

REPORTER'S RECORD

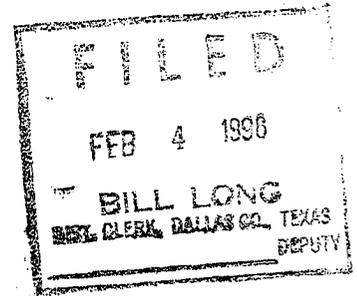
VOLUME II OF V

TRIAL COURT CAUSE NO. F96-02380-N

THE STATE OF TEXAS)	IN THE DISTRICT COURT OF
)	
VS.)	DALLAS COUNTY, TEXAS
)	
CHRISTOPHER RADKE)	195TH JUDICIAL DISTRICT

APPEARANCES:

HON. JOHN VANCE
CRIMINAL DISTRICT ATTORNEY
Dallas County, Texas



MS. TERRI MCVEA
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and

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APPEARING FOR THE STATE OF TEXAS

MS. CATHERINE SHELTON
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and

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Attorney at Law
Dallas County, Texas

APPEARING FOR THE DEFENDANT

On the 27th through 30th days of October, 1997,
that the above-styled and -numbered cause came on to be
heard in the said Court, HONORABLE JOHN NELMS, Judge
Presiding, and the following proceedings were held, to
wit:

PERI K. STROMBERG, CSR

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PERI K. STROMBERG, CSR

P R O C E E D I N G S

October 27, 1997

Dallas County, Texas

(Whereupon, these proceedings took place before Judge Nelms, as follows:)

THE COURT: Bring out Mr. Radke, please.

(Whereupon, the Defendant was brought into the Courtroom.)

THE COURT: Are you ready to go forward, Ms. McVea?

MS. MCVEA: Yes, Your Honor.

(Whereupon, there was a brief pause in the proceedings.)

MR. STEINBECK: Your Honor, he had some papers with him.

THE COURT: They're in his property or --

MR. STEINBECK: I don't know what they actually -- but they took them away, and he tried to tell them that he needed them for the courtroom. They refused to let him take them to court.

THE COURT: Well, you can issue a PERI K. STROMBERG, CSR

1 subpoena duces tecum or -- I don't know what it is
2 you're talking about exactly, so --

3 MS. MCVEA: Maybe even the bailiff
4 would know --

5 THE COURT: Well, make inquiry of the
6 bailiffs. If they know something about it and can get
7 it, that's fine. If they can't, then you may have to
8 issue a subpoena.

9 All right. Let's call the witnesses to be sworn,
10 please.

11 MS. SHELTON: Judge Nelms, we have our
12 witnesses present in the Courtroom.

13 THE COURT: Call your witnesses as
14 well. And I assume the Rule of Evidence will be
15 invoked?

16 MS. SHELTON: Yes, sir

17 (Whereupon, the witnesses were
18 brought into the Courtroom.)

19 THE COURT: Very well. If you would,
20 walk way around here. I think there's a lot of you to
21 be sworn in.

22 THE COURT: Are these your witnesses
23 also?

24 MS. SHELTON: Would the Radke witnesses
25 stand up, please, the rest of them, all the rest of

1 them.

2 THE COURT: Everyone who is going to be
3 a witness and testify in the case, please stand.

4 MS. SHELTON: Whether you're character
5 or anything else, you-all need to stand up. Everybody
6 needs to stand up.

7 THE COURT: All right. Are all your
8 witnesses standing? There's people getting up and
9 sitting down.

10 MS. SHELTON: My witnesses are
11 standing, but some of the Radke -- the Morrison
12 witnesses are not standing; and I assume, I don't know,
13 that they intend to remain in the Courtroom under the --
14 not being witnesses.

15 THE COURT: Well, anyone who is going
16 to be a witness in the case will be under the Rule of
17 Evidence.

18 MR. STEINBECK: What about --

19 THE COURT: Well, I haven't finished
20 what I'm saying yet. All witnesses will be under the
21 Rule of Evidence, which means they may not be in the
22 Courtroom to listen to any other witness' testimony.
23 And when they're testifying, no other witnesses will be
24 in the Courtroom to listen to their testimony. And
25 while they're outside waiting to testify or after they

1 have testified, they may not discuss among themselves
2 the evidence that they intend to give or have given,
3 except that they may do so with any of the attorneys in
4 the case.

5 Now, anybody who is going to be a witness is under
6 the Rule, and anybody under the Rule who remains in the
7 Courtroom will not be permitted to testify. That's for
8 either side. If you have any doubt whether you're going
9 to be a witness, you need to take the oath as a witness
10 and leave the Courtroom after I instruct you, because
11 you will not be permitted to testify if you remain.

12 All right. Everybody who is going to testify,
13 raise their right hand and take the oath as a witness.

14 Miss, you're standing. You're not going to be a
15 witness?

16 MS. SHELTON: Yes, sir. She may be a
17 character witness. I want to make sure I've got
18 everybody.

19 (Whereupon, the witnesses were duly
20 sworn by the Court.)

21 THE WITNESSES: I do.

22 THE COURT: You may put your hands
23 down. That Rule of Evidence is now invoked. Everyone
24 will have to remain outside the Courtroom until you're
25 called and not discuss among yourselves the testimony

1 that you're going to give or that you have given.

2 All right. Who will be your first witness, Ms.
3 McVea?

4 MS. MCVEA: Sherri Parker.

5 THE COURT: All right. Ms. Parker,
6 remain in the Courtroom on the witness stand. All
7 others step outside.

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1 (Whereupon, the witnesses left
2 the Courtroom.)

3 THE COURT: All right. Ms. McVea, you
4 may begin your Direct Examination.

5 MS. MCVEA: Thank you, Your Honor.

6 SHERRI PARKER,
7 the witness hereinbefore named, being first duly
8 cautioned and sworn to testify the truth, the whole
9 truth, and nothing but the truth, testified on her oath,
10 as follows:

11 DIRECT EXAMINATION

12 BY MS. MCVEA:

13 Q. State your name for the Record, please.

14 A. Sherri Lynn Parker.

15 Q. And ma'am, how are you employed?

16 A. I'm employed with DISD food services.

17 Q. Do you understand the reason why you're in
18 Court today?

19 A. Yes, I do.

20 Q. Did you know a person by the name of Diana
21 Lynn Radke?

22 A. Yes, I did.

23 Q. Okay. How did you know her?

24 A. She was my daughter.

25 Q. Is she the complaining witness in the case now

1 before the Court?

2 A. Yes, she is.

3 Q. When was Diana born?

4 A. She was born on October 12th, 1967.

5 Q. And was she an only child?

6 A. No. She has a brother.

7 Q. And his name?

8 A. Michael John Morrison.

9 Q. Now, you and Diana -- I'm sorry, you and
10 Diana's father, are the two of you still married?

11 A. No, we're not.

12 Q. And what is her father's name?

13 A. Neal John Morrison.

14 Q. When did the two of you divorce,
15 approximately?

16 A. Oh, Lord --

17 Q. Well, let me ask you this: How old was Diana?

18 A. Diana was 13.

19 Q. And has Mr. Morrison, has he remarried?

20 A. Yes, he has.

21 Q. And how old was Diana when he remarried,
22 approximately?

23 A. Probably 15 -- 14, 15.

24 Q. Now, when you guys divorced, was she -- did
25 she live with you? I'm referring to Diana. Did she

1 live with you, or did she live with her father?

2 A. She lived with me.

3 Q. Ma'am, are you currently married?

4 A. Yes, I am.

5 Q. Okay. What's your husband's name?

6 A. Kenneth Parker.

7 Q. And where do you live?

8 A. I live at 7214 Benning Avenue in Dallas.

9 Q. Do you know an individual by the name of
10 Christopher Eric Radke?

11 A. Yes, I do.

12 Q. Do you see him in the Courtroom today?

13 A. Yes, I do.

14 Q. Could you point to him and describe an article
15 of clothing.

16 A. He's sitting right there in a shirt with a
17 brown collar.

18 Q. Okay. If I'm seated in chair number one and
19 counting to my right, what chair would he be in?

20 A. He's in the middle chair, the second chair.
21 You mean counting to my right?

22 Q. No, counting from my right. Hold on. Listen
23 to my question.

24 A. Okay.

25 Q. If my chair is number one and the empty chair

1 next to me is number two, which chair would he be in?

2 A. He's in chair four.

3 MS. MCVEA: Your Honor, let the Record
4 reflect that the witness has identified the Defendant in
5 open Court.

6 Q. (By Ms. McVea) And how do you know him, the
7 Defendant?

8 A. He was my son-in-law.

9 Q. He was married to Diana?

10 A. Yes.

11 Q. At the time of her death, were the two of them
12 married?

13 A. Yes, they were.

14 Q. And how long had they been married?

15 A. They were married in July of '94, so --

16 Q. So a little over a year and a half?

17 A. Um-hum.

18 Q. Did they have any children together?

19 A. Yes, they had one.

20 Q. And that child's name?

21 A. Zachary.

22 Q. And how old was Zachary at the time of his
23 mother's death?

24 A. Sixteen months old.

25 Q. How old is he now?

1 A. He's now three.

2 Q. Now, when your daughter got married to the
3 Defendant, was she pregnant?

4 A. Yes, she was.

5 Q. She was pregnant with Zachary?

6 A. Yes.

7 Q. Has your daughter ever been married before?

8 A. Yes.

9 Q. And who was she married to?

10 A. To Daniel Zimmpleman.

11 Q. Was that a common-law marriage?

12 A. Yes.

13 Q. Do you know approximately how long the two of
14 them were together?

15 A. I would say four to five years.

16 Q. And how did their relationship or their
17 marriage, how did that end?

18 A. Daniel was killed in a real tragic accident.

19 Q. Okay. Was that a construction accident?

20 A. Yes.

21 Q. How did Diane take his death?

22 A. Very hard. Very hard.

23 Q. When you say "very hard," what do you mean?

24 A. It devastated her.

25 Q. Was she going through a depression?

1 A. She went into a depression, yes.

2 Q. Now, eventually after Daniel's death, did she
3 begin to work again?

4 A. Yes.

5 Q. Soon thereafter did she begin to work at a
6 club?

7 A. Yes, she did.

8 Q. Was this a club where exotic dancers perform?

9 A. Yes.

10 Q. Initially what did she do there at that club?

11 A. She started out waitressing.

12 Q. And eventually she began to dance?

13 A. Um-hum.

14 THE COURT: Please say, yes or no,
15 ma'am, because it has to be written down.

16 THE WITNESS: Yes. Okay.

17 Q. (By Ms. McVea) Was your daughter -- well, did
18 you approve of her working there?

19 A. No, I didn't.

20 Q. What was your understanding of why she was
21 working there?

22 A. She did it on the pretense that she needed to
23 make some money, some good money. And it paid well, so
24 that's why she did it.

25 Q. Is that where your daughter was working at, a

1 club, when she met the Defendant?

2 A. Yes.

3 Q. Do you know approximately how long they dated
4 before they were married?

5 A. I don't know if it was a -- it might have been
6 a year. I don't know if it was that long.

7 Q. Did your daughter seem happy in her marriage?

8 A. She seemed real happy.

9 Q. Okay. Did that change?

10 A. That changed.

11 Q. Now. I'm going to direct your attention to
12 February 10th of 1990. Do you recall that day?

13 A. Yes, I do.

14 Q. Did you see your daughter on that date?

15 A. Yes, I did.

16 Q. Where did you see her?

17 A. At the hospital in Garland at Baylor.

18 Q. Was your daughter there at the emergency room?

19 A. Yes, she was.

20 Q. Did she receive some type of injury?

21 A. Yes.

22 Q. Did you see her injury?

23 A. Yes, I did.

24 Q. Okay. Describe for the Court her injury.

25 A. Her mouth was all torn up. Her teeth were

1 just hanging, just barely hanging in her mouth, her top
2 teeth. Her braces were broken.

3 MS. SHELTON: Your Honor, I would like
4 to object.

5 THE COURT: On what grounds?

6 MS. SHELTON: Relevance. I don't know
7 what this has to do with her death.

8 THE COURT: Well, is there some
9 relevance to this?

10 MS. MCVEA: Your Honor, this is a
11 homicide case. The relationship between the parties
12 is.

13 THE COURT: All right. Do you intend
14 to connect the Defendant to these injuries?

15 MS. MCVEA: Absolutely.

16 THE COURT: All right. Overruled.

17 Q. (By Ms. McVea) Now, you said that her mouth
18 received some type of severe injury.

19 A. She had lost part of her top lip, a little
20 piece. And her teeth, her braces were broken, and her
21 teeth in the front were just barely hanging in her
22 mouth.

23 Q. Okay.

24 A. She was just all swollen up.

25 Q. Did you speak with your daughter?

1 A. Yes, I did.

2 Q. And did she tell you what had happened to
3 her? Just answer that with a yes or no.

4 A. Yes.

5 Q. Did she tell you something different with
6 regard to how she got her injuries later?

7 A. Yes.

8 MS. SHELTON: Objection; leading.

9 THE COURT: Sustained. Don't lead.

10 Q. (By Ms. McVea) Who was there at the hospital
11 at that time?

12 A. When I got to the hospital, there was just
13 myself and my husband, and I think Samantha was there,
14 her friend Samantha.

15 Q. Was the Defendant there at the hospital with
16 his wife?

17 A. No, he was not.

18 Q. Do you know where he was?

19 A. No, I do not.

20 Q. Now, the next day, and I'm referring to
21 February the 11th, 1996, did you go to your daughter's
22 home or where she was residing on that day?

23 A. Yes, I did, after a phone call from her.

24 Q. Okay. Where was she residing?

25 A. I don't know the exact address, but it was on

1 Sunset in Garland. She had just moved there. That's
2 why I don't know the address, the exact address.

3 Q. Is that in Dallas County, State of Texas, the
4 address where she was residing?

5 A. Yes. Yes.

6 Q. Now, you said that you received a phone call
7 from your daughter. Can you tell us what her demeanor
8 was or her mood?

9 A. She was hysterical and scared and told me that
10 Chris was trying to get in the house.

11 Q. Now, after that what did you do?

12 A. We got in the car and went over there.

13 Q. You say "we." Who are you referring to?

14 A. My husband and I. I'm sorry.

15 Q. Now, when you responded over there, did you
16 see the Defendant there at the house?

17 A. Yes, I did.

18 Q. What was he doing?

19 MS. SHELTON: Objection again to
20 leading.

21 THE COURT: Overruled.

22 Q. (By Ms. McVea) Go ahead and answer.

23 A. Yes, I did see him in the front yard.

24 Q. What was he doing?

25 A. Telling me he was going to get into the house

1 and get his things.

2 Q. What was his mood like or his demeanor?

3 A. In a rage.

4 Q. Why do you say that?

5 A. Mad. He was very mad and determined to go
6 through the door.

7 Q. Okay. Was he yelling and screaming?

8 A. Yes, he was yelling and screaming.

9 Q. Did he eventually get into the house?

10 A. Later that day, yes.

11 Q. Did the police respond?

12 A. Yes, they did.

13 Q. When the police responded, was the Defendant
14 still there at the house?

15 A. No. He had left when they got there.

16 Q. Did your daughter speak to the police --

17 A. Yes, she did.

18 Q. -- that day?

19 A. Yes, she did.

20 Q. And did the police take anything or remove
21 anything from the house?

22 A. Yes. They took a shotgun.

23 Q. Anything else?

24 A. Some drugs.

25 Q. Do you know what kind of drugs?

1 A. Some marijuana and some pills. I don't know
2 exactly what kind of pills they were.

3 Q. Do you know whose drugs those were?

4 A. Yes, I do. They were Chris's.

5 Q. Did you remain there at the house with your
6 daughter on that day?

7 A. Oh, yes.

8 Q. Okay. And I think you said that the Defendant
9 returned to the house later.

10 A. Yes.

11 Q. Do you know how long it was? Well, first of
12 all, do you recall what time it was in which the -- when
13 the police responded over there?

14 A. They responded real quick.

15 Q. Do you remember what time it was in the day?

16 A. It was in the early afternoon, early
17 afternoon.

18 Q. Do you recall what time it was that you saw
19 the Defendant there again at the house?

20 A. Well, the police had talked to him on the
21 phone and told him they just wanted to talk to him.

22 MS. SHELTON: Objection; hearsay.

23 THE COURT: I'm sorry. I couldn't hear
24 the lady's answer.

25 MS. MCVEA: She said the police were

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1 talking to him on the phone.

2 THE WITNESS: And told him they just
3 wanted to ask him some questions, if he would come over
4 to the house.

5 THE COURT: All right. Sustain the
6 objection.

7 MS. MCVEA: Okay.

8 Q. (By Ms. McVea) Ms. Parker, I guess my
9 question to you is: How long was it -- and if you don't
10 know the exact time, that's okay -- just approximately
11 how long it was before -- I mean, when the first -- the
12 police first responded until the Defendant returned to
13 the house?

14 A. Thirty, 35 minutes. And I'm guessing. It
15 wasn't that -- it wasn't a very long time afterwards.

16 Q. Okay. When they -- was the police there when
17 he responded -- when the Defendant showed up at the
18 house again?

19 A. Yes.

20 Q. Okay. Was he taken into custody?

21 A. Yes, he was.

22 (Whereupon, State's Exhibit Nos. 1
23 and 2 were marked by the Court
24 Reporter.)

25 Q. (By Ms. McVea) Ms. Parker, I'm handing you

1 what's been marked for identification purposes as
2 State's Exhibit No. 1 and State's Exhibit No. 2. Do you
3 recognize these exhibits?

4 A. Yes, I do.

5 Q. What are they?

6 A. This is my daughter Diana, and my daughter
7 Diana with Zachary.

8 Q. Okay. So are these photographs of your
9 daughter Diana?

10 A. Yes, they are.

11 Q. Is that what State's Exhibit No. 1 is?

12 A. Yes.

13 Q. Okay. State's Exhibit No. 2, is that a
14 photograph of your daughter Diana with her child
15 Zachary?

16 A. Yes, it is.

17 Q. Okay. Now, at the time of her death around
18 February 29th of 1996, is this how she appeared?

19 A. She looked just like that picture.

20 Q. Okay.

21 MS. MCVEA: I'll offer into evidence at
22 this time State's Exhibit No. 1 and State's Exhibit
23 No. 2.

24 (Whereupon, State's Exhibit Nos. 1
25 and 2 were offered into evidence.)

1 MS. SHELTON: Judge, might I take the
2 witness on Voir Dire for a moment as to the --

3 THE COURT: For what purpose?

4 MS. SHELTON: She stated, I believe,
5 that this is what her daughter looked like at the time
6 of her death, and I wonder if these photos don't predict
7 the time of her death quite a bit, perhaps a year.

8 THE WITNESS: No, they do not.

9 MS. SHELTON: Then they were very close
10 to the time of her death?

11 THE WITNESS: She had those pictures
12 taken for Christmas presents.

13 MS. SHELTON: December of 1995?

14 THE WITNESS: Of 1996.

15 MS. SHELTON: December of 1996. Thank
16 you, ma'am. I don't have any objection.

17 THE WITNESS: Well, now she has
18 confused me.

19 Q. (By Ms. McVea) Ma'am, when did she have the
20 pictures taken?

21 A. Okay. She had the pictures taken for
22 Christmas. She died in February. Those pictures were
23 taken -- Zachary was 16 months old, so it wasn't --
24 those pictures are for Christmas of '95.

25 MS. MCVEA: Okay.

1 THE COURT: No objection was made.
2 They're admitted.

3 MS. MCVEA: One moment, Your Honor.

4 (Whereupon, State's Exhibit Nos. 1
5 and 2 were admitted into evidence.)

6 Q. (By Ms. McVea) Ms. Parker, I'm going to
7 direct your attention to February 29th of 1996.

8 A. Um-hum. Yes.

9 Q. On that day did you speak with your daughter
10 that evening?

11 A. Yes, I did.

12 Q. As a matter of fact, how many times did you
13 speak to your daughter that evening?

14 A. Three times.

15 Q. Do you recall the first time -- the
16 approximate time that you spoke to her the first time?

17 A. Probably around 6:00 to -- 6:00 to 6:30.

18 Q. Are you aware that your daughter worked --
19 well, do you know if your daughter worked that day?

20 A. Yes, she did.

21 Q. When did you talk to her the next time?

22 A. Around probably 30 minutes later.

23 Q. Was this in person or on the telephone?

24 A. On the telephone.

25 Q. Where was your daughter residing at this time?

1 A. At the house on Sunset.

2 Q. And that's located in Dallas County, State of
3 Texas?

4 A. Yes, it is.

5 Q. When you spoke with your daughter -- and did
6 you speak to her again?

7 A. I spoke to her again around 8:15.

8 Q. That same evening?

9 A. Between 8:00 and 8:15, yes.

10 Q. Now, each time you spoke with your daughter,
11 what was her mood like?

12 A. She was in a great mood.

13 Q. Was anyone else there at the house with her?

14 A. I could hear Zachary playing in the
15 background, but --

16 Q. Do you know if the Defendant was there --

17 A. No, I --

18 Q. -- on any of the times that you spoke to her
19 on the telephone?

20 A. I do not. I do not.

21 Q. Now, that location there on Sunset, is that a
22 house or an apartment?

23 A. A house.

24 Q. Do you know how long she had been residing
25 there?

1 A. She had moved in around the 1st of February.

2 Q. Of 1996?

3 A. Yes.

4 Q. And did the Defendant live there with her and
5 Zachary?

6 A. Yes.

7 Q. Now, you said that you spoke to your daughter
8 approximately 8:00 or 8:15; is that right?

9 A. Um-hum, close -- yes, I think so.

10 Q. Okay. Was that the last time you spoke to
11 your daughter?

12 A. That was the last time.

13 Q. Later on that same night, and I'm referring to
14 February 29th of 1996, did you receive a call from the
15 Defendant?

16 A. Yes, we did.

17 Q. Okay. And about what time was that?

18 A. Around 8:45.

19 Q. And where were you when you received the call?

20 A. We were watching T.V., in the living room
21 watching T.V.

22 Q. Was that at your residence?

23 A. At our residence, yes.

24 Q. Now, who was present there at the residence
25 with you?

1 A. Myself and my husband and Mike, her brother.

2 Q. Okay. Michael Morrison?

3 A. Michael Morrison.

4 Q. Who answered your telephone?

5 A. Mike did.

6 Q. Now, did your son speak on the phone for a
7 minute or so?

8 A. About that, not very long.

9 Q. Did you see him hang up the telephone?

10 A. Yes, I did.

11 Q. What was his demeanor like once he hung up the
12 phone?

13 A. He was white as a ghost and looked like he was
14 in shock and just walked into the living room, picking
15 up his -- sitting down picking up his shoes, not saying
16 anything, just putting his shoes on with a -- I knew
17 something was wrong just from the way he looked.

18 Q. Did you ask him that?

19 A. Yes, I asked him what was wrong, what was
20 wrong.

21 Q. Okay. What did you do?

22 A. When Mike told me, he said, I think Diana's
23 been shot, I ran in there and called, and Chris answered
24 the phone. And all I wanted to know was where was
25 Diana. And I asked him twice, and he never responded.

1 And then I asked, where was Zachary, and he said, in the
2 house. And then my husband took the phone.

3 Q. Are you referring to Ken Parker?

4 A. Yes, Ken Parker.

5 Q. And did your husband speak with him on the
6 telephone?

7 A. Yes, he did.

8 THE COURT: Excuse me just a moment,
9 please. May I see the attorneys.

10 (Off-the-record discussion.)

11 MS. MCVEA: May I proceed, Your Honor?

12 THE COURT: Yes, ma'am.

13 Q. (By Ms. McVea) Now, you said that -- I
14 believe that when we left off, you handed the phone to
15 your husband; is that right?

16 A. Yes.

17 Q. Now, after Ken spoke on the phone for a period
18 of time, what did you -- what did you-all do next?

19 A. Well, my son called 911, and we just rushed
20 over there to her house --

21 Q. Okay.

22 A. -- on Sunset.

23 Q. How far did -- how far did Diana live from you
24 and Ken?

25 A. It took us 25 -- about 25 -- 20 to 25 minutes

1 to get there.

2 Q. Now when you arrived there, were the police
3 there?

4 A. Many.

5 Q. Okay. Were the paramedics also there?

6 A. Yes.

7 Q. Were the Defendant's parents also there?

8 A. Yes.

9 Q. Did you see the Defendant?

10 A. Yes, I did.

11 Q. Now once you arrived on the scene, did you get
12 out of your vehicle?

13 A. No, not at first, no.

14 Q. Eventually did someone tell you about your
15 daughter?

16 A. Yes.

17 Q. Okay. Who was that?

18 A. I want to say his name was officer -- I would
19 recognize him if I saw him, but I think his name was
20 Officer Thompson. I may be wrong on the name.

21 (Whereupon, State's Exhibit No. 3
22 was marked by the Court Reporter.)

23 Q. (By Ms. McVea) Ms. Parker, I apologize for
24 having to show you this photograph. I'm showing you
25 what's been marked for identification purposes as

1 State's Exhibit No. 3.

2 A. Okay.

3 Q. Ma'am, do you recognize that photograph?

4 A. Yes, I do.

5 Q. Do you recognize the individual in that
6 photograph?

7 A. Yes.

8 Q. Is that a picture of your daughter in death?

9 A. Yes, that is.

10 Q. Knowing the severe injury your daughter
11 experienced, how are you able to recognize her?

12 A. By her eyes.

13 Q. Okay. Is there a number there at the bottom
14 of State's Exhibit -- what's been marked as State's
15 Exhibit No. 3?

16 A. Yes, there is.

17 Q. Can you go ahead and tell us what that number
18 is?

19 A. 96-0722.

20 MS. MCVEA: I'd like to offer into
21 evidence at this time State's Exhibit No. 3.

22 (Whereupon, State's Exhibit No. 3
23 was offered into evidence.)

