, how many autopsies, if you can
12 approximate, have you performed?

13 A By now, thousands.

14 Q Can you explain what the term forensic pathology
15 means?

16 A Well, forensic pathology is a sub-specialty of
17 pathology that essentially deals in determining the cause
18 of death in homicides, suicides, accidents, sudden deaths
19 and unattended deaths. And this is done by doing an
20 external examination of the body to determine the general
21 appearance of the body, any injuries, and then through an
22 internal examination we know as as an autopsy, we determine
23 the extent of the injuries or extent of any diseases that
24 may be present at that moment. We also take body fluids,
25 blood, bile and/or urine, if available, for toxicological

1 tests. If there is any evidence still in the body, we will
2 retrieve that. Evidence would be in a gunshot wound the
3 bullet still in the body.

4 Then we will summarize it in an autopsy report,
5 and we write out a death certificate with the cause and
6 manner of death.

7 Q Thank you, Dr. Korell. During your years of
8 experience with the Office of the Chief Medical Examiner,
9 have you had occasion to observe many cases in which the
10 cause of death was strangulation?

11 A Yes.

12 MS. MURPHY: Your Honor, at this time, I would
13 inquire as to whether the defense will stipulate to Dr.
14 Korell's testimony as an expert in pathology.

15 MS. GUTIERREZ: We would certainly stipulate to
16 Dr. Korell's expertise.

17 THE COURT: Very well. And the expertise is as
18 an expert in forensic pathology. Is that correct?

19 MS. MURPHY: That's correct, Your Honor.

20 THE COURT: Very well. Let her be accepted as an
21 expert in forensic pathology.

22 MS. MURPHY: Thank you, Your Honor, and thank
23 you, Counsel.

24 BY MS. MURPHY:

25 Q Dr. Korell, did you have occasion to perform an

1 autopsy on a M's Hae Min Lee on February 10th, 1999?

2 A Yes. Yes.

3 Q And where did that occur?

4 A At the Medical Examiner's Office in Baltimore,
5 111 Penn Street.

6 MS. MURPHY: May I approach the witness, Your
7 Honor?

8 THE COURT: Yes, you may.

9 MS. MURPHY: Thank you.

10 BY MS. MURPHY:

11 Q Dr. Korell, I'm showing you what's been pre-
12 marked as State's Exhibit 3, and also what's in evidence as
13 State's Exhibit 3-A. Can you please review these documents
14 and tell us if you recognize them?

15 A (Pause while witness reviewed documents). Yes.
16 This is the notarized copy of the autopsy on M's Hae Min
17 Lee. Our Case Number was 99759-510 with attached photos.

18 Q Does that document fairly and accurately depict
19 your findings in that autopsy?

20 A Yes.

21 MS. MURPHY: Your Honor, I would ask that State's
22 Exhibit 3 be admitted into evidence at this time.

23 THE COURT: Any objection?

24 MS. GUTIERREZ: None.

25 THE COURT: Let it be admitted.

1 MS. MURPHY: Thank you, Your Honor.

2 (State's Exhibit Number 3, autopsy protocol,
3 marked and received in evidence).

4 BY MS. MURPHY:

5 Q And, Doctor, do you have a copy of this with you?

6 A Yes. That's the original.

7 Q Dr. Korell, where was this autopsy performed?

8 A In the Autopsy Room at the Medical Examiner's
9 Office.

10 Q And based on your findings, to a reasonable
11 degree of medical certainty, have you formed an expert
12 opinion concerning the death of M's Lee?

13 A Yes.

14 Q Can you please explain?

15 A Well, the cause of death was strangulation.

16 Q Okay. And the manner of death?

17 A Homicide.

18 Q Can you explain the basis for your finding?

19 A Well, the signs of strangulation consisted in
20 petechial hemorrhages in the eyes, petechial hemorrhages of
21 tiny, minute areas of bleeding, smaller than pinpoint, or
22 pinpoint size. They were located in the conjunctiva of the
23 eyelids, the lining of the eyelids on the left side of the
24 left eye, and on the surfaces of the eyeballs on both eyes.
25 Now, on the surfaces of the eyeballs the bleeding was

1 larger than petechial, and there were hemorrhages there.

2 Then on the neck, she had a bruise on the right
3 side of the neck, and on dissection of the neck -- now,
4 dissection of the neck means going, doing an incision on
5 the upper part of the chest reflecting the skin and muscles
6 up to the chin, and then examining each and every muscle
7 and blood vessel in the neck. These are called the strap
8 muscles. Some of them you can feel them on the neck, and
9 then examining them. The voice box, and the hyoid bone,
10 which is a bone in the shape of a small horseshoe that is
11 part of the back of the tongue. That's what the tongue is
12 attached to.

13 Now, on dissection of the neck, we found
14 hemorrhages. That means bleeding on the upper aspects or
15 segments of the strap muscles of the neck, which are the
16 muscles that go from the jaw to the sternum, and to the
17 clavicle, and into the trachea, and the ones that were
18 affected were the sterno hyoid and sterno thyroid muscles.
19 Sterno means the breast bone. Hyoid is the hyoid bone.
20 Sterno thyroid, that's the muscle that goes from the breast
21 bone to the thyroid cartilage. That's the Adam's Apple in
22 the male.

23 Then on looking at the hyoid bone, which is in
24 the shape of a horseshoe, this little horseshoe has a
25 middle portion that's the body, and then two little horns,

1 one on the right and one on the left, and at the junction
2 of the left horn with the body, it was dislocated with an
3 area of hemorrhage, that means bleeding, into the
4 surrounding tissue.

5 These are all indications of pressure applied to
6 the skin and on the neck with bleeding. That's not normal
7 to have bleeding in the strap muscles of the neck, plus
8 this location in the hyoid bone with bleeding on it.

9 Q So, the hyoid bone that you've described, Doctor,
10 is it fair to say that that bone was actually broken?

11 A Yes.

12 Q Dr. Korell, are you able to pinpoint in this case
13 a specific time of death?

14 A No.

15 Q Are your observations consistent in this case
16 with the victim being murdered and buried on January 13th
17 of that year?

18 A Well, I did the autopsy, that was February 10th.
19 Yes. Yes, I don't see anything inconsistent of having
20 occurred around that time, yes.

21 Q What observations did you make in this case that
22 would be consistent with the victim having been dead for
23 several weeks?

24 A First of all, she had fixed livor. That means --
25 l-i-v-o-r, is the settling of the blood after somebody

1 dies, and it settles on the part in which the person lies
2 on the longest. It's bluish discoloration, and it's due to
3 the settling of the blood in the blood vessels after a
4 certain amount of time, that varies. The blood vessels
5 break, and you have blood in the surrounding tissues.

6 So, you have livor mortis, m-o-r-t-i-s. The
7 first couple of hours it's unfixed because the blood is
8 still in the blood vessels, and when you apply pressure on
9 the skin, the area where you apply the pressure blanches.
10 Now, several hours later it starts, no matter how much
11 pressure you apply, the area stays blue-grey in color.

12 Then there was also decomposition by, you know
13 evidence of decomposition on the body in the form of skin
14 slippage and losing of skin. The body was cold. The rigor
15 mortis was easily broken in this case. Rigor mortis is the
16 stiffness that occurs after death. Easily broken means
17 that at the first couple of hours the body is flaccid.
18 After a few more hours they start, the joints start
19 getting, begin to become stiff. Then after a certain
20 amount of hours, the stiffness disappears also. But there
21 was evidence of decomposition, and so --

22 Q Thank you, Doctor.

23 A But I cannot approximate the time of death, no.

24 Q Based on your experience, how long approximately
25 would it take for someone to die of strangulation?

1 A Well, it depends on how long the pressure is
2 applied. Now, if somebody applies pressure on the neck for
3 ten seconds or so, and then the person becomes unconscious,
4 then unconsciousness leads into death a couple of minutes
5 later.

6 Now, if I may say, somebody dies of strangulation
7 because of the pressure applied to the blood vessels of the
8 neck, not really applying pressure on the voice box or on
9 the trachea, just the pressure applied to the arteries that
10 you can feel here in the neck and the adjacent vein,
11 together or separate, that's what kills a person.

12 Q Is it fair to say, Doctor, then that ten to
13 fifteen seconds would suffice to bring about the death of a
14 person by strangulation?

15 A Ten seconds would be unconsciousness. Then it
16 takes several more seconds to continue unconsciousness, and
17 then into death.

18 Q Do you have an opinion, Dr. Korell, as to whether
19 strangulation in this case occurred manually, by hand, or
20 by some other means?

21 A I don't have any indication that a cord or any
22 other implement was used. There is only a bruise on the
23 front of the neck. It doesn't have any particular shape or
24 anything like that. So, in my opinion, it's manual
25 strangulation.

1 Q Dr. Korell, in your findings in this case, did
2 you observe any cuts, lacerations, any other visible signs
3 of bleeding on the victim's body?

4 A No. I only saw something under the skin on the
5 head.

6 Q Okay. We'll get to that in a moment. Can you
7 define the term pulmonary edema, please?

8 A Pulmonary edema is non-specific, but it's fluid
9 that accumulates in the lungs essentially, and it's made
10 out of watery fluids mixed with red cells.

11 Q Is this fluid, does this fluid escape the body at
12 or around the time of death?

13 A It may, yes.

14 Q And how would it do so?

15 A Well, it would come up, sort of bubbling up
16 through the trachea -- that's the windpipe -- through the
17 voice box, and then into the mouth.

18 Q Is it possible, Dr. Korell, in a case of
19 strangulation that this bloody fluid would come from the
20 mouth or nose?

21 A Then you also, with the pressure applied to the
22 neck, the same way you get petechial hemorrhages in the
23 eyes due to the lack of oxygen, other little blood vessels
24 break in the nose and on the mouth, and you may get fluid,
25 bloody fluid coming from there also.

1 Q Now, does this occur -- when did this occur in
2 relation to the time of death? Is it something that
3 happens right away or much later? Do you have an opinion
4 as to that?

5 A Well, it should happen almost right away, you
6 know.

7 Q Now, you mentioned bruises, Dr. Korell, on M's
8 Lee's head and neck.

9 A Yes.

10 Q Can you describe those for the jury, please?

11 A Yes. The one on the head was in the part of the
12 head that we call the subgaleal. Subgaleal hemorrhages or
13 bleeding is bleeding right on the surfaces of the skull
14 bone, and that was in the right occipital area. Occipital
15 is in the back of the head, and right temporalis muscle
16 hemorrhage.

17 Now, on the right temple, and on the left temple,
18 underneath the skin, we have a muscle called the temporalis
19 muscle, and there was bleeding in that area. This was all
20 under the skin.

21 Q And this bruising you've described was on the
22 right side of the victim's head?

23 A Yes. Yes.

24 Q This type of bruising, does it occur when the
25 heart is pumping or not?

1 A Oh, yes. To become a contusion, a contusion is a
2 bruise, the heart has to be pumping, yes.

3 MS. MURPHY: May I approach the witness, Your
4 Honor?

5 THE COURT: Yes, you may.

6 BY MS. MURPHY:

7 Q Dr. Korell, I'll show you what's in evidence as
8 State's Exhibit 13, which depicts a blood stained tee
9 shirt.

10 A Yes.

11 Q The stain depicted in this photograph, in your
12 opinion, is that consistent with the type of fluid you've
13 described in pulmonary edema?

14 MS. GUTIERREZ: Objection.

15 THE WITNESS: Yes, it's --

16 THE COURT: Overruled. Well, sustained as to the
17 question at this point. If you would lay a foundation of
18 her knowledge of what that may look like, and then you can
19 ask her the question.

20 BY MS. MURPHY:

21 Q Thank you, Your Honor. Dr. Korell, can you
22 describe the fluid as it would appear?

23 A You know, pulmonary edema fluid is sort of light
24 pink in color, and if some little blood vessels in the nose
25 break up because of the lack of oxygen to the blood

1 vessels, the capillaries break, there may be small, a
2 little bit darker type of bloody fluid.

3 Q Now, can I ask you, Dr. Korell, the fluid you
4 have just described, is it consistent with what is depicted
5 here in these photos?

6 MS. GUTIERREZ: Objection.

7 THE COURT: Overruled.

8 THE WITNESS: Yes. It's like what we see in the
9 photos. It's light pink in color. That's more consistent
10 with being pulmonary edema.

11 MS. MURPHY: Thank you, Dr. Korell. Court's
12 indulgence, please.

13 THE COURT: Yes.

14 (Brief pause).

15 MS. MURPHY: No other questions, Your Honor.

16 THE COURT: Thank you. Witness with you.

17 MS. GUTIERREZ: Thank you.

18 CROSS EXAMINATION

19 BY MS. GUTIERREZ:

20 Q Dr. Korell, the pulmonary edema that you spoke of
21 is actually a fluid. Is that correct?

22 A Yes.

23 Q Now, during your autopsy that you performed on
24 February 10th, did you determine whether or not there was
25 pulmonary edema visible, either to the naked eye or through

1 your analysis, that appeared on the body of Hae Min Lee
2 that you conducted a pathological examination on?

