

1 VIRGINIA: IN THE CIRCUIT COURT OF PULASKI COUNTY

2

3 COMMONWEALTH OF VIRGINIA

4 v.

5 STEPHEN MATTESON EPPERLY,
6 Defendant

7

8 Stenographic report of all the testimony, together with the
9 motions, objections and exceptions on the part of the respective
10 parties, the action of the Court in respect thereto, and other incid-
11 ents of the trial of the case of Commonwealth of Virginia v.
12 Stephen Matteson Epperly, Defendant, tried at Pulaski, Virginia,
13 on December 10, 11, 12, 15, 16 and 19, 1980, before the Honorable
14 R. William Arthur in the Circuit Court of Pulaski County, Virginia.

15

16 APPEARANCES:

17

Everett P. Shockley, Esq. and
Francis C. Terwilliger, Esq., Attorneys
for the Commonwealth

18

19

R. David Warburton, Esq. and
R. Glennwood Lookabill, Esqs.,
Attorneys for the defendant

20

21

Stephen Matteson Epperly, in person
and by counsel

22

23

24

Reported by:
Miss Elinor E. Williams
Court Reporter
780 S. 4th Street, Apt. 1
Wytheville, Virginia 24382

25

26

I N D E X

(December 10, 1981)

COMMONWEALTH WITNESSES	DIRECT	CROSS	RE-DIRECT	RE-CROSS
Diana J. Hall	8	58	100	
Jane Toothman	104	110		
John Hall	112	120	134	

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(December 11, 1980)

COMMONWEALTH WITNESSES	DIRECT	CROSS	RE-DIRECT	RE-CROSS
Dixie Bauman	139	141		
Deborah Stanley	143	145		
Rita Harold	148	150	159	
Beth Cook	162	165		
William Whitman King, Jr.	172	203	272	277
Robin Robinson	282	290	321	325

		DIRECT	CROSS	RE-DIRECT	RE-CROSS
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2	Lloyd Matthews	327	330		
3	F. W. Duffy, Jr.	333	338	339	
4	W. B. Wilmore, Jr.	340			
5	William E. Patton	341	346		
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4	Laura B. Comere	444	446		
5	Jeffrey C. Kiser	447	453	463	
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21	Betty Davis	506	511	527	532
22	Captain Thomas N. Lovel	534	536		
23	Sgt. M. E. Church	541	542		
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25	Ward Christopher Royal	564	569	575	576
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	DIRECT	CROSS	RE-DIRECT	RE-CROSS
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December 10, 1980
(Reporter sworn)

1
2
3 THE COURT: All right, gentlemen, are you ready to proceed
4 in the case of Commonwealth v. Epperly?

5 MR. SHOCKLEY: The Commonwealth is ready, Your Honor.

6 MR. WARBURTON: The defense is ready, Your Honor.

7 THE COURT: There has been a motion to sequester the witnesses
8 in this case. Do you wish that done at this point, gentlemen, or
9 after we return and really ready to start into the case.

10 MR. WARBURTON: We request that it be done at this point
11 Your Honor. We think it's proper.

12 THE COURT: Right now, all right.

13 (Thereupon the witnesses were instructed by the Court and
14 sworn to testify and sequestered from the courtroom.)

15 THE COURT: Good morning, ladies and gentlemen, if you will
16 now turn and face me, I'm going to give you some preliminary
17 instructions that I hope will be helpful to you in the discharge
18 of your duties in this case. I know some of you have never served
19 on a jury before and for that reason I want to do this.