24 MS. SHELTON: No objection.

25 THE COURT: It's admitted.

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1 (Whereupon, State's Exhibit No. 3
2 was admitted into evidence.)

3 Q. (By Ms. McVea) Ma'am, what was the age of
4 your daughter at the time of her death?

5 A. She was 28.

6 Q. Ma'am, I know this is a silly question, but I
7 need to ask you for the Record: Your daughter, Diana
8 Lynn Radke, was she a human being, born alive, and was
9 she -- well, was she a human being, born alive, until
10 her death on February 29th of 1996?

11 A. Yes, she was.

12 (Whereupon, State's Exhibit Nos. 4
13 through 8 were marked by the Court
14 Reporter.)

15 Q. (By Ms. McVea) Ms. Parker, I'm showing you
16 what's been marked for identification purposes as
17 State's Exhibit No. 4, No. 5, No. 6, No. 7, and No. 8.
18 Are these photographs --

19 A. Of my daughter, Diana.

20 Q. Okay. And are these photographs, are they --
21 do they represent how your daughter looked back on
22 February the 10th of 1996?

23 A. Yes, they do.

24 MS. MCVEA: I'd like to offer into
25 evidence at this time State's Exhibit Nos. 4 through 8.

1 (Whereupon, State's Exhibit Nos. 4
2 through 8 were offered into
3 evidence.)

4 MS. SHELTON: No objection.

5 THE COURT: They're admitted.

6 (Whereupon, State's Exhibit Nos. 4
7 through 8 were admitted into
8 evidence.)

9 Q. (By Ms. McVea) Ma'am, the injuries that you
10 described that your daughter received, are they depicted
11 here on State's Exhibit No. 4?

12 A. Yes, they are.

13 Q. Are those the injuries to her mouth?

14 A. Yes.

15 Q. Okay.

16 A. And her braces are broken off in the front.

17 Q. Okay. And is State's Exhibit No. 5, is that
18 just another photograph of your daughter and her
19 injuries?

20 A. Um-hum. These were at the house.

21 Q. Okay. Did she ever receive any type of
22 stitches for her injuries?

23 A. Yes, she did.

24 Q. Okay. And State's Exhibit No. 6, does that
25 also show some type of injury to her arm?

1 A. Yes.

2 Q. Do you know if that's -- those are scratches
3 or what?

4 A. I don't know about that.

5 Q. Okay. That's fine. And State's Exhibit No. 7
6 and 8, is that a bruise that she experienced on her leg
7 or her thigh?

8 A. Yes. She showed me that.

9 Q. Okay.

10 (Whereupon, State's Exhibit No. 9
11 was marked by the Court Reporter.)

12 MS. MCVEA: Your Honor, could I see the
13 Court's Jacket for a moment, please?

14 THE COURT: Yes.

15 (Whereupon, the Court's Jacket was
16 handed to the Prosecutor.)

17 MS. MCVEA: I believe there's another
18 Court's Jacket, Your Honor.

19 (Whereupon, the Court's Jacket was
20 handed to the Prosecutor.)

21 MS. MCVEA: Your Honor, at this time
22 I'd like to offer into evidence medical records
23 contained with an affidavit concerning the medical
24 records of Diana Radke from the Baylor Medical Center at
25 Garland. They were on file with the Court for quite a

1 length of time, for 14 days, and notice was given to the
2 Defense attorney.

3 (Whereupon, State's Exhibit No. 9
4 was offered into evidence.)

5 MS. SHELTON: We reserved our objection
6 until this time. We object because they contain
7 hearsay. We stipulate to -- that she was injured, as
8 the Prosecutor and her mother have stated, that she
9 sustained a injury, but -- I withdraw my objection.

10 THE COURT: All right. It's admitted.
11 (Whereupon, State's Exhibit No. 9
12 was admitted into evidence.)

13 THE COURT: Do you wish me to see it as
14 the trier of fact, by any chance, or...

15 MS. MCVEA: Certainly, Your Honor.
16 Pass the witness, Your Honor.

17 CROSS-EXAMINATION

18 BY MS. SHELTON:

19 Q. Ms. Parker, my name is Catherine Shelton.
20 It's Mrs. Shelton. I'd like to say before we begin that
21 my heart goes out to you, as it does to any parent who
22 has lost a child. I know this must be very difficult
23 for you.

24 You stated earlier on Direct Examination when Ms.
25 McVea was talking to you, the Prosecutor over here, Ms.

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1 McVea, that you had separated from your previous
2 husband, Neal John Morrison, and were raising your
3 children, Michael and Diana, yourself; is that correct?

4 A. Yes.

5 Q. You divorced him back when?

6 A. Diana was 13 years old.

7 Q. And Ms. Parker, isn't it true that you
8 divorced him for abuse because he was cruel --

9 MS. MCVEA: I'm going to object, Your
10 Honor.

11 A. No, that's not --

12 MS. MCVEA: That's not relevant.

13 THE COURT: What would be the relevancy
14 of that?

15 Q. (By Ms. Shelton) I can skip on to my next
16 question that would be: Did he beat and abuse your
17 daughter --

18 A. No, he did not.

19 MS. MCVEA: Ms. Parker, don't answer
20 questions when I object.

21 THE WITNESS: Okay.

22 THE COURT: All right. Well, what is
23 the relevancy of whether he might have or might not
24 have?

25 Q. (By Ms. Shelton) When was her first suicide

1 attempt?

2 MS. MCVEA: Your Honor, I'm going to
3 object.

4 THE COURT: I asked you a question, Ms.
5 Shelton.

6 MS. SHELTON: Oh, that was my next
7 question. Of course, Judge, I'm sure that you're aware,
8 having handled many trials, what our Defense is. One of
9 our Defenses certainly --

10 THE COURT: If you're saying that she
11 may have committed suicide, I will permit you to ask
12 about any prior attempts at suicide, if there were any,
13 but --

14 MS. SHELTON: Yes, sir. That's what I
15 was trying to get at.

16 THE COURT: -- I think the reason for
17 them, this lady's marital status, would not be relevant.

18 MS. SHELTON: I was going to ask about
19 the person who may have tormented her or caused her to
20 do this, but I'll just ask when the attempt was, if that
21 would be permissible.

22 THE COURT: Very well. If there was an
23 attempt.

24 MS. SHELTON: Okay.

25 Q. (By Ms. Shelton) When was her first suicide

1 attempt?

2 MS. MCVEA: Your Honor, I object. I
3 don't believe proper foundation has been laid on any
4 type of prior suicide attempt. I believe it's remote,
5 and we object.

6 THE COURT: Well, if there's any
7 evidence of this lady attempting suicide, at any time, I
8 will permit it, but don't assume that there is a history
9 of suicide attempts in your question. You might start
10 off with: Did she ever attempt to commit suicide?

11 MS. SHELTON: Might I retrieve one of
12 the exhibits?

13 THE COURT: Yes, ma'am.

14 Q. (By Ms. Shelton) Did she ever attempt to
15 commit suicide?

16 A. No, she did not.

17 MS. SHELTON: Might I approach the
18 witness, Your Honor?

19 THE COURT: You may. Both sides may
20 approach the witnesses without asking throughout the
21 trial.

22 Q. (By Ms. Shelton) I'll show you what's been
23 marked as State's Exhibit 6. What are these slash marks
24 on her left wrist?

25 A. Those are scratches she put on there, but not

1 in a suicide attempt.

2 Q. Who is "she" putting them on --

3 A. This is Diana's arm you're looking at, isn't
4 it?

5 Q. I mean, the scarring, not the scratches here.

6 A. I'm answering your question. That is -- those
7 are scratches she put on her arm, but not a suicide
8 attempt.

9 Q. Ma'am, what was -- how was that -- how did
10 that go down, the scratches that she put on her arm?

11 A. They were when she was 14 years old, and she
12 wanted to get my attention, and she did; but it was not
13 a suicide attempt.

14 Q. Ma'am, what did she use to put those scratches
15 on her arm and make those scars?

16 A. A piece of glass, a broken glass.

17 Q. But you were not concerned about her at that
18 time that she might be trying to attempt suicide?

19 A. No.

20 Q. Did you think this was unusual behavior in a
21 14-year-old to cut their arm with a piece of glass?

22 A. I didn't like it, but it was to get my
23 attention. And she got my attention, and we solved the
24 problem.

25 Q. I'm sorry, ma'am. I couldn't hear you.

1 A. I said she did it in an attempt to get my
2 attention. And it worked; she got my attention.

3 Q. And on other occasions when she sought to get
4 your attention, what -- did she use this same device --

5 A. No, she did not.

6 Q. -- or other types of attempts?

7 A. No, she did not.

8 Q. She overdosed with pills; isn't that correct?

9 A. No, it is not.

10 Q. Did you ever know of her being taken to the
11 hospital for that?

12 MS. MCVEA: Your Honor, I'm going to
13 object. That's assuming facts not in evidence. It's
14 certainly not -- no foundation has been laid to -- for
15 that type of question.

16 THE COURT: Overruled.

17 Q. (By Ms. Shelton) Did she ever -- do you know
18 of her ever being taken to the hospital having overdosed
19 on either pills or narcotics or any kind of substance?

20 A. No, never.

21 Q. Okay. But she used objects of harm to gain
22 your attention; is that correct?

23 A. Once when she was 14 years old.

24 Q. Which doctor did you take her to back then
25 when she was 14?

1 A. It was a hospital that is no longer there. It
2 was on Galloway, and it was Mesquite Medical Center, I
3 think, was the name of the hospital.

4 Q. And subsequently you took her -- did you take
5 her to a counselor or what?

6 A. We attempted to, and then she didn't want to
7 go, so we didn't. We worked it out ourselves.

8 Q. Who is "we"?

9 A. My daughter and myself and her dad.

10 Q. Which one?

11 A. Her dad?

12 Q. Yes.

13 A. Neal Morrison.

14 Q. Were you divorced at that time? Was he living
15 here in Dallas?

16 A. She did this because she was going to go and
17 live with her dad, and she did not want to go and live
18 with her dad. So that's how she got our attention, and
19 that's how we worked out the problem, and she stayed
20 with me.

21 Q. Okay. She was so afraid of her dad, going to
22 live with him, that --

23 A. She was not afraid of her dad.

24 Q. -- she cut her wrists?

25 A. She just didn't want to go live in Levelland.

1 THE COURT: One at a time, please.

2 Q. (By Ms. Shelton) If you could, let me re-ask
3 the question. This young girl did not want to go and
4 live with Neal Morrison so much that she slashed her
5 wrist with glass?

6 A. It wasn't with -- to go and live with Neal
7 Morrison. It was to go and live in the little small
8 town that he lived in.

9 Q. I thought you said he still lived here in
10 Dallas.

11 A. No. When we divorced, he moved to Levelland,
12 Texas. She did not want to move to Levelland, Texas.

13 Q. Subsequently, did she move out of the house
14 and begin living on her own?

15 A. No, she did not. She stayed with me.

16 Q. Where did she meet Daniel Zimupleman, her
17 common-law husband?

18 A. I am not real sure where they met. I don't
19 really know where they met.

20 Q. Did you ever meet Daniel?

21 A. I think they met at a party.

22 Q. I beg your pardon?

23 A. I think they met at a party.

24 Q. Was she working at a topless club at this
25 time?

1 A. No, she was not.

2 Q. Did you ever meet Mr. Zimmpleman?

3 A. Yes.

4 Q. You stated that your daughter took his death,
5 quote, very hard; that she was devastated and went into
6 a depression.

7 A. Yes, she did.

8 Q. Would you characterize that, please.

9 A. Probably the same depression I'm going
10 through, the same type of depression when you lose
11 somebody very, very close to you.

12 Q. And do you know the manner of Mr. Zimmpleman's
13 death?

14 A. Yes, I do.

15 Q. What was it?

16 A. He was doing a construction job in Houston;
17 and his safety belt, there was a problem with his safety
18 belt, and he fell down an elevator shaft.

19 Q. There was a lawsuit after Mr. Zimmpleman's
20 death, wasn't there?

21 MS. MCVEA: Your Honor, I'm going to
22 object. That's not relevant.

23 THE COURT: What is the relevancy of
24 that?

25 Q. Isn't it true, ma'am, that --

1 THE COURT: No. Address the Court when I
2 ask you: What is the reason?

3 MS. SHELTON: I was going to elicit
4 from her a response, if there was a contributing factor
5 to his death, one that her daughter was aware of and
6 perhaps involved in.

7 THE COURT: What does that have to do
8 with a lawsuit?

9 MS. SHELTON: Well, I was going to ask
10 her: Was Mr. Zimupleman high on cocaine when he fell
11 the 24 stories to his death?

12 THE COURT: Well, I sustain the
13 objection.

14 Q. (By Ms. Shelton) Did Diana feel that there
15 was anything that she could have done differently and
16 maybe Mr. Zimupleman wouldn't have died?

17 A. No. She had nothing to do with that. It was
18 an accident, and she had nothing to do with it.

19 Q. Was your daughter using drugs herself at this
20 time period?

21 A. No, she was not.

22 MS. MCVEA: Objection, Your Honor.
23 It's not relevant.

24 THE COURT: Overruled.

25 Q. (By Ms. Shelton) Was your daughter using

1 drugs at this -- during this time period?

2 A. No.

3 Q. Can you state unequivocally that she was not,
4 or is your answer simply that you don't know?

5 A. My answer is no.

6 Q. You absolutely know that?

7 A. Absolutely not.

8 MS. MCVEA: Your Honor, that was asked
9 and answered three times.

10 THE COURT: Overruled.

11 Q. (By Ms. Shelton) Isn't it true that your
12 daughter overdosed on Ecstasy on one occasion?

13 A. No, it isn't.

14 Q. Didn't she use cocaine?

15 A. No, she did not.

16 Q. Crank?

17 A. No, she did not.

18 Q. Methamphetamines?

19 A. No, she did not.

20 Q. Marijuana?

21 A. No, she did not, for a fact.

22 Q. LSD?

23 A. No.

24 Q. Do you know a young lady named Samantha Mayer?

25 A. Yes, I do.

1 Q. What is Samantha Mayer's relation to your
2 daughter, if you know?

3 A. She is a very good friend.

4 Q. Wasn't she her partner in her act at the
5 topless clubs that they worked at?

6 A. They worked at the same club. I don't know
7 what you mean by partners, but they worked in the same
8 club.

9 Q. Didn't the girls -- and I'm not suggesting
10 anything illegal -- but didn't the girls have a little
11 act they did at the topless club?

12 A. They danced at the topless club. I don't know
13 what you mean by an act. I did not go there.

14 Q. A little performance, a pantomime, for the
15 gentlemen who frequented.

16 A. I never went there, ma'am.

17 Q. Isn't it true that they used drugs together
18 and supplied each other with drugs?

19 A. I do not think so at all.

20 Q. Did you ever meet Don Mayer?

21 A. Yes, I have.

22 Q. Are you aware that Mr. Mayer is known as a
23 drug dealer?

24 MS. MCVEA: Your Honor, I'm going to
25 object. That's --

1 THE COURT: I sustain the objection.

2 Q. (By Ms. Shelton) You stated that you thought
3 you knew where Mr. Radke and your daughter met. Do you
4 know where they met?

5 A. I think they met at the club where she
6 worked.

7 Q. If I suggested to you that they were
8 introduced by one Nikko Ponce, would you disagree with
9 that?

10 A. I have no idea. I don't know Nikko whoever.
11 I have no idea. All I know is, I think they met in the
12 club where they worked, and that's as much as I know.

13 Q. If they had met somewhere else, you wouldn't
14 dispute that. You just don't know?

15 A. All I can -- I think in the club. That's
16 all -- if it's somewhere else, I don't know about it.

17 Q. Did she date many of the men she met in the
18 club?

19 A. No, she did not.

20 Q. She never dated any of them?

21 A. I don't know every date that my daughter had.

22 Q. Was it her habit --

23 A. She didn't date much at all until after
24 Daniel's death until she met Chris.

25 Q. Did your daughter -- were you familiar with

1 your daughter's clientele book that she possessed?

2 A. No.

3 THE COURT: Ms. Shelton, I assume that
4 you're trying to make the deceased out to be a slut.

5 MS. SHELTON: No, sir.

6 THE COURT: Let me finish what I'm
7 saying. I don't care whether she was a slut or wasn't a
8 slut. All I care about is, was she murdered or was she
9 not murdered. If somebody has a motive to murder, that
10 may be proven. If there's some evidence that the lady
11 committed suicide, that may be proven. But just digging
12 up all this old dirt is not helping your case any with
13 me.

14 MS. SHELTON: Okay. We'll move on.

15 Q. (By Ms. Shelton) What I should have asked
16 you, ma'am, is, some of the gentlemen that she met, she
17 had abusive relationships with them; isn't that true?

18 A. None that I know of.

19 Q. And she didn't state to you on numerous
20 occasions that she just didn't want to go on living?

21 A. No, she did not.

22 Q. That she had never forgotten Daniel
23 Zimupleman, that he was the one true love of her life?

24 A. She never stated that.

25 Q. Let me take your attention onto a time period

1 after Mr. Radke had married your daughter. I presume
2 that they were married in a ceremony, or how were they
3 married?

4 A. They were married in Las Vegas.

5 Q. I can't hear you.

6 A. They were married in Las Vegas.

7 Q. The day that your son-in-law was trying to get
8 into his home and you were summoned to the home by your
9 daughter, do you recall that event?

10 A. Yes, I do.

11 Q. He had a right to go into his room, didn't he?

12 A. Not when he was kicking -- trying to kick the
13 door in and scaring her to death, no. I don't think he
14 had a right to just waltz in there with her as scared as
15 she was.

16 Q. When the police came and took some drugs away,
17 did they take away any Prozac?

18 A. No, they did not.

19 Q. Did they take away any Fenfluramine or
20 Phentermine?

21 A. No, they did not.

22 Q. Did they take away any sedative-type drugs --

23 A. No, they did not.

24 Q. -- Valium?

25 A. Not that I know of.

1 Q. All right. And these were your daughter's
2 drugs, were they not? She had prescriptions for these?

3 A. She had prescriptions for two of the drugs
4 you're speaking of.

5 Q. Which two were those?

6 A. The Fen -- whatever the two Fen-Phen diet
7 pills are, they were prescribed by a doctor. She had
8 samples of Prozac but never filled a prescription for
9 Prozac. The Valium, she never had a prescription for.

10 Q. Where did she get the samples of Prozac?

11 A. From her doctor.

12 Q. Who was that?

13 A. If I heard the name, I would know it. I'm so
14 nervous today that I can't recall his name. But -- I
15 can't remember her doctor's name at this moment. I'm
16 sorry.

17 Q. I don't want to suggest to you something that
18 isn't the fact, but would it be Dr. Steven Bander?

19 A. That's it, Dr. Bander.

20 Q. And he worked for the clubs, Dr. Bander did?

21 A. Like the employees of the clubs could come to
22 him for -- he was a regular doctor that anyone could go
23 and see.

24 Q. Did she have insurance through her work?

25 A. Yes, she did.

1 Q. Okay. And was it like an HMO or something?

2 A. I have no idea. I just know that she had
3 insurance.

4 Q. So if they had referred her on to Dr. Bander,
5 you wouldn't have known that?

6 A. I didn't know anything about her insurance at
7 work except that she had good insurance. I don't know.

8 Q. In regard to the -- around the 2/11 incident,
9 jumping back to a previous alleged incident, an alleged
10 assault on your daughter by Mr. Radke, I would like to
11 ask you about the photographs that you looked at, and
12 you said, yes, that was what your daughter looked like
13 that night that was State's 4, 5, 6, 7, and 8. You
14 identified her lip as being split in front and sutured
15 closed where it split open, and you also mentioned the
16 bruises on her thighs; is that correct?

17 A. Um-hum, yes.

18 Q. Ma'am, I direct your attention to State's 9,
19 which are the records from the Baylor Medical Center at
20 Garland emergency department. What does this say right
21 here?

22 A. Nurse's report.

23 Q. What does it say?

24 A. I can't read that.

25 Q. Could it say, "Patient fell and hit lip on

1 bumper of car; lip cut, possible teeth loose, has braces
2 in front"? Is that what it says?

3 A. That's what that says, yes.

4 Q. Yes, ma'am. Well, that's what I asked you.

5 Isn't it true, in fact, that she withdrew her
6 allegations of assault and later said she had been
7 chasing Chris, tripped and fell, hit her lip on
8 whatever, the bumper; and she also bruised her thigh
9 when she fell down? Isn't that what she said later?

10 A. Not that I know of.

11 Q. She never told you that later?

12 A. You've confused me with -- when you're --
13 would you please repeat that?

14 THE COURT: Excuse me for interrupting,
15 Ms. Shelton, but I believe, if my memory serves, there
16 has been, yet, no allegation that he caused those
17 injuries or any proof that he caused those injuries.

18 Q. (By Ms. Shelton) Did your daughter tell you on
19 that night that he had caused her injuries?

20 A. Not on that night. Not on that very night.

21 Q. What did she say caused her injuries?

22 A. She said she fell over -- tripped over some
23 steps and hit her face on the bumper of a car, but she
24 later told me that was not true.

25 Q. Why did she go over to the house where your

1 son was?

2 A. I have no idea. Anything that happened before
3 that -- all I know is from the moment I got to the
4 hospital. I know nothing else.

5 Q. Well, you appeared to be affected by the
6 pictures of your daughter's lip and split --

7 A. Yes, I'm very affected by them.

8 Q. Well, then why would you not ask her anything
9 about it or be concerned?

10 A. I asked her about it. She told me she fell.
11 That is the day at the hospital. She later told me
12 different.

13 Q. Did you ask her where she fell down and what
14 she had been doing when this happened? Was it at home?
15 Where was it?

16 A. She said it was -- it was -- I took it to mean
17 that it was at home, at the time.

18 Q. So you really don't know?

19 A. I really don't know. She just told me she
20 tripped over some steps.

21 Q. All right. Let me ask you, on the night of
22 February the 29th, 1996 you stated that your son Mike
23 took a call from Chris Radke?

24 A. Yes, he did.

25 Q. Is Mike Morrison here in the Courtroom today?

1 A. He's outside the Courthouse. He's outside
2 waiting. Well, he's not in this Courthouse -- the
3 Courtroom, but he's in the -- outside the door.

4 Q. All right. But he is in the Courthouse?

5 A. Yes, he is.

6 Q. And you said that he came away from the
7 telephone much subdued, white faced; is that correct?

8 A. Very.

9 Q. And didn't say anything right away?

10 A. Not for -- he went for his shoes and started
11 putting his shoes on.

12 Q. In a previous occasion, or prior to this time,
13 Mike had lived with Chris and Diana, hadn't he?

14 A. Yes, he had.

15 Q. Do you know why he was living with them?

16 A. He was living there between jobs helping them
17 out by keeping Zachary while they both worked.

18 Q. And why did he leave, if you know, why did he
19 leave their house?

20 A. Because at the -- when he decided to leave, he
21 decided it was time to find a job and get out of --
22 Diana told him he needed to get a life.

23 Q. So essentially she told her brother to leave?

24 A. No. What I'm saying is, she knew he couldn't
25 stay there and take care of the baby forever. He needed

1 to do -- she knew he needed to get out and find a job
2 and do something for himself because he had helped her
3 out so much.

4 Q. During this time period when he was living
5 there, isn't it true that he warned various family
6 members that she was off the wall and about a prior gun
7 incident where she had brandished a gun?

8 MS. MCVEA: Your Honor, I'm going to
9 object. That's assuming facts not in evidence. It's
10 not a question. The Defense attorney is testifying.

11 THE COURT: Sustained.

12 Q. (By Ms. Shelton) Did he ever, during this
13 time period, express any fears to the rest of the family
14 for Diana?

15 A. No.

16 Q. Or her well being?

17 A. When he was living there?

18 Q. When he was living with Diana and Chris.

19 A. No, he did not.

20 Q. Was he worried about his sister?

21 A. At which time?

22 Q. While he was living with Chris and Diana?

23 A. He didn't like the way she was treated at
24 home.

25 Q. Did he ever, in your presence, tell Chris not

1 to take Diana's suicide threats lightly?

2 MS. MCVEA: Your Honor, I'm going to
3 object again. Again, that's assuming facts not in
4 evidence. She's asking questions about what another
5 witness has stated to someone else.

6 THE COURT: Sustained.

7 Q. (By Ms. Shelton) In fact, that night when you
8 got this terrible news, via your son and from your
9 son-in-law, this had been something that you had had a
10 fear of for some time?

11 A. I never expected such a thing in my whole
12 life.

13 Q. You never expected, certainly, Chris Radke to
14 be accused of killing your daughter, did you?

15 A. I never expected he would actually do
16 something this horrible.

17 Q. And in fact, you never said anything to the
18 Radke family until after the funeral, is that correct,
19 concerning your thoughts that he might have killed your
20 daughter?

21 A. Well, I know he did it.

22 Q. At first you thought she had committed
23 suicide, didn't you?

24 A. No, I did not. No way.

25 Q. You stated that it took you about 20 or 25

1 minutes to get to the scene after you-all were called --

2 A. Yes.

3 Q. -- correct? And do you recall -- you say
4 about 8:45 -- could it have been right at that time,
5 8:45?

6 A. It was about 8:45 that we got the phone call
7 that Mike answered the phone and got -- and it was
8 Chris.

9 Q. And so would you have gotten out the door by
10 9:00, do you think?

11 A. As soon as we -- Mike put his shoes on and
12 we -- we made -- also Mike placed a call to 911. I know
13 in 15 minutes' time, surely, we were out that door,
14 because we were running.