3 A Yes. Both lungs, especially. The right lung
4 weighed 540 grams, the left 380. That means that they were
5 heavy, and the cut section, you know, on the cut -- cut
6 section means when we cut with a knife through --

7 Q That's after you open up the body?

8 A Right.

9 Q Okay.

10 A After we take the whole body, the body organs
11 out. There was a type of bloody fluid on the cut section.

12 Q And there's nothing unusual about the appearance
13 of pulmonary edema on somebody who has been strangled, is
14 there?

15 A No.

16 Q Okay. Now, you, of course, can only tell us what
17 your examination reveals, and that is the evidence of
18 injuries that you saw on her body underneath her skin.

19 A Yes, and then she had that bruise on the right
20 side of the neck.

21 Q She had the bruise on the right side of her neck.

22 A Yeah. That measured one and a quarter by a
23 quarter, yes.

24 Q Okay. And that was consistent with what the
25 findings from inside her body --

1 A Yes.

2 Q -- appeared to you, correct?

3 A Yes. Yes.

4 Q All right. And you, of course, looked for that

5 once you saw the petechial, the petechial, because that's

6 sort of the classic indicator of the strangulation.

7 A Right.

8 Q Is that correct?

9 A Yes.

10 Q And that's because of the pressure that the cut-

11 off -- is it the cut-off of the blood flow?

12 A Yes.

13 Q That causes death, not necessarily the cut-off of

14 the air flow?

15 A No. That was --

16 Q Although cut-off of the air flow may also happen

17 at the same time?

18 A No. It's just the pressure on the blood vessels,

19 because you really can't cut off the air at the windpipe --

20 Q There from the outside --

21 A -- because it's very, very firm.

22 Q Okay. Now, Dr. Korell, one doesn't need a

23 specific training in order to prepare to strangle another

24 human being, do they?

25 A Training?

1 Q Yes. Does one need to be trained to strangle
2 another human being, if you know?

3 A May I say I don't think that you need training
4 for that.

5 Q Okay. And, in fact, as you've described it, if
6 somebody applies sufficient pressure for as little time as
7 ten seconds, that is in the right place --

8 A Uh-huh.

9 Q -- that that is sufficient to cause
10 unconsciousness.

11 A Yes.

12 Q That if that person is not then revived, would
13 within a matter, a short time then become dead.

14 A Right.

15 Q Is that correct?

16 A Yes, ma'am.

17 Q All right. And so by ten seconds you really mean
18 ten seconds.

19 A Yes.

20 Q Okay. And that if now, for instance, if in ten
21 seconds one cuts off the blood flow and it causes
22 unconsciousness, unless there is revival, that
23 unconsciousness would remain.

24 A Correct, yes.

25 Q And if that unconsciousness --

1 A I mean, if you would stop at ten seconds, the
2 person may come back.

3 Q Well, if you pause?

4 A Yes.

5 Q But --

6 THE COURT: Wait a minute. I'm not sure I
7 understand. Your answer was, if you pause?

8 THE WITNESS: I think at ten seconds a person
9 becomes unconscious, or may become unconscious.

10 BY MS. GUTIERREZ:

11 Q Let me for my question assume that ten seconds is
12 enough, and it causes unconsciousness.

13 A Yes.

14 Q Unconsciousness in a human body to somebody
15 untrained might appear to be death, might it not?

16 A Yes.

17 Q If someone is unconscious, there doesn't appear
18 to be visible signs of life, right?

19 A Right. Correct.

20 Q And so for somebody untrained, they might assume
21 that they have already caused death.

22 A Yes.

23 Q Okay. And if there --

24 A Now, if the person doesn't know how to check
25 respirations or blood, you know --

1 Q Right.

2 A -- pulse or something like that.

3 Q Or to do anything to cause the person to revive?

4 A Right.

5 Q Like CPR.

6 A Right.

7 Q Or manipulating that person in some way, correct?

8 A Right.

9 Q Then the unconsciousness, because if you've cut
10 off the blood supply, ends up being death.

11 A Uh-huh.

12 Q That's part of a process.

13 A Right.

14 Q That if there isn't any intervention or something
15 else doesn't occur, will automatically lead to death.

16 A Yes.

17 Q All right. Now, you, of course, once you see
18 those particular hemorrhages, you look very carefully on
19 the skin for evidence that there was some tool that helped
20 cause the strangulation, do you not?

21 A Right.

22 Q Because the skin would bear marks if there was a
23 rope or a line or something else that might help apply
24 equal pressure around the neck, correct?

25 A Correct.

1 Q That would assist in cutting off the blood
2 supply.

3 A Yes.

4 Q Correct?

5 A Correct.

6 Q And in your careful examination, you found
7 nothing?

8 A Right.

9 Q Now, before you opened up the body to look
10 inside, you examined fully the body itself?

11 A Yes.

12 Q Completely?

13 A Yes.

14 Q Both your carefully observing it overall, and
15 then observing each portion of the body, correct?

16 A Correct.

17 Q And you notated all of your findings, correct?

18 A Yes.

19 Q There was no breakage of skin, was there?

20 A No. I mean, except for the decompositional
21 changes.

22 Q And by the decompositional changes you were
23 talking about, there are some loss of skin because what
24 happens to the skin as a result of death itself.

25 A Yes.

1 Q After death, is that correct?

2 A Right.

3 Q But there was nothing that you observed that
4 indicated that there was any injuries to the body that
5 broke the skin prior to death.

6 A Correct.

7 Q There was no blood producing injury anywhere on
8 that body.

9 A Correct.

10 Q Was there?

11 A Correct.

12 Q And no blood producing injury occurring before
13 death, up until the moment of death.

14 A Correct.

15 Q Or occurring at the time the strangulation took
16 place on that young girl's body.

17 A Correct.

18 Q No place on the face.

19 A Right.

20 Q Or the head, anywhere, anywhere at all on the
21 body, no injury at all.

22 A Correct.

23 Q No breakage of skin other than that which you
24 attributed, based on your expertise, that was due to the
25 decomposition of the skin that had occurred after death.

1 A Correct.

2 Q Correct?

3 A Correct.

4 Q The hemorrhages that you -- and lay people, we
5 talk about hemorrhages, essentially means bleeding.

6 A Bleeding, yes.

7 Q Does it not?

8 A Yes.

9 Q All the hemorrhages that you've described
10 occurred under the skin, did they not?

11 A Correct.

12 Q Okay. And that included the, I guess it's on the
13 right side, on the back of the head?

14 A Yeah. Yes.

15 Q Okay.

16 A Back and side.

17 Q That bruising appeared under the skin, correct?

18 A Correct.

19 Q And that bruising, because it produced blood, you
20 know occurred before death, correct?

21 A Correct.

22 Q You don't know when it occurred?

23 A Well, it was fresh. You know, it was -- you
24 know, it was bright bleeding, so it was fresh, yes.

25 Q Okay. And by fresh could include how much time

1 before death?

2 A A couple of minutes.

3 Q A couple of minutes?

4 A Yes.

5 Q Okay. But you have no opinion as to the bruising
6 occurred at the time of death, do you?

7 A No.

8 Q No. And that also includes the bruise above,
9 the right --

10 A Temporal, temple, in the right temporal.

11 Q -- temporal, and would that be sort of at the
12 edge of the eyebrow, back?

13 A You see the temple is up here, and the temporalis
14 muscle occupies all of this, this whole side there.

15 Q Okay. And that evidence of injury also, you only
16 observed once you peeled back the skin, and you looked
17 underneath.

18 A Correct.

19 Q Is that correct?

20 A Correct.

21 Q That injury did not produce any breakage of the
22 skin.

23 A No.

24 Q Okay. And there was no evidence of blood outside
25 of the body related to that injury.

1 A Correct.

2 Q And there was no evidence of any blood producing
3 injury anywhere from that point to any part of the frontal
4 lobe of the face.

5 A Correct.

6 Q Correct? And if there was, you certainly would
7 have notated it in your report, would you have not?

8 A Yes.

9 Q The pulmonary edema that you've described, you
10 said it contains red blood cells?

11 A Yes.

12 Q And as containing red blood cells, it would
13 contain a DNA of the person whose pulmonary edema it was,
14 would it not?

15 A Yes.

16 Q All right. And like any other bodily fluid, you
17 are aware that bodily fluids can be subjected to DNA
18 analysis to type and identify them. Is that correct?

19 A Uh-huh. Yes.

20 Q You don't do that --

21 A No.

22 Q -- but you're often privy to that being done on
23 biological fluids retrieved from bodies you autopsy.

24 A Yes.

25 Q All right. And, Dr. Korell, when you examined

1 the body, again, you examined all the cavities, did you
2 not?

3 A Yes.

4 Q And one of the things you look for anytime you
5 have a female victim is recent sexual activity. Isn't that
6 correct?

7 A Yes.

8 Q Especially when a body is brought to you under
9 circumstances that in and of themselves don't reveal what
10 happened to the body, correct?

11 A Um --

12 Q Readily. If it's a female victim.

13 A Oh, yes. Yes.

14 Q Okay. You would always look to see if there had
15 been recent sexual activity.

16 A Oh, certainly. Yes.

17 Q Is that correct?

18 A Right. Yes. Yes.

19 Q And one of the things that you look for is the
20 presence in, anywhere in the body, including its cavities,
21 of semen or spermatozoa. Is that correct?

22 A Right.

23 Q And you conducted all those tests on this body,
24 did you not?

25 A Yes.

1 Q And you found no evidence of spermatozoa,
2 correct?

3 A Correct?

4 Q Anywhere?

5 A Anywhere.

6 Q Under any condition.

7 A Right.

8 Q Because if you had, you would have collected and
9 then sent it off for identification, would you have not?

10 MS. MURPHY: Objection.

11 THE WITNESS: When we --

12 THE COURT: Overruled.

13 THE WITNESS: We do --

14 BY MS. GUTIERREZ:

15 Q You do a quick test?

16 A -- smears. No, it's not that quick, but smears,
17 and then they have to be stained, and then we look at them
18 under the microscope to see if there is any sperm cells.

19 Q Okay. And that's a normal part of an autopsy, is
20 it not?

21 A Yes.

22 Q So, you didn't do anything different in this
23 case?

24 A Right.

25 Q Is that correct?

1 A Uh-huh.

2 Q Now, when you autopsy a body, it is naked,
3 correct?

4 A Yes.

5 Q All right. And you were aware that this body was
6 found clothed.

7 A Yes.

8 Q Do you examine that clothing?

9 A Yes. We describe it and then give it over to
10 police evidence.

11 Q Okay. And that, again, is your normal procedure,
12 is it not?

13 A Certainly, yes.

14 Q If you had noticed blood or any fluid on this
15 clothing during your examination, would you have checked to
16 see if it corresponded to any specific portion of the body?

17 A Yes. If she had had any cuts or bullet holes or
18 something like that, then we would look at the clothing to
19 see if they corresponded the same way.

20 Q And if there was something on the body that
21 matched that, correct?

22 A Right. Yes.

23 Q And you found no such correspondence, correct?

24 A Correct.

25 Q And your report notes no such correspondence.

1 A Correct.

2 Q Correct? And she appeared to be, in the autopsy
3 photos taken by your office when she was brought to your
4 office, to be fully clothed. Is that correct?

5 A Yes.

6 Q There appeared to be some evidence on her body,
7 particularly around her knees, that there were scratches or
8 holes in the stockings?

9 A In the pantyhose. Yeah, in the stockings.

10 Q In the pantyhose. She had full pantyhose on her
11 body, did she not?

12 A Yes.

13 Q And that meant pulled up through the crotch, up
14 to the waist.

15 A Yes.

16 Q All right.

17 A The normal location.

18 Q All right. And your report notes that, does it
19 not?

20 A Yes.

21 Q Dr. Korell, the shirt that you examined, the
22 picture of which you examined, the one that you were asked
23 about, I think it's State's Exhibit 13.

24 A Yes.

25 Q Were you ever given that shirt to examine?

1 A I saw the photos.

2 Q Just the photos?

3 A Yeah, yeah, yeah.

4 Q Were you ever brought the shirt?

5 A No.

6 Q Were you ever asked to compare the shirt with

7 anything recovered from the body?

8 A No.

9 Q Did you take any samples from the body that

10 indicated that there was nasal fluid that came out of the

11 body as a result or related to the strangulation that

12 caused death?

13 A No.

14 Q At any time were you ever asked to do that?

15 A No.

16 Q And at any time were you ever asked to examine

17 the shirt for the presence of any nasal fluid?

18 A No.

19 Q Could you recognize nasal fluid as distinguished

20 from any other biological fluid by observation alone?