20 First the Commonwealth's Attorney will make an opening state-
21 ment. The defendant's counsel will also make an opening statement.
22 On each side this is done in order to outline for you what they
23 expect to prove in this case. Neither the Commonwealth Attorney
24 nor the defendant is required to do this, but it's done in virtually
25 every case and I assume it will be done here. What they say is
26 not evidence. It's just simply a statement of what they think they

1 can show and it's intended to help you understand the issues in
2 the case. Then the Commonwealth's Attorney will introduce the
3 State's evidence. The gentlemen on the other side will have an
4 opportunity to cross examine each witness as we go along. At the
5 conclusion of the State's case, then the defense will have an
6 opportunity to put on evidence if they wish to do so and then
7 the State finally will have an opportunity to put on rebuttal
8 evidence if they think that is appropriate. At the conclusion of
9 all the evidence I will give you the law of the case in written
10 form. I will read the instructions to you and then you will be
11 permitted to take these written instructions with you into the
12 jury room and study them so that you may apply the law to the
13 evidence that you have heard in arriving at your decision. Faithful
14 performance by you of your duties is vital to the fair administra-
15 tion of justice. You must not be influenced in any degree by any
16 feeling of sympathy for or prejudice against any party to this
17 suit for every party is entitled to the same fair and impartial
18 consideration. The law applicable to this suit will be that
19 which I will give you in the written instructions to which I have
20 just referred and its your duty to follow those instructions.
21 What I'm telling you now in oral form also constitutes instructions
22 and you will follow the instructions that I am giving you at this
23 time as well.

24 It is your duty to determine the facts. You are the trier of
25 fact and to determine the facts from the evidence and reasonable
26 inferences from the evidence and in so doing, you must not

1 indulge in guesswork or speculation. The evidence that you are
2 to consider consists of the testimony of witnesses and exhibits
3 which I may admit into evidence. The term "witness" means anybody
4 who testifies in person. The admission of evidence in Court is
5 governed by rules of law. From time to time it may be the duty of
6 the attorneys to make objections and my duty as Judge to rule on
7 those objections as to whether or not you can consider certain
8 evidence. You must not concern yourself with the objections or
9 the fact that they are made or the Court's reason for its rulings.
10 You must not consider testimony or exhibits to which an objection
11 was sustained or which has been ordered stricken.

12 Opening statements and closing arguments as I have just said,
13 are intended to help you but they are not evidence. No statement
14 or ruling or remark which I may make during the course of the
15 trial is intended to indicate my opinion as to what the facts
16 are. You are to determine the facts, not I. In this determination,
17 you alone must decide upon the believability of the evidence
18 and its weight and value. In considering the weight and value of
19 the testimony of any witness, you may take into consideration the
20 appearance, attitude and behavior of the witness, the interest
21 of the witness in the outcome of the suit, the relation of the
22 witness to any parties to the case, the inclination of the witness
23 to speak truthfully or not, the probability or improbability of
24 the witnesses' statements and all other facts and circumstances
25 in evidence. Thus you may give the testimony of any witness just
26 such weight and value as you may believe the testimony of such

1 witness is entitled to receive and finally I reiterate that which
2 I have said a number of times already in this trial, until this
3 case is submitted to you for your deliberation, you must not
4 discuss the case with anyone or remain within hearing of anyone
5 discussing it. You must not read anything about the case in any
6 newspaper or listen to any news cast on radio or television until
7 the case is concluded. After the case has been submitted to you,
8 you must discuss the case only in the jury room when all members
9 of the jury are present. You are not to have little private con-
10 versations along with each other about the case. All of your dis-
11 cussions are to be when all twelve of you are present in the jury
12 room. Finally you are to keep an open mind and you shall not
13 decide any issue in the case until the case is submitted to you
14 for your deliberation under the instructions of the Court.

15 Now as I mentioned yesterday, the twelve of you in the jury
16 box are the trial jury. The lady and the gentleman seated out-
17 side the jury box are the alternate jurors. They will go right
18 along with you and work with you through the entire case so that
19 they will know all about it. They will know everything about the
20 case that you know and so that in the event one of you becomes
21 ill or something of that kind, one of them can step right in and
22 take your place and we can continue. If nothing happens to the
23 twelve of you, and I'm confident that it will not, when the case
24 is over, and you twelve retire to the room to commence your
25 deliberations, then at that time I excuse the two alternates for
26 they have no further responsibility. All right you may turn

1 around now and we will proceed with the opening statements of
2 counsel.