15 Q. And so Mike would have had to have had time to
16 talk to 911, and then you-all got yourself --

17 A. And then we left immediately after he called
18 911.

19 Q. Were you-all dressed?

20 A. Yes, we were dressed.

21 Q. And then it took you -- he made the 911 call
22 at 8:55?

23 A. We left right after he made that -- the --

24 Q. You left about 9:00?

25 A. I'm sure it was. Immediately after the call

1 to 911, we were on our way.

2 Q. And you got to the scene by 9:30 or so?

3 A. It must have been close to it. I didn't -- I
4 wasn't really -- I was in a state of shock, so I can't
5 tell you the exact time that we arrived.

6 Q. And then -- you didn't remain at the scene --
7 that was yourself and Mike?

8 A. And my husband.

9 Q. You didn't remain at the scene very long?

10 A. We remained at the scene for hours, sitting in
11 a van for hours.

12 Q. You didn't leave right away?

13 A. The night she was killed?

14 Q. Yes, ma'am.

15 A. No, we did not leave right away. We were
16 there for hours.

17 Q. And it's your testimony that you spoke out at
18 the scene with detective or Officer Thompson?

19 A. He came over to the van and told me, yes, that
20 my daughter was dead.

21 Q. You were aware, certainly for some time, that
22 your daughter had expressed to you unhappiness with Mr.
23 Radke, not coming home at night or --

24 A. Yes. And I begged her to leave him.

25 Q. But that's not what I asked you. I asked you

1 if you were aware for some time of him not coming home
2 at night or not paying enough attention to her or things
3 like --

4 A. Yes, I was.

5 Q. All right. And she would call you on these
6 occasions, correct, when he wasn't home at night?

7 A. She didn't make a point to call and report
8 every time she was unhappy to me, no.

9 Q. Ma'am, I didn't ask you that. Did she ever
10 call you on any of these occasions and report that he
11 wasn't at home?

12 A. I'm going to answer no to that.

13 Q. Did she ever complain about him getting home
14 late?

15 A. She complained about him never being home.

16 Q. All right. She complained about him never
17 being home.

18 Did she complain of his inattention to her, that he
19 didn't pay attention to her?

20 A. Yes, she did.

21 Q. All right. That he seemed to her somewhat
22 cool and laid back, not at all how she wanted him to be
23 or act towards her as a husband?

24 A. She wanted more attention from him, yes.

25 Q. She didn't get the attention that she needed

1 from her husband --

2 A. No, she did not.

3 Q. -- correct?

4 When she called you three times on the night of the
5 29th, a half an hour apart repetitively, again and
6 again, each time did she tell you --

7 A. When we --

8 Q. Just a moment, ma'am. The Judge is --

9 (Whereupon, there was a brief
10 pause in the proceedings.)

11 Q. (By Ms. Shelton) Ma'am, on the night of the
12 29th, when your daughter called you, three phone calls,
13 each about a half an hour apart, was she calling you
14 each time to tell you she was happy, or was she calling
15 you each time to tell you that her husband wasn't home
16 and was once again neglecting her and not paying
17 attention to her?

18 A. We called each other every single night. We
19 talked every single night. These were just normal --

20 Q. Ma'am, that's not what I asked you. I asked
21 you --

22 A. No. She never mentioned Chris that night to
23 me.

24 Q. Why would she call you three times, a half an
25 hour apart, on that night?

1 A. It wasn't exactly a half an hour apart. We
2 talked three times that night. It wasn't uncommon for
3 us to do that, to talk about our day, talk about
4 Zachary, talk about anything.

5 Q. Ma'am, why would she have to call you three
6 times? Why not once?

7 A. Well --

8 MS. MCVEA: Your Honor, I'm going to
9 object. That calls for speculation.

10 THE COURT: Sustained.

11 Q. (By Ms. Shelton) You stated on that evening
12 she was, what, very happy?

13 A. She seemed fine to me; normal, fine.

14 Q. Was she happy that her husband wasn't home?

15 A. She did not mention anything about her
16 husband. She called to talk to me.

17 Q. After she started using Prozac, did you notice
18 her demeanor change?

19 A. She didn't take Prozac long enough to tell any
20 kind of a difference. She only had samples, a little
21 box of samples.

22 Q. When she began taking the Fen-Phen, did her
23 personality change?

24 A. No, she was the same Diana.

25 Q. Do you know what Fen-Phen is used for?

1 A. Yes, I do.

2 Q. Is it Pondermine and Fastin?

3 A. She used it for weight loss. She wanted to
4 lose some weight.

5 Q. I didn't ask you that. Is it Pondermine and
6 Fastin? Is that what Fen-Phen refers to?

7 A. Yes.

8 Q. Have you ever used Pondermine and Fastin?

9 A. No. I have high blood pressure. My doctor
10 wouldn't let me have it.

11 Q. You couldn't use Fastin?

12 A. No.

13 Q. But isn't it true that you got Pondermine from
14 your daughter because she preferred the Fastin and you
15 could take her Pondermine?

16 A. I got Pondermine from my own doctor.

17 Q. But when you would run out -- just then you
18 just told us you didn't use it, but now you say you
19 did.

20 A. Well, I'm saying not from my daughter. From
21 my own doctor, I did.

22 Q. But when you would run out of your Pondermine,
23 you would use your daughter's, wouldn't you?

24 A. No, I would not.

25 Q. Certainly if you did do that, or anyone did

1 it, it would destroy the chemistry that the doctor was
2 trying to create there, the Pondermine to raise her
3 spirits, the Fastin to keep her from eating. You would
4 be aware that if anyone used part of her prescription,
5 that would be a very ill-wise thing to do.

6 A. I know that. I did not use any of my
7 daughter's prescriptions.

8 Q. Did she have problems with weight gain during
9 this time period?

10 A. Mainly after she had Zachary, she gained some
11 weight.

12 Q. Did she weigh about 163 pounds at the time of
13 her death?

14 A. No. At the time of her death, she had lost
15 some weight.

16 Q. How much did -- would you say she had -- did
17 she weigh, approximately?

18 A. I would say she weighed 145. I'm guessing. I
19 don't know exactly.

20 Q. She told you that? You have no reason to
21 disbelieve her if she said she weighed 145 pounds?

22 MS. MCVEA: Your Honor, I think she
23 said she didn't know how much she weighed.

24 THE COURT: I think that's what she
25 said.

1 Q. (By Ms. Shelton) Did she try to go back to
2 dancing after the birth of Zachary?

3 A. Never.

4 Q. She didn't dance a few times when she was too
5 heavy?

6 A. She never danced after she had Zachary.

7 Q. But she was too heavy. Didn't they tell her
8 she was too heavy?

9 A. She never --

10 MS. MCVEA: That question calls for a
11 hearsay response. We object.

12 THE COURT: Sustained.

13 Q. (By Ms. Shelton) She was depressed during
14 this time period, wasn't she?

15 A. At which time period?

16 Q. This time period after the birth of her son
17 and when she gained weight upwards to 160 pounds or
18 more.

19 A. I know she wanted to lose some weight so she
20 would feel better.

21 Q. So that she would feel better. Where was she
22 working at the time of her death?

23 A. She was working at Sandon, the Sandon
24 Corporation.

25 MS. MCVEA: Did you used to keep

1 children in your home, Ms. Parker?

2 A. No.

3 MS. MCVEA: Your Honor, I'm going to
4 object. That's not relevant.

5 THE COURT: Sustained.

6 Q. (By Ms. Shelton) Why was your daughter taking
7 an antidepressant, Prozac; did she tell you?

8 A. Because after she had Zachary, she -- she --
9 well, I read this in the medical report, that she had --

10 MS. MCVEA: Your Honor, I object.
11 She's not qualified to answer that question.

12 THE COURT: Sustained.

13 Q. (By Ms. Shelton) Did your daughter tell you
14 why she had started taking Prozac?

15 A. Because after having Zachary, she felt like
16 she was -- had the blahs. She just -- you know,
17 sometimes after women have babies they have the blues
18 or --

19 Q. Did she state she was depressed, that's why
20 she was taking a powerful antidepressant?

21 MS. MCVEA: We object to the
22 characterization as "powerful." She already indicated
23 she was on samples.

24 THE COURT: Sustained.

25 Q. (By Ms. Shelton) Have you ever seen your

1 daughter experience mood swings, quick mood swings, and
2 exhibit bazaar or hysterical or violent behavior as an
3 adult?

4 A. No, I have not.

5 Q. If other people say this of her, would that
6 surprise you?

7 MS. MCVEA: Your Honor, I'm going to
8 object to what other people have said. This witness
9 doesn't know that.

10 THE COURT: Sustained.

11 Q. (By Ms. Shelton) Is it your testimony, then,
12 that she was of a very even and peaceful and quiet
13 disposition?

14 A. Yes, I would say that.

15 Q. Thank you, ma'am.

16 MS. SHELTON: Pass the witness.

17 REDIRECT EXAMINATION

18 BY MS. MCVEA:

19 Q. Ma'am, do you know how long your daughter
20 danced at the club, approximately?

21 A. I'm -- not even a year.

22 Q. You said that your daughter was working at the
23 Sandon Corporation; is that right?

24 A. The Sandon Corporation.

25 Q. Do you know what type of business that is?

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1 A. They make air-conditioning -- I forgot what it
2 is, but they make something for air-conditioners for all
3 types of -- all types of cars.

4 Q. Okay. What did she do for them?

5 A. She was -- she worked in the accounting
6 department. She paid all the bills.

7 Q. Do you know how long she had been working
8 there until her death?

9 A. I would say a good year, and maybe more than a
10 year.

11 Q. Now, you said that, on your cross-examination,
12 that on the night that your daughter was at the hospital
13 at Baylor because of the injury to her mouth, did you
14 have a conversation with her regarding that injury?

15 A. Yes, I did.

16 Q. And what did she tell you that night?

17 A. That night she told me that she had fallen
18 down some stairs; and when she fell, she hit the bumper
19 of a car that was parked close to the stairs.

20 Q. Did you believe her?

21 A. No, I didn't.

22 Q. Later you said that she told you something
23 different --

24 A. Um-hum.

25 Q. -- is that right?

1 What did she tell you?

2 A. She told me that Chris hit her in the mouth.

3 Q. Did you believe that?

4 A. Yes, I did.

5 Q. Now you said that you talked to your daughter
6 for the last time between 8:00 or 8:15 on the night of
7 February 29th of 1996. Then you said that you got a
8 phone call from the Defendant at 8:45. Is that your
9 testimony?

10 A. Yes.

11 Q. Was that your testimony?

12 A. Yes.

13 Q. So approximately 30 minutes between the two
14 times; is that right?

15 A. Um-hum.

16 THE COURT: Please say: yes, ma'am or
17 no.

18 A. Yes, ma'am. I'm sorry.

19 MS. MCVEA: That's all we have, Your
20 Honor. Pass the witness.

21 RE-CROSS-EXAMINATION

22 BY MS. SHELTON:

23 Q. She didn't work while she was pregnant, did
24 she? She didn't have to work, did she?

25 A. I've got to -- caught me off guard. No, she

 PERI K. STROMBERG, CSR

1 didn't work, I don't think, when she was pregnant.

2 Q. She was married to Mr. Radke, wasn't she?

3 A. Well, she married Mr. Radke. And when --
4 after she -- she was six months pregnant when she
5 married Mr. Radke.

6 Q. She didn't work while she was pregnant, did
7 she, ma'am?

8 A. You've caught me off guard, and I'd have to
9 sit here and think about that. I don't --

10 Q. Well, you stated previously --

11 A. She didn't -- she wasn't dancing, I knew that,
12 but I --

13 Q. She stopped dancing?

14 A. I don't think she was working then. But my
15 daughter always worked, so I --

16 Q. But she stopped working when she married Mr.
17 Radke, didn't she?

18 A. No. She always worked. She quit -- she took
19 time off when she had Zachary.

20 Q. Do you know where she worked?

21 A. As a matter of fact, I think she was working
22 at the Sandon Corporation.

23 Q. But you don't know that, do you?

24 A. Well, that's the last place she worked.

25 Q. Yes, ma'am. But while she was pregnant -- I

1 asked you a question. When she married Mr. Radke, she
2 stopped working, didn't she?

3 THE COURT: The Court is going to take
4 a recess for lunch until 1:20. Be thinking about the
5 answer to that question over the lunch break.

6 THE WITNESS: Okay.

7 THE COURT: Ma'am, as a witness, do not
8 be discussing your testimony with any of the other
9 witnesses.

10 THE WITNESS: Okay.

11 (Whereupon, the lunch recess was
12 then taken, after which the
13 proceedings resumed before Judge
14 Nelms, as follows:)

15 THE COURT: Bring in the Defendant.

16 (Whereupon, the Defendant was
17 brought into the Courtroom.)

18 THE COURT: Both sides finished? If
19 there is no further cross-examination --

20 MS. MCVEA: That's fine.

21 THE COURT: Are you done with this
22 witness?

23 MS. MCVEA: I'm done, Your Honor.
24
25

1 (Whereupon, the witness left
2 the Courtroom.)

3 THE COURT: Let's call your next
4 witness, please.

5 MS. MCVEA: Okay. State calls Dr.
6 Bonnie Benefield.

7 THE COURT: Come up, ma'am. Have you
8 been sworn as a witness?

9 THE WITNESS: No.

10 THE COURT: I'm sorry. Did you say
11 yes?

12 THE WITNESS: No, I have not

13 THE COURT: Please raise your right
14 hand.

15 (Whereupon, the witness was duly
16 sworn by the Court.)

17 THE WITNESS: I do.

18 THE COURT: You may put your hand
19 down.

20 BONNIE BENEFIELD,
21 the witness hereinbefore named, being first duly
22 cautioned and sworn to testify the truth, the whole
23 truth, and nothing but the truth, testified on her oath,
24 as follows:

25

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DIRECT EXAMINATION

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BY MS. MCVEA:

Q. Will you state your name for the Record, and spell your last name for the Court Reporter.

A. Yes. I'm Dr. Bonnie Benefield,
B-e-e-n-e-f-i-d-l-d.

Q. Ma'am, what's your occupation?

A. I'm a physician.

Q. And are you a licensed physician here in the State of Texas?

A. Yes, I am.

Q. Can you just briefly discuss with us your medical -- well, your training and qualifications for the position you hold?

A. Yes. I graduated from medical school at Michigan State University. I'm board certified in ophthalmology and family practice. I'm also a fellow in ophthalmology. I'm residency trained in psychiatry at the University of Texas at Southwestern, and I attended some law school at the DFW School of Law.

Q. Thank you.

Did you say you were licensed to practice medicine here in the State of Texas?

A. Yes, I am.

Q. Did you know an individual by the name of

1 Diana Lynn Radke?

2 A. Yes, I did.

3 Q. How did you know her?

4 A. She was a patient of mine.

5 Q. And when did she first become a patient of
6 yours?

7 A. It would be helpful if I reviewed -- if I went
8 from the record.

9 Q. Okay.

10 (Whereupon, State's Exhibit No. 10
11 was marked by the Court Reporter.)

12 Q. (By Ms. McVea) Ma'am, I've just handed you
13 what's been marked for identification purposes as
14 State's Exhibit No. 10. Would you go ahead and look
15 through that document.

16 A. (Witness complies.) Yes. This is a copy of
17 the record.

18 Q. Okay. Is that a true and correct copy of the
19 medical records concerning Diana Lynn Radke?

20 A. Yes, it is.

21 Q. And is that medical record from your clinic or
22 your place of business?

23 A. Yes, it is.

24 Q. What the name of your clinic?

25 A. It's the Lake Pointe Medical and Surgical

1 Clinic.

2 Q. Are you the custodian of that business record?

3 A. Yes.

4 Q. And is that record kept in the regular course
5 of your business?

6 A. Yes, it is.

7 Q. Is that done on a day-to-day, week-to-week,
8 month-to-month basis?

9 A. Yes.

10 Q. Did an employee, you yourself, or a
11 representative of Lake Pointe Clinic make these records
12 or transmit the information regarding the facts, events,
13 conditions, or opinions, or diagnosis?

14 A. Yes.

15 Q. Okay. Was this done at or near the time of
16 the event or reasonably thereafter?

17 A. Yes.

18 Q. And did the employee or representative who
19 made these entries have actual knowledge of the event?

20 A. Yes.

21 Q. And you said that these are the exact copies
22 of the medical records?

23 A. Yes, they are.

24 Q. Where are the originals kept?

25 A. The originals are at my office.

1 Q. Okay.

2 MS. MCVEA: I'd like to offer into
3 evidence State's Exhibit No. 10.

4 (Whereupon, State's Exhibit No. 10
5 was offered into evidence.)

6 MS. SHELTON: If I might have just a
7 moment, Judge Nelms.

8 THE COURT: Yes, ma'am.

9 MS. SHELTON: Might I ask: Did the
10 doctor bring these records with her this morning in
11 response to this subpoena? I see a subpoena on the
12 front.

13 THE WITNESS: No, I did not. I have a
14 separate copy of the records that I brought with me this
15 morning.

16 MS. SHELTON: Might I see another copy
17 of these records?

18 MS. MCVEA: Do you have the copy with
19 you?

20 THE WITNESS: I have other copies that
21 I brought with me from the office, yes.

22 MS. SHELTON: Might I use these
23 records?

24 MS. MCVEA: That's the one I'm
25 offering.

1 Are they the same records?

2 THE WITNESS: They're the same records.

3 MS. MCVEA: Have you reviewed both
4 records?

5 THE WITNESS: Yes, I have.

6 MS. SHELTON: This is the one you're
7 offering? Do you have another copy of this, perhaps one
8 that the doctor did not bring with her?

9 THE WITNESS: There's one difference in
10 the last entry on that record from the office that's
11 different from this one, is I wrote down in my
12 handwriting -- I was given the wrong date by a previous
13 DA that she was deceased, and they are on that -- and
14 it's listed on that record, but not on this one.

15 MS. MCVEA: Okay. That's something we
16 can clarify.

17 THE WITNESS: So the very last line
18 entry is incorrect because I was given a wrong date.

19 MS. MCVEA: In answer to your
20 question: Do I have another copy of the records? No, I
21 don't.

22 THE COURT: Another copy can be made,
23 can it not?

24 MS. MCVEA: Certainly can.

25 THE COURT: But it will be in evidence,

1 I assume, if there's no objection, and you can have full
2 use of it.

3 Was there any objection?

4 MS. SHELTON: No objection.

5 THE COURT: It's admitted.

6 (Whereupon, State's Exhibit No. 10
7 was admitted into evidence.)

8 Q. (By Ms. McVea) Why don't we use the actual
9 record that's made and entered into evidence.

10 A. That's fine.

11 Q. Doctor, I believe I asked you: When did she
12 become a patient, Diana Radke?

13 A. She became a patient at the clinic on
14 12/14/95.

15 Q. And did she actually go to your office or your
16 clinic?

17 A. She was at the clinic on that date, yes.

18 Q. Where's your clinic located?

19 A. It's on Highway 78 in Sachse.

20 Q. That's in Texas, is it not?

21 A. Yes, it is in Texas.

22 Q. Was she seen by you or someone else?

23 A. She was seen by my associate, Dr. Steven
24 Bander, on that date.

25 Q. And what was she being seen for?

1 A. She was seen for dermatitis, which is an
2 inflammation of the skin. Also for progressive malaise,
3 which is mild depression; and a slightly elevated lipid
4 count, high fats in the blood.

5 Q. Did she relate at that time any other symptoms
6 that she was experiencing?

7 A. I'd have to look at the note. She also
8 discussed that she was having trouble sleeping and no
9 energy since her baby was born. She was also
10 complaining about a 40- to 50-pound weight gain in 14
11 months.

12 Q. Was there anything else?

13 A. She also discussed that she was under stress.

14 Q. Okay. And was she weighed at that point or --

15 A. Yes, she was.

16 Q. -- on that date?

17 A. Yes.

18 Q. What was her weight?

19 A. Her weight was 193 pounds.

20 Q. Now as a result of that visit, was she
21 prescribed any medicine?

22 A. Yes, she was.

23 Q. What was that?

24 A. She was prescribed Diflucan, which is a
25 medication for a fungus, for a fungal infection of her

1 skin. She was given Prozac, ten milligrams. And she
2 was recommended that she use a Selsun shampoo, which is
3 for a fungus of the scalp.

4 Q. What exactly was the Prozac for?

5 A. For progressive malaise.

6 Q. When was the next time that Diana Radke was
7 seen by the office?

8 A. She was seen on 12/20/95 by myself.

9 Q. What was the purpose of that visit?

10 A. To monitor her progress on the Prozac and to
11 discuss weight management.

12 Q. Was it your understanding that she was
13 supposed to be seen by your clinic every two weeks,
14 approximately?

15 A. Yes.

16 Q. Is that normal for someone that's on weight
17 management or on Prozac?

18 A. Yes. Yes. It's not normal necessarily for
19 Prozac, but on weight management, it's a requirement.

20 Q. Now, on that date, were any other
21 prescriptions given to Ms. Radke?

22 A. Yes. She was given three prescriptions: One
23 of which was for Prozac; one was for -- well, two were
24 for some weight control medications: Fenfluramine and
25 Phentermine.

1 Q. Now, are those the drugs that we hear about
2 that are commonly known as Fen-Phen?

3 A. Yes, they are.

4 Q. Was she prescribed anything else?

5 A. That was all.

6 Q. Now, you said that she was prescribed Prozac.
7 The time before, the first visit, was she given an
8 actual prescription, or what exactly was she given?

9 A. She was given samples.

10 Q. Samples. But on her second visit, she was
11 actually given a prescription?

12 A. Yes, she was.

13 Q. Okay. And with that prescription for how
14 long?

15 A. That was -- it was for ten milligrams, and it
16 was for 90 days. She was given a prescription for 90.
17 That's a three-month supply.

18 Q. And how often was she supposed to take this?

19 A. Prozac, once a day.

20 Q. Now, when she was seen there on the 20th, was
21 she weighed?

22 A. Yes. She again weighed 193 pounds.

23 Q. When was the next time that Ms. Radke was
24 seen?

25 A. She was seen on January 3rd, 1996.

1 Q. Okay. And was that by you or Dr. Bander?

2 A. She was seen by Dr. Bander on the 3rd.

3 Q. And what was the purpose of that visit?

4 A. That was a follow-up of her weight loss and to
5 monitor her progress on the Prozac.

6 Q. And as far as her weight loss was concerned,
7 had she had any results?

8 A. She lost 12 pounds.

9 Q. With regard to the treatment, was anything
10 else done or tried?

11 A. Her Prozac was increased to 20 milligrams a
12 day. Twenty milligrams is the most common dosage for
13 Prozac.

14 Q. Before, it was ten milligrams a day; is that
15 right?

16 A. Yes, that's correct.

17 Q. Is that normal to prescribe that amount just
18 to see how a person will do on the Prozac before you
19 increase it?

20 A. Yes.

21 Q. And was anything else done at that point?

22 A. No.

23 Q. Now the next time she was seen was when?

24 A. She was again seen on 1/22/96.

25 Q. And was that again for follow-up treatment?

1 A. It was for follow-up.

2 Q. Was she seen by you or Dr. Bander?

3 A. She was seen by myself.

4 Q. And had she lost any weight at this point?

5 A. She had lost another eight pounds.

6 Q. And what was her -- did she complain about
7 anything in particular with regard to her condition?

8 A. Yeah. She said she was having a little
9 trouble sleeping. She was complaining about marital
10 problems and stress, and, of course, the stress from a
11 15-month-old child.

12 Q. Did she indicate she had trouble sleeping?

13 A. Mild trouble sleeping.

14 Q. Was she prescribed any medications on this
15 date?

16 A. Yes. She was once again given the
17 Fenfluramine and Phentermine for two weeks, and she was
18 prescribed a mild sleeping medication called Desyrel,
19 D-E-S-Y-R-E-L, is the brand name. She was given -- she
20 was not prescribed this. She was given two samples for
21 sleep.

22 Q. Now, these samples are -- how are they to be
23 taken?

24 A. The samples are 150 milligrams. And she
25 was -- they can be broken into three parts. And she was

1 told to try a third of the sample at one time, and she
2 was told she could increase to two at night.

3 Q. Is there another name for that sleeping
4 medication, Trazodone?

5 A. It's Trazodone. It's T-R-A-Z-O-D-O-N-E.

6 Q. Now, when was the next time Ms. Radke was
7 seen?

8 A. She was again seen on 2/8/96.

9 Q. And was that her last visit?

10 A. That was her last visit.

11 Q. And was that also follow-up treatment?

12 A. It was for follow-up, that's correct.

13 Q. Had she lost any additional weight?

14 A. She had lost another eight and a half pounds.

15 Q. And generally how were things going?

16 A. In reference to -- well, she was very happy
17 that she had lost all the weight, yes.

18 Q. Did she make any other complaints about stress
19 or trouble sleeping or marital problems?

20 A. There were no complaints at that time.

21 Q. Let me back up for one moment.

22 As far as the sleeping medication that she was
23 prescribed back on January 22nd, 96 --

24 A. Yes.

25 Q. -- did she get a refill on that particular

1 prescription?

2 A. A prescription was called in for her on
3 1/29/96 for some -- 30 of the sleeping medications, for
4 the 150 milligrams medication.

5 Q. To be split into three parts and then taken?

6 A. It could be split; that she could take
7 one-third to two-thirds at a time, at that time.

8 Q. You said her last visit, before her death, was
9 on February 8th of '96. She had no chief complaints?

10 A. None. It was for a follow-up on weight loss.

11 Q. Now, you said that Prozac was prescribed for
12 her.

13 A. Yes.

14 Q. Is that an antidepressant?

15 A. Yes, it is.

16 Q. Can you just briefly tell us a little bit
17 about that medication.

18 A. Yes. Prozac is in a class of antidepressants
19 called SSRI's. That's selective serotonin reuptake
20 inhibitors. What Prozac does is it prevents the body
21 from reabsorbing its own serotonin. It's not actually
22 causing the body to make more serotonin, but it's
23 allowing the body to keep its own serotonin around.
24 Serotonin has been found to have a great deal to do with
25 moods and depression.