21 A Well, nasal fluid, if it is mixed with mucous,

22 you may say, well, it's consistent with.

23 Q It has a certain consistency --

24 A Yes.

25 Q -- because of the mucous --

1 A Right.

2 Q -- quality of it.

3 A Yes. Yes.

4 Q Is that correct?

5 A Yes.

6 Q And you've examined nasal fluid in the course of
7 your expert pathological experience, have you not?

8 A Yes.

9 Q And you know what it looks like and what it's
10 supposed to look like.

11 A Yes.

12 Q And you would have been able to render an opinion
13 as to whether or not something shown to you resembled nasal
14 fluid, would you have not?

15 A Yes.

16 Q And you have examined and observed and seen the
17 biological fluid called pulmonary edema in your previous
18 experience, have you not?

19 A Yes.

20 Q Both from the pathology of examining bodies and
21 in your hospital clinical pathology, correct?

22 A Right. I've seen patients with it, yes.

23 Q And you would be able to recognize what it is on
24 a body, would you not?

25 A Yes.

1 Q And pulmonary edema is a biological fluid not
2 necessarily caused by death. Isn't that correct?

3 A Yes. It's non-specific. It occurs in multiple
4 other circumstances.

5 Q Okay. In living lungs, is that correct?

6 A Oh, yes. I've seen that, yes, in people with
7 heart attacks or something.

8 Q It doesn't just appear in dead lungs.

9 A No.

10 Q Is that correct?

11 A Right. Yes.

12 Q Depending on the condition of the body.

13 A Yes, yes.

14 Q Okay. Now, the other, all the questions that you
15 were asked, did you render any opinion in your report that
16 there was pulmonary edema on this body?

17 A Under the respiratory system, I described a
18 pulmonary parenchyma. That's the pulmonary tissue.

19 Q Which means the tissue from the lungs?

20 A Yes.

21 Q Okay.

22 A I said, extreme amount of bloody fluid; no focal
23 lesions were noted. By focal lesions we mean a tumor or
24 pneumonia, that sort of thing.

25 Q Okay. But nowhere under that particular portion

1 of the autopsy protocol that's entitled Respiratory System
2 or, in fact, anywhere else do you note the existence or
3 presence of pulmonary edema?

4 A Now, if I may say so, when we describe, we
5 don't -- we say bloody fluid or bloody, foamy fluid. We
6 describe --

7 Q Okay.

8 A We don't say pulmonary edema.

9 Q Edema. Well, do you describe bloody, foamy
10 fluid?

11 A I described it as bloody fluid.

12 Q Okay. And as you're describing the appearance of
13 the respiratory system, is that correct?

14 A Yes.

15 Q Now, when you were asked, you said that that
16 fluid if it existed, may escape at the time of death.

17 A Yes.

18 Q It doesn't necessarily have to.

19 A It may, because, you know, the pulmonary edema
20 starts foaming up --

21 MS. MURPHY: Objection.

22 A -- and changing in the body, and comes out.

23 Q Okay. And it can come out --

24 THE COURT: One moment. One moment. Counsel, I
25 need you to allow the witness to finish her answer before

1 you ask the next question because, as I said, the
2 stenographer has to get it down, and I also would like to
3 hear the answer. And what is happening is that I'm hearing
4 the end of, or the beginning of your next question before
5 the answer is completed. So, I would ask that you allow
6 the witness to finish.

7 MS. GUTIERREZ: I'm sorry, Dr. Korell.

8 THE COURT: You were just saying about the foamy
9 fluid in the lungs.

10 THE WITNESS: Yes.

11 THE COURT: If you would finish your answer.

12 THE WITNESS: Yes. It may come up naturally.

13 I've seen it in live patients. It comes through the mouth
14 and nose, the light pink fluid, and also it comes out when
15 the body is moved, when the body also starts -- you know,
16 it's not uncommon that it comes out through the nose and
17 mouth, yes.

18 BY MS. GUTIERREZ:

19 Q My question, though, is you chose the word --

20 MS. MURPHY: Objection.

21 Q -- may, did you not?

22 THE COURT: Sustained. And I'm going to ask
23 again if you will allow the witness to finish her answer
24 before you ask the question. And she was, I think,
25 finishing a few words, and I would ask that you do that.

1 BY MS. GUTIERREZ:

2 Q Did you have anything else to add to your answer,
3 Dr. Korell?

4 A No.

5 Q Okay. Dr. Korell, twice now you've chosen to use
6 the word "may."

7 A Uh-huh.

8 Q Have you not?

9 A Yes.

10 Q And may, the use of it, implies that something
11 may happen but it not necessarily does.

12 A Correct.

13 Q Does it not?

14 A Yes.

15 Q And is that how you utilized the word may?

16 A Yes.

17 Q Do you have any opinion as to whether or not
18 pulmonary edema in amounts of any type whatsoever escaped
19 from this body that you examined on February 10th at or
20 near the time of death?

21 A Well, I don't know a hundred percent. Of course,
22 I don't know a hundred percent, but now the shirt that was,
23 or the implement that was shown to me has very light pink
24 color. That's consistent with pulmonary edema.

25 Q And were you aware that a trace evidence expert

1 examined that and declared it to be blood?

2 A Well, pulmonary edema has red cells, and she may,
3 this person may call it blood, yes.

4 Q I didn't ask you that, Dr. Korell. I only asked
5 you, were you aware.

6 A No, I wasn't aware.

7 Q Okay. And were you ever again, ever asked to
8 examine that shirt?

9 A No.

10 Q Or to compare it with any findings that you
11 determined from this body that you examined --

12 MS. MURPHY: Objection.

13 Q -- on February 10th?

14 THE COURT: Overruled. You may answer the
15 question. Were you ever asked to do that?

16 THE WITNESS: No, no. No, I was not.

17 BY MS. GUTIERREZ:

18 Q And are you aware of any of the circumstances of
19 this shirt?

20 A No. The whereabouts of the shirt? No.

21 Q Any of the circumstances of the shirt.

22 A No.

23 Q Where it was found?

24 A I'm -- no, I'm not sure where it was found.

25 Q Okay. And --

1 A I was told once upon a time where it was, but I
2 don't remember.

3 Q But you don't remember?

4 A Yes.

5 Q But of your own personal knowledge, were you made
6 aware of all of the circumstances of the location of this
7 shirt when it came into police custody?

8 MS. MURPHY: Objection.

9 THE COURT: Overruled. At any time were you told
10 where that shirt was found?

11 THE WITNESS: If I remember, I think I was told
12 where it was found.

13 BY MS. GUTIERREZ:

14 Q And when were you so told?

15 A Well, that was when we discussed the case once
16 the autopsy was finished and all of that.

17 Q So, after you had issued --

18 A Yes, after, yes.

19 Q -- your autopsy report.

20 A Yes, that was after.

21 Q And at time you were told that, were you asked
22 not just to examine the shirt, but to alter your opinion in
23 any way based on information that you were told?

24 A No.

25 Q Were you asked to render an additional opinion in

1 any way based on what you were told?

2 A No.

3 Q Was there any purpose based in any way relative
4 to your opinion that you were given the information you
5 were given, whatever it was, about the shirt?

6 A No.

7 Q No. Now, Dr. Korell, it is your opinion based on
8 the absence of any evidence that suggested a tool, that
9 this girl was strangled manually?

10 A Yes. I don't have any indication that any cord
11 or anything like that was used.

12 Q Right. There's nothing like that, that appears
13 on the body.

14 A Correct.

15 Q Correct? So, now by manually, can you render an
16 opinion as to whether or not the hands that strangled her,
17 if there were hands, came from in front of her or behind
18 her?

19 A I cannot say.

20 Q And do you have any opinion based on your
21 observations of the body as to who strangled her?

22 A No, of course not.

23 Q Or how big the hands were?

24 A No.

25 Q Or to what body they were attached?

1 A No.

2 Q Whether it was a male or a female?

3 A No.

4 Q Or where the body was when it was strangled?

5 A No.

6 Q And do you have any opinion, Dr. Korell, based on
7 your expert examination of this young girl's body what, if
8 any, time lapsed between the strangulation and the burial
9 from which the body was excavated on February 9th?

10 A No, I don't have any time span of when it could
11 have occurred.

12 Q And, Dr. Korell, you said, you answered the
13 questions of M's Murphy as to, well, was the time -- was
14 the appearance of the body consistent with her having been
15 murdered and buried on the 13th of January, and you
16 answered, yes, it was consistent with, correct?

17 A Yes.

18 Q You, in your autopsy protocol, never rendered,
19 you left blank the space that is left for you to determine
20 the time of death, did you not?

21 A Right.

22 Q And you have no opinion as to what the time of
23 death was, do you?

24 A Correct.

25 Q In fact, the appearance of this young woman's

1 body and your examination of her on February 10th in no way
2 led you to render an opinion that, in fact, her death by
3 strangulation and her burial occurred together.

4 A Correct.

5 Q Correct? So, in fact, you can't tell us how long
6 after her death she was buried.

7 A Correct.

8 Q And there's nothing in her body that gives you
9 any indication to render any opinion as to that, correct?

10 A Correct, ma'am.

11 Q She could have been strangled one day and buried
12 several days later. Could she not?

13 A Correct.

14 Q And that would be consistent with everything you
15 saw about this body, correct?

16 A Correct.

17 Q And if she had been murdered, strangled, the
18 victim of a homicide, that would be consistent with that
19 having occurred on the 14th of January as readily as it
20 would be consistent with it having occurred on the 13th,
21 would it not?

22 A Yes.

23 Q It would be as readily consistent with it having
24 occurred on the 15th of January as it would be the 13th.

25 A Correct.

1 Q It would be as readily consistent if she were
2 murdered on the 14th but buried on the 15th.

3 A Correct.

4 Q And, in fact, it would be as consistent if she
5 were buried whatever day she was murdered, on the 20th of
6 January, correct?

7 A Correct.

8 Q All you could say from the appearance of the body
9 was that she had been dead for some time.

10 A Yes.

11 Q Is that correct?

12 A Yes.

13 Q And you based that on the appearance of her body
14 and the amount of decomposition. Is that correct?

15 A Yes.

16 Q And decomposition is a biological process that
17 occurs to everybody post-death, does it not?

18 A Yes.

19 Q Unless it's arrested by something else, like
20 cremation?

21 A Or embalming.

22 Q Or embalming.

23 A Yes.

24 Q Is that correct?

25 A Yes, yes.

1 Q Those processes stop further decomposition.
2 A Yes.
3 Q Correct? But otherwise a body decomposes,
4 correct?
5 A Correct.
6 Q But bodies don't decompose at the same rate.
7 A Correct.
8 Q That the rate at which they decompose depends
9 upon a number of factors, does it not?
10 A Yes.
11 Q And those include the outside temperature.
12 A Certainly.
13 Q And the temperature at which the body is kept.
14 A Certainly.
15 Q So, if the body is kept in a closed space, but
16 which is cold, it would decompose less rapidly than if it
17 were hot.
18 A Correct.
19 Q Is that correct?
20 A Of course.
21 Q Hot speeds up decomposition.
22 A Certainly.
23 Q Is that correct?
24 A Yes.
25 Q And that means the hot around the body whatever

1 the circumstances are would speed it up.

2 A Certainly.

3 Q Correct?

4 A Yes.

5 Q Cold slows down decomposition, correct?

6 A Correct.

7 Q And that's both because cold slows down the

8 biological process, but cold also surrounding the body

9 slows down other biological processes, such as insects --

10 A Yes.

11 Q -- or bugs that feed on the body.

12 A Yes.

13 Q And bugs or insects speed up decomposition, do

14 they not?

15 A Well, bugs or insects really work on the body and

16 they feed on the body.

17 Q And the evidence of bugs would be visible, would

18 it not?

19 A Oh, yes.

20 Q All right. And did you ever at the time of your

21 autopsy check the temperature chart in Baltimore City

22 around the area where this body was disinterred?

23 A No.

24 Q You were aware, however, were you not, that in

25 February, that January and February had had some major days

1 of cold weather?

2 A Yes.

3 Q Were you not?

4 A Yes.

5 Q And that there had been snow that occurred
6 between or before the body was found?

7 A Yes.

8 Q Incidentally, Dr. Korell, you described some of
9 the processes post-death, and you referred to livor, which
10 is really the blood, related to the blood in the body?

11 A The settling of the blood, yes.

12 Q The settling. And when we are alive, because our
13 heart pumps, our blood circulates, correct?

14 A Right.

15 Q But after we're dead, there's no more pumping, so
16 the blood settles essentially on the lowest point?

17 A Right.

18 Q Is that correct?

19 A Yes.

20 Q And that's for all bodies, right?

21 A Yes.

22 Q And once the livor, once the blood settles, it
23 remains there, does it not?

24 A Yes.

25 Q Unless the body is moved?

1 A Well, there is a span of time in which the livor
2 is unfixed. That's the time when the body is moved, then
3 the livor moves also.

4 Q Okay.

5 A Now, after several hours, the livor gets fixed
6 and it --

7 Q Then it gets fixed --

8 A -- doesn't --

9 Q -- no matter what you do.

10 MS. MURPHY: Objection.

11 THE COURT: Overruled.

12 MS. GUTIERREZ: I'm sorry, Dr. Korell.

13 THE WITNESS: Then once it's fixed, no matter how
14 you position the body, it stays on the same spot.

15 BY MS. GUTIERREZ:

16 Q By fixed you just mean it settles.

17 A Yes.

18 Q And the blood then --

19 A Doesn't move.

20 Q -- stays where it is, right?

21 A That's correct.

22 Q So that even if you take a dead body and you
23 remove it from where it is, and you turn it upside down,
24 the blood would remain where it became fixed.

25 A Yes.

1 Q Isn't that right?

2 A Correct.

3 Q Because the internal organs no longer move the
4 blood, right?

5 A Correct. Right.

6 Q Because there's nothing pumping the blood,
7 correct?

8 A Yes. And the blood vessels, the blood in the
9 blood vessels, the blood vessels break up, and then the red
10 cells go into the tissue, and then it becomes completely
11 fixed.

12 Q Now, could you tell from your examination if the
13 grave from which this young girl was removed the day before
14 you autopsied her was the only resting place she had been
15 in?

16 A The only thing I can say is that she had frontal
17 livor, and that means in the front. I don't know where she
18 was before she was buried. No, I don't know.

19 Q Okay. And so based on your observations, it
20 would be possible for this young girl post-death, whenever
21 that may have occurred, to have been held somewhere, the
22 body held somewhere prior to it being interred when it was
23 found, from whence it was found.

24 A Yes.

25 Q And there's nothing in your observation that

1 excludes that possibility.

2 A Correct.

3 Q Or tells you whether that happened or didn't

4 happen, right?

5 A Correct.

6 Q Because you are limited to the observations that

7 you could make from the body when it was presented to you.

8 A Correct.

9 Q Is that correct? And there was nothing other

10 than telling at the time that the body was disinterred that

11 the livor you said was frontal?

12 A Yes.

13 Q And by frontal you literally mean the front of

14 the body.

15 A Yes.

16 Q Is that correct?

17 A Yes.

18 Q So that, that would tell you that the body was

19 face down when the livor was fixed.

20 A Right.

21 Q Would it not?

22 A Yes.

23 Q Okay. Because that would mean the blood would

24 pool on the front of the body.

25 A Correct.

1 Q And that wouldn't happen if the body post-death
2 were on its side.

3 A Correct.

4 Q Or on its back. Is that correct?

5 A Unless, again, the body was moved while the livor
6 mortis was unfixed.

7 Q Was unfixed?

8 A Yes.

9 Q Because then the movement itself would upset
10 where the blood went.

11 A Correct.

12 Q Is that correct?

13 A Yes.

14 Q And you couldn't tell whether or not that
15 happened.

16 A Right.

17 Q You can't tell us whether that body was moved
18 before or after livor was fixed.

19 A Correct.

20 Q From your observations.

21 A Correct.

22 Q You can only tell us that livor fixed on the
23 front of the body.

24 A Correct.

25 Q Which would indicate that at the time livor

1 fixed, sometime post-death, that she was laid frontally.
2 A Yes.
3 Q Is that right?
4 A Yes.
5 Q And that's all you can tell us.
6 A Correct.
7 Q You also examined the body of M's Hae Min Lee to
8 determine whether or not she was pregnant?
9 A Correct.
10 Q And you discovered no evidence indicating any
11 pregnancy.
12 A Correct.
13 Q Is that correct?
14 A Correct.
15 Q And that's very easy to test for, is it not?
16 A Well, we just look at the uterus.
17 Q You can tell --
18 A Yes.
19 Q -- a pregnant uterus.
20 A Right.
21 Q Is that correct?
22 A Correct.
23 Q And there's no doubt that she was not pregnant.
24 A Correct.
25 Q All right. And can you tell us when was,

1 although you saw no presence of spermatozoa, was there any
2 evidence of recent sexual activity?

3 A No.

4 Q Is there any way that you can tell that?

5 A Well, first, because of the spermatozoa, and then
6 the amount of acid phosphatase. That's an enzyme.

7 Q And what does that come from?

8 A That comes from red cells and prosthetic fluid.

9 Q And that has to come from a penis, does it not?

10 A Right.

11 Q All right. And if she had recent sexual activity
12 that utilized a condom to prevent any fluid from the male
13 penis from entering her, would you be able to tell that?

14 A No.

15 Q No. So, in any event, your report indicates no
16 indication of when her most recent sexual activity was,
17 does it?

18 A Correct.

19 Q Your report indicates no signs of a struggle that
20 were evidenced on her body.

21 A By that you mean, injuries to the arms or legs or
22 someplace?

23 Q Yes, any defensive wounds or --

24 A No.

25 Q And no other bruising on any other part of her

1 body.

2 A Correct.

3 Q Not of her hands.

4 A Correct.

5 Q Not on her forearms, not on her legs.

6 A Correct.

7 Q No bruising to any part of her leg that would

8 indicate that she kicked something or someone during a

9 struggle to save her life.

10 A Correct.

11 Q And your examination of the body, of course, Dr.

12 Korell, reveals no indication of where her body was when it

13 was strangled.

14 A Correct.

15 Q Or in what position she was when she was

16 strangled.

17 A Correct.

18 Q Much less what was her position relative to the

19 person who manually strangled her.

20 A Correct.

21 Q You were asked about the horseshoe bone. I

22 forget what that's called.

23 A Hyoid bone.

24 Q Hyoid bone.

25 A H-y-o-i-d.

1 Q That was broken, correct?

2 A Yes.

3 Q Would it take much pressure to break that?

4 A Yes, because it's quite hidden. It's the back,
5 it's in the back of the tongue. It's behind the voice box,
6 so it's rather protected. So, to get there you need quite
7 a bit of force.

8 Q Okay.

9 A Especially in a young person.

10 Q The fact that that was broken, did that tell you
11 anything different than is in your report about the
12 circumstances of this young woman's death?

13 A No. It indicates that the cause of death was
14 strangulation.

15 Q Okay. And the actual strangulation had to have
16 been caused by pressure --

17 A Yes.

18 Q -- on the neck.

19 A Correct.

20 Q And was that pressure, based on your observation,
21 spread equally on either side?

22 A Actually, the area of the broken hyoid was only
23 on one side.

24 Q Okay. And does that indicate to you that the
25 pressure applied to strangle this young woman was unevenly

1 applied --

2 A It may.

3 Q -- between the right and the left?

4 A It may.

5 Q Did you render an opinion as to that?

6 A No.

7 Q Okay. And could she have been --

8 A Most often it's one side of the hyoid bone that's

9 broken, not both sides.

10 Q Okay. And so, there's nothing unusual about

11 that?

12 A Correct.

13 Q And she still could have been strangled by the

14 application of pressure, whether it came from the front or

15 from the back of her, that could have caused

16 unconsciousness in ten seconds or less.

17 A Correct.

18 MS. GUTIERREZ: If you will just give me a

19 minute, Judge. I think I've covered --

20 BY MS. GUTIERREZ:

21 Q In the petechial --

22 A Petechial.

23 Q Petechial hemorrhages, you described they're on

24 the inside of the eyelid, right?

25 A Let me be -- on the left --

1 Q And the eyeball, but --

2 A On the left palpebral conjunctiva, that's the
3 lining of the eyelid on the left side.

4 Q Okay. So that --

5 A And both bulbar conjunctiva. Bulbar is the
6 eyeball itself. The eyeball itself is lined by a thin
7 membrane called the conjunctiva. In fact, both of them had
8 bleeding.

9 Q Okay. Now, when you say the bleeding, would the
10 bleeding have produced blood running?

11 A No. It's also on the membrane.

12 Q It's underneath the membrane?

13 A Yes. It's not free blood, no.

14 Q Again, just like the bruising that causes the
15 hemorrhages underneath, this bleeding would not have
16 produced any rivulet of blood.

17 A No.

18 Q From the outside.

19 A No.

20 Q From the corners of the eye.

21 A No.

22 Q From anyplace in the eye.

23 A Correct.

24 Q And it would not have produced blood or fluid
25 running on her face.

1 A Correct.

2 MS. GUTIERREZ: Thank you. I have nothing
3 further.

4 THE COURT: Witness with you. Any re-direct?

5 MS. MURPHY: Just briefly, Your Honor.

6 RE-DIRECT EXAMINATION

7 BY MS. MURPHY:

8 Q Dr. Korell, do you personally conduct DNA
9 analysis?

10 A No.

11 Q So, is it fair to say that if the police wanted
12 that done, they would have to utilize labs for that
13 purpose?

14 A Yes. We don't do it in our lab, either. We
15 provide them with blood or something, whatever they need,
16 but not, we don't do the test.

17 Q Now, you were asked on cross examination if a
18 person would necessarily be able to tell whether
19 unconsciousness -- would be able to differentiate between
20 unconsciousness and death.

21 A And death.

22 Q In your experience, would a person with training
23 as an emergency medical technician be able to tell the
24 difference between unconsciousness and death?

25 MS. GUTIERREZ: Objection.

1 THE COURT: Overruled.

2 THE WITNESS: A -- I'm sorry.

3 BY MS. MURPHY:

4 Q You may answer that.

5 A A person trained like that, yes, he should be
6 able. She should be able.

7 MS. MURPHY: Thank you, Dr. Korell.

8 THE COURT: Anything further?

9 MS. MURPHY: Nothing further from the State, Your
10 Honor.

11 RE-CROSS EXAMINATION

12 BY MS. GUTIERREZ:

13 Q Dr. Korell, what is it that you would determine
14 to be an emergency medical personnel?

15 A Well, these are people that work in ambulances,
16 and at the scene of an accident, or injury or in natural
17 problems. They check on the person to see how much injury
18 they may have, what diseases may be being affected and
19 causing the person to need their assistance. And they do
20 resuscitation. They check for pulse. They do all of this,
21 and they intubate.

22 Q So, determining the difference --

23 A Yes.

24 Q -- between unconsciousness and death would
25 involve an emergency medical personnel actually checking

1 out the person.

2 A Certainly.

3 Q By seeing if they had a pulse.

4 A Right.

5 Q And checking the breathing rate.

6 A Right.

7 Q And doing other things that would determine
8 whether or not the person were dead or alive.

9 A Correct.

10 MS. GUTIERREZ: Thank you. Nothing further.

11 THE COURT: May this witness be excused?

12 MS. MURPHY: Yes, Your Honor.

13 MS. GUTIERREZ: Yes.

14 THE COURT: And may this witness be released from
15 all subpoenas and summonses?

16 MS. GUTIERREZ: Yes.

17 THE COURT: Very well. You are excused at this
18 time. Let me advise you that you may not discuss your
19 testimony with anyone who may be a witness in this case.

20 THE WITNESS: Certainly.

21 THE COURT: And I also advise you that you are
22 now released from the summonses, and you may, if you
23 choose, have a seat in the courtroom if you would like
24 because at this time you are released and you're free to
25 go.

1 THE WITNESS: Thank you very much.

2 (The witness was excused and left the
3 courtroom).

4 MR. URICK: Does the court wish to do another
5 witness at this time?

6 THE COURT: Yes, I would. I would like to go
7 till 4:30.

8 MR. URICK: May we have just a second to get the
9 witness?

10 THE COURT: Yes.

11 (Brief pause).

12 THE COURT: While we're waiting for this witness,
13 do you want to have a discussion with regard to that one
14 scheduling issue for Friday or not that generated a note?

15 MS. GUTIERREZ: Oh! It's next Friday?

16 THE COURT: Next Friday.

17 MS. GUTIERREZ: Oh! Yeah, we can.

18 MR. URICK: I thought our final suggestion
19 resolved it.

20 THE COURT: Just wait until --

21 MR. URICK: Yes.

22 THE COURT: Okay. Very well. Perhaps you can
23 give us an idea, Mr. Urick, about how many more witnesses
24 would you say the State has?

25 MR. URICK: We have one more.

1 THE COURT: This is the last witness?
2 MR. URICK: Yes.
3 THE COURT: All right. Very well.
4 MR. URICK: I think the court indicated it wanted
5 to end about 4:00 or 4:30 today?
6 THE COURT: No. I mean for the entire case.
7 MR. URICK: Oh! No, no. For the entire case,
8 I'm guessing around eight to ten.
9 THE COURT: Eight to ten more witnesses?
10 MR. URICK: Yes.
11 THE COURT: Very well. You may proceed. Please
12 step up to the witness stand. I'd ask that you remain
13 standing. Raise your right hand, and listen to Mr. White
14 as he renders the oath to you.
15 IRRA LYNETTE WOODLEY,
16 a witness produced on call of the State, after having been
17 first duly sworn, was examined and testified as follows:
18 THE CLERK: You may be seated. Please keep your
19 voice up. State your name for the record.
20 THE WITNESS: Irra Lynette Woodley.
21 THE CLERK: State your address for the record.
22 THE WITNESS: 9932 Linden Hill Road.
23 THE COURT: Your first name again?
24 THE WITNESS: Irra, two r's. I-r-r-a.
25 THE COURT: Woodley.