1 Q. Okay. I'm sure that you're familiar with a
2 lot of the negative press that's out there on Prozac
3 concerning suicide and things of that nature. Can you
4 go ahead and clarify some of that for us?

5 A. Yes. During my psychiatry residency at the
6 University of Texas Southwestern, that was addressed.
7 It was considered to be pretty common knowledge that
8 Prozac doesn't cause people to commit suicide. It's
9 still the most widely prescribed antidepressant around.

10 Q. And as a matter of fact, Prozac has been
11 pretty commonly prescribed to people.

12 A. Yes, it is.

13 Q. Doctor, you interacted with Ms. Radke and also
14 your associate. When people would come for their visit,
15 is that something that you look for, any signs of
16 suicide?

17 A. Absolutely. Definitely.

18 Q. To your knowledge, did Diana Radke experience
19 any signs of suicidal tendencies at any of your visits?

20 A. I detected no inkling in her, no tendency
21 towards suicide.

22 Q. Had you -- had she exhibited some type of
23 signs of suicide, what would you have done?

24 A. For a patient to express -- frequently we ask
25 patients if they're suicidal. For a patient to express

1 any kind of suicidal tendency, we have to do immediate
2 intervention. We have to call the family. We have to
3 get them institutionalized, because that's a
4 life-threatening situation.

5 Q. Now, I'm sure most people don't just walk
6 in -- well, maybe they do, I don't know -- and say, I'm
7 suicidal.

8 A. Some do.

9 Q. What are some of the -- well, some do. What
10 are some of the signs of suicide?

11 A. Well, a lot of times --

12 Q. Someone's thinking about suicide?

13 A. A lot of times they're crying; they're very,
14 very upset; they can be very nervous. They go into
15 long, elaborate complaints about life situations and so
16 forth, and she didn't show any of that.

17 Q. And as a matter of fact, the last time you saw
18 her, she appeared to be happy; is that right?

19 A. Yes. And for completion of the medical
20 record, the last entry that we have on the medical
21 record --

22 Q. Go ahead, Doctor. What is last entry on the
23 medical record?

24 A. Okay. On 2/26/96 she came by the office to
25 pick up a packet of birth control pills. We gave her a

1 pack of samples.

2 MS. MCVEA: Pass the witness, Your
3 Honor.

4 CROSS-EXAMINATION

5 BY MS. SHELTON:

6 Q. I'm sorry. Is it Bonnie Benefield, M.D.?

7 A. I'm a D.O. I'm an osteopath.

8 Q. And in regard to her skin condition or itching
9 or whatever she was having -- you said that you did a
10 psychiatric residency. How long was that residency?

11 A. I did nine -- I did nine --

12 Q. Pardon me. Let me start over again. I ran
13 two questions together.

14 You did a psychiatric residency for how long? You
15 did a psychiatric residency. How long was that
16 residency?

17 A. Nine months. I did nine months of a
18 residency.

19 Q. At where?

20 A. The University of Texas at Southwestern in
21 Dallas.

22 Q. Were you then certified to do or be what at
23 the end of that nine months?

24 A. I was not -- I received no certification in
25 psychiatry.

1 Q. Did you interrupt it or what happened?

2 A. Yes. My children objected to all the hours I
3 was spending, so I quit.

4 Q. Okay. Well, then, you wouldn't or you may not
5 know the linkage between skin eruptions and conditions
6 and mental conditions, or are you aware of that linkage?

7 A. Well, that's --

8 Q. The eruptions or itching, are you aware of
9 that -- that condition being linked to mental problems
10 or aberrations?

11 A. There can be a relationship.

12 Q. Would you say a weight loss between 12/14/95
13 and 2/8/96, approximately what is that, seven weeks?

14 A. Yes.

15 Q. Of how many pounds?

16 A. Almost -- well, let's see, almost 30 pounds.

17 Q. Thirty pounds in seven weeks. That's quite a
18 bit, isn't it?

19 A. Yes.

20 Q. She complained about marital problems. Did
21 she talk about those marital problems with you?

22 A. No, she did not.

23 Q. But then after she was taking the diet drugs
24 for a while and the Prozac, she no longer felt that she
25 had marital problems on her last visit?

1 A. I'm not saying that she didn't feel she had
2 marital problems; she just didn't discuss them with me.

3 Q. She no longer complained, though, of marital
4 problems or problems sleeping?

5 A. She did not complain at that time.

6 Q. Okay. So would it be a fair assumption that
7 the problems that Diana was having stemmed from her own
8 self and her excessive weight and problems that she
9 perceived attendant to that?

10 A. There's no way of knowing that.

11 MS. MCVEA: Objection, calls for
12 speculation.

13 THE COURT: Sustained.

14 Q. (By Ms. Shelton) Well, then, how would you
15 know that she wasn't still having marital problems?

16 A. I didn't say she wasn't.

17 Q. How would you know she was having marital
18 problems?

19 A. She complained about them.

20 Q. Couldn't she have been telling you something
21 that wasn't true to get drugs from you?

22 A. She --

23 MS. MCVEA: Objection. That also
24 calls for speculation.

25 THE COURT: Sustained.

PERI K. STROMBERG, CSR

1 Q. (By Ms. Shelton) Let me ask you this, Doctor,
2 given this, shall we say that if Diana were to brag to a
3 member of her family that she could get all the drugs
4 she wanted from you, what would you opine from that
5 statement?

6 MS. MCVEA: I'm going to object to that
7 as assuming facts not in evidence.

8 THE COURT: Sustained.

9 Q. (By Ms. Shelton) Is Prozac given to someone
10 just for mild malaise? Do people come into you and say
11 they aren't feeling well or they're having trouble with
12 their husband or -- I mean, do you prescribe Prozac
13 under those conditions?

14 A. Not necessarily.

15 Q. Well, did she have a mild condition?

16 A. I didn't see her when she was initially
17 prescribed on the Prozac.

18 Q. Then why would you continue, and in fact even
19 raise the dosage, to double the amounts if you didn't
20 see her?

21 A. I didn't raise the dosage.

22 Q. Didn't you raise it from five to ten?

23 A. It was raised from ten to 20 by Dr. Bander.

24 Q. But you continued her on the Prozac; in fact,
25 you even gave her a sleeping medication --

1 A. That's correct.

2 Q. -- didn't you?

3 A. Yes, that's correct.

4 Q. If you had to opine, since she was your
5 patient after all, what was the matter with Diana Radke?

6 A. She was mildly depressed.

7 Q. She was what?

8 A. Mildly depressed. Can I discuss depression?
9 There's a difference between --

10 Q. Not just at this time, but we will in a
11 moment. Did you ask her about any other drug usage?

12 A. No.

13 Q. Did you feel that you should?

14 A. She didn't appear to be on anything else.

15 Q. She didn't appear to be on anything else, and
16 so you didn't ask her?

17 A. I don't routinely ask my patients on every
18 visit if they are using -- abusing illegal drugs unless
19 I find signs of it.

20 Q. I didn't say illegal drugs. I meant any other
21 drug. You don't ask your patients if they're taking any
22 other medication?

23 A. I assume there's an involvement with trust. I
24 don't ask patients every time they come to see me if
25 they're taking any other drugs. There's a trust. And I

1 assume that when a patient comes to see me, she'll tell
2 me -- they would tell me if they're on any other
3 medication, since I'm their doctor.

4 MS. SHELTON: I don't have anything
5 further from this witness.

6 MS. MCVEA: Just briefly, Your Honor.

7 REDIRECT EXAMINATION

8 BY MS. MCVEA:

9 Q. Doctor, under Cross-Examination I think you
10 wanted to briefly discuss what depression is. Are there
11 different types of depression?

12 A. Well, there's a clinical analogy in psychiatry
13 in which there's a severe depression that is part of
14 an --

15 MS. SHELTON: Pardon me. I would
16 object to her testimony on depression. If you wish me
17 state the grounds, I will; that she has not been
18 qualified as an expert in this area, in psychological or
19 psychiatric disorders. She, herself, testified that she
20 interrupted a psychiatric residency and didn't complete
21 it. She has no other training. And as a doctor of
22 ophthal --

23 Did you say ophthalmology as a DO?

24 And as such, I don't think that she's --

25 THE WITNESS: Excuse me.

PERI K. STROMBERG, CSR

1 MS. SHELTON: -- been qualified to
2 testify as an expert, which she's being asked to do
3 now.

4 THE WITNESS: Excuse me. A DO is not
5 a doctor of ophthalmology. DO means doctor of
6 osteopathic medicine. Ophthalmology is a surgical
7 specialty.

8 MS. SHELTON: I believe you said you
9 were -- did a residency in ophthalmology and that you
10 were a doctor of osteopathic, and as such --

11 THE WITNESS: That's correct.

12 MS. SHELTON: -- Judge, I would state
13 my objection, still, that she's not an expert to testify
14 to psychological disorders.

15 THE COURT: Doctor, let me ask you a
16 question. Your nine months of training in psychiatry,
17 do you feel qualified to tell us about the different
18 kinds of depression?

19 THE WITNESS: Yes.

20 THE COURT: I overrule the objection.
21 You may do so.

22 A. Well, it's very simple. There's a severe form
23 of depression that has an axis rating, and frequently
24 people are hospitalized or institutionalized for severe
25 depression. And the kind of depression that she had was

1 a very mild form, and you give something like Prozac for
2 it. It's not of danger. But severe depression can be
3 of danger to a patient.

4 Q. (By Ms. McVea) And did Diana Radke exhibit
5 any signs of severe depression?

6 A. No, she did not.

7 MS. MCVEA: That's all we have, Your
8 Honor.

9 MS. SHELTON: I would ask that this
10 witness not be excused; that we may recall her. I have
11 no objection to her returning to her practice and
12 leaving her pager number with me or my associate and
13 being asked to return if she's needed, but I would ask
14 that she not be excused.

15 THE COURT: Dr. Benefield, you may be
16 excused, but you are subject to being recalled. Will
17 you make sure that the State knows how to contact you
18 either by telephone or pager?

19 THE WITNESS: Yes, sir. Sounds fine.

20 MS. MCVEA: State calls Samantha
21 Mayer.

22 MS. SHELTON: While they're getting the
23 witness, we've gotten our criminal records, checks on
24 the State's witnesses. Some of these people have been
25 on probation, and I'd like to have those records before

1 they start testifying. Before the witness begins
2 testifying, could I have her criminal record checked
3 that the DA was supposed to give to me before the
4 witness started testifying?

5 THE COURT: If you have such, please
6 give it to the Defense.

7 MS. MCVEA: Certainly, Your Honor.

8 THE COURT: Miss, did you take the oath
9 as a witness earlier?

10 THE WITNESS: Yes.

11 MS. MCVEA: Your Honor, this witness
12 does not have a criminal record.

13 THE COURT: Very well. You may proceed.

14 MS. MCVEA: Thank you, Your Honor.

15 SAMANTHA MAYER,
16 the witness hereinbefore named, being first duly
17 cautioned and sworn to testify the truth, the whole
18 truth, and nothing but the truth, testified on her oath,
19 as follows:

20 DIRECT EXAMINATION

21 BY MS. MCVEA:

22 Q. Will you state your name for the Record,
23 please.

24 A. Samantha Mayer.

25 Q. Can you spell your last name.

PERI K. STROMBERG, CSR

1 A. M-a-y-e-r.

2 Q. And ma'am, how are you employed?

3 A. I work for Jim Allee Honda as a receptionist.

4 Q. How long have you been so employed?

5 A. Three years.

6 Q. Did you know an individual by the name of

7 Diana Radke?

8 A. Yes.

9 Q. Okay. How did you know her?

10 A. She was a friend of mine.

11 Q. Did you know her husband Christopher Radke?

12 A. Yes.

13 Q. Do you see him in the Courtroom today?

14 A. Yes.

15 Q. Will you point to him and describe an article

16 clothing?

17 A. Yes. In the gray shirt, black.

18 Q. Okay. If I'm in seat No. 1 and my co-counsel

19 is seat No. 2, and counting to my right, what chair

20 would he be in?

21 A. Fourth.

22 MS. MCVEA: Your Honor, let the Record

23 reflect that the witness has identified the Defendant in

24 open Court.

25 Q. (By Ms. McVea) Now, how long did you know

1 Diana?

2 A. About four years.

3 Q. And did you know the Defendant prior to
4 knowing Diana?

5 A. No.

6 Q. Did you meet him through Diana?

7 A. Yes.

8 Q. Would you -- did you and Diana socialize and
9 visit with one another?

10 A. Yes.

11 Q. Go places together?

12 A. Yes.

13 Q. And are you a married woman?

14 A. Yes.

15 Q. And your husband's name?

16 A. Don Mayer.

17 Q. Because of your relationship with Diana, did
18 your husband and the Defendant become friends?

19 A. Yes.

20 Q. When you met Diana, was she dancing at a club?

21 A. Yes.

22 Q. Did you also dance?

23 A. Yes, at that time.

24 Q. Now since you were friends with Diana, did you
25 and -- did you see Diana and the Defendant interact with

1 one another?

2 A. Yes.

3 Q. On few or many occasions?

4 A. Many.

5 Q. How would you describe their marriage?

6 A. Rough.

7 Q. What do you mean by rough?

8 A. Lots of ups and downs. Lots of downs. Real
9 rocky.

10 Q. Would you consider it a good marriage or a bad
11 marriage?

12 A. Bad. Personal opinion, bad.

13 Q. Did you observe them arguing and fight a lot?

14 A. Yes.

15 Q. When I say "fight," I don't mean a fist fight,
16 but did you see them argue?

17 A. Verbal, yes.

18 Q. Did you know the source of the problems
19 between the two of them?

20 A. Yes.

21 Q. And what was that?

22 A. Alcohol, drug abuse.

23 Q. On whose part?

24 A. Chris.

25 Q. In Diana's presence, had you ever seen the

1 Defendant in possession of an illegal, controlled
2 substance?

3 MS. SHELTON: Your Honor, I have to
4 object to that. I don't understand the relevance.

5 THE COURT: The question was: Had she
6 ever seen the deceased in control, or was it the
7 Defendant?

8 MS. MCVEA: The Defendant in control in
9 the deceased presence. And the purpose of that
10 question, Your Honor, is it was mainly a source of
11 discontent between the two of them. It goes to their
12 relationship and how she reacted to that, how the
13 deceased reacted to it, his possession of drugs and his
14 use of drugs.

15 THE COURT: Very well. I overrule the
16 objection.

17 Q. (By Ms. McVea) Do I need to repeat the
18 question?

19 A. Yeah.

20 Q. Can you answer?

21 A. Yes. The question is, yes, she was there.

22 Q. The answer to that is yes. Okay.

23 How did Diana react to that when he would be in the
24 possession of drugs?

25 A. She would just -- she would be upset. I could

1 see it, but she didn't make any -- you know, she didn't
2 yell and scream or anything every time. She just wanted
3 to keep the peace. She didn't want to fight.

4 Q. What type of drugs did you see the Defendant
5 in possession of?

6 A. Marijuana, speed, pills, LSD.

7 Q. Did you personally, in Diana's presence, ever
8 hear him conspire to sell an illegal, controlled
9 substance?

10 A. In Diana's presence.

11 MS. SHELTON: Judge, I'm going to
12 object to that at this time; that they're accusing him
13 of other extraneous offenses that I haven't received
14 notice of. I object to that whole line of questioning.

15 MS. MCVEA: That's incorrect, Your
16 Honor. We had pretrial on the 17th of this month.
17 They're on file with the Court, and she did receive
18 notice.

19 THE COURT: All right. Tell me, what
20 the relevancy of this is that this is an issue between
21 the deceased and the Defendant; is that correct?

22 MS. MCVEA: That's correct, Your
23 Honor.

24 THE COURT: Overrule the objection.

25 Q. (By Ms. McVea) Did you ever hear him, the

1 Defendant, conspire to sell an illegal, controlled
2 substance in the Complainant, or Diana's presence?

3 A. Probably, yeah. But not -- that was -- she
4 wasn't always around, no.

5 Q. I understand. I'm talking about the times she
6 was around. Did you ever hear this?

7 A. Yeah.

8 Q. Was that on few or many occasions?

9 A. I would say few I heard, personally.

10 Q. What type of drugs are we talking about in
11 this instance?

12 A. Probably mostly marijuana.

13 Q. What was her reaction, Diana?

14 MS. SHELTON: Judge, I would have to
15 object again to this line of questioning. On her notice
16 of extraneous offenses, there is nothing here concerning
17 any of this that she's going into of this witness, and I
18 can proffer that to you right now.

19 THE COURT: All right. Perhaps she
20 can --

21 MS. MCVEA: May we approach, Your
22 Honor?

23 Pardon me?

24 THE COURT: Perhaps you can point out
25 to her and to me where the notice --

1 MS. MCV EA: Certainly.

2 THE COURT: -- of these extraneous
3 offenses is listed.

4 MS. SHELTON: I'm sorry. I marked on
5 that with some witness names next to it. Okay. There's
6 another sheet. You did deliver us one additional sheet
7 about some breaking Christmas presents or something in
8 December of 1995. Neither of us have ever seen this.

9 MS. MCV EA: It's in the Court's file.
10 The file is marked, and I delivered it right to her and
11 Mr. Steinbeck.

12 THE COURT: All right. Well, the
13 objection is overruled. Go ahead.

14 Q. (By Ms. McVea) Now, was a source of problems
15 in this marriage because of the Defendant's involvement
16 with drug abuse and selling drugs?

17 A. That's what I would say, yes.

18 Q. Now, during Diana's marriage to the Defendant,
19 had you ever seen any bruises on her body?

20 A. Yes.

21 Q. On several occasions or few occasions?

22 A. Few occasions.

23 Q. Where exactly did you see these bruises?

24 A. I saw one on her leg that I vividly remember.

25 Q. Okay. Anywhere else?

1 A. Arm.

2 Q. These bruises, had you seen them prior to
3 February 10th of 1996?

4 A. Arm, yeah. I saw one on her arm before that.

5 Q. Did you ever discuss the source of these
6 bruises with Diana?

7 A. I just asked her if there was something maybe
8 I should know.

9 Q. How did she respond?

10 A. Nothing. She didn't say anything. You know,
11 don't -- nothing to worry about.

12 Q. Did the Defendant ever come to your home alone
13 without Diana?

14 A. Yes.

15 Q. And had you ever heard the Defendant threaten
16 Diana with bodily harm either in person or over the
17 telephone?

18 A. Yes.

19 Q. How many times did you witness that?

20 A. A few.

21 Q. What sort of things would he say to her?

22 A. Oh, just if she came over there or whatever,
23 he was going to kick her ass or whatever, something like
24 that; to the fact that he would be there at our house,
25 and she would say, I'm coming over there now, and he

1 would threaten her if she did.

2 Q. Did the Defendant, to your knowledge, go out a
3 lot alone without Diana?

4 A. Yes.

5 Q. Did he ever disappear for days at a time?

6 A. Yes.

7 Q. Okay. Was that a problem in their marriage?

8 A. Yes.

9 Q. How did she -- how did Diana feel about that?

10 A. Very upset.

11 Q. What would she do if the Defendant wouldn't
12 come home?

13 A. Get very worried; call me.

14 Q. Did she ever attempt to make contact with the
15 Defendant?

16 A. Oh, yeah. Page him.

17 Q. Has there ever been an occasion in which the
18 Defendant would be at your home without Diana and Diana
19 would call looking for him?

20 A. Yes.

21 Q. And if he was there, what would he instruct
22 you or your husband to do?

23 A. He asked us on several occasions to say, we
24 didn't see him or he wasn't here.

25 Q. Describe your relationship with Diana.

1 A. We were friends. We talked, you know.

2 Q. Would you say the two of you were very close?

3 A. Yeah.

4 Q. How did Diana view your marriage?

5 A. She looked up to my husband and I. We had had
6 problems, and she had hoped that her marriage could
7 work.

8 Q. I'm going to direct your attention to February
9 10th of 1996. I believe that was a Saturday. Do you
10 recall that day?

11 A. Yes, I do.

12 Q. Did you receive a phone call from Diana Radke?

13 A. Yes, I did.

14 Q. And where was she calling from?

15 A. The hospital.

16 Q. Was that Baylor?

17 A. Yes.

18 Q. In Garland?

19 A. Garland.

20 Q. After your phone call with her, where did you
21 go?

22 A. To Baylor Garland.

23 Q. What was your purpose in going there?

24 A. She had told me to hurry up, come to the
25 hospital; that she was hurt, and she needed to talk.

1 And she said, you know, told me that she had fallen down
2 the stairs.

3 Q. Did you take her home?

4 A. Yes, I did.

5 Q. When you met with her, was she upset?

6 A. Yes.

7 Q. Did you see her injuries?

8 A. Yes.

9 Q. Can you briefly describe it?

10 A. Her lip was extremely swollen. There was
11 blood all over here, blood all over her mouth. Her
12 braces were knocked off. She could hardly talk. It was
13 extremely swollen, and it had a big, giant cut from the
14 nose down to the lip where the lip had been split open.

15 Q. Do you remember what she was wearing?

16 A. Pastel shirt of some kind.

17 Q. Did she have blood on her shirt?

18 A. Yes. It was very vivid. You could see lots
19 of blood.

20 Q. A lot of blood?

21 A. A lot of blood.

22 Q. Did you take her home?

23 A. Yes, I did.

24 Q. Was she living at that time at 1001 Sunset in
25 Garland, Texas?

1 A. Yes.

2 Q. Do you recall the approximate time you took
3 her home?

4 A. We probably got home about 4 a.m.

5 Q. Did you stay with her that night?

6 A. Yes.

7 Q. And why did you stay with her?

8 A. To be a friend, to support her. We needed to
9 talk. I was her friend. She was hurt.

10 Q. Was the Defendant at the home when you took
11 Diana to her home?

12 A. No.

13 Q. Now, the next day, or later on that same day,
14 something unusual happened that afternoon. Can you go
15 ahead tell us about that? What's the first thing that
16 you remember?

17 A. Yeah. The first thing, we had gotten up and
18 we talked. I thought everything was okay. You know, we
19 had talked. And we were getting ready -- she was going
20 to take a shower. And about that time we was trying to
21 turn on the hot water heater, she -- I heard a banging
22 and a loud noise at the front door, and it was Chris.
23 He was banging and yelling and screaming at the front
24 door. Unlock the door, stupid bitch, or something.
25 Just cursing. Let me in. Let me in. I want my shit.

1 And then eventually it turned -- he made the comment
2 that he wanted the gun. He wanted all his shit. You
3 know, just let him in to get his shit.

4 Q. Okay. Now, was he saying that kind of nice
5 like?

6 A. No. No.

7 Q. Did he appear to be angry?

8 A. Very.

9 Q. Okay. How were you able to see him?

10 A. I couldn't see him. I could hear him. Sounds
11 like he was banging and kicking the door.

12 Q. Now, who's in the house at this time?

13 A. Diana, and I and Zachary.

14 Q. And what was Diana's reaction to all this?

15 A. Very distraught. She started shaking,
16 quivering her lip. She was extremely nervous, very
17 frightened.

18 Q. Did she appear to be very afraid?

19 A. Very afraid.

20 Q. Had you ever seen her like that?

21 A. No.

22 Q. What about the baby? What was his reaction?

23 A. He seemed okay.

24 Q. Now did he continue to bang on the front
25 door --

1 A. Yeah.

2 Q. -- the Defendant?

3 A. Diana was yelling and screaming to call the
4 police. Samantha, call the police.

5 Q. Diana was saying that to you?

6 A. Yeah. And I was so scared. I had never seen
7 them fight like that and I was nervous. And about that
8 time, you know, Zachary got a little upset, and then I
9 was over there making sure he was okay. And Diana had
10 got the phone, and she was calling the police, and about
11 that time Chris come around from the side gate to the
12 backyard to the back sliding glass door.

13 Q. Okay.

14 A. So she was calling the police, because I had
15 never seen her like that. I was in shock.

16 Q. Now from the back of the house, is there a
17 sliding glass door, a patio door?

18 A. It's in the kitchen, yes. And the phone was
19 in the kitchen.

20 Q. Could you see the Defendant there at the
21 sliding glass door?

22 A. Yeah. He appeared at the back door, the glass
23 door.

24 Q. Did they have any curtains or anything?

25 A. No. They had just moved in.

1 Q. And you said that from that sliding glass
2 door, it's right adjacent to the kitchen?

3 A. Um-hum. It's in the kitchen.

4 Q. Now you said that Diana grabbed the phone to
5 call the police?

6 A. Um-hum. She dialed 911 and called the
7 police. She was on the phone with the police when he
8 appeared at the door.

9 Q. Okay. And was he -- could he see -- was his
10 view obstructed from Diana's view?

11 MS. SHELTON: Objection. She could not
12 possibly know that, what his view was.

13 THE COURT: Well, if she knows, she may
14 answer; otherwise, not.

15 A. I don't understand the question.

16 Q. (By Ms. McVea) Basically what I'm asking you
17 is, from where the Defendant was standing there on the
18 outside of the patio door, was there a clear view of him
19 and Diana?