1 THE WITNESS: Woodley, W-o-o-d-l-e-y.

2 THE COURT: Thank you. You may proceed.

3 MR. URICK: Thank you, Your Honor.

4 DIRECT EXAMINATION

5 BY MR. URICK:

6 Q Good afternoon, M's Woodley.

7 A Good afternoon.

8 Q Where are you employed?

9 A Woodlawn Senior High School.

10 Q And how long have you been employed there?

11 A This is my second year.

12 Q And what is your position there this year?

13 A Principal.

14 Q Drawing your attention back to the prior school
15 year, the 1998/1999 school year, what was your position at
16 Woodlawn High School?

17 A Assistant Principal.

18 Q And drawing your attention now to the Homecoming
19 Dance in the fall of 1998, did you have occasion to attend
20 that?

21 A Yes.

22 Q Do you recall the date of that?

23 A I just know it was in October.

24 Q And what were your duties at the Homecoming
25 Dance?

1 A I had to supervise. I was on the door. I walked
2 through the dance to make sure that everything was going
3 well.

4 Q And did you know the defendant at that time?

5 A Yes.

6 Q And did you know Hae Min Lee?

7 A Yes.

8 Q Did there come a time when your attention was
9 drawn to the two of them?

10 A Yes.

11 Q How did that come about?

12 A Adnan's parents came to the dance, and at first
13 they were standing outside looking in. They --

14 Q Where were you at this time?

15 A At the door. It's a big glass window. The dance
16 was in the cafeteria, and it's a big glass window, and you
17 can see right out this big glass window. And I was
18 standing right at that entranceway.

19 Q Why did that draw your attention?

20 A Because they were just standing there looking in
21 through the window.

22 Q Was anyone else doing that?

23 A No, not at the time.

24 Q What happened next?

25 A They came in, and they asked for their son. And

1 I went through the dance to find their son. And we found
2 their son, and he came out, and they talked. They were
3 talking over to the side. I couldn't hear their
4 conversation at that time.

5 Q Did you notice any gestures or anything of that
6 sort?

7 A I really let them talk. I was not trying to get
8 involved with that. It was their son, and I let them talk.
9 Then Adnan left and went inside the party, the dance,
10 excuse me, and he came back with Hae Lee. And at that time
11 he went over, they went over to where the parents were, and
12 that's when the voice, the mother's voice, I could hear the
13 mother's voice. I don't remember everything that she said,
14 but I remember something to the effect of, "Do you know
15 what you're doing to our family or to our house?" I don't
16 -- and her voice was raised.

17 So, at that time, I walked over to them, and I
18 took Hae Lee. I told the parents, I said, "I can't let you
19 talk to this child like this. Her parents aren't here,"
20 and I sent Hae Lee back to the dance. And I left him with
21 his parents, and they walked out the door.

22 Q Did you have occasion to speak to M's Lee that
23 night?

24 A No.

25 Q Or about that night at any time after that?

1 Q And was there anything, was there any criminal
2 violation that occurred when they came up and asked to see
3 their son?

4 A No, ma'am.

5 Q Did you know who they were by sighting them?

6 A I knew -- other students told me that was their
7 parents, his parents.

8 Q That was his parents.

9 A Yes.

10 Q Now, you knew Adnan Syed before that night,
11 correct?

12 A Yes.

13 Q And you knew that he was a student, a senior at
14 Woodlawn.

15 A Correct.

16 Q And that he was a good student.

17 A I assumed that part. I assumed that he was a
18 good -- I know you're not supposed to assume, but I assumed
19 that he was good student. He hadn't been sent to the
20 office or anything like that.

21 Q Okay. So you had not had any bad interaction
22 with him.

23 A No, I did not.

24 Q Is that correct? And were you aware prior to the
25 point where his parents asked you to get him that he was

1 dating Hae Min Lee?

2 A I saw them walk together. That's about it.

3 Q In the school itself.

4 A I saw them walk into the dance together.

5 Q Oh, okay, as if they were a date?

6 A As if they were a date.

7 Q Okay. And had you interacted with either of them

8 before the parents showed up?

9 A Just when they -- I spoke when they came through.

10 Q When they came through to come to the dance?

11 A To come to the dance.

12 Q Okay. Now, the dance was a Homecoming Dance.

13 Did that include all four grades?

14 A Yes.

15 Q All right. And a lot of the students came?

16 A It was a good number. It wasn't a very large

17 turn-out.

18 Q Did a lot of the students come in couples as

19 dates?

20 A A good number of them, yes.

21 Q And were you aware prior to that evening that

22 Adnan Syed and his family were Moslems?

23 A No.

24 Q And that going to dances was forbidden for

25 Moslems?

1 A No.

2 Q And dating was forbidden for Moslems.

3 A No.

4 Q And when his parents asked you to get him, did
5 they explain to you why they wanted to see him?

6 A No.

7 Q Did they ask politely?

8 A Yes.

9 Q And when they identified themselves, did they
10 identify themselves as his parents?

11 A Other students informed me that they were his
12 parents.

13 Q So, when you -- you actually went over to them?

14 A They were standing there. They were asking for
15 their son. I asked who they were looking for, and the
16 students told me. I went inside, and I got Adnan.

17 Q Okay. So, you were responding to their request
18 to see their son.

19 A Correct.

20 Q And at the time that you were responding, you
21 didn't see anything wrong with that request, did you?

22 A No.

23 Q You, in fact, went and got their son, correct?

24 A Yes.

25 Q And when you went and got him, was he with Hae

1 Min Lee?

2 A I don't recall seeing them together at that time,
3 but I really don't know.

4 Q Okay. And he came right with you.

5 A Yes.

6 Q Did he not?

7 A Yes.

8 Q You told him that his parents were there.

9 A Correct.

10 Q Didn't you? And he willingly came with you.

11 A Correct.

12 Q Is that correct? And then when he got to where
13 they were, I assume that was outside the room where the
14 dance was being held?

15 A Yes.

16 Q They went and were talking to each other, you
17 said, off to the side.

18 A Correct.

19 Q They weren't making a scene.

20 A At that point, no.

21 Q The parents didn't make a scene.

22 A Not at that point.

23 Q And Adnan didn't make a scene.

24 A No.

25 Q Okay. There was no hitting.

1 A No.

2 Q Or throwing of things.

3 A No.

4 Q Or stomping.

5 A No.

6 Q No assaults of any kind.

7 A No.

8 Q And they didn't involve anybody else in their
9 discussion.

10 A Correct.

11 Q You were still out where they were, correct?

12 A Correct.

13 Q Because you were keeping an eye on the whole
14 dance, correct?

15 A Correct.

16 Q And it was sort of unusual for the parents to
17 come up and ask to see one of their children, wasn't it?

18 A It was unusual for them to ask to see their
19 child.

20 Q Okay.

21 A Oh! I was repeating what you asked me.

22 Q Oh! I asked the question, was it unusual?

23 A For a parent to ask for their child, no.

24 Q No. And you saw Adnan go in to where the dance
25 was, did you not?

1 A Yes.

2 Q And he came back out with Hae.

3 A Correct.

4 Q Did he not?

5 A Yes.

6 Q He didn't appear to be forcing her to come out.

7 A No.

8 Q He wasn't dragging her, was he?

9 A No.

10 Q Didn't appear to be assaulting her?

11 A No.

12 Q And she didn't appear to be protesting.

13 A No.

14 Q And then Hae went to where his parents were.

15 A Yes.

16 Q And you weren't part of that conversation.

17 A Initially, no.

18 Q No. And nobody asked you to become involved in

19 that conversation.

20 A No.

21 Q Hae Min Lee never sought your help.

22 A Correct.

23 Q And from what you could observe, she never sought

24 anybody's help, did she?

25 A Correct.

1 Q She never screamed.

2 A No. She didn't say anything.

3 Q And she didn't walk away of her own volition.

4 A No.

5 Q Whatever conversation she was having, she
6 appeared to be participating in it.

7 A Participating in that she stood there?

8 Q Yes.

9 A She stood there.

10 Q And she did not walk away.

11 A Correct.

12 Q You, during that conversation, did you receive
13 any other information from anyone else, a student, a
14 teacher, a parent, anyone at all, that let you know why
15 Adnan's parents were upset?

16 A No.

17 Q And did they do anything to explain to you why
18 they were upset?

19 A The only thing that I know is when the parents,
20 the mother's voice got loud, and she was -- her voice, she
21 was raising her voice, and it brought my attention because
22 she was raising her voice at Hae Lee.

23 Q Okay. And that's when you decided to intervene.

24 A Correct.

25 Q And stop the conversation.

1 A Correct.

2 Q Hae Min Lee didn't stop the conversation.

3 A No.

4 Q And Adnan Syed didn't stop the conversation.

5 A No.

6 Q And then from what you observed, Adnan left with
7 his parents.

8 A Yes.

9 Q You were told later by another school
10 administrator that Adnan later came back.

11 A Yes.

12 Q And remained at the dance.

13 A He said he saw him back on the school property.

14 Q Okay. And the only function, this was in the
15 evening, was it not?

16 A Correct.

17 Q There wasn't any other function happening outside
18 on the property, --

19 A Correct.

20 Q -- was there?

21 A No.

22 Q The only function that was happening was the
23 Homecoming Dance.

24 A Correct.

25 Q Now, you don't remember quite the exact date of

1 the Homecoming, but would you agree it happened in October
2 of 1998?

3 A Yes.

4 Q And that would be the fall.

5 A Yes.

6 Q Did you see Hae Min Lee and Adnan Syed after the
7 date of the Homecoming?

8 A In school, yes.

9 Q And did you observe them interacting with each
10 other?

11 A No.

12 Q Did you ever become aware that they remained
13 after that date girlfriend and boyfriend?

14 A No.

15 Q Did you ever become aware that they, in fact,
16 remained girlfriend and boyfriend almost up until Christmas
17 of 1998?

18 A No.

19 Q Some two months after the Homecoming Dance?

20 A No.

21 Q Did you receive any complaint from Hae Min Lee
22 about his parents asking, apparently asking to see her?

23 A We didn't discuss the situation.

24 Q And was there any formal complaint filed in the
25 school by anyone, including Hae Min Lee, about anything

1 that occurred at the Homecoming?

2 A No.

3 Q Was there any policy change made by Woodlawn, by
4 any administrator, related to the conduct of students or
5 parents at any function, including a dance, as a result of
6 what you observed on Homecoming sometime in October, 1998,
7 as between Adnan Syed, his parents and Hae Min Lee?

8 A As a policy, we don't have students being
9 approached by other parents without a parent being there.
10 Did I say that clearly enough?

11 Q I think so.

12 A Okay.

13 Q And that policy existed before that dance.

14 A Correct.

15 Q And that's why you intervened, correct?

16 A Correct.

17 Q My question is, as a result of whatever it is
18 that you observed occurring between Adnan Syed, his parents
19 and Hae Min Lee, was there any policy change initiated by
20 anyone concerning the conduct of anyone at any school
21 function including a dance?

22 A No.

23 Q Not in -- excuse me. Not in 1998?

24 A A policy change?

25 Q Yes.

1 A Not to my knowledge.

2 Q And none in 1999.

3 A Not to my knowledge.

4 Q And in addition to there being no complaint made
5 by Hae Min Lee, was there a complaint filed by her parents?

6 A No.

7 Q And after that date, did you have any
8 interaction, formal or informal, with Adnan Syed's parents?

9 A No.

10 Q You said that what focused your attention was
11 Adnan Syed's mother's voice raising.

12 A Yes.

13 Q Is that correct?

14 A Yes.

15 Q Did you observe any other conduct, other than
16 that?

17 A As she was -- she didn't do anything physically
18 to the young lady.

19 Q Okay. She didn't move towards her?

20 A She did move toward her but she didn't touch her.

21 Q And she didn't appear to be making any attempt to
22 touch her.

23 A She moved toward her.

24 Q Okay.

25 A And her voice, it was getting louder.

1 Q Did you ever see her make any physical move of
2 any kind that you perceived to be a threat to Hae Min Lee's
3 safety?

4 A Just the movement toward her.

5 Q Okay. And at that time that you saw that
6 movement, did Hae Min Lee move?

7 A Not that I recall.

8 Q Where this was taking place was right outside the
9 room where the dance was taking place?

10 A Yes.

11 Q And was there music at the dance?

12 A Yes.

13 Q And was it loud?

14 A Yes.

15 Q Was it audible from where you were standing?

16 A Could I hear the music? Yes.

17 Q And did it appear to be audible to anyone capable
18 of hearing, who might be standing where the parents, Adnan
19 and Hae Min Lee were?