20 A. Oh, yeah. Yeah.

21 Q. So they could see one another?

22 A. Yeah. They saw -- yeah. Oh, yeah. He came
23 around there and saw her on the phone.

24 Q. Okay.

25 A. He was very upset.

1 Q. Did he say anything?

2 A. You better not be calling the police.

3 Q. And was he doing anything there at the patio
4 door, the Defendant?

5 A. Just yelling and screaming and trying to open
6 the door.

7 Q. And did Diana go towards that patio door?

8 A. No. She stayed on the phone until he asked
9 her to let him see her face.

10 Q. Okay. Did she show him her face?

11 A. Um-hum.

12 Q. Did you see her point to her lip?

13 A. Yes. She pointed to her lip; look what you
14 did to me.

15 Q. Okay. And what was the Defendant's reaction
16 to that or response?

17 A. He seemed a little concerned at first, and
18 then she continued to talk on the phone because she was
19 telling the police, you know, where she lived and
20 everything. And he told her that if that was the police
21 she was talking to on the phone, that he would bust her
22 mouth open again.

23 Q. That's what the Defendant said --

24 A. Yes, he did.

25 Q. -- I'll bust your mouth open again?

1 A. Yes.

2 Q. Did he do anything else?

3 A. He turned to me and was real calm and asked me
4 please to open the door. And I said, no, shook my head
5 no. And then he turned to Diana -- he was very mad --
6 and told her if she didn't open the door, that he was
7 going to break the glass door. And then I yelled at him
8 that if he broke the glass door on me, that my husband
9 would be very angry with him, and not to do that. I had
10 Zachary in my arms at that time.

11 Q. Did he break the glass door?

12 A. No.

13 Q. Did you tell him to do anything, the
14 Defendant?

15 A. I told him he needed to leave, please just
16 leave.

17 Q. Did he leave?

18 A. Eventually he left, yes.

19 Q. Did the police respond?

20 A. Yes, they did.

21 Q. Was the Defendant there when the police got
22 there?

23 A. No.

24 Q. Did you report what you had seen to the
25 police?

1 A. Yes.

2 Q. Were you aware that Diana and Chris had a
3 shotgun in their home?

4 A. Yes.

5 Q. Did you know where the shotgun was kept, at
6 least on that date?

7 A. On that date, yes, I knew where it was at.

8 Q. Where was it?

9 A. Bedroom closet on a shelf.

10 Q. When the police arrived there, did they take
11 anything with them?

12 A. Yes, they took the gun.

13 Q. Okay. Samantha, why did they take the gun?

14 MS. SHELTON: Objection. She could not
15 have known why the police took the gun.

16 THE COURT: Sustained.

17 Q. (By Ms. McVea) What is your understanding as
18 to the reason why the gun was confiscated by the police?

19 MS. SHELTON: Objection.

20 A. Diana asked them to remove it.

21 THE COURT: Sustained.

22 Q. (By Ms. McVea) Did you see Diana there
23 speaking with the police officers?

24 A. Yeah.

25 Q. Okay. And did she appear to be upset and

1 excited?

2 A. She was still shaking. Her lip was quivering,
3 and she was just shaking like a leaf. She was just very
4 upset.

5 Q. Okay. And did you hear her say something to
6 the police officers concerning the gun?

7 A. Oh, yeah.

8 Q. What did she say?

9 A. She asked them to remove it, please; that she
10 didn't want it in her home.

11 Q. Did you see the police officers actually
12 remove that gun?

13 A. Yeah. They asked her to show them where it
14 was, and she couldn't. She was shaking so bad. She was
15 so scared and nervous. And she asked me, please, to
16 show them where it was at, so I showed them where it was
17 at.

18 Q. Were you aware that Diana had gotten the
19 shotgun back from the police department?

20 A. Yes.

21 Q. Do you know approximately when she got the
22 shotgun back?

23 A. It was earlier that week, probably Tuesday. I
24 would say Tuesday.

25 Q. When you say early that week, do you mean the

1 week of her death?

2 A. It was the week of -- probably around
3 Valentine's or shortly thereafter. Right after
4 Valentine's day. In between. Probably a week before.

5 Q. Do you know why she got the shotgun back?

6 A. She had told me that Chris had been asking her
7 to get it back, to say it was hers. And I told her I
8 didn't think that was a good idea. And she had told me
9 that Chris said that if they could get it back, they
10 could sell it for \$200, and they needed the money.

11 Q. Were there certain things -- they hadn't been
12 living in that house very long, had they?

13 A. No, they had just moved there.

14 Q. Were there certain things in the house that
15 they needed?

16 A. Oh, yeah. They didn't have a refrigerator,
17 nothing to put the milk in for the baby. She was
18 putting milk in a cooler.

19 Q. When was it that you found out about Diana's
20 death?

21 A. The night of her death.

22 Q. From whom did you find that out?

23 A. Tracy Parish.

24 Q. Now you said that you had a pretty close
25 relationship with Diana, did you not?

1 A. Yes.

2 Q. Okay. And did she ever talk about suicide
3 with you?

4 A. No.

5 Q. Have you ever said that she talked about
6 suicide to anyone, to your knowledge?

7 A. No. No.

8 Q. Now Diana was slightly overweight, was she
9 not?

10 A. Yes.

11 Q. Were you aware that she was on diet pills?

12 A. Yes.

13 Q. Were you aware that she was also on Prozac?

14 A. Yes.

15 Q. Samantha, when was the last time you saw Diana
16 in person prior to her death?

17 A. Probably about three days.

18 Q. And how was her mood?

19 A. Good.

20 Q. Was she happy about anything in particular?

21 A. I asked her how things were, and she said they
22 were good, that everything was okay.

23 Q. Were you talking about her -- the relationship
24 with the Defendant?

25 A. Yes.

1 MS. MCVEA: Pass the witness, Your
2 Honor.

3 CROSS-EXAMINATION

4 BY MS. SHELTON:

5 Q. Is it Samantha Mayer?

6 A. Um-hum.

7 Q. M-a-y-e-r?

8 A. Yes.

9 Q. Samantha, would you give me your full name,
10 that is, your maiden name, please.

11 A. Samantha Cook Mayer. Samantha Cook.

12 Q. C-o-o-k?

13 A. Yeah, no E.

14 Q. And do you have a middle name?

15 A. Lynn.

16 Q. L-y-n-n?

17 A. That's correct.

18 Q. And could you give me your date of birth?

19 A. 12/25/68.

20 Q. And what -- where did you say you met Diana
21 Morrison?

22 A. I had actually met her -- at that time, she
23 was dating my husband's friend David.

24 Q. And --

25 A. They had come over to watch a football game.

1 Q. Before you got your receptionist job, what
2 stage name did you dance under?

3 A. Dawn.

4 Q. Is that D-a-w-n?

5 A. Correct.

6 Q. What clubs did you dance at?

7 A. Dreams, The Fair, Baby Dolls, PT's.

8 Q. And did Diana dance at all these same clubs
9 with you?

10 A. No.

11 Q. Which was the club that you-all danced at
12 together that you performed the -- like the stage show
13 act, the little act that you-all would do?

14 A. We danced together at dreams, but I don't know
15 anything about a stage show.

16 Q. With particularity, I'm asking you about the
17 simulated sex act that you --

18 MS. MCVEA: Your Honor, I'm going to
19 object. That's certainly not relevant.

20 MS. SHELTON: Judge, if I may, this
21 witness has portrayed herself and her comportment as
22 a la tremble, at the very slightest raising of a male
23 voice, and I would like to depict her as she really is,
24 a woman who's used to a male roar, much less a voice
25 raised.

1 THE COURT: I sustain the objection.

2 MS. MCVEA: Thank you, Your Honor.

3 Q. (By Ms. Shelton) How long did you dance in
4 these clubs?

5 A. I danced for quite some time, for about four
6 years.

7 Q. And did you ever become acquainted with a
8 gentleman there named Greg Freyman?

9 A. I don't know.

10 Q. Did you know Greg Freyman?

11 A. I know Greg Freyman, but not from the clubs.

12 Q. Where do you know him from?

13 A. He's -- I think I met him from David Chandler.

14 Q. Do you know where David Chandler is now?

15 A. Um-hum.

16 Q. Where?

17 A. Managing at work.

18 Q. Where?

19 A. At his father's cycle shop where he works.

20 Q. Which is where?

21 A. Grand Prairie.

22 Q. What's the name of the place?

23 A. Grand Prairie Cycle Shop.

24 Q. How long did David Chandler and Diana date?

25 A. About six months.

1 Q. And did you find it something untoward and
2 upsetting that a man would come to his own home and try
3 to get his clothes and leave?

4 MS. MCVEA: Your Honor, I believe that
5 question calls for speculation.

6 THE COURT: Overruled.

7 MS. SHELTON: I was going to say it
8 calls for state of mind, but --

9 A. I'm sorry. Would you repeat the question?

10 Q. (By Ms. Shelton) Would you say that a man
11 trying to come to his own home and just get his clothes
12 and leave would call for just everyone to be all a
13 tremble and crying?

14 A. No. I would say on a normal basis, no.

15 Q. Then what was the problem that day since you
16 seemed to know everything that went down? What was the
17 problem with giving the man his clothes and letting him
18 go?

19 A. I imagine the prior event at the hospital, why
20 she was there and what her mouth was like. I mean --

21 Q. Samantha, why not just put his clothes outside
22 the front door?

23 A. I don't know. She was very afraid to open the
24 door. And at the tone he had, he was yelling and
25 screaming and cussing. I sure wasn't going to open the

1 door.

2 Q. Well, he wasn't armed, was he?

3 A. I'm not going to open the door with someone
4 yelling.

5 Q. I asked you a question.

6 A. No, he wasn't armed. No --

7 Q. In fact, she was armed.

8 COURT REPORTER: Could you talk one at
9 a time.

10 Q. (By Ms. Shelton) She --

11 A. No, she was not armed. The --

12 Q. Was the shotgun in the house?

13 COURT REPORTER: Let her finish before
14 you start.

15 A. Yes, the shotgun was in the house, to your
16 question.

17 Q. (By Ms. Shelton) Then what was the problem,
18 if he was at the front door, with putting his clothes
19 out the back door?

20 A. I don't know. It was her home. I wasn't
21 going to open her door if she didn't want the door
22 opened.

23 Q. Well, you seem to understand --

24 A. He was very upset. I wasn't -- he was mad. I
25 wasn't opening the door to someone yelling and screaming

1 like that.

2 Q. Wouldn't you be upset if you needed your
3 clothes and couldn't get them? Never mind. I'll take
4 that question back.

5 Now, Diana has stated -- or did state that she
6 learned of Prozac from you. Of course, we know that's a
7 legal drug; it's perfectly legal. How did she learn of
8 it from you? What were the circumstances?

9 MS. MCVEA: Your Honor, I'm going to
10 object. I believe the Defense attorney is trying to
11 impeach this witness with personal information, and we
12 object.

13 THE COURT: Overruled.

14 Q. (By Ms. Shelton) How did she -- what kind of
15 discussion were you-all having? Was she revealing some
16 of her mental state to you? What was going on that
17 caused you to tell her about Prozac?

18 A. I don't ever remember telling her about
19 Prozac.

20 Q. But you were using it?

21 A. I was taking an antidepressant, but it wasn't
22 Prozac.

23 Q. What was it?

24 A. It was Zoloft.

25 Q. Zoloft. Did you discuss, then, Zoloft with

1 her?

2 A. It's a possibility. I don't remember, though,
3 directly remember us -- a time talking to her about an
4 antidepressant.

5 Q. Now at one point Diana weighed 193 pounds.
6 You knew her during that time period?

7 A. Yes.

8 Q. You were her friend?

9 A. Um-hum.

10 THE COURT: Please say yes or no, Miss.

11 THE WITNESS: Yes. I'm sorry.

12 Q. (By Ms. Shelton) Would you say 193 pounds on
13 a woman is just a little bit overweight or pretty heavy?

14 A. I would say for a woman, it would be according
15 to her height.

16 Q. How tall was Diana?

17 A. Very tall.

18 Q. Wasn't she about 5'6" or 7'?

19 A. I would say -- that's tall to me. I'm five
20 foot.

21 Q. Wasn't she about 5'6" or 7'?

22 A. I'd say 5'7".

23 Q. Would you say on a 5'7" woman, 193 or 200
24 pounds is quite a bit of weight?

25 A. That's a personal opinion. That's a lot of

1 weight, yeah.

2 Q. Was she trying to lose that weight?

3 A. Yeah.

4 Q. Was she depressed over being that heavy?

5 A. I don't know if you'd say she was depressed.

6 I know she didn't want to be -- I know she wanted to
7 lose weight.

8 Q. Why would she be taking Prozac, if you know?

9 A. I have no idea. I mean --

10 Q. You said Diana went to the Garland police
11 station and got the shotgun back from the police,
12 correct?

13 A. That's what she told me, yeah.

14 Q. And did you remonstrate with her say, or say
15 why have you done this, or this isn't a good idea?

16 A. Yeah, I did. And that's when she expressed to
17 me that Chris said he could sell it for \$200, and they
18 needed the money.

19 Q. Okay. But first she said he asked her to get
20 it back, and you told her it was not a good idea.
21 That's what you previously testified to. And then she
22 had another answer for you; that the gun could be sold
23 for \$200, correct?

24 A. Correct.

25 Q. In other words, she had a justification for

1 it.

2 A. Well, yeah he had -- they needed the money.

3 Q. But she had a justification for it, right?

4 A. Yeah, I guess so.

5 Q. And then on the night that you went to Baylor
6 Garland when her lip was split from falling on the car
7 bumper, how many --

8 MS. MCVEA: Your Honor, I'm going to
9 object. The Defense attorney is assuming facts not in
10 evidence and trying to testify on behalf of this
11 witness.

12 THE COURT: Overruled.

13 Q. (By Ms. Shelton) How many people had she
14 called to come to the hospital that night to see her,
15 besides yourself?

16 A. I don't know before me who she called. After
17 me, she called her boss.

18 Q. She called her boss. Who was that?

19 A. Cora.

20 Q. Cora who?

21 A. I'm not sure of Cora's last name.

22 Q. At what establishment?

23 A. The air-conditioning place where she worked.

24 Q. All right. Did you not see that she had
25 called her mother, Sherri Parker? Was she out there?

1 A. Yeah, her mother was already there. But prior
2 to me, I don't know who she called.

3 Q. But who else did you see besides Sherri Parker
4 whom she had called?

5 A. Sherri's husband.

6 Q. There was Sherri Parker, her husband Mr.
7 Parker, there was Cora her boss?

8 A. Cora was not there.

9 Q. But she called her --

10 A. Right.

11 Q. -- was calling her while you were there.
12 There was her best friend Samantha. Do you know of any
13 other people she called to come out there that night?

14 A. She called Chris.

15 Q. Chris Radke. Did she call Chris after you got
16 there?

17 A. Um-hum.

18 THE COURT: Please say yes or no.

19 A. I walked in. She was talking to Chris.

20 Q. (By Ms. Shelton) Could she have called him
21 first?

22 A. I don't think she probably could get a hold of
23 him.

24 Q. Why not?

25 A. I don't know. He didn't call her back very

1 often.

2 Q. So would it be safe to say that she had called
3 Chris, and he had refused to respond that evening?

4 A. It's possible. I have no idea. I wasn't -- I
5 don't know. I know she was on the phone with Chris when
6 I walked in the hospital room. That's all I know.

7 Q. But he never showed up at the hospital?

8 A. No, he didn't.

9 Q. What was she saying to Chris on the telephone?

10 A. I don't know. There were lots of yelling and
11 screaming, and she was upset. They were talking
12 about --

13 Q. Pardon me --

14 A. -- why haven't you been home, and this and
15 that.

16 Q. Pardon me, ma'am. You said there was lots of
17 yelling and screaming, but she was the one you were
18 listening to, wasn't she?

19 A. No. She handed the phone to me. Try to talk
20 to Chris, she said, please. And he was yelling and
21 screaming. He thought he was still talking to her, so I
22 heard him yelling and screaming. I simply hung the
23 phone up.

24 Q. So he was harassing her at the hospital or she
25 was calling him?

1 A. She was calling him, but once he was on the
2 phone there, he was yelling and screaming at her.

3 Q. But she wanted some husbandly attention from
4 him?

5 A. I think so, yes.

6 Q. But she just didn't get it, did she?

7 A. No.

8 Q. He didn't come?

9 A. No, he didn't come.

10 Q. So she called other people?

11 A. Right.

12 Q. Numerous other people: Her boss, her best
13 friend --

14 A. Not numerous. I know she called me and her
15 boss. I mean --

16 Q. -- stepfather, her brother.

17 COURT REPORTER: One at a time,
18 please.

19 Q. (By Ms. Shelton) Did you know Diana when she
20 was with Daniel Zimbleman?

21 A. No, I didn't.

22 Q. And what did she tell you about her feelings
23 about Daniel's death?

24 A. Just that it -- that she really loved Daniel.

25 Q. Was she despondent over his death?

1 A. Yeah. She grieved his death, yes.

2 Q. Would you describe her as devastated?

3 A. No, not devastated. It hurt. She loved
4 Daniel. He was dead and she grieved him.

5 Q. Did she ever say to you, I wish I was with
6 him, or I wish I could still be with him?

7 A. No, I never heard her say that.

8 Q. Meaning she wished he was still alive.

9 A. She never even really said that she wished he
10 was still alive. She just --

11 Q. That she no longer cared about that?

12 A. She just talked about how things were between
13 her and him.

14 Q. Do you remember the event when you-all were
15 working out at a club where I think Rick Yarbrough was
16 the manager? Do you know where I'm talking about?

17 A. It could be Dreams or PT's. I worked at both
18 with him.

19 Q. He worked at both?

20 A. Yes.

21 Q. At different times. Do you recall Rick
22 Yarbrough calling the police on you and Diana and having
23 you thrown out of the club?

24 MS. MCVEA: Your Honor, I'm going to
25 object.

1 A. No. I don't remember that.

2 MS. MCVEA: Improper impeachment of a
3 witness. I object.

4 THE COURT: I sustain the objection.

5 A. No, I don't remember that.

6 MS. MCVEA: Don't answer.

7 Q. (By Ms. Shelton) You stated that Diana was
8 just a very peace-loving, nonviolent individual.

9 MS. MCVEA: Your Honor, I'm going to
10 object. She did not testify to that. That's an unfair
11 characterization.

12 THE COURT: Sustained.

13 Q. (By Ms. Shelton) You describe her
14 nervousness, her fear, threats of bodily harm, that she
15 was simply trembling, that -- very afraid. You had
16 never seen her in her life like this, like in the grip
17 of this emotion.

18 A. No.

19 Q. We're talking about when her husband was
20 beating on the door trying to get his clothes. Did you
21 ever see her in the grip of any bizarre or excited
22 emotions?

23 A. Any what?

24 Q. Bizarre, unusual emotions. Did you ever see
25 her display --

1 A. That was the bizarrest emotion I had ever seen
2 her in, to be trembling like that.

3 Q. Did you ever see her fight with or strike
4 another person?

5 A. No.

6 Q. Did you ever see her husband after she blacked
7 his eye?

8 MS. MCVEA: Your Honor, I'm going to
9 object. That's assuming facts not in evidence, and we
10 object.

11 THE COURT: Sustained.

12 Q. (By Ms. Shelton) And you deny fist fighting
13 with the other girls out at the topless bar --

14 MS. MCVEA: Your Honor, I object
15 again. That's improper impeachment of a witness. You
16 can only impeach with a criminal act that she was
17 convicted of.

18 THE COURT: Sustained.

19 MS. SHELTON: Can I ask her if she was
20 arrested on that night, Judge, and under what name?

21 MS. MCVEA: Your Honor, I object
22 again. Same objection.

23 THE COURT: Well, the State has said
24 that this witness was never arrested. You may ask her
25 that question.

1 Q. (By Ms. Shelton) Diana was not arrested.
2 We're not speaking of Diana at all.

3 A. Okay.

4 Q. Her husband came and picked her up and took
5 her away. You were taken off in the police car. Under
6 what name did you go?

7 A. I was not taken off in a police car. I was
8 never arrested from the club.

9 Q. What name were you taken --

10 A. I danced by that -- just the name Dawn. They
11 have a copy of my driver's license. They knew I was
12 Samantha Cook.

13 Q. Do you have a copy of your driver's license
14 with you here today?

15 A. I think so.

16 Q. Would you mind showing it to my investigator
17 as you exit the Courtroom?

18 A. Yeah. No problem.

19 Q. If you'll stand up, and maybe you-all can --

20 MS. MCVEA: Your Honor, I object.

21 What's the relevance of that, her showing her driver's
22 license? She's already testified under oath who she
23 is.

24 THE COURT: Well, she said she was
25 willing to do it. I overrule the objection.

1 MS. SHELTON: I don't have any other
2 questions for this lady.

3 MS. MCVEA: Nothing further, Your
4 Honor.

5 THE COURT: All right. You may step
6 down, Miss.

7 MS. MCVEA: State calls Officer
8 Murphy.

9 THE COURT: Sir, did you take the oath
10 as a witness?

11 THE WITNESS: Yes, sir.

12 THE COURT: Thank you.

13 MATT MURPHY,
14 the witness hereinbefore named, being first duly
15 cautioned and sworn to testify the truth, the whole
16 truth, and nothing but the truth, testified on his oath,
17 as follows:

18 DIRECT EXAMINATION

19 BY MS. MCVEA:

20 Q. State your name for the Record, please.

21 A. Officer Matt Murphy.

22 Q. I can tell by your uniform that you're a
23 Garland police officer. How long have you been so
24 employed?

25 A. Four years.

PERI K. STROMBERG, CSR

1 Q. Okay. Were you employed with the Garland
2 Police Department back on February 11th, 1996?

3 A. Yes, ma'am.

4 Q. On that date in the early afternoon, were you
5 on duty?

6 A. Yes, ma'am.

7 Q. Were you conducting a routine patrol?

8 A. Yes, ma'am.

9 Q. Did you receive a call to respond to a
10 location at 1001 Sunset in Garland, Texas?

11 A. Yes, ma'am.

12 Q. And is that location in Dallas County, State
13 of Texas?

14 A. Yes, ma'am.

15 Q. What was the nature of the call?

16 A. It was a family disturbance.

17 Q. Do you recall the approximate time that you
18 responded to that location, initially?

19 A. It was probably 3:30 or 4:00. It was early.

20 Q. Now, when you responded to that location, did
21 you make contact with anyone in particular?

22 A. Yes, ma'am.

23 Q. Who was that?

24 A. Diana Radke.

25 Q. Was there also another female present there at

1 the home?

2 A. Yes, ma'am, there was.

3 Q. Do you recall her name?

4 A. No, ma'am.

5 Q. Now, when you made contact with Diana Radke,
6 what was her demeanor?

7 A. She was crying. And she was sitting on the
8 couch, and she was sitting like in a fetal position on
9 the couch crying.

10 Q. Did it appear to you she was upset?

11 A. Yes, ma'am, very much so.

12 Q. Did she report an offense to you?

13 A. Yes, ma'am.

14 Q. And did she name a person as the perpetrator
15 of that offense?

16 A. Yes, ma'am.

17 Q. Who was that?

18 A. Her spouse Christopher Radke.

19 Q. What type of offense did she report?

20 A. An assault.

21 Q. Could you see any visible injuries on her?

22 A. Yes, ma'am.

23 Q. To what portion of her body?

24 A. Her face.

25 Q. Was it your understanding that that offense

1 had occurred prior, not that it didn't just occur?

2 A. Yes, ma'am.

3 Q. Was the Defendant there present at the scene
4 when you first arrived?

5 A. No, ma'am.

6 Q. Were you given permission to search the house?

7 A. Yes, ma'am.

8 Q. Did you recover anything?

9 A. Yes, ma'am.

10 Q. What was that?

11 A. We recovered a quantity of marijuana and a
12 weapon.

13 Q. Can you tell us what type of weapon?

14 A. It was a double-barrel 12-gauge shotgun.

15 Q. Do you know the brand name?

16 A. It was a Savage, I believe

17 MS. MCVEA: Can I have a moment, Your
18 Honor?

19 THE COURT: Yes.

20 (Whereupon, State's Exhibit No. 11
21 was marked by the Court Reporter.)

22 Q. (By Ms. McVea) Officer, I'm showing you
23 what's been marked for identification purposes as
24 State's Exhibit No. 11. Do you recognize this item?

25 A. Yes, ma'am.

1 Q. What is it?

2 A. It's the shotgun that I confiscated.

3 Q. Okay. Is this a double-barrel Savage shotgun?

4 A. I'd have to look at it to see what the brand
5 is.

6 Q. Okay.

7 A. Yeah, a Savage shotgun.

8 Q. And is it in the same or similar condition as
9 is was the date that you recovered it on February the
10 11th, 1996?

11 A. Very similar.

12 Q. Okay. Now, when you -- from where did you
13 remove the shotgun?

14 A. Closet.

15 Q. Okay. And where?

16 A. It was in a bedroom in the back of the house
17 on a shelf in a closet.

18 Q. Okay. When you removed that shotgun, was it
19 loaded?

20 A. Yes, ma'am.

21 Q. Both barrels?

22 A. Yes, ma'am.

23 Q. Did you clear the shotgun?

24 A. Yes, ma'am.

25 Q. Why was it that you seized that shotgun?

1 A. At Ms. Radke's request.

2 Q. When she requested of you to remove the
3 shotgun, was she upset?

4 A. Yes, ma'am.

5 Q. What did she say?

6 A. She said that she was afraid that he would use
7 it to kill her, and she wanted us to take it.

8 Q. Those were her exact words?

9 A. Yes, ma'am.

10 Q. Was the Defendant, Christopher Radke, arrested
11 that night?

12 A. Yes, ma'am.

13 Q. Was that by you or another officer?

14 A. No, ma'am, that was by another officer.

15 Q. Officer, is a shotgun, is that a firearm?

16 A. Yes, ma'am.

17 Q. And is a firearm a deadly weapon?

18 A. Yes, ma'am.

19 Q. Was that double-barrel Savage shotgun returned
20 to Diana Radke at a later date?

21 A. Yes, ma'am.

22 Q. Do you know when?

23 A. Just off recollection, it was three or four
24 days later. She had called and left a message for me,
25 and I returned her call.