20 A Yes, they could hear.

21 Q Did the loudness of the music change in any way?

22 A No.

23 Q Were there times when it was louder, and times
24 when it was softer?

25 A It was the same, that I can recall.

1 Q It was the same loudness the whole time?

2 A They play music loud.

3 Q And so, it was always loud.

4 A Yes.

5 Q It was never soft.

6 A Not that I can recall.

7 MS. GUTIERREZ: Thank you. I have nothing
8 further.

9 THE COURT: Anything further?

10 MR. URICK: Yes, just very briefly.

11 RE-DIRECT EXAMINATION

12 BY MR. URICK:

13 Q Based on that incident that you saw that night
14 what, if any, advice did you give Hae Min Lee?

15 A That she should consider her relationships, that
16 she shouldn't put herself in situations, that it may not be
17 the best for her.

18 MR. URICK: Thank you.

19 RE-CROSS EXAMINATION

20 BY MS. GUTIERREZ:

21 Q Had Hae Min Lee come to you for advice?

22 A No, she did not.

23 Q Had she ever indicated to you that she thought
24 the relationship was not the best for her?

25 A She later told me that she had ended it, but it

1 wasn't until later/later.

2 Q Okay. And by later/later you mean long after the
3 dance?

4 A Yes, ma'am.

5 Q And, in fact, that was after the middle of
6 December.

7 A Yes.

8 Q Okay. And prior to that, did she seek your
9 guidance in any way?

10 A No.

11 Q Could she have if she had so desired?

12 A She sure could have.

13 Q Okay. But she did not.

14 A Correct.

15 MS. GUTIERREZ: Thank you.

16 THE COURT: Anything further?

17 MR. URICK: No. Thank you, Your Honor.

18 THE COURT: May this witness be released?

19 MR. URICK: Yes.

20 MS. GUTIERREZ: Yes.

21 THE COURT: And is she released from summonses?

22 MS. GUTIERREZ: Yes.

23 MR. URICK: Yes.

24 THE COURT: You may leave. I also advise you
25 that you are a sequestered witness. You may not discuss

1 your testimony with anyone, anyone that is yet to testify.
2 By doing so, you could exclude them from being able to
3 testify. However, because you're released from summonses,
4 you're welcome to sit in the courtroom if you would like.

5 THE WITNESS: Thank you.

6 THE COURT: Very well. Your next witness.

7 MR. URICK: Your Honor, this was our last witness
8 for the day.

9 THE COURT: All right. And you have no one else
10 that you could call?

11 MR. URICK: No one that we could get here. We
12 thought you wanted it to end between 4:00 and 4:30 today.

13 THE COURT: 4:30 and a quarter of, but this is
14 fine. We can end today at this time. Ladies and
15 gentlemen, I am going to tell you that once again that you
16 should leave your notepads face-down on your chairs, that
17 you are not to discuss the testimony with anyone. You
18 haven't heard the entire case. You haven't heard closing
19 arguments, and you haven't been instructed as to the law.

20 I must also advise you that if you were to turn
21 on the television or pick up a newspaper, you are not to
22 read anything about this case or discuss anything about
23 this case with anyone, or read anything, or listen to
24 anything about this case.

25 I also advise you that tomorrow, which is

1 Wednesday -- let me make sure.

2 THE JURORS: Thursday.

3 MS. MURPHY: Thursday.

4 THE COURT: Tomorrow is Thursday, and I think I
5 gave a little note about tomorrow. We are supposed to
6 start at 9:00. That is, you are going to be paid between
7 9:00 and 9:30, to return to the jury room around the
8 corner. You have the little note? Very good.

9 9:30, and somewhere about a quarter of 10:00 or
10 10:00 o'clock, I will start this case. I have, I
11 understand, one case on my docket for tomorrow, and I
12 should be able to dispose -- I see your fingers. Are you
13 telling me there are more in?

14 THE CLERK: Well, unless the computers change it.
15 The computer says three for tomorrow and one for Friday.

16 THE COURT: Okay. The computer says three, but
17 in any event, somewhere about 10:00 o'clock I hope to start
18 this case once again.

19 Ladies and gentlemen, I would like to advise you
20 as you're going home, please have a safe journey. Plan to
21 sit tomorrow until 5:00 o'clock. And the State, 5:00 or
22 5:30 I think you said for tomorrow. I think, in fact, I
23 said 5:30 because I was thinking about more or less 5:00
24 for Friday, 5:30. And again, I'm trying to get as much as
25 we can get in on the days when my dockets are light, so

1 that we can try to move the case along.

2 It is our expectation to try to move this case
3 along, to perhaps even finish the case by early next week.
4 I know some of you have some concerns about scheduling, and
5 please be advised that if any of you are thinking about
6 Friday of next week as a possible day when they might not
7 want the court to sit, that that is something we are all
8 aware of, and we are trying our best to resolve this case a
9 little earlier in the week. But we will not, in any way,
10 let you know because we do not know how things will pan
11 out, but we will tell you that we are trying our best and
12 ask that you be patient with us.

13 And, in any event, please go with Mr. Church, who
14 will take you back to your jury room. Leave your notepads
15 face-down, and they will be secured by Mr. White. And I
16 will see you tomorrow at about 9:45 or 10:00 o'clock. Have
17 a good evening.

18 (The jury was excused and left the
19 courtroom).

20 MS. GUTIERREZ: Judge, can I again leave my bag
21 here?

22 THE COURT: Yes, you can again leave your bag.
23 We will be locking the courtroom. I ask counsel to
24 return -- I would also ask, I know this is a little early
25 on, but if by chance you have voir dire --

1 MS. GUTIERREZ: Instructions?

2 THE COURT: Yes. I'm sorry. Jury instructions
3 and a verdict sheet, a sample verdict sheet, I would be
4 happy to take a look at them.

5 MR. URICK: Also, at this time, Your Honor,
6 pursuant to the court's written opinion on the motion in
7 limine concerning Sharon Watts, the State would request a
8 voir dire of Sharon Watts as to her expertise, and we will
9 be bringing her in tomorrow for that purpose. Do you wish
10 to do that outside the presence of the jury?

11 THE COURT: Yes. That would be fine.

12 MR. URICK: Do you want to do it the first thing
13 in the morning before we call the witness, or should we do
14 it just before --

15 THE COURT: Why don't we do it before the jury
16 comes out. It's too bad she's not here today. I know.
17 Listen, there's no way for you to anticipate each and every
18 day.

19 MR. URICK: We did have two witnesses yesterday.
20 We brought in three today.

21 THE COURT: I know. It depends on the witnesses,
22 and it depends on cross, and there's no way to know. But
23 why don't we just plan on taking her -- are you expecting
24 that there's some additional information that she can
25 provide that would change my ruling in some way?

1 MR. URICK: I believe she can.

2 THE COURT: In terms of her background?

3 MR. URICK: Yes. In terms of the --

4 THE COURT: The clinical nature of her
5 background?

6 MR. URICK: Yes.

7 THE COURT: Okay. If you have some more
8 information, has that information been provided to the
9 defense?

10 MS. GUTIERREZ: No.

11 MR. URICK: I'll be happy to make a copy.

12 THE COURT: Do you have a resume or a vitae --

13 MR. URICK: No. I just have --

14 THE COURT: -- that includes something additional
15 about her that we did not know before?

16 MR. URICK: I just interviewed her and have my
17 notes of that interview.

18 THE COURT: Well, perhaps you could proffer to
19 the court what that is since we're all here.

20 MS. GUTIERREZ: While he's finding those notes,
21 Your Honor, do you want requests for all instructions or
22 just instructions that are --

23 THE COURT: All instructions, but if you just
24 give me the number. If it's a MICPEL Pattern
25 instruction --

1 MS. GUTIERREZ: If it's in the Pattern? Okay.

2 THE COURT: -- just the number is fine. You know,
3 just a caption, State's request, Defense's request and the
4 number. Some are standard instructions that I would
5 normally give, and where my instruction alters or is a
6 little different than the standard instruction, I'll read
7 it to you so that you can know exactly where it's a little
8 different.

9 I have a compilation of Judge Angeletti's, Judge
10 Hammerman's, Judge Mitchell's, Judge Gordy's instructions,
11 and Judge Friedman's, O'Ferrall Friedman's, and I've found
12 that some of them are particularly good, and what many of
13 them do is, they are the same as the MICPEL, but they
14 personalize it a little bit. So, I have taken it and
15 tweaked it to the point where it's comfortable for me, and
16 so to the extent that it differs a little bit, I'll read
17 it.

18 For example, the reasonable doubt instruction,
19 it's exactly as MICPEL says, but I do interject a paragraph
20 that reiterates that this is not a civil case, that this is
21 a criminal case, and that the burden is with the State just
22 to make sure that it refocuses them as to where they need
23 to be, that this isn't one of those slight tilting of the
24 scales.

25 Again, to the extent that that's a little

1 different, it is an addition not instead of, in that
2 instruction. And most of the other ones are the same. I
3 can tell you that some of them are combined together. For
4 example, I will read the verdict sheet. I will read each
5 of the questions. And I will then say that before you can
6 answer the questions, your verdict must be unanimous. You
7 must consider each of these questions individually before
8 you can reach a verdict, and you must all agree, which is
9 exactly what the Maryland Pattern Instruction says, but
10 they have it as a separate instruction. So the sum and
11 substance of that instruction is given, but it's given in
12 the context of me having read the verdict sheet to them.
13 So, those are the types of things.

14 And I would also tell you that I have an
15 instruction that I give at the end, which has to do with
16 what I call the working well and playing well with others
17 instruction, the instruction asking them -- it's more of a
18 modified Allen. That is, you're supposed to be working
19 well and playing well with others. That is, you're
20 supposed to be listening to one another. You're not
21 supposed to make up your mind before you go into the
22 deliberation room, and announcing at the door of a
23 particular verdict. I mean, again, if you try cases with
24 Judge Angeletti, that's his instruction almost verbatim.
25 In other words, the instructions tend to be the Maryland

1 Pattern Instructions, or widely accepted instructions.

2 I have the Maryland Pattern Instructions book
3 sitting here upon my bench. If during the breaks you want
4 to pick it up and thumb through it, all the numbers are
5 listed in the table of contents on the front page. And I
6 literally use it when I am asked to give a particular
7 instruction. And, of course, I have a bench book that has
8 them all in there, in the order I give them.

9 So, that's why I asked if you would just give me
10 the numbers. If you have a particular instruction that you
11 have fine tuned just for this case, that you think based on
12 some case that it's particularly important, I'll be happy
13 to look it over, and read it and consider it. I can tell
14 you, though, I tend to stick pretty much to the Maryland
15 Pattern Instructions since the Court of Appeals has sort of
16 blessed most of them if not all of them. Yes?

17 MR. URICK: Just a proffer to the court. First,
18 I would refer the court to Crews v. Director, 245 Md. 174.

19 MS. GUTIERREZ: I'm sorry. I wasn't --

20 THE COURT: Can you give me that again?

21 MR. URICK: That's Crews v. Director.

22 THE COURT: Crews v. Director?

23 MR. URICK: C-r-e-w-s v. Director of the Patuxent
24 Institution.

25 THE COURT: C-r-u-w-s?

1 MR. URICK: C-r-e-w-s.

2 THE COURT: C-r-e-w-s. Okay. And not C-r-u-z?

3 MR. URICK: No. It's C-r-e-w-s v. Director of
4 the Patuxent Institution, 245 Md. 174.

5 THE COURT: For the proposition?

6 MR. URICK: At 178, and I'll just read it
7 briefly. "In his sixth contention, the Applicant claims
8 that the Circuit Court erred in permitting Dr. Croce, the
9 Assistant Director of Patuxent and the Chief of its
10 Psychiatric Department, to testify as an expert witness
11 concerning the Applicant's mental condition. The basis of
12 the Applicant's objection is that Dr. Croce was not
13 licensed to practice medicine in the State of Maryland. We
14 hold that the trial court did not abuse its discretion in
15 admitting the opinion testimony of Dr. Croce. The common
16 law does not require that an expert witness on a medical
17 subject shall be a person licensed to practice medicine.
18 Cites omitted.

19 "In Maryland this requirement has not been
20 introduced by statute in respect to defective delinquent
21 proceedings. We believe the Court of Appeals for the
22 District of Columbia Circuit aptly stated the proper view
23 concerning the competency of medical experts in Jenkins v.
24 United States, 113 U.S. Appellate VC 300. The kinds of
25 witnesses whose opinions courts have received even though

1 they lacked medical training and would not be permitted by
2 law to treat the conditions they described are legion. The
3 principle to be distilled from the cases is plain. If
4 experience or training enables a proffered expert witness
5 to form an opinion which would aid the jury, in the absence
6 of some contravening consideration, his testimony will be
7 received. Our predecessors agreed with this principle when
8 they defined medical experts merely as persons possessing
9 technical knowledge in relation to matters with which the
10 mass of mankind are supposed not to be acquainted."