1 Q. And did she express to you why she wanted the
2 shotgun back?

3 A. She just said that she wanted the shotgun
4 back.

5 Q. Why was it that you returned it to her, or why
6 was it returned to her?

7 A. It was returned to her because we had no
8 reason to keep it. It was not used in an offense, and I
9 had no legal means to keep it.

10 MS. MCVEA: Pass the witness, Your
11 Honor.

12 CROSS-EXAMINATION

13 BY MR. STEINBECK:

14 Q. Officer, do you have any police report with
15 regard to this assault alleged?

16 A. Do I have any with me? No, sir.

17 Q. Was there a police report made on this?

18 A. Yes.

19 Q. Did you have any notes that you took at the
20 scene or any place thereafter?

21 A. I made notes of the information, the date of
22 birth, the name and such like that, but I did not retain
23 them.

24 Q. Who was the key investigator on this case?

25 A. As far as then or at the scene?

PERI K. STROMBERG, CSR

1 Q. Yes.

2 A. At the scene it was myself.

3 Q. Anyone else get involved later on that
4 overtook your role?

5 A. I don't know.

6 Q. Was that routinely done when someone gets on a
7 case and investigates it?

8 A. If there's an arrest made, it just depends on
9 the case. If I make an arrest or I make a report, it's
10 usually followed up.

11 Q. Do you have a copy of the report?

12 MS. MCVEA: May I take the witness on
13 Voir Dire, Your Honor?

14 THE COURT: You may.

15 VOIR DIRE EXAMINATION

16 BY MS. MCVEA:

17 Q. Officer, did you refresh your memory from this
18 report today for Court?

19 A. No, ma'am.

20 MS. MCVEA: We object. They're not
21 entitled to the police report.

22 THE COURT: Is this a report prepared
23 by this officer?

24 Q. (By Ms. McVea) Did you prepare the report,
25 Officer?

PERI K. STROMBERG, CSR

1 A. Yes, ma'am, that day.

2 Q. Okay.

3 THE COURT: All right. Turn it over to
4 the Defense.

5 (Whereupon, the report was tendered
6 to the Defense.)

7 CROSS-EXAMINATION CONTINUED

8 BY MR. STEINBECK:

9 Q. So the allegation was that she was pushed down
10 a flight of stairs at a friend's house?

11 A. Yes, sir.

12 Q. The previous day or two?

13 A. Yes, sir.

14 Q. So it wasn't even at that location?

15 A. No, sir.

16 Q. And what -- did you ever inquire as to what
17 she was doing over at his friend's house?

18 A. No, sir.

19 Q. You never did?

20 A. No, sir.

21 Q. Did you ever talk to any witnesses who might
22 have been there at his friend's house?

23 A. No, sir. She was unsure of the exact address,
24 so I had no idea where to contact anybody.

25 Q. So he's arrested without being able to tell

1 his side of the story; is that the way it normally
2 works?

3 A. I did not arrest him.

4 Q. Was he arrested later on after that?

5 A. Yes, sir.

6 Q. Okay. So that was never inquired into before
7 he was arrested, correct?

8 A. I don't know. I didn't arrest him.

9 Q. I'm sorry?

10 A. I have no idea. I did not arrest him.

11 Q. Well, you're aware of the fact he was
12 arrested, right?

13 A. Yes, sir.

14 Q. And given you were the investigator on the
15 case, you don't know whether any follow-up investigation
16 was ever done?

17 A. No, sir.

18 Q. Of course, is this normal police policy to
19 take the word of the Complainant in an arrest of the
20 accused?

21 A. Yes, sir, it is in a family disturbance
22 situation.

23 Q. And so you never talked to Christopher Radke
24 about what happened that night, did you?

25 A. Not about what happened that night, no, sir.

1 Q. He was never questioned by anyone?

2 A. Well, while I was at the residence, he
3 called. I spoke to him on the phone.

4 Q. What did you say to him?

5 A. I told him that I needed to talk to him, and
6 he said, well, I don't want to come home because I'm
7 going to get arrested. I said that might happen.

8 Q. But you never asked his side of the story of
9 what happened?

10 A. No, sir.

11 Q. All right. Now, you mentioned the fact that
12 the gun was not -- you were not able to prevent the gun
13 from going back to the home; is that correct?

14 A. That's correct.

15 Q. In your report here, it states that Mr. Radke
16 was on parole at the time.

17 A. Yes, sir.

18 Q. So there should not have been a gun in the
19 home there; is that correct?

20 A. That depends on the parole date.

21 Q. Did you ever inquire into that?

22 A. No, sir.

23 Q. So it could have been a means, a lawful means,
24 to keep the gun out of the home, correct?

25 A. It depends on whose gun it is.

- 1 Q. But you never inquired about that?
- 2 A. No, sir, I didn't know the parole date.
- 3 Q. Whose gun did she tell you it was?
- 4 A. She said it was our gun.
- 5 Q. Not just Chris Radke's alone, but ours?
- 6 A. No, sir.
- 7 Q. Did you do any further inquiry into that?
- 8 A. No, sir.
- 9 Q. Did you ever inquire into why she would say
10 that she feared for her life and then yet she wasn't a
11 couple of days later?
- 12 A. I asked her that.
- 13 Q. And?
- 14 A. I said, you told me you were afraid he was
15 going to kill you with it, but you want the gun back. I
16 said why? She said, I'm not going to keep it. I'm
17 going to give it to my father and have him put it in his
18 collection.
- 19 Q. Was there any other further -- was the gun
20 loaded at all?
- 21 A. Yes, sir, at the time I confiscated, it was.
- 22 Q. I'm sorry?
- 23 A. At the time I took it with me, it was.
- 24 Q. Did you take any ammo with that?
- 25 A. There was five or six shells, I don't recall

1 exactly, on what's called a butt sleeve on the shotgun
2 stock, and they were also attached to the shotgun.

3 Q. Now, when she was -- this happened like a day
4 prior or something, and she's calling the police after
5 the fact, after she gets released from the hospital, and
6 is then crying about this whole scenario?

7 A. Yes, sir.

8 Q. She's had no other contact with the Defendant?

9 A. No. He had come over to the residence.

10 Q. And --

11 A. That's when she called us.

12 Q. And what happened?

13 A. She said he was pounding on the doors, windows
14 and the rear of the residence.

15 Q. Were you aware that she wanted him to come to
16 the hospital, and that being a possible motive for her
17 to complain about him?

18 A. No, sir.

19 Q. Did you inquire as to whether he had a
20 legitimate reason to come back to the house, such as to
21 get clothing or other materials to live separated from
22 her?

23 A. No, sir.

24 Q. Were you there when Ms. Radke picked up the
25 weapon?

1 A. No, sir.

2 Q. But she appeared calm and collected when she
3 talked to you on the telephone?

4 A. Yes, sir, very much so. She asked me how she
5 went about -- how to go about getting the weapon back,
6 and I told her.

7 Q. Are you aware that she initially reported to
8 the Garland hospital that she fell down the stairs?

9 A. No, sir, I wasn't aware what she told the
10 hospital.

11 Q. You never looked into that to inquire as to
12 maybe why she was filing false complaints, if she was at
13 all?

14 A. No. She told me she was pushed down the
15 stairs.

16 Q. I understand that. But you never checked with
17 the hospital to find out if that was consistent with --

18 A. No, sir.

19 Q. It never occurred to you that being pushed
20 down the stairs, if she was going after him, might be
21 inconsistent for an assault type offense, but rather
22 consistent with someone trying to leave and her chasing
23 after him? Did that ever occur to you?

24 A. Well, anything is possible.

25 Q. Including being manipulated by Diana Radke?

1 A. Oh, sure.

2 Q. Thank you.

3 MR. STEINBECK: Nothing further.

4 MS. MCVEA: Nothing further, Your
5 Honor.

6 THE COURT: All right, sir. You may
7 step down.

8 MS. MCVEA: State calls Michael
9 Morrison.

10 May the officer be excused?

11 THE COURT: You may be excused,
12 Officer.

13 THE WITNESS: Thank you.

14 (Whereupon, the witness was then
15 excused and proceedings resumed, as
16 follows:)

17 THE COURT: All right. You may
18 proceed.

19 MICHAEL JOHN MORRISON,
20 the witness hereinbefore named, being first duly
21 cautioned and sworn to testify the truth, the whole
22 truth, and nothing but the truth, testified on his oath,
23 as follows:

24 DIRECT EXAMINATION

25 BY MS. MCVEA:

PERI K. STROMBERG, CSR

1 Q. Sir, state your name for the Record, please.

2 A. Michael John Morrison.

3 Q. Sir, by whom are you employed?

4 A. The Blind Depot.

5 Q. And what do you do for them?

6 A. I'm a design consultant for their blind
7 department there.

8 Q. Can you kind of pull that microphone up a
9 little?

10 Michael, did you know a person by the name of Diana
11 Lynn Radke?

12 A. Yes.

13 Q. How did you know her?

14 A. She's my sister.

15 Q. Did you also know a person by the name of
16 Christopher Eric Radke?

17 A. Yes.

18 Q. Do you see him in the Courtroom?

19 A. Yes.

20 Q. Could you point to him and describe an article
21 of clothing?

22 A. He's wearing a shirt with a black collar.

23 MS. MCVEA: Your Honor, let the Record
24 reflect that the witness has identified the Defendant in
25 open Court.

1 Q. (By Ms. McVea) How did you know Christopher
2 Radke?

3 A. He was married to my sister.

4 Q. Okay. Did you ever live with the Defendant
5 and your sister during the course of their marriage?

6 A. Yes.

7 Q. When was that?

8 A. I believe from July of '95 to the first of
9 January '96.

10 Q. And how was it that you came to live with
11 them?

12 A. Basically for child care.

13 Q. Were you working at the time anywhere?

14 A. No.

15 Q. Were you in school?

16 A. No, I was out of school.

17 Q. And was that -- and where was it that you
18 stayed with them?

19 A. In their home.

20 Q. Okay. Do you remember where they lived?

21 A. It was on Castleglen in Garland. It was a
22 duplex.

23 Q. This is not the location at 1001 Sunset?

24 A. No.

25 Q. And did it come a time that you moved from

1 their residence?

2 A. Yes.

3 Q. Why was that?

4 A. Their marriage was awful, and I couldn't -- I
5 didn't want to be there anymore.

6 Q. Why would you say that their marriage was
7 awful?

8 A. All the fighting that went on, the drugs.

9 Q. Are you talking about fist fighting or --

10 A. No. Arguing, drugs in the house around the
11 child. I wanted to leave.

12 Q. Did you have any problems directly with the
13 Defendant?

14 A. Yes, the way he treated my sister.

15 Q. Now, you said there were drugs in the home.
16 Whose drugs were they?

17 A. Chris.

18 Q. And how did your sister feel about that?

19 A. She didn't want them there.

20 Q. Now, you said that they argued a lot. Was it
21 mainly because of the drugs and things of that nature?

22 A. It was because of drugs in the house around
23 her and her baby.

24 Q. Did the Defendant ever call your sister
25 names? Did you ever witness any of that?

1 A. Yes.

2 Q. What would he say to her?

3 A. He called her a fat pig.

4 Q. Do you know a person by the name of Michael
5 Matthew Phelps?

6 A. Yes.

7 Q. How do you know him?

8 A. He was Chris's best friend.

9 Q. Was he also a source of the problems between
10 Chris and Diana?

11 A. Yes.

12 Q. Why was that?

13 A. He was over all the time or Chris was out with
14 him. They were always together.

15 Q. Okay. So he was either over at the house all
16 the time, or Chris and Matthew would be somewhere else
17 together?

18 A. Yes.

19 Q. Now, I'm going to direct your attention to a
20 time that you went to a person by the name of Nemesio
21 Ponce or Nikko Ponce. Do you know who that person is?

22 A. Yes.

23 Q. Who is he?

24 A. A friend of Chris's.

25 Q. Do you recall one evening that you went to his

1 apartment?

2 A. Yes.

3 Q. And do you recall when that was?

4 A. Probably -- I can't remember a specific date,
5 but it was around the end of October, early November
6 of '95.

7 Q. 1995?

8 A. Yes.

9 Q. Go ahead and briefly tell us about that.

10 A. The reason why we were --

11 MS. SHELTON: Objection, Your Honor,
12 to relevance here. I don't understand.

13 THE COURT: Well, I sustain the
14 objection, not on relevancy, but ask a more direct,
15 open-ended question, if you will.

16 MS. MCVEA: Certainly, Your Honor.

17 Q. (By Ms. McVea) Did you go to Nikko's
18 apartment with the Defendant?

19 A. Yes.

20 Q. And when you got to that apartment, what did
21 the Defendant do?

22 A. They went into a back room and then he came --

23 Q. When you say "we," he and Nikko?

24 A. He and Nikko.

25 Q. Okay. And did they come out the -- back out

1 of the back room?

2 A. Yes.

3 Q. Did the Defendant have anything with him?

4 A. Yes.

5 Q. What did he have with him?

6 A. A bag of marijuana.

7 Q. Are we talking a small bag or a big bag?

8 A. We're talking a paper bag.

9 Q. Pardon me?

10 A. A paper bag.

11 Q. A paper sack, like a grocery sack?

12 A. Not that big. It was like a lunch sack. It
13 was a wrapped up bag. I didn't see inside it.

14 Q. Okay. And what happened next?

15 A. He wanted to leave with it and --

16 Q. Now, who drove over there?

17 A. I drove him in my car.

18 Q. And did you say anything to him in particular
19 about that, about leaving in your car?

20 A. About leaving, yes. We weren't taking that
21 with us.

22 Q. Did you eventually leave that location?

23 A. Yes.

24 Q. Did you inform your sister about what had
25 occurred?

1 A. Yes.

2 Q. I'm going to direct your attention again to a
3 night that you were baby-sitting for Zachary; do you
4 remember that?

5 A. Yes.

6 Q. Okay. And that night, did your sister, the
7 Defendant, and Matthew Phelps go out somewhere?

8 A. Yes.

9 Q. Did you receive a phone call?

10 A. Yes, I did.

11 Q. Without saying, do you know who called you?

12 A. I do not know, no.

13 Q. Without saying what the person said, what did
14 you do in response to that phone call?

15 A. I gathered Zachary and left the house.

16 Q. What were you afraid would happen?

17 A. I was afraid the house would blow up.

18 Q. Did you contact the Defendant and your sister
19 concerning that?

20 A. Yes.

21 Q. Did you discuss what had happened with the
22 Defendant?

23 A. Yes.

24 Q. What was his reaction?

25 A. Don't worry about it. Nothing is going to

1 happen. It's no big deal. Nobody is going to do
2 anything, pretty much.

3 Q. Did you call the police about what had
4 happened?

5 A. No.

6 Q. I take it the house didn't blow up, did it?

7 A. No.

8 Q. Did you stay there in the house after that
9 occurred?

10 A. No.

11 Q. That night?

12 A. No.

13 Q. Did your sister stay there in the house?

14 A. Yes.

15 Q. How did you feel about that?

16 A. I didn't like it.

17 Q. Initially, was she going to stay there in the
18 house?

19 A. She was getting some pictures together to go
20 to a hotel with myself, and then she decided --

21 Q. Did you say pictures or clothes?

22 A. Some pictures, some clothes, like an overnight
23 bag of stuff just for overnight, and then she decided
24 that she didn't want to go and do that, so I left.

25 Q. I'm going to direct your attention to December

1 of 1995. Do you remember an incident that occurred
2 between your sister and the Defendant?

3 A. Yes.

4 Q. What did you observe happen?

5 A. I woke up to arguing, crying. It was
6 obviously an argument going on. She's laying on the
7 ground in front of the fireplace, and he's standing over
8 her.

9 Q. Did you see him push her?

10 A. No.

11 Q. What was his -- you said he was standing over
12 her. What was his demeanor like?

13 A. I'm trying to think of the words to describe
14 it. He was standing over her in a menacing way.

15 Q. Well, did he seem like he was happy or trying
16 to help her?

17 A. No. No.

18 Q. Did he seem angry?

19 A. Yes.

20 Q. When you saw this, what did you do?

21 A. I got up and jumped between them.

22 Q. Did your sister -- did you see any physical
23 injury to your sister at that time?

24 A. No.

25 Q. What happened next?

1 A. I tried to stop them from the argument. It
2 escalated when I was going to call the police.

3 Q. When you say it escalated, did she hit him or
4 did he hit her, anything like that?

5 A. No, no. He grabbed all the Christmas presents
6 that were under the tree and started throwing them
7 against the walls. He picked up a baseball bat and
8 took -- started beating on all the furniture in their
9 bedroom. He was going crazy.

10 Q. You said it looked like he was going crazy?

11 A. Yes.

12 Q. Did you call the police?

13 A. No. I told him I was going to call the
14 police.

15 Q. Did he leave?

16 A. No. He tore the phone out of the jack out of
17 the wall.

18 Q. After that happened, what --

19 A. I told him I could call the police from the
20 store down the street if I wanted to, that the neighbors
21 may have already called.

22 Q. Did he eventually leave the house?

23 A. Yes.

24 Q. Now, at that time did you ever see him strike
25 your sister or anything like that?

1 A. No.

2 Q. I'm going to direct your attention to February
3 the 10th of 1996. Do you recall that day?

4 A. Yes.

5 Q. On that date in the evening hours, did you
6 receive a phone call from a hospital employee?

7 A. Yes.

8 Q. Okay. From where?

9 A. I believe they said from Baylor Medical
10 Center, Baylor Hospital.

11 Q. Now, after you spoke with that person, what
12 did you do?

13 A. I left the house and went to where my parents
14 were eating dinner and told my mom she needed to go to
15 the hospital.

16 Q. Did you go to the hospital?

17 A. No.

18 Q. Where did you go?

19 A. I went back home.

20 Q. When you went back home, what did you do?

21 A. I paged Chris.

22 Q. Did he call you back?

23 A. Yes.

24 Q. And what did you say to him?

25 A. I asked him if he knew if his wife was in the

1 hospital, and he said --

2 Q. What did he say?

3 A. He said, "Yeah, I did it."

4 Q. He said, "Yeah, I did it"?

5 A. "Yeah, I did it."

6 Q. Now, when you were talking to him, did you
7 hear anything in the background?

8 A. Music, people talking, laughing.

9 Q. How did he sound to you?

10 A. Like he had been drinking.

11 Q. Why do you say that?

12 A. His speech was slurred, and he was real
13 boisterous.

14 Q. Did you see your sister and her injuries
15 later?

16 A. Yes.

17 Q. At this point, what did you want your sister
18 to do?

19 A. Move out, get a divorce.

20 Q. Did she get back together with him, though?

21 A. Yes.

22 Q. How did you feel about that?

23 A. I didn't like it.

24 Q. As a result of that, did you continue to visit
25 your sister?

1 A. No.

2 Q. When was the last time that you visited your
3 sister in her home?

4 A. Two days before.

5 Q. Two days before her death?

6 A. Yes.

7 Q. Where did you see her?

8 A. In her home.

9 Q. At 1001 Sunset?

10 A. Yes.

11 Q. How did your sister feel about her new house?

12 A. She was excited about it. She was real
13 happy. She was real happy about it.

14 Q. Did you help your sister move into that house?

15 A. No.

16 Q. Do you know if the Defendant did?

17 A. I don't know.

18 Q. Now, I'm going to direct your attention to
19 February 29th of 1996. Did you work that day?

20 A. Yes.

21 Q. What time did you get home?

22 A. Around 7:30 p.m.

23 Q. Now, where were you living at this time?

24 A. With my mom and stepfather.

25 Q. Is that Ken Parker?

1 A. Yes.

2 Q. Did you get a phone call from the Defendant?

3 A. Yes.

4 Q. About what time did you get the phone call?

5 A. Around 8:45 p.m.

6 Q. Did you answer the phone?

7 A. Yes.

8 Q. And did someone say something to you?

9 A. Yes.

10 Q. What did they say?

11 A. I picked the phone up and said, hello, and he
12 said, "She blew her fucking brains out, man. She blew
13 her fucking brains out."

14 Q. Did you recognize the voice initially?

15 A. Not at first.

16 Q. Okay. Did you finally realize who it was?

17 A. I asked, who is this?

18 Q. Who was it?

19 A. He said, "This is Chris."

20 Q. Did he say anything else to you?

21 A. Yes.

22 Q. What did he say?

23 A. "Don't call the police; don't tell your mom or
24 Ken; just come over."

25 Q. So he said: "Don't call the police; don't tell

1 your mom or Ken; just come over"?

2 A. Yes.

3 Q. Did you hang up the phone?

4 A. Yes.

5 Q. How did you feel at this point?

6 A. I was in total disbelief and shock. I had no
7 idea what was going on.

8 Q. What did you do?

9 A. I walked over and started putting my boots on.

10 Q. Did your mom say anything to you?

11 A. Yeah.

12 Q. Did your mother pick up the phone and call?

13 A. Yes.

14 Q. And did -- was she having a conversation on
15 the phone?

16 A. Yes.

17 Q. And after that conversation, what was her
18 emotional state?

19 A. She was very upset.

20 Q. Did she hand the phone to Ken?

21 A. Yes.

22 Q. Did Ken have a conversation also?

23 A. Yes.

24 Q. After that what did you do?

25 A. I took the phone from Ken and asked where is

1 Diana.

2 Q. Was the Defendant on the phone?

3 A. Yes.

4 Q. Did he say anything to you?

5 A. He said, "In the living room." And I hung
6 up.

7 Q. Are you okay, Mike?

8 A. Um-hum. Yes.

9 Q. What did you do next?

10 A. Called 911.

11 Q. Did you report what you thought was some kind
12 of incident?

13 A. Yes.

14 Q. Okay.

15 MS. MCVEA: Can I have a moment, Your
16 Honor?

17 THE COURT: Yes.

18 (Whereupon, State's Exhibit Nos. 12
19 and 12A were marked by the Court
20 Reporter.)

21 Q. (By Ms. McVea) Mike, I'm handing you what's
22 been marked for identification purposes as State's
23 Exhibit No. 12 and State's Exhibit No. 12A. Do you
24 recognize these exhibits?

25 A. Yes.

1 Q. What's State's Exhibit 12?

2 A. 911 tape.

3 Q. And is this a cassette tape?

4 A. Yes.

5 Q. Had you listened to this tape? Have you
6 listened to it?

7 A. Yes.

8 Q. When's the last time you heard it?

9 A. Today.

10 Q. Okay. And are you familiar with the
11 conversation that takes place on this tape?

12 A. Yes.

13 Q. Are you a part of that conversation?

14 A. Yes.

15 Q. And do you -- can you identify the voices on
16 the tape?

17 A. Yes.

18 Q. Who are they?

19 A. The 911 operator and myself.

20 Q. Okay. Has this tape been changed or altered
21 in any kind of way?

22 A. No.

23 Q. Has it been made on a recorded device capable
24 of making an accurate recording?

25 A. Yes.

1 Q. Now, what is State's Exhibit No. 12A?

2 A. It's a transcript of that call.

3 Q. Okay. And is this a reasonable depiction of
4 the actual conversation of the 911 tape?

5 A. Yes.

6 MS. MCVEA: I'd like to offer into
7 evidence --

8 (Whereupon, State's Exhibit Nos. 12
9 and 12A were offered into evidence.)

10 MS. SHELTON: Your Honor, I'd have to
11 object at this point. I think -- is this the 911
12 operator who made this tape, and she's authenticating
13 the tape through the -- through -- and saying that it
14 was made on a machine that was -- how would he know
15 that?

16 THE COURT: I guess by listening to
17 it.

18 MS. SHELTON: He can listen to the tape
19 and recognize his voice, but I don't think that he is
20 the operator of the tape. I think we need the 911
21 operator if she wants to put the tape in.

22 MS. MCVEA: Your Honor, I believe case
23 law says that as long as the voices are identified, then
24 that's sufficient to get the tape into evidence.

25 MS. SHELTON: I don't have any

PERI K. STROMBERG, CSR

1 objection to that, but to say that he knows how the
2 recording was made, I think that's going a little bit
3 far.

4 THE COURT: Well, it was obviously made
5 on a recording machine, and it was an accurate
6 recording. I think that's all that is required. I
7 overrule the objection. Admitted.

8 MS. MCVEA: Well --

9 THE COURT: We already know that he
10 called 911 and reported it. What is the -- is there
11 some added significance to the tape?

12 MS. SHELTON: I'll stipulate to the
13 transcript. I've read it, and it looks all right to
14 me. It looks like what somebody would say when they
15 call 911.

16 MS. MCVEA: That's fine.

17 MS. SHELTON: I have no problem with it
18 at all.

19 MS. MCVEA: I don't necessarily have to
20 play it at this time unless the Court wants to hear it.

21 THE COURT: All right. I admit the
22 transcript.

23 (Whereupon, State's Exhibit Nos. 12
24 and 12A were admitted into
25 evidence.)

1 MS. MCVEA: I'd like to go ahead and
2 present to the Court the transcript of the tape.

3 THE COURT: Very well.

4 Q. (By Ms. McVea) After you reported what had
5 happened, or your conversation with the Defendant to the
6 911 operator, what did you do?