11 THE COURT: Counsel, let me focus your attention.
12 I'm not concerned about whether or not she's licensed in
13 the State to carry out a particular assessment. My concern
14 is whether she has ever carried out the assessment before.
15 That is, the DSM provides a technical medical -- strike
16 that -- a clinical procedure that is utilized to determine
17 malingering or faking. If she's not certified in the State
18 of Maryland, if she is not licensed in the State of
19 Maryland to use that technique but she has, in fact, in
20 some clinical manner done the testing, then that would be
21 testimony directly at the heart of the court's concern.

22 MR. URICK: If I may now proffer her experience
23 in doing that?

24 THE COURT: Very well.

25 MR. URICK: Her expertise and training is in the

1 identification and symptomatology of medical deviation or
2 medical abnormality. And let me go --

3 MS. GUTIERREZ: Can I have that repeated?

4 THE COURT: Yes, and I would ask that you do it
5 slowly.

6 MR. URICK: Her expertise would be in the
7 identification --

8 THE COURT: Identification.

9 MR. URICK: -- of the symptomatology of medical
10 deviation or medical abnormality. Her particular --

11 THE COURT: Okay. When you say medical deviation
12 or medical abnormality, a specific medical deviation and a
13 specific abnormality or medical deviations and
14 abnormalities generally?

15 MR. URICK: Generally. Specifically she's
16 allowed to do nursing assessments, nursing diagnoses. Her
17 experience, she has about 25 years in pediatric nursing,
18 and she would testify that all 25 years involved clinical
19 observations in a clinical setting. She specialized in the
20 delivery of healthcare services to persons up to 19 years
21 of age. That's what pediatric means. It means young
22 people. She's in healthcare services. She has a
23 bachelor's degree. She's a professional nurse.

24 THE COURT: Bachelor's degree in?

25 MR. URICK: Nursing.

1 THE COURT: Uh-huh.

2 MR. URICK: She's a professional nurse by
3 classification. She does nursing assessments, and she is
4 allowed to make nursing diagnoses. A nursing assessment is
5 an evaluation, she would explain, of a client according to
6 their systems. Their mental health, their central nervous,
7 their genital, their urinary, their digestive, their
8 cardiovascular being the five systems. That is, they can
9 evaluate someone from the top of their head to their toes.

10 THE COURT: And that is physical and mental?

11 MR. URICK: And mental, yes.

12 Her training and education, as I said, first she
13 has the BS in nursing from the University of Maryland. She
14 also had two years of clinical psychiatric at Sheppard
15 Pratt Hospital -- or pardon me. She had two years of
16 clinical, which included three months of psychiatric clinic
17 at Sheppard Pratt Hospital. She had three months of
18 OBY/GYN, et cetera. The clinic included a rotation through
19 all the specialties.

20 THE COURT: That is the three months clinical?

21 MR. URICK: It was part of the two years. That's
22 just within that. She went through a rotation of all the
23 specialties in that two years. It included a three-month
24 unit in psychiatric at Sheppard Pratt Hospital.

25 THE COURT: Okay.

1 MR. URICK: And she can testify that she has
2 direct experience. She has seen catatonics. She has
3 worked in pediatric nursing. She saw schizophrenic
4 catatonia at Sheppard Pratt. She's seen situational
5 catatonia when she was assessing a father who had run over
6 a two-year old offspring.

7 THE COURT: When you say she's seen it, is she
8 going to testify that she has diagnosed it?

9 MR. URICK: She can evaluate it and assess it.

10 THE COURT: Oh, but that was not my question. I
11 asked you whether or not she will testify that she has
12 diagnosed.

13 MR. URICK: I believe if I give all the
14 qualifications, I'll answer that question, if I could give
15 her full range to explain what she does, how she does it,
16 what she does. She can give the medical -- in questioning
17 her, off the top of her head, she could give me clearly the
18 medical definition, and could give me the DSM definition as
19 well.

20 THE COURT: And she has used the DSM before?

21 MR. URICK: In her clinical setting, and I will
22 explain that. She would say she got a master's in guidance
23 counseling because she wanted to specialize in clinic work
24 in pediatric nursing, and that included a component in
25 counseling. She is certified in elementary and middle and

1 high school counseling. She is certified in crisis
2 counseling and grief counseling, and putting in her college
3 portfolio substance abuse.

4 She has been the certified Maryland Substance
5 Abuse Coordinator for nine or ten years. She has
6 continuing education credits that are appropriate for
7 pediatric nursing, for crisis management, for grief
8 management. She got her master's in counseling so she
9 could identify and help pediatric populations with their
10 problems, which include substance use and abuse, guidance
11 and counseling.

12 As indicated, her expertise has been in
13 identification of the symptomatology of medical deviation
14 or medical abnormality. She's allowed to do an assessment
15 and a nursing diagnosis. This allows her to state that a
16 patient has a deviation. She's made clinical observations.
17 She worked for 25 years, and has always made these clinical
18 observations. She's made mental assessments for eleven
19 years in school. Part of the adolescent assessment, she
20 would testify, is psychosocial.

21 Her position is as head of the clinic in the
22 Baltimore County Schools. In fact, she started the clinic
23 in the high schools. She was the one who saw the need and
24 got it approved. She founded it. She is the manager of
25 it. In that position, she supervises physicians, nurse

1 practitioners, social workers, secretaries, Health
2 Department Nurses under her. Everyone who gets referred
3 within there goes through her. She makes her medical
4 assessment/diagnosis and then refers them to the
5 appropriate person to see after that, and she's the one who
6 supervises these other professionals in the clinic setting.

7 She is familiar with the DSM. She has them. She
8 would testify they are really in their setting more of a
9 classification for billing. Once you have identified the
10 particular abnormality, then it allows you to bill it.
11 This became very important, she said, in 1997 because of
12 Medicaid reimbursement. I asked her, "Have you used
13 DSM's." "Yes, since I had a clinic. That's ten years."
14 I asked her, "How familiar?" She said how she's familiar
15 with them through the process at the clinic and extended
16 education units that she has had in them.

17 THE COURT: Before you go any further, and I'll
18 allow the defense to respond. Assuming that I say that she
19 is qualified to render such an opinion, has she and would
20 you be able to proffer the amount of time that she spent
21 with the defendant, and the opportunity she had to make the
22 observations for which she would be rendering an opinion.
23 If so, are we talking about a fleeting moment, ten minutes,
24 an hour, a couple of days? What would be her --

25 MR. URICK: She actually brought him into her

1 office, where she examined him. I'm not certain of the
2 length of time. I know that she would state that she had
3 an adequate time to do an assessment. She would state that
4 her assessment was that the patient, in terms of the
5 deviation that she saw, was that the defendant displayed
6 inappropriate affect for the symptoms that he was
7 displaying overtly.

8 THE COURT: I'm not sure I understand what that
9 means.

10 MR. URICK: In other words, there was a
11 contradiction between the symptoms he appeared to be
12 displaying and how he was actually responding. That it was
13 not, that there was an inconsistency there.

14 THE COURT: And did she render such a diagnosis
15 in some written form or report?

16 MR. URICK: No.

17 THE COURT: As far as her responsibility in her
18 employment?

19 MR. URICK: No.

20 THE COURT: At what point did she render this
21 opinion?

22 MS. GUITERREZ: I don't understand.

23 THE COURT: M's Gutierrez, I told you I would
24 give you a chance. I just want to know his best case
25 proffer so that I can understand exactly what he wants, and

1 then you can tell me why he should or should not have it.
2 But I'm asking my questions --

3 MS. GUTIERREZ: Well, I didn't mean to
4 interrupt, Judge. I obviously want to know that
5 information, and I have yet to hear him answer a single
6 posed question.

7 THE COURT: My question is a good question then.

8 MR. URICK: She revealed that opinion when I
9 interviewed her about what had happened on that occasion.

10 THE COURT: Okay. And so it was not something
11 that she had provided to any authority prior to your asking
12 the question?

13 MR. URICK: That's correct.

14 THE COURT: Okay. Very well. Now, with that, is
15 there anything else that she would say or offer that you
16 have not covered?

17 MR. URICK: I believe that would adequately cover
18 her experience in doing this sort of evaluation, to allow
19 her to give her assessment that what she saw were contrived
20 symptoms on the part of the defendant.

21 THE COURT: Okay. Very well. And I would tell
22 you that is much more than what you initially gave me in
23 the information that was provided about her as a witness
24 and her background. That is a lot different than what I
25 initially responded to in my written order. And so, with

1 all of that said, thank you very much, Mr. Urick.

2 MR. URICK: I would just like to say that we
3 appreciate the court giving us the opportunity in your
4 opinion to follow up with a new voir dire.

5 THE COURT: Right. And I had no problem with
6 doing that. My concern was that if it was as you said,
7 that my opinion stood. If it was different, I wanted to
8 know about it. And now that we've heard what the State
9 has, I'll hear from the defense.

10 MS. GUTIERREZ: Well, Judge, I'm not prepared to
11 respond to this. It's amazing to me that we get this at
12 4:30 on an afternoon. You know, if there was information,
13 although with this prosecutor, I don't expect to get any
14 information ahead of time, but I'm certainly not prepared
15 to respond to it now.

16 THE COURT: Very well.

17 MS. GUTIERREZ: Particularly since he's
18 attempting to cite law, although that law pre-dates my
19 admission to the bar since the Defective Delinquent's Act,
20 which established Patuxent, was repealed before I got
21 admitted. So, that makes it at least 25 years old. And I
22 believe Crews v. Director, which is a fairly substantial
23 case in establishing defective delinquent in juvenile court
24 jurisdictions, stands for entirely different propositions,
25 and I obviously have not looked at it for awhile.

1 I would demand an answer to the question that the
2 court posed; how long is she alleged to have examined the
3 defendant. Since all of this was new to us at the first
4 trial, she testified as to a minimal time. We have been
5 provided no other information. I want an answer to that
6 question before I'm even asked to respond as to the
7 circumstances, to give both this witness and Mr. Urick the
8 minimum amount of wiggle room to make it up as you go, and
9 I think we're entitled to that.

10 THE COURT: Before you go any further.

11 MS. GUTIERREZ: The other, as to what
12 inappropriate --

13 THE COURT: Stop right there. I think that's a
14 fair question. How long would you say that this, your
15 witness, had to see, examine, or in any way make an
16 assessment of the defendant? I need an approximation of
17 how long she met with him.

18 MR. URICK: I never try to put words in a
19 person's mouth.

20 THE COURT: Mr. Urick, I'm not asking you that.
21 I'm asking you -- the court is asking you, do you know how
22 long of a time, yes or no?

23 MR. URICK: No, I don't.

24 THE COURT: Okay. You have to talk to your
25 witness to ask her that question.

1 witness to ask her that question.

2 MR. URICK: Yes.

3 THE COURT: And you haven't asked her that
4 question yet.

5 MR. URICK: Correct.

6 THE COURT: Very well. Your next question?

7 MS. GUTIERREZ: And I'd like to know if there's
8 any documentation of the fact that she saw him and for any
9 length of time, from any source, anywhere.

10 THE COURT: That's a fair question, and I believe
11 you have already answered me. There's no written report,
12 and no notes. She only made the summary after talking to
13 you. Is that correct?

14 MR. URICK: That's my belief. I can ask her that
15 point again.

16 THE COURT: Okay.

17 MS. GUTIERREZ: And when is the point in time
18 when she spoke to Mr. Urick.

19 THE COURT: Right. If you were to talk to her,
20 and I will direct you to talk to her between now and the
21 time that we start this case tomorrow morning, for the sole
22 purpose of obtaining the answer to the first question, how
23 long did she meet with the defendant, and secondly, to
24 determine what, if any, notes or records she may have made
25 independently, on her own or even as a result of talking to

1 you. If she made some kind of a report as a result of
2 talking to you, I'd like to know that as well. And, if she
3 did, be prepared to answer that tomorrow morning, because I
4 would like to know what that information is.

5 That's a fair, I think a fair bit of information
6 that the defense would be entitled to know if I'm going to
7 accept her as an expert. The next question, M's Gutierrez?

8 MS. GUTIERREZ: Well, I'd like to know
9 information regarding this so-called three-months rotation
10 in psychiatry at Sheppard Pratt, what did it involve, what
11 was the course work, who were the psychiatrists and/or
12 medical doctors who she worked with during that. I'd like
13 to --

14 THE COURT: I will allow you to cross examine her
15 on that or voir dire her on it. But I have a question.
16 Was the vitae of this witness provided to the defense?