7 A. We, being me, my mother and my stepfather,
8 left to go to the residence at Sunset.

9 Q. And how long did it take you to arrive there?

10 A. Maybe ten minutes.

11 Q. When you arrived at that location, were the
12 police already there?

13 A. Yes.

14 Q. Did you see paramedics also there?

15 A. Yes.

16 Q. Did you see the Defendant there, too?

17 A. Yes.

18 Q. What was he doing when you arrived there at
19 the location?

20 A. Sitting in the back of a police car.

21 Q. Did you find out about your sister from a
22 police officer?

23 A. Yes.

24 Q. Now, Mike, did you know or were you aware that
25 your sister had -- that your sister and the Defendant

1 had a shotgun in their home?

2 A. Yes.

3 Q. Had you seen it before?

4 A. Yes.

5 Q. Do you know when they got that shotgun?

6 A. It was when they lived in Castleglen in the
7 duplex.

8 Q. Where they resided before -- prior to moving
9 to 1001 Sunset?

10 A. Yes.

11 Q. Do you know whose gun it was actually?

12 A. Chris said he had got it from Matt.

13 Q. When you say Matt, are you talking about
14 Michael Matthew Phelps?

15 A. Yes.

16 Q. His best friend?

17 A. Yes.

18 Q. Do you know if the Defendant ever shot that
19 shotgun before --

20 A. Yes.

21 Q. -- or fired it?

22 A. Yes.

23 Q. How do you know that?

24 A. He had told me that him and Matt were going to
25 go shoot at birds out on Matt's land.

1 Q. And when he would go, you'd see him take the
2 shotgun with him?

3 A. Yes.

4 Q. Are you familiar with firearms yourself?

5 A. Yes.

6 Q. From whom did you learn that?

7 A. My father.

8 Q. What about your sister, how did she feel about
9 guns?

10 A. Hated them. She was scared of them.

11 Q. Did she ever -- did she really want that gun
12 in her house?

13 A. No.

14 Q. Michael, to your knowledge did your sister
15 ever discuss suicide?

16 A. No.

17 Q. Now, there was an incident back when she was
18 about -- well, first of all, how old are you?

19 A. Twenty-eight years.

20 Q. Okay. And your sister was 28 at the time of
21 her death last year?

22 A. Yes.

23 Q. So you're about, what, a year apart?

24 A. A year and a half.

25 Q. Okay. Back when she was about maybe 14 years

1 old, do you remember an incident concerning your sister
2 and an injury that she sustained?

3 A. Yes.

4 Q. Okay. Do you remember anything about that?

5 A. I just remember she had cut herself on some
6 glass, and that was it.

7 Q. In your mind or as far as the family talked
8 about it, did you consider that a suicide attempt?

9 A. No.

10 Q. Do you know why your sister did that?

11 A. I don't think she wanted to go to Levelland to
12 live with my father.

13 Q. Okay. Did that have anything to do with your
14 father or the fact that he lived in a country town?

15 A. Yes.

16 Q. Which one?

17 A. It had to do with my father living in a
18 country town.

19 MS. MCVEA: Pass the witness.

20 CROSS-EXAMINATION

21 BY MS. SHELTON:

22 Q. Mr. Morrison, I'm Ms. Catherine Shelton, and
23 I'm one of Mr. Radke's attorneys.

24 You say that at this time you have a job?

25 A. Yes.

1 Q. And how long have you had that job?

2 A. I've worked for the Blind Depot since July.

3 Q. The what?

4 A. I've worked for the Blind Depot since July.

5 Q. The Blind Depot?

6 A. Yes, ma'am.

7 Q. And where -- where -- what is that?

8 A. It's a company that sells mini blinds.

9 Q. Okay. And so you sell mini blinds, right?

10 You measure them?

11 A. Right. I measure, install and repair.

12 Q. And Mr. Morrison, how long have you gone to
13 college, for how many years?

14 A. About six and a half.

15 Q. Do you have a college degree?

16 A. No, I don't.

17 Q. Could you give us your work history since you
18 left high school?

19 MS. MCV EA: Your Honor, I object. I
20 don't believe this is relevant to the issues on trial at
21 this point.

22 THE COURT: Overruled.

23 Q. (By Ms. Shelton) Could you give us your work
24 history? Just hit the high points. You don't have to
25 tell us the whole thing.

1 A. Basically I've been a professional musician to
2 put myself through school. I worked for a trucking
3 company for --

4 Q. What trucking company?

5 A. CRST.

6 Q. CRST. And when did you work for CRST?

7 A. From, I believe, late February of this year to
8 the end of June of this year.

9 Q. As a matter of fact, and I don't want to
10 belabor this, Mr. Morrison, you haven't had many jobs,
11 and you've never held any one of them for more than a
12 few months, have you?

13 A. That's incorrect.

14 Q. When you were living with your sister Diana
15 and Chris Radke, you weren't working at that time, were
16 you?

17 A. No.

18 Q. And your father, and that is
19 Mr. Neal Morrison --

20 A. Yes.

21 Q. -- in fact, Mr. Neal Morrison didn't want you
22 living with him and had thrown you out because -- and I
23 refer to him; these aren't my feelings at all -- because
24 you were gay and that --

25 MS. MCVEA: Your Honor, I'm going to

1 object. That's not a question. That's assuming facts
2 not in evidence.

3 THE COURT: Sustained.

4 Q. (By Ms. Shelton) You were pretty much
5 drifting in that time period when you came to live with
6 him?

7 A. No, I was not.

8 Q. And in fact, Chris Radke was your friend,
9 wasn't he?

10 A. I didn't have a problem with Chris when I
11 first moved in.

12 Q. You-all got along very well?

13 A. Yes.

14 Q. And he treated you with respect?

15 A. Up until he didn't treat my sister with
16 respect.

17 Q. He liked you, didn't he?

18 A. I don't know.

19 Q. He treated you with respect and treated you
20 well, didn't he?

21 A. I don't know.

22 Q. He arranged job interviews for you, didn't he?

23 A. No, he did not.

24 Q. You didn't go to them, did you?

25 A. He never arranged any jobs for me.

1 Q. You characterized your sister and Chris'
2 marriage as awful, a lot of, apparently from what you
3 say, arguing and shouting back and forth --

4 A. Yes.

5 Q. -- correct?

6 Did you live with your sister during the time that
7 she was dancing in the bars? And I'm not casting
8 aspersions on her, but I'm saying: Did you live with
9 her during that time period when she was dancing?

10 A. No, I did not.

11 Q. So you don't know what she did during that
12 time period --

13 A. No.

14 Q. -- besides dance?

15 A. No.

16 Q. Did you know Samantha Mayer?

17 A. No.

18 Q. Did you know Don Mayer?

19 A. What time are we talking about?

20 Q. This is during the time period when your
21 sister was dancing for several years?

22 A. No.

23 Q. So for a while you and your sister was out of
24 touch with each other, correct?

25 A. I lived 400 miles away.

1 Q. Where was that?

2 A. In Levelland, Texas.

3 Q. You have said in Direct Examination that you
4 received a telephone call from someone -- and you didn't
5 tell us who it was or perhaps you didn't know who it
6 was -- in which someone uttered words to you that made
7 you believe the house was going to blow up; is that
8 correct?

9 A. That's correct.

10 Q. Well, with all the arguing and fighting that
11 went on around there, I mean, the house blowing up, that
12 was minor to it all, wasn't it?

13 A. No.

14 Q. Did you really believe the house was going to
15 blow up?

16 A. Yes, I did.

17 Q. Did the house blow up?

18 A. No, it didn't.

19 Q. Did Diana come home and appear to become upset
20 about the house blowing up?

21 A. The house didn't.

22 Q. Did she get upset about the house maybe
23 blowing up?

24 A. Yes.

25 Q. And got all upset with you, didn't she?

1 A. Not with me.

2 Q. Well, she got not upset with you as a person,
3 but you both were upset together about this terrible
4 event, right?

5 A. Yes.

6 Q. And she ran around and packed a few clothes,
7 yes?

8 A. Yes.

9 Q. And then she said, well, but that's okay; I'm
10 not leaving, right?

11 A. Yes.

12 Q. Because, of course, you were -- you were upset
13 at that point, right?

14 A. I wasn't upset.

15 Q. Was Diana there when the telephone call came
16 in?

17 A. No.

18 Q. So if somebody was trying to upset you or make
19 you frightened, they had achieved their goal by calling
20 up like that?

21 A. Yes.

22 Q. You don't know if that was one of Diana's
23 friends whom she put up to start another melodrama, do
24 you?

25 A. They told me that it was because of a drug

1 deal Chris had done.

2 Q. Naturally, sir, they would tell you that, but
3 you don't know if it was one of Diana's friends or
4 Diana?

5 A. I know it wasn't one of Diana's friends.

6 Q. How do you know that?

7 A. She didn't have friends that wanted to blow up
8 her house and her baby.

9 Q. I'm not suggesting they wanted to, only that
10 they wanted to make you believe that.

11 A. Well, I don't know any of those friends.

12 Q. If it was really a real threat, why do you
13 think Diana didn't leave the house that night?

14 A. I don't know, but I did.

15 Q. But she wasn't afraid, was she?

16 A. She was afraid and decided to go ahead and
17 stay.

18 Q. You never woke up in the middle of the night
19 while you were staying there with them to hear your
20 sister beating on her husband, screaming; and you,
21 thereupon, took your sister and dragged her out the
22 front door and said, what's the matter with you, what's
23 going on?

24 A. No.

25 Q. Did that ever happen?

1 A. Never.

2 Q. And on the night when family and friends and
3 employers, everyone else, gathered at the Baylor
4 emergency Medical Center at Garland to see Diana's lip
5 and you called Chris, he said, "Yeah, I did it," right?

6 A. Correct.

7 Q. He couldn't have said something else? When
8 you said, do you know your wife is in the hospital,
9 could he have said, yeah, I did?

10 A. He said, "Yeah, I did it."

11 Q. He couldn't have said, yeah, I did?

12 A. No, he couldn't have.

13 Q. Why would he confess such a thing to you and
14 to no one else?

15 A. It's beyond me.

16 Q. Did your sister gain a lot of weight after she
17 had Zachary?

18 A. She gained weight when she was pregnant with
19 Zachary.

20 Q. Did she gain weight that she couldn't lose
21 after she had the baby?

22 A. I don't know. I lived with her whenever she
23 had just had her baby. She looked the same.

24 Q. She looked the same?

25 A. Well --

1 Q. But you didn't know her back when she danced
2 and had a good figure?

3 A. Of course I knew her. I didn't live with her.

4 Q. Did she weigh 193 pounds when she danced
5 topless?

6 A. I have no idea how much she weighed when she
7 danced.

8 Q. But she looked better then, she was shapely?

9 A. I have no idea. I didn't see her when she
10 danced.

11 Q. Did you approve of her entering into that
12 life-style with those people?

13 A. She never told me she was a dancer.

14 Q. You mean you never knew about that period of
15 her life?

16 A. I knew about that period of her life, but not
17 during it.

18 Q. I beg your pardon?

19 A. Not -- I didn't know when she was doing it. I
20 knew later that she had done that.

21 Q. How did you find out about that?

22 A. She told me.

23 Q. Did she ever introduce you to any of her
24 friends from that time period?

25 A. No.

1 Q. So you really don't know what went on during
2 that period?

3 A. No.

4 Q. Did you know Daniel Zimbleman?

5 A. Yes.

6 Q. And did you know the manner of his death?

7 A. Yes.

8 Q. Now we've heard people say, or it has been
9 said, that there's been some drug usage around the Radke
10 house, and that drugs were there in the house. Your
11 sister was married to Daniel Zimbleman, wasn't she?

12 A. I think she lived with him.

13 Q. They were common-law married. Isn't it true
14 it emerged in a lawsuit, the toxicology, that he was
15 high on cocaine when he fell?

16 MS. MCVEA: Your Honor, I'm going to
17 object. First of all, it's not relevant; second of all,
18 it's assuming facts not in evidence.

19 THE COURT: Sustained.

20 Q. (By Ms. Shelton) Isn't it true that your
21 sister was a drug addict?

22 A. No, that's not true.

23 Q. Okay. What drugs was she using at the time of
24 her death, if you know?

25 A. I do not know.

1 Q. Did you ever warn people when you heard about
2 Diana on another occasion brandishing a gun: You need
3 to take her suicide attempts seriously, it's for real?

4 A. I've never heard of any suicide attempts. I
5 never said that.

6 Q. Did you ever say: You need to take her
7 threats seriously?

8 A. I've never said that.

9 Q. Not to anyone?

10 A. I've never said that.

11 Q. When you talked to Chris on the terrible night
12 of your sister's death, he said to you: Don't call the
13 police; don't tell your mom or Ken, just come over.
14 That's what you said he said.

15 A. That's correct.

16 Q. Does that sound like a normal statement when a
17 man has just seen his wife laying on the ground with her
18 brains blown out?

19 A. No, it doesn't.

20 Q. Does that sound like a cold-blooded murderer?

21 A. Yes, it does.

22 Q. Wouldn't a cold-blooded murderer -- say if you
23 were setting out to murder your wife and your wife was
24 Diana, how would you go about it?

25 A. I don't know.

1 Q. Would you blow her brains out and then call up
2 her brother and say, don't tell the police? Does that
3 sound like a cold-blooded murderer, Mr. Morrison?

4 A. If I was trying to hide the fact that I was a
5 cold-blooded murderer, yeah.

6 Q. Wouldn't you just roll the body up in a rug
7 and take her and dispose of her somewhere?

8 MS. MCVEA: Your Honor, I'm going to
9 object. This line of questioning is improper. It calls
10 for speculation.

11 THE COURT: Sustained.

12 Q. (By Ms. Shelton) Would it be safe to say that
13 he was very upset and anything but cold on that night?

14 A. I think saying she blew her fucking brains out
15 is pretty cold, so I would have to say he was upset and
16 cold.

17 Q. You've never used the word "fucking?"

18 MS. MCVEA: Your Honor, I'm going to
19 object. That's simply not relevant.

20 THE COURT: Sustained.

21 Q. (By Ms. Shelton) Was he crying?

22 A. I don't know. I didn't see him.

23 Q. Was he incoherent?

24 A. No, he wasn't coherent.

25 Q. On the 911 tape, you say: He's -- I can't

1 understand a lot that he is saying.

2 Back then you were saying he was incoherent. Now
3 you're saying you don't know or you don't -- you
4 couldn't tell. Which is it?

5 A. If he was coherent when he called me?

6 Q. Here on the 911 tape --

7 A. What I don't understand is getting a phone
8 call out of the blue and saying she blew her fucking
9 brains out. I had --

10 Q. Sir, that's not what --

11 A. -- no idea what he was saying.

12 Q. Sir, that's not what I asked you.

13 A. That's what I meant.

14 Q. Could you make out his words?

15 A. Yes, I could make out his words, the meaning
16 of the words.

17 Q. You say: He's -- I can't understand a lot
18 that he is saying.

19 A. I didn't understand a lot of the meaning of
20 what he was saying.

21 Q. Sir, "I can't understand a lot that he is
22 saying," would seem to refer to the length of his
23 conversation and what he was going into, his excited
24 state.

25 MS. MCVEA: Your Honor, I'm going to

PERI K. STROMBERG, CSR

1 object. I believe the witness has answered that
2 question, and the Defense attorney continues to ask the
3 question and hoping that she'll get the type of response
4 that she's looking for. He's answered the question.

5 MS. SHELTON: He's answered the
6 question with another answer to another question, not
7 the one I asked.

8 THE COURT: I overrule the objection.
9 This is Cross-examination. Let's get on with it.

10 Q. (By Ms. Shelton) Simply, she said -- or he
11 said: She blew her fucking brains out, man; she blew
12 her fucking brains out.

13 Now, what is hard to understand about those words?

14 A. There's nothing.

15 Q. Then why would you say: He's -- I can't
16 understand a lot that he's saying?

17 A. I was in shock. I just heard something that I
18 thought I'd never hear. I don't know why --

19 Q. Why didn't you say that, that you were in
20 shock instead of he's --

21 A. Because time was of the essence. I was
22 calling the operator. I didn't know if my sister was
23 alive.

24 Q. But you say later on: Because I don't -- I
25 don't know if this guy is serious or what.

1 You weren't taking it seriously, were you?

2 A. Yes, I was taking it very seriously.

3 Q. Well, then why are you saying to the
4 operator: Because I don't -- I don't know if this guy
5 is serious or what?

6 A. I didn't know if he was drunk and just talking
7 like an idiot or what.

8 Q. He could have been drunk, correct?

9 A. I don't know.

10 Q. Well, you're saying he could have been. Could
11 he? You didn't know. Could he have been?

12 I didn't know if he was drunk or just talking like
13 an idiot.

14 A. Sure.

15 Q. Is that what you said?

16 A. Yes, that's what I said.

17 Q. Then he could have been drunk, couldn't he?

18 A. It's possible.

19 Q. And finally, you stated that you left the
20 house because you couldn't stand the fighting --

21 A. Yes.

22 Q. -- correct?

23 Isn't it true the real reason that you left is that
24 you came in one night and threw up on her leather sofa,
25 and she kicked you out of the house the next day?

1 A. That's absolutely false.

2 Q. And she never told anybody, and Chris never
3 told anybody about that, and that was why she threw you
4 out?

5 A. That's absolutely false.

6 Q. That never happened?

7 A. Never.

8 Q. Would you say that Diana was -- since she was
9 concerned or they both made comments about this, would
10 you say it was a messy house?

11 A. What house?

12 Q. The house they lived in.

13 A. Which house did they live in?

14 Q. The one that you lived in with them.

15 A. On Castleglen?

16 Q. Yes.

17 A. The house was a clean house.

18 Q. It what?

19 A. It was clean when I was there.

20 Q. It was clean? You never complained about it?

21 A. I cleaned it myself.

22 Q. You cleaned it.

23 A. That was my job, taking care of the baby and
24 cleaning the house.

25 Q. Did you ever see Diana have mood swings?

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1 arm, right?

2 A. I don't know if that's her arm or not.

3 Q. Well, this is State's Exhibit 6, and if I told
4 you that this is Diana's arm, and it has been admitted
5 as being a picture of Diana's arm, would you believe
6 that?

7 A. Well --

8 Q. It's not my exhibit; it's the Prosecutors.

9 A. Okay.

10 Q. Is it Diana's arm? Is the Prosecutor right?

11 A. Yes.

12 Q. Thank you. Now, you see these scars on her
13 forearm and you see the stitching here on either side?

14 A. Yes.

15 Q. Is that what a 14-year-old girl does to keep
16 from going to Levelland?

17 A. Yes.

18 Q. How many 14-year-old girls do you know who cut
19 their wrists like this, slash them so deeply that they
20 require sutures?

21 A. I don't know.

22 Q. But this is a normal thing for a 14-year-old
23 girl, right? This was just nothing, right?

24 A. No. She didn't want to go live out in a hick
25 town.

1 Q. This was everyday Diana, wasn't it?

2 A. No.

3 Q. You said she didn't want to go live out in a
4 little hick town, but there's some things worse than a
5 little hick town like Levelland. It's like dancing
6 naked in a topless bar, isn't it?

7 MS. MCVEA: Your Honor, I object.
8 That's an unfair characterization and it's also sidebar.

9 THE COURT: Sustained.

10 Q. (By Ms. Shelton) There are some life
11 situations that are far worse than living in a little
12 hick town, aren't there?

13 A. Yes, there are.

14 Q. In fact, there's something to be said for
15 those small towns, isn't there?

16 A. Yes.

17 Q. Maybe if she'd gone out there and lived, she'd
18 still be alive today.

19 MS. MCVEA: Your Honor, I'm going to
20 object again. First of all, the question's not
21 relevant, and it assumes facts not in evidence. The
22 Defense attorney is testifying.

23 MS. SHELTON: I'll withdraw that.

24 Q. (By Ms. Shelton) Why didn't your mother -- if
25 you know, why didn't your mother get some help for Diana

1 back when she started slashing her wrists when she was
2 14 years old?

3 A. Because it wasn't a problem. She didn't need
4 any help.

5 Q. It wasn't a problem for who?

6 A. Well --

7 Q. Wasn't it a problem for Diana that her wrists
8 were cut, and they required sutures to close them, and
9 she was 14 years old?

10 A. I don't know.

11 Q. But you just said it wasn't a problem.

12 A. It didn't -- there wasn't any problem around
13 our house. We were happy kids.

14 Q. In fact, she had a very unhappy life, didn't
15 she?

16 A. No.

17 Q. She was rejected by her father Neal Morrison.
18 He never would do anything for her, would he? He
19 wouldn't even pay child support for her.

20 MS. MCVEA: Your Honor, I'm going to
21 object. That's not relevant. It's certainly not
22 relevant.

23 THE COURT: Overruled.

24 Q. (By Ms. Shelton) She was treated very badly
25 by her --

1 A. That's absolutely false.

2 Q. He wouldn't pay child support for her or for
3 you.

4 A. That's absolutely false.

5 Q. He did pay his child support, sir?

6 A. As far as I know, he paid his child support.

7 Q. Didn't you-all have a very rough time here in
8 Dallas with no support?

9 A. No, we did not.

10 Q. And no one paid attention to Diana, did they?

11 A. Yes, they did.

12 Q. But for his younger daughter -- and who is
13 your younger sister?

14 A. I have a younger sister named Jennifer.

15 Q. Jennifer. Didn't he pay for a new car for her
16 and for plastic surgery for her?

17 MS. MCVEA: Your Honor, I'm going to
18 object. That's not relevant.

19 THE COURT: Sustained.

20 Q. (By Ms. Shelton) Mr. Morrison never did
21 anything for your sister, did he?

22 A. Yes, he did.

23 Q. Except beat on her --

24 A. No, he did not.

25 Q. -- and abuse her --

1 A. No, he did not.

2 Q. -- and make her so frightened that she didn't
3 want to go out there and live with him when she was 14
4 years old, so she cut her wrists.

5 A. That would, again, be absolutely false.

6 Q. What little 14-year-old girl, with everything
7 to live for, would slash her wrists so deeply that they
8 had to be sutured?

9 A. I don't know.

10 Q. On the night that Chris Radke called you --
11 and you say out of your own mouth: I can't understand a
12 lot that he's saying -- you knew very well that your
13 sister could have committed suicide. What changed your
14 mind that night? What caused you to change your mind
15 and believe that Chris Radke murdered your sister?

16 A. I never thought she killed herself that
17 night.

18 Q. What caused you to believe that he murdered
19 your sister that night?

20 A. All the abuse, the arguing. I just knew.

21 Q. Wasn't it after you heard from the Garland
22 police that they were charging him with murder?

23 A. No.

24 Q. Didn't you see him taken away that night?

25 A. Of course.

1 Q. Didn't the police later tell your family that
2 they were charging him with murder?

3 A. Yes.

4 Q. And you believed it, didn't you?

5 A. I believed it before then.

6 Q. But you knew when she drew a gun or brought
7 one out that she meant business, meant for people to pay
8 attention to her, didn't she?

9 A. I don't know that.

10 Q. And maybe she really did want to commit
11 suicide; that she would get attention by whatever means
12 she needed to, including slashing her wrists, correct?

13 A. I have no way of knowing that.

14 Q. If your mother had said that that's what
15 she -- how she got attention, and that she paid
16 attention to her and everything was all right, would
17 your mother have been telling the truth?

18 MS. MCVEA: I'm going to object.
19 That's comparing testimony.

20 THE COURT: Sustained.

21 Q. (By Ms. Shelton) Did she slash her wrist
22 because she wanted attention or because she was afraid
23 to go live with her father Neal Morrison in Levelland?

24 A. She wasn't afraid to live with my father. She
25 didn't want to go to a small, West Texas town, as far as

1 I know.

2 Q. What happened on the night that she slashed
3 her wrist? Were you there?

4 A. I was in the house somewhere, but it was so
5 long ago. I wasn't even in the room. All I know -- so
6 I -- I don't remember.

7 Q. It just wasn't a big deal?

8 A. I know my sister had cut herself.

9 Q. Did she have counseling for psychological
10 problems after that?

11 A. No.

12 Q. She never got any kind of counseling?

13 A. Not that I know of.

14 Q. Was she getting any counseling later on at the
15 time of her death?

16 A. I don't know.

17 Q. In fact, was not Christopher Radke insisting
18 and demanding that she go into marital counseling with
19 him as a condition of him remaining in the marriage?

20 A. I didn't live there. I don't know.

21 Q. Didn't she represent to him in your presence,
22 that through her insurance, that she still had that --
23 where she had worked in the clubs, that it would pay for
24 a family counselor, and didn't she promise to go see a
25 counselor --

1 A. I don't know.

2 Q. -- before they moved into the house?

3 A. I don't know.

4 THE COURT: May I see the attorneys in
5 my chambers?

6 (Off-the-record discussion.)