17 MS. GUTIERREZ: No.

18 MR. URICK: I have never asked the witness for a
19 vitae.

20 THE COURT: Isn't that normal, that when you have
21 an expert witness, that you provide the background or am
22 I --

23 MR. URICK: The rule says to disclose the name of
24 the witness. I disclosed who she was, her address, her
25 telephone number, what her, you know, specialty was, and

1 what the conclusions were that she would be testifying to.

2 THE COURT: Very well.

3 MS. GUTIERREZ: I'm sorry, Judge. For the
4 record, I would dispute that any specialty, or what she is
5 going to testify as classified as any expertise has ever
6 been disclosed.

7 THE COURT: Well, M's Gutierrez, first of all, I
8 haven't established that she has an expertise for which she
9 could testify. I have not made that determination. As far
10 as I'm concerned, as we stand here today, my order still
11 remains, and until I hear such information from the witness
12 -- counsel has only provided a proffer -- that will make me
13 change my opinion, my ruling stands.

14 I would note, however, that if Mr. Urick has in
15 his possession a vitae on his witness, the court would
16 appreciate your providing a copy of that to the defense.

17 MR. URICK: I have none tonight. If the court
18 wishes me to have the witness bring one in tomorrow, I can
19 do that.

20 THE COURT: I would ask that you do that.

21 MR. URICK: Thank you.

22 MS. GUTIERREZ: Judge, I would --

23 THE COURT: And I would also tell you that if I
24 do allow her to testify as a witness under these
25 circumstances, I may allow there to be a delay in her

1 testimony to afford counsel an opportunity to check this
2 witness out. And to that end, I would ask that you have
3 another witness that you can call in the event I choose to
4 do that. And I would let you know that.

5 MS. GUTIERREZ: That's what I was going to ask
6 for.

7 THE COURT: M's Gutierrez, I have been on the
8 other side of the table, and --

9 MS. GUTIERREZ: Frankly, I've lined up
10 appointments tonight. I can't --

11 THE COURT: -- I would just let you know that my
12 intention is not to give the State a hard time or give the
13 defense a hard time, but to do the kinds of things that I
14 believe that would dictate a fair trial. And you know me
15 well enough to know that I'm not going to bend over
16 backwards to favor the defense nor am I going to bend over
17 backwards to favor the State. I am going to do my best to
18 keep the playing field as level as possible. To that end
19 you would, if you had had her name, done what I would have
20 done if I had her name, and that would be to check her out.
21 Check her background out and make sure.

22 Now, having her name, I understand you already
23 had that. Having her background from her vitae would have
24 told you where she went to school, and would have told you
25 a little bit about her so that you would be able to do

1 get that. Well, this isn't Federal Court. For whatever
2 that is and until --

3 MS. GUTIERREZ: Every other case I've ever
4 handled in the Circuit Court, I've gotten it.

5 THE COURT: Well, until the Maryland Legislature
6 adds that in as something that's required, or until a Court
7 of Appeals says that that's what the discovery means, you
8 don't have to give that information. But as the judge, in
9 my discretion, I can ask that counsel provide that to you,
10 and I'm asking counsel to do that.

11 And, again, I will tell you both, or all three of
12 you, I have not decided whether or not to allow this
13 witness to testify yet. I am interested in what the State
14 is proffering at this point. It is new and additional
15 information. And I will hear from the defense with regard
16 to your opposition on all levels. One, as to her
17 expertise. Two, assuming she has expertise, whether it is
18 for the very area that she will be rendering an opinion
19 And, three, whether she was in any way afforded the
20 opportunity or had the opportunity to observe your client,
21 and enough time to make such an evaluation, and I see that
22 there are three different things.

23 And last but not least, assuming that she's
24 qualified, she has the expertise, she could make the
25 assessment and had the opportunity to observe the

1 defendant, whether or not what she would say is so
2 prejudiced as to outweigh the probative value, which will
3 be the fourth hurdle, which I haven't gotten to.

4 MS. GUTIERREZ: And the other would be the
5 relevance and --

6 THE COURT: And then we can throw in relevance as
7 the fifth hurdle, but I haven't gotten there yet.

8 MS. GUTIERREZ: Judge, I do have a couple of
9 requests based on the information just given us. If, in
10 fact, she's ever made diagnoses before of this particular
11 or any other so-called mental disorder, then I would
12 request the production and the identification of every such
13 instance, records thereof, for what purposes such diagnosis
14 was accepted. For instance, any occasion which this
15 person's diagnosis was sufficient to gain insurance payment
16 for the treatment or lack thereof for any mental disorder.

17 THE COURT: Okay. I will not grant that. I will
18 tell you right now that that will not be a request that
19 will be granted.

20 MS. GUTIERREZ: Okay. Well, I'm making it.

21 THE COURT: However, I will allow you to voir
22 dire the witness on that issue. And as, of course, you
23 know, she will be under oath at the time she's voir dired,
24 and then you can ask her whether or not she has done that
25 and how many times, and under what circumstances, and has

1 she ever been paid, et cetera. But I won't require the
2 production of any records in that regard. It would
3 violate, I believe, the confidentiality of the patient that
4 would be involved.

5 But I do clearly understand your concern, and for
6 that reason, during any voir dire, I will certainly allow
7 you to voir dire in detail as to the number of times. And
8 I'll tell you both right now if you didn't ask the
9 question, when you were finished asking, I would ask the
10 question, because if I point it out and try to direct you,
11 that is where the heart of my concern is with regard to her
12 expertise. That's the first hurdle.

13 I do not want someone who happens to be a nurse
14 in a school setting who doesn't know anything about making
15 diagnoses or doesn't have the authority or the expertise or
16 the training, to come into court and make one, because
17 malingering and faking and those types of things are
18 clearly medical in nature, and require observations and
19 other types of things that the court has indicated in its
20 order concerns it such that I don't want a person without
21 the adequate expertise coming in.

22 And also, the reason why she's an expert is
23 because she has or she must have some type of extra
24 training or expertise for which a lay person, like the
25 ladies and gentlemen of the jury, does not possess. And

1 ladies and gentlemen of the jury, does not possess. And
2 for that reason, it isn't a matter of whether or not she
3 has a hunch, she has a feeling that as a mother, a mom, a
4 nurse, a teacher thinks someone is lying. You know, I have
5 a 13 year old, and I could tell you much about 13 year
6 olds, but whether that would qualify me as an expert as to
7 whether a 13 year old will tell you the truth or not is
8 another issue. And I would ask that you focus your
9 attentions on that part of the court's concerns.

10 And I think if that's done, M's Gutierrez, you
11 will have plenty of latitude to question the witness in the
12 fashion that you've indicated that you need to do in order
13 to adequately represent your client.

14 MS. GUTIERREZ: Judge, since I believe that any
15 voir dire would necessarily involve testimony regarding
16 medical terminology and symptomatology, that I would ask to
17 be provided -- Mr. Urick has obviously got to speak to this
18 witness tonight -- sometime tonight with an exact list of
19 what, if any, inappropriate affects that this witness is
20 going to testify were exhibited by Mr. Syed during whatever
21 time that she allegedly examined or observed him.

22 THE COURT: Mr. Urick, the statement provided by
23 the summary of the statement of this witness, which was
24 provided in discovery; in supplemental discovery right
25 before the trial, included what the witness would say she

1 it describe affect or lack thereof? Did it describe bodily
2 movements, behavior or other characteristics specifically?

3 MR. URICK: No, it did not.

4 THE COURT: All right. Then I would ask that in
5 light of the fact that this witness is clearly going to
6 render an opinion for which if it were in writing the
7 defense would be entitled to, I'd ask that you ask that
8 witness that question. And, again, I will do two things in
9 light of what is coming out.

10 Please be prepared for two things. First, an
11 opportunity of voir diring the witness outside the presence
12 of the jury, followed by which there may be a delay, and
13 when that witness will be allowed to testify. If I'm
14 satisfied that she could provide testimony as an expert, be
15 prepared for the fact that I may allow the defense some
16 time to examine the information that has been provided so
17 that she can adequately prepare her cross. Or that I put
18 the witness on, let her testify, and then after she's
19 finished, there will be a break so that you can prepare
20 your cross, however you would like to do it.

21 MS. GUTIERREZ: Well, I'm going to give Mr. Urick
22 my home number, and home fax --

23 THE COURT: I'm not going to require --

24 MS. GUTIERREZ: -- so that in the event that he
25 does get this, --

1 does get this, --

2 THE COURT: That's right. I'm not --

3 MS. GUTIERREZ: -- that he could provide it
4 tonight because some of this can be checked out. That, you
5 know, we may be able to do that --

6 THE COURT: At one time.

7 MS. GUTIERREZ: -- tonight or tomorrow morning
8 before she gets here.

9 MR. URICK: I have no home fax, and I don't
10 anticipate getting this information before this evening,
11 but I'll have it in the morning.

12 THE COURT: Well, Mr. Urick, I understand that.
13 But, you know Kinko's is open all night, 24 hours. I'm not
14 requiring that you go there. I'm just letting you know.
15 If you might be so inclined to do as counsel has asked,
16 there is a way you can get the information. I'm not
17 suggesting that you do it. I'm not ordering that you do
18 it. But, you know, I'm just asking that we try our best to
19 move along this case.

20 I know that we have some witnesses that have
21 scheduling problems. I know that we have a juror that has
22 a problem. So to the extent that we might be able to do
23 anything to expedite this case, moving along in an
24 efficient manner, the court readily appreciates both the
25 defense and the State.

1 And with that said --

2 MR. URICK: We have one other matter. I believe
3 M's Murphy wanted to address that.

4 MS. MURPHY: A brief matter, Your Honor. At this
5 time we just would like to call the court's attention to
6 something. It's nothing that Mr. Urick or I personally
7 observed, but a witness has expressed to me a concern, that
8 when this witness testified previously, this witness was
9 distracted and upset by gestures that the defendant made at
10 this witness throughout the course of this person's
11 testimony.

12 THE COURT: Who is this witness?

13 MS. MURPHY: This witness is M's Inez Butler.
14 And like I said --

15 THE COURT: And who is M's Butler?

16 MS. MURPHY: She is a teacher at Woodlawn High
17 School.

18 THE COURT: And what were the gestures?

19 MS. MURPHY: She believes the defendant was
20 waving at her throughout her testimony.

21 THE COURT: Waving at her, like saying, hi,
22 waving?

23 MS. MURPHY: She didn't know what the purpose of
24 it was, but she was distracted and called it to my
25 attention, and asked if there was anything that could be

1 done to prevent this.

2 THE COURT: For the record, I have not noted Mr.
3 Syed --

4 MS. MURPHY: And neither has Mr. Urick or myself.

5 THE COURT: -- doing anything in the course of
6 this trial that has been inappropriate. He has been a
7 gentleman. He has conducted himself in a fine fashion, and
8 at no time have I observed -- and I would note that some of
9 my observations were when all counsel were present, and
10 when all counsel were gone, and the jail was waiting for
11 the hall to clear to take him. He was always polite and
12 courteous. And so I would just say, Mr. Syed, I'd ask you
13 to keep doing what it is that you've been doing, and you
14 will have no problem with this court.

15 MS. MURPHY: Again, Your Honor --

16 THE COURT: And I would tell M's Gutierrez for
17 the record, your client has conducted himself in a fine
18 fashion. And, M's Murphy and Mr. Urick, if you would let
19 your witness know that this court has been very conscious
20 about the gestures of not only witnesses, but of the
21 spectators, and I have found when I have asked people to be
22 mindful of their behavior, they have done so. And I don't
23 believe anyone could say they have been mistreated or
24 treated in any negative fashion since this case has begun.
25 And if they have, I certainly would like to know about it.

1 MS. MURPHY: Your Honor, again, it's nothing that
2 we personally observed. I'm only bringing it to your
3 attention because this witness is concerned.

4 THE COURT: I understand. Would you tell that
5 witness what I have told you?

6 MS. MURPHY: I will.

7 THE COURT: And I ask that if anyone tries to
8 approach her or does anything contrary to what I just said,
9 that you let me know.

10 MS. MURPHY: Thank you, Your Honor.

11 THE COURT: Very well. And with that said, I
12 will see you all tomorrow.

13 (The court took up an unrelated
14 matter).

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16 (CONCLUSION OF PROCEEDINGS)

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REPORTER'S CERTIFICATE

I, Brenda D. Trowbridge, an Official Court Reporter of the Circuit Court for Baltimore City, do hereby certify that I recorded the proceedings in the matter of State of Maryland v. Adnan Masud Syed, Case Numbers 199103041-46, on Wednesday, February 2nd, 2000.

I further certify that the foregoing pages constitute the official transcript as transcribed under my direction in a complete and accurate manner.

In witness whereof, I have hereunto set my hand this 28th day of February, 2001.

Brenda D. Trowbridge
BRENDA D. TROWBRIDGE, OFFICIAL COURT REPORTER