7 MS. SHELTON: I don't have any further
8 questions, Your Honor.

9 MS. MCVEA: Nothing further.

10 THE COURT: All right. Sir, you may
11 step down.

12 THE WITNESS: Thank you.

13 MS. MCVEA: State calls paramedic
14 Grohman.

15 THE COURT: This is probably our last
16 witness of the day.

17 Sir, have you been sworn?

18 THE WITNESS: Yes, sir.

19 THE COURT: All right. Please take
20 the witness stand.

21 DONALD GROHMAN,
22 the witness hereinbefore named, being first duly
23 cautioned and sworn to testify the truth, the whole
24 truth, and nothing but the truth, testified on his oath,
25 as follows:

PERI K. STROMBERG, CSR

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DIRECT EXAMINATION

BY MS. MCVEA:

Q. State your name for the Record, and spell your last name for the Court Reporter.

A. Donald Grohman, G-r-o-h-m-a-n.

Q. Sir, how are you employed?

A. I'm a fireman and paramedic with the City of Garland.

Q. How long have you been so employed?

A. Thirteen years.

Q. Were you employed with the City of Garland back on February 29th of 1996?

A. Yes, that's correct, I was.

Q. On that date around 9:00 p.m., were you on duty?

A. Yes, ma'am.

Q. Did you receive a dispatch to respond to 1001 Sunset?

A. Yes, ma'am.

Q. What was the nature of the call?

A. A self-inflicted gunshot wound.

Q. Okay. Did you respond to the ambulance or a fire truck?

A. Ambulance.

1 Q. Was there another paramedic with you?

2 A. Yes, there was.

3 Q. And that person's name?

4 A. Mike Farro.

5 Q. Did the fire truck also respond to that
6 location?

7 A. Yes, they did.

8 Q. Okay. And who was on the fire truck?

9 A. There was Captain Wade, Johnny Chapman, and
10 Greg Wyrem.

11 Q. Okay. Now, did you arrive there first before
12 the police?

13 A. Yes.

14 Q. Were they right behind you?

15 A. Right behind us.

16 Q. Approximately what time did you arrive on the
17 scene?

18 A. I'm not exactly sure. It's in our dispatch
19 notes.

20 Q. Okay. Was it around 9:00? Does that sound
21 about right?

22 A. Yes.

23 Q. Okay. When you responded to that location,
24 did you do so by code red?

25 A. We responded with lights and siren, yes.

1 Q. Once you entered the neighborhood, did you
2 turn off the siren?

3 A. That's correct.

4 Q. Now, when you arrived there on the scene, did
5 you see a white male in the front yard of that
6 residence?

7 A. Yes, I did --

8 Q. Okay.

9 A. -- in the driveway.

10 Q. Okay. And what was that person doing?

11 A. He was standing next to the car just acting
12 hysterical. And I'm not sure what was being said. I
13 was just going towards the door.

14 Q. Okay. And did you go inside that residence?

15 A. Yes, I did.

16 Q. And what did you observe when you looked
17 inside?

18 A. There was a female that was laying on her back
19 with a gun -- a shotgun across her chest. And the entry
20 wound, it looked like it was down in her lower cheek
21 area and the face, and it looked like there was an exit
22 wound on her right side of her head.

23 Q. Did you notice anything else about the scene?

24 A. Inside, there was some furniture that was
25 overturned, and some bar stools, I think. Bar stools.

1 Q. Now, because of the Complainant -- or the
2 victim's condition, did you attempt any type of medical
3 treatment?

4 A. No, ma'am.

5 Q. It was pretty obvious that she was dead?

6 A. Yes. Another paramedic and I concurred that.

7 Q. What did you do next?

8 A. I made it into the entry way, and I turned
9 around to the police officers behind me that came in
10 right after me and told him that we needed the Medical
11 Examiner.

12 Q. Now, did you or any other paramedic touch
13 anything or move anything there at the crime scene?

14 A. No, we didn't.

15 Q. Now, did you exit the home?

16 A. Yes. At that time, I turned around and
17 exited.

18 Q. Did you make contact with the white male that
19 you had seen screaming and yelling?

20 A. Yes, I did.

21 Q. And did you identify that white male later as
22 Christopher Eric Radke?

23 A. That's correct, yes.

24 Q. Do you see that individual in the Courtroom
25 today?



1 Q. Do you recall if any other officers were
2 present in the immediate area when you were speaking
3 with the Defendant?

4 A. There were some officers around. I don't
5 think there was any right there with me as I was talking
6 to him.

7 Q. Would it be fair to say there were several
8 officers there at that location?

9 A. Yes, there were several.

10 Q. Did you speak with the Defendant?

11 A. Yes, I did.

12 Q. Okay. Did you ask preliminary information,
13 like who he was and things of that nature?

14 A. I was trying to get some information on the
15 deceased, and I'm not sure if I asked who he was, his
16 name.

17 Q. And did you find out that the person -- who
18 the person was that was inside the residence?

19 A. Yes, I did.

20 Q. Who was that?

21 A. That was Ms. Morrison. I'm not sure of the
22 first name.

23 Q. Diana Morrison?

24 A. Yes.

25 Q. Or Diana Radke?

1 A. I think I was told, that on the report, that
2 what we wrote down was different than what was later put
3 on there. It was sent back to us. I'm not sure. I
4 just remember the name being crossed out and Radke being
5 put on it. I think it was Radke that was placed on
6 there.

7 Q. I understand. Okay. Did you ask the
8 Defendant at that point there, when you first made
9 contact with him at the driveway, what had happened?

10 A. Yes. I was trying to get some information to
11 see what happened.

12 Q. Okay. And what did he say to you?

13 A. At the time, he was rambling and, you know,
14 was kind of going on. I'm not sure it's chronological,
15 but he stated that it was either her brother or his
16 brother said that she was crazy and was going to kill
17 herself, and she was on Prozac.

18 Q. Okay.

19 A. And --

20 Q. Did he say anything else to you?

21 A. No. He had his shirt off, and I was
22 concerned. You know, the cold weather, it was cold that
23 night.

24 Q. Did he go into a -- did he tell you anything
25 about what had occurred that led up to the victim being

1 shot or injured?

2 A. As we were going to the ambulance and talking,
3 he was like -- I'm not sure of the chronological events,
4 but he said they had come from a friend's house, and
5 that she had gone inside or came home before him and
6 went inside, and he walked in and she killed herself as
7 he walked in.

8 Q. Now, you said that you noticed that he didn't
9 have a shirt on.

10 A. That's correct.

11 Q. Okay. And what was the weather like on this
12 day?

13 A. It was pretty cold. I'm not sure of the exact
14 temperature. It was cold. And I'm not sure if it
15 wasn't overcast or anything else. I just recall it was
16 really cold.

17 Q. Okay. Is that why you took him to the
18 ambulance?

19 A. Yes. Also there was more light in there to
20 fill out the form. That was the back of the ambulance
21 in the end, the patient compartment.

22 Q. Now, once you took the Defendant to the
23 ambulance, did he actually enter the back of the
24 ambulance?

25 A. Yes, ma'am.

1 Q. Okay. Were there any officers, police
2 officers, present at this time?

3 A. Yes, I think there was. One did come up with
4 us and did sit inside.

5 Q. And did you sit inside the ambulance with the
6 Defendant?

7 A. Yes, ma'am, I did.

8 Q. Were there any other paramedics there inside
9 the ambulance that you can recall?

10 A. No, ma'am. No, ma'am, just myself.

11 Q. Okay. Now, once he was in the ambulance,
12 referring to the Defendant, did you ask any other
13 questions of him?

14 A. I was trying to find someone that he could
15 call. I was concerned about his welfare. I was
16 thinking that maybe, you know, he needed a pastor or
17 friends or family, somebody to call to talk to after
18 what he had witnessed.

19 Q. And you said there was an officer there
20 present. Did that officer ask any questions of the
21 Defendant?

22 A. Not that I recall. Another officer had come
23 to the ambulance inside, and I think at the same time --
24 I'm not sure who asked him what happened -- and he said
25 he was asleep at the time, and he heard a gunshot, got

1 up, and she was dead.

2 Q. Okay. So there were two other officers, at
3 least one officer and possibly two officers present, and
4 he gave another version about what happened?

5 A. Yes, that's correct.

6 Q. Let me make sure I get this straight. That he
7 was in bed; that he heard a gunshot, and he saw the
8 Complainant there dead in the -- on the floor.

9 A. That's correct.

10 Q. At this point what did the officers do? What
11 do you recall?

12 A. At that point, they -- they looked at each
13 other, and I kind of made a gesture, because it was
14 conflicting with what was said. I didn't say -- I don't
15 remember -- recall saying anything, but the gentleman
16 outside told the one inside, well, you better read him
17 his rights.

18 Q. Okay. And did the officer, in fact, read the
19 Defendant his rights?

20 A. Yes, ma'am, he did.

21 Q. Did you notice whether or not he understood
22 his rights? Did you verbally hear him say anything, or
23 did he shake his head?

24 A. I can't recall that.

25 Q. Okay. Did the Defendant continue to speak

1 with the officers?

2 A. At that time that they read him his rights, he
3 seemed to -- like he was belligerent or wasn't, you
4 know, acting appropriately, so they said, let's take him
5 to the car. So they took him to their patrol car.

6 Q. Did you stay there at the ambulance to finish
7 your paperwork?

8 A. I assume. I'm not sure. We might have
9 finished it on the way back or at the station.

10 Q. Okay. Did you have any other contact with the
11 Defendant once he was removed from the ambulance and
12 taken to the police car?

13 A. No, ma'am. I did step outside the ambulance,
14 and I recall telling them -- and I'm not sure if he was
15 the officer in charge -- that when we came up, he had a
16 phone in his hand, and they found the phone and dialed
17 it back to see who was called last.

18 Q. Now, you observed the Defendant there at the
19 scene. Can you describe his condition?

20 A. Mentally, I assume, or physically?

21 Q. Physically.

22 A. Physically. Inside the ambulance -- as I
23 stated, his shirt was off. I noticed some scratch marks
24 or a bruise, some bruise or a gouge or something on his
25 chest, and he had blood on his left shoe, and his left

1 knuckles were red.

2 Q. His left knuckles or knuckles on both hands
3 were red?

4 A. I just noticed the left knuckles. I don't
5 recall both hands.

6 Q. Do you recall any scratches on his back?

7 A. I never -- I don't recall seeing his back.

8 Q. Did you see any blood anywhere else on his
9 person or his body that you can recall?

10 A. Not that I recall. There might have been some
11 on the knuckles. I'm not sure if it was just redness or
12 what. It was hard to tell.

13 Q. Did you notice anything else about his
14 physical condition?

15 A. No, I didn't. He just -- mentally, he was
16 acting, you know, kind of belligerent, you know, saying
17 that -- the police officers did ask him if he was on
18 anything, and he said: No, but she was on acid and was
19 all fucked up, quote.

20 Q. Did you smell any alcohol on his breath?

21 A. He did smell like alcohol.

22 Q. Did he appear to you to be intoxicated?

23 A. I'm not sure if he was intoxicated or if --
24 you know, what he was under the influence of. I'm not
25 sure.

1 Q. But did he appear to be coherent? Were you
2 able to ask him questions --

3 A. Yes.

4 Q. -- and was he able to respond appropriately?

5 A. That's correct, he did respond. He did --
6 when I asked him -- he volunteered that they were in
7 marriage counseling, and that they had had troubles, and
8 that he thought they had worked things out. It also
9 seems like there was -- and I'm not sure why I remember
10 that -- but he had showed me the driver's license or
11 hers, and I think it was his, and he had a different
12 address than hers, and he said -- that's how he got to
13 that, saying that they had been to marriage counseling
14 and worked things out, or thought they had worked things
15 out.

16 MS. MCVEA: Pass the witness, Your
17 Honor.

18 CROSS-EXAMINATION

19 BY MR. STEINBECK:

20 Q. Sir, is there any other statements made by Mr.
21 Radke that you recall?

22 A. Not that I recall.

23 Q. Did you have any notes or anything, any
24 reports?

25 A. Yes, I did take notes that evening.

PERI K. STROMBERG, CSR

1 Q. Do you have those with you?

2 A. Yes, I do.

3 Q. Have you refreshed those at all?

4 A. Excuse me?

5 Q. Have you refreshed your memory?

6 A. Yes, sir, I have.

7 Q. Could you tell me if there's anything else
8 that Mr. Radke might have said that's in your notes?

9 A. That's what's in my notes, what I said.

10 Q. Are you positive?

11 A. Yes.

12 Q. Okay. Now, you mentioned when you first got
13 to the scene there that Mr. Radke was rambling, stating
14 that she was crazy and talked about killing herself.

15 A. That was not on the first arrival. That was
16 after we went inside and came back outside. Whenever I
17 approached him then, he said that.

18 Q. Okay. So Mr. Radke was in a highly excited
19 state?

20 A. When we first arrived, it seemed so. He was
21 rambling.

22 Q. And he was talking so fast you couldn't
23 understand everything he was saying. Is that what you
24 mean by rambling?

25 A. No, sir. It was -- as we first walked up, I

1 could not understand him, because my goal was to go
2 inside to see the patient. He went off to the left. I
3 was -- I guess I toned him out. I probably could have
4 understood if I wanted to, but my main goal was to go
5 inside to check the party.

6 Q. Okay. How close up was he to the front door?

7 A. I'm just guessing. I'm not -- I haven't -- I
8 don't have a tape measure or anything, but ten or 15
9 feet, maybe. I'm just assuming.

10 Q. How long were you inside before you came back
11 out?

12 A. A minute to two minutes.

13 Q. That's when he was continually rambling to
14 you, and you tried to redirect his attention to
15 answering certain questions?

16 A. He wasn't rambling at that time. He was --
17 well, he was rambling on and talking about how her or
18 his brother had said something to the effect that she
19 was going to kill herself; that she was on Prozac.

20 Q. He was highly upset at that time, would you
21 say?

22 A. I'm not sure what you mean by upset. He was
23 coherent. I understood what he was say.

24 Q. Did it seem like he was upset and traumatized
25 over the event?

1 A. Yes, I do. That's why I was kind of concerned
2 for him. I took him to the ambulance. I thought, well,
3 you know, he's upset for what he saw.

4 Q. I believe you used the word
5 earlier that he was hysterical.

6 A. And when we first drove up, yeah, he was
7 acting hysterical, when we first arrived on the scene.

8 Q. Now, you mentioned when you went in there that
9 you didn't touch the body at all.

10 A. That's correct.

11 Q. Why wouldn't you touch the body to determine
12 if she was dead or not?

13 A. The first paramedic went in, and the second --
14 and I was the second or probably the third person in,
15 and you could see from a distance brain matter, and the
16 wound wasn't compatible with life. There was no
17 possible resuscitation efforts.

18 Q. So right after you came back out and discussed
19 some other things with him, is that when you brought him
20 over to your ambulance --

21 A. Yeah.

22 Q. -- to warm him up?

23 A. Yes, sir, that's correct.

24 Q. And any other details you can remember from
25 Mr. Radke about what he talked about at that time?

1 A. In the ambulance or -- no, sir, just what I've
2 stated.

3 Q. Was he still in a highly charged state?

4 A. Yes, sir. In the ambulance, I was concerned
5 for him. And I never noticed he was crying, but I gave
6 him some tissue and some paper towels, and he just took
7 them at me and threw them at me. And I'm not -- I was
8 just, you know -- I was just trying to help him out.

9 Q. So he didn't want any comfort of any kind.

10 A. He didn't want any comfort. I offered to --
11 like I said, try to find -- we have cell phones. Call
12 somebody, a pastor, a friend, family. He said he had
13 already called somebody.

14 Q. Did you call somebody?

15 A. Did I? No, sir, I didn't.

16 Q. Do you know if anyone was called by anyone?

17 A. I'm not sure. I don't --

18 Q. How long was he in your ambulance?

19 A. The second time, I'm not sure. Five minutes.

20 Q. I'm not asking for an exact --

21 A. Approximately five or ten minutes.

22 Q. And then police officers came?

23 A. There was a police officer -- as I walked in
24 with him, another police officer came up and got into
25 the ambulance also.

1 Q. Okay.

2 A. And later --

3 Q. Was he listening to your questioning, or did
4 he take over the questioning at that point?

5 A. He was just listening, just sitting there
6 listening.

7 Q. Do you know which officer that was?

8 A. No, sir, I don't recall his name.

9 Q. Now, what happened after that, as far as Mr.
10 Radke being taken by the police officer?

11 A. After he was taken away from him or --

12 Q. Was the officer -- was he questioned right in
13 front of your presence there in the ambulance?

14 A. Yes, he was.

15 Q. That's not where he was read his rights,
16 though?

17 A. He was read his rights inside the ambulance.
18 He was questioned inside the ambulance, and they read
19 him his rights in there, too.

20 Q. So within minutes, he's right away read his
21 rights there at the scene?

22 A. Not in -- I'm not sure if it was minutes or
23 four or five minutes.

24 Q. Within a few minutes after you had been there
25 at the scene, the police officer, with you treating Mr.

1 Radke, is right away reading him his rights?

2 A. I was never treating Mr. Radke. I was just --
3 he was not a patient.

4 Q. Well, were you trying to calm him down?

5 A. I was mainly trying to get -- report
6 information and assist him with finding somebody to help
7 him for his emotional problems.

8 Q. And in that state of hysterics, Mr. Radke was
9 listening to what this gentleman was saying about the
10 Miranda rights; is that your testimony?

11 A. Yes, sir. He seemed coherent, understood.

12 Q. You did smell alcohol on his breath?

13 A. I smelled something. I'm not sure if it was
14 alcohol or something. There was some smell there of
15 alcohol.

16 Q. Did he appear to be drugged up in some way?

17 A. Excuse me?

18 Q. Did he look like he was under the influence of
19 some narcotic, perhaps?

20 A. I don't think so. He was acting, you know,
21 hysterical in the sense, you know, that he was kind of
22 flighty, or whatever you want to say on that; but I'm
23 not sure if he was or wasn't.

24 Q. What was Mr. Radke's response to the Miranda
25 rights warning?

1 A. I don't recall him saying anything. I
2 didn't -- I'm not sure if he did or didn't.

3 Q. And right after that, what happened? Is that
4 when he was brought to the squad car?

5 A. Yes. They took him to the squad car.

6 Q. Was there any family there at this time from
7 either side?

8 A. I'm not sure if there was or not, so...

9 Q. And was he right away placed in the squad car,
10 or was he brought to the scene in the squad car?

11 A. I was inside the ambulance when they took him
12 away, so I'm not sure.

13 Q. And did you see him ever go into the car, the
14 squad car?

15 A. No, sir, I was in the ambulance.

16 Q. All right. What did you do in the ambulance?

17 A. I was in there finishing out the form. We
18 have a patient form we have to fill out regardless of
19 the scene.

20 Q. Then what did you do?

21 A. I went to the -- I went to the house, and
22 there was a police officer there. I'm not sure if he
23 was in charge or what. I just told him that when I saw
24 him when we first got up there, he was on the phone.
25 And so I told that officer that he was on the phone.

1 Q. Did you treat any of these scratch marks on
2 Mr. Radke?

3 A. No, sir, I did not.

4 Q. He wouldn't accept any treatment?

5 A. I was offering him comfort and all that, and
6 he didn't accept that. It didn't seem like it was life
7 threatening.

8 Q. Now you're aware that some people can get
9 reddish knuckles by remaining -- it's just the way their
10 skin is?

11 A. I assume. I'm not --

12 Q. Like Mr. Radke's hand right now, you can
13 see -- make a fist Mr. Radke. When the knuckles get red
14 like that, you don't really know if that's normal or
15 from some kind of contact.

16 A. I'm not sure.

17 Q. His knuckles look red right now, correct?

18 A. It did look red then. You know --

19 Q. Very well. Mr. Radke did appear sad and upset
20 and grieved over what had happened?

21 A. Sadness, I don't really recall that. I
22 mean --

23 Q. Or shock. Did it look like he was in shock?

24 A. To me he appeared shocked. I'm not sure if it
25 was shock over what happened or, you know, the situation

1 or what it was.

2 Q. Thank you.

3 MR. STEINBECK: Nothing further.

4 REDIRECT EXAMINATION

5 BY MS. MCVEA:

6 Q. Sir, you said that he was acting
7 hysterically. Do you mean he was just yelling and
8 screaming?

9 A. When we first drove up?

10 Q. Yeah. Did you see him crying at all?

11 A. No, ma'am, I never saw him crying.

12 Q. Now, you said you heard the Defendant make an
13 inconsistent statement or a statement inconsistent with
14 what he told you initially --

15 A. That's correct.

16 Q. -- as to what happened.

17 A. Yes, ma'am.

18 Q. Did you tell the police officers about that
19 later?

20 A. Yes, ma'am, I think I did tell them later. I
21 can't recall when.

22 MS. MCVEA: That's all we have.

23 MR. STEINBECK: I just have one
24 follow-up, Your Honor.

25 RECROSS-EXAMINATION

PERI K. STROMBERG, CSR

1 BY MR. STEINBECK:

2 Q. Isn't it customary when people are undergoing
3 shock that they don't normally cry much?

4 A. I'm not sure.

5 Q. It depends on the individual, correct?

6 A. I assume. I don't have, you know, that much
7 study --

8 Q. Well, based on your experience, you've come
9 across a lot of trauma, I presume.

10 A. Experience shows different stages of grief, so
11 I assume there could be.

12 Q. Well, you've come across people who have
13 witnessed some very horrific things for them personally,
14 and they're still not crying much; isn't that true to
15 say?

16 A. They cry eventually.

17 Q. Sure.

18 MR. STEINBECK: Thank you. Nothing
19 further.

20 MS. MCVEA: Nothing further.

21 THE COURT: All right sir, you may
22 step down.

23 MS. MCVEA: Can this witness be
24 excused, Your Honor?

25 THE COURT: Any objection?

PERI K. STROMBERG, CSR

1 MR. STEINBECK: Oh, one further thing,
2 Your Honor. I'm sorry. I do have one follow-up. I may
3 need him recalled. Perhaps this will take care of it.

4 THE COURT: All right.

5 Q. (By Mr. Steinbeck) Sir, I just want to ask
6 you about today during lunch. Who did you have lunch
7 with today?

8 A. I'm not sure of their names. It's two Garland
9 police officers. I'm not sure of their names.

10 Q. Were both of them in uniform?

11 A. No, sir.

12 Q. One was in a suit?

13 A. Yes, sir, he was.

14 Q. And the other one, was he in a uniform?

15 A. Yes, sir, he was.

16 Q. Okay. Tell us about what conversation
17 occurred there about this case.

18 A. I don't recall any conversation about the case
19 at that time.

20 Q. You don't recall?

21 A. No, sir, there was not.

22 Q. Was there any case mentioned, a particular
23 case about a murder?

24 A. We might have talked about, you know, just war
25 stories or such, as we say, you know, about different

1 cases or didn't things we've seen.

2 Q. Was any particular murder case brought up --

3 A. I don't recall any.

4 Q. -- involving a male defendant and a female
5 victim, his wife?

6 A. I don't recall that.

7 Q. And a future possible appellate?

8 A. I don't recall that.

9 Q. You don't recall the gentleman that was in the
10 suit saying: I don't think Mr. Radke did it?

11 A. No, sir, I never heard that.

12 Q. You don't?

13 A. No, sir.

14 Q. You're positive about that?

15 A. I'm very positive about that.

16 Q. I don't think he did it, but stranger things
17 have happened, to quote him specifically?

18 A. I honestly don't recall that.

19 Q. You don't recall it? It could have happened,
20 though, you just don't recall?

21 A. I don't think it happened. I don't honestly
22 remember what we were talking about. We were sitting
23 there talking about our food and the meat.

24 Q. Were you told by the Prosecutor after lunch
25 that some issue was brought up about people discussing

1 the case when they weren't supposed to?

2 A. No, sir. She never did bring it up.

3 Q. You've never heard anything about that?

4 A. Excuse me?

5 Q. You've never heard anything about that?

6 A. Somebody else brought it up that there was,
7 but it was not her.

8 Q. So you understand if that was done, that could
9 be considered a crime, contempt of court, and punishable
10 by jail?

11 A. It could be. I'm very aware of that, and
12 that's why I do not discuss the case.

13 Q. These would be police officers who were
14 violating that, correct?

15 A. Excuse me?

16 Q. These would be police officers that would be
17 violating that, correct, if it was done?

18 A. If it was done, I don't -- and it wasn't.

19 MR. STEINBECK: I have nothing further.

20 MS. MCVEA: I have a question.

21 FURTHER DIRECT EXAMINATION

22 BY MS. MCVEA:

23 Q. You were right there, and you listened to the
24 conversation. Did they talk about this case?

25 A. No, they did not.

PERI K. STROMBERG, CSR

1 MS. MCVEA: Thank you.

2 MR. STEINBECK: One follow-up to that,
3 Your Honor.

4 FURTHER CROSS-EXAMINATION

5 BY MR. STEINBECK:

6 Q. Was there anything about the Mosley case being
7 mentioned?

8 A. Excuse me?

9 Q. The Mosley case?

10 A. No, sir.

11 Q. Do you think there was anything about that?

12 A. No, sir.

13 MR. STEINBECK: Nothing further. Thank
14 you.

15 THE COURT: All right. Sir, you may
16 step down.

17 May this witness be excused?

18 MS. MCVEA: No problem from the State,
19 Your Honor.

20 THE COURT: I beg your pardon?

21 MS. MCVEA: He may be excused as far as
22 the State is concerned.

23 THE COURT: Any objection from the
24 Defense?

25 MR. STEINBECK: No, Your Honor.

PERI K. STROMBERG, CSR

1 THE COURT: All right. Sir, you may be
2 excused.

3 (Whereupon, the witness was then
4 excused and proceedings resumed, as
5 follows:)

6 THE COURT: All right. We'll close for
7 the day. I wish that each side would caution their
8 witnesses who have testified previously not to discuss
9 that testimony with any of the other witnesses, not now,
10 not later.

11 Everybody be back in the morning at 9:15.

12 (Whereupon, the proceedings recessed
13 for the day, resuming on October 28,
14 A.D. 1997, as reflected in the
15 next-numbered volume.)

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1 STATE OF TEXAS)
2 COUNTY OF DALLAS)

3

4 I, Peri K. Stromberg, Official Court Reporter for
5 the 195th Judicial District Court of Dallas County,
6 State of Texas, do hereby certify that the above and
7 foregoing contains a true and correct transcription of
8 all portions of evidence and other proceedings requested
9 in writing by counsel for the parties to be included in
10 the reporter's record in the above-styled and -numbered
11 cause, all of which occurred in open court or in
12 chambers and were reported by me.

13 I further certify that this transcription of the
14 proceedings truly and correctly reflects the exhibits,
15 if any, offered by the respective parties.

16 WITNESS my hand this the 2nd day of February
17 1998.

18

19

20

Peri K. Stromberg

21

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