3 (Thereupon Mr. Shockley made his opening statement to the
4 Court and jury, to which there was no objection.)

5 (Thereupon Mr. Warburton made his opening statement to the
6 Court and jury, to which there was no objection.)

7 THE COURT: I think I should advise the audience that under
8 the rules of procedure in Virginia the taking of photographs in
9 the courtroom is prohibited. I'm sure the members of the press
10 know that as well as I but this applies to everyone and the
11 broadcasting of any portion of this proceeding is prohibited.
12 I'm advised that one or more persons may have tape recorders.
13 If this is for your own individual use, I will permit that, but
14 the tape is not to be broadcast. That would be a direct violation
15 fo the Virginia rules of procedure.

16 Now members of the Jury, we are going to take a view at
17 this time. By this I mean you are going to be taken to some of
18 the places that you've heard about.--Now just a minute, let's
19 have, let's not start moving around until I'm through here please.--
20 Let me explain to you what a view is. A view is not intended to
21 supply evidence. We are not going out there so you can look
22 around and say, "Oh, look at this, what I found, come over here,"
23 and talk about it. That's not the purpose. A view is simply
24 intended to help you better understand the evidence that you will
25 hear in the courtroom when you return here. When they talk about
26 a house and a livingroom and a kitchen, you will know what they are

1 talking about because you've already seen it and so we will do
 2 this. I am going to give you a few moments. You may retire to
 3 your room here for a few moments and get ready to go because
 4 we'll be gone I'm sure a couple of hours.

5 During this period the same admonition of the Court obtains
 6 with reference to discussing the case or permitting anyone to try
 7 to talk about it in your presence. If you have any questions in
 8 your mind as you go about taking your view, if you have any
 9 questions, I'll be along and you direct your inquiry to me and
 10 then if it's a proper question to answer, we will undertake to
 11 answer it.

12 I think Sheriff we shall recess until 1:00 o'clock. We'll
 13 strive to take the view and have our lunch during this break and
 14 return here at 1:00 o'clock and commence with the evidence.

15 These gentlemen here will take care of you, ladies and
 16 gentlemen if you will first retire to your room and then when you
 17 are ready to go, just let them know.

18 (Thereupon the Court, jury, counsel, defendant and members
 19 of the Sheriff's Department proceeded to take said view and after
 20 a time returned and proceedings were resumed in the courtroom.)

21 THE COURT: Now are there any witnesses in the courtroom who
 22 expect to testify for either side in this case, any at all, be-
 23 cause if you are, you will not be permitted to testify if you
 24 remain in the courtroom. All right, there seem to be none, gentle-
 25 ment and if you are ready, you may call your first witness.

26 DLANA J. HALL,

1 a witness called on behalf of the Commonwealth, after being first
2 duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. SHOCKLEY:

5 Q Now Dlana, I know you are a real pretty soft spoken
6 girl and I want you to look to the jury and speak up if you would,
7 o.k., so that they can hear every word that you have to say. First
8 of all state your name, please.

9 A Dlana J. Hall.

10 Q And where do you live, Dlana?

11 A In Coeburn, Virginia.

12 Q And tell me a little something about your educational
13 background, college education, please.

14 A I went through my high school and at Radford College,
15 University now. I completed high school early and college within
16 three years and I have been out of school since November, 1979,
17 teaching. I taught at Radford for awhile and then I had a better
18 offer at home so I went home and that's where I'm teaching now.

19 Q Did you attend graduate school at Radford University?

20 A Yes, sir.

21 Q And when did you attend graduate school?

22 A Last summer.

23 Q Were you there during the regular academic year, that is
24 from September to June or whatever?

25 A I graduated in November and then taught here in Radford
26 or there in Radford and then went home, so no, sir, just, not

1 my graduate work.

2 Q You came back to live in Radford during the summer?

3 A Yes, sir.

4 Q Where did you live in Radford during the summer?

5 A Bell Heath Apartments.

6 Q And that's located in the City of Radford?

7 A Yes, sir.

8 Q Now I want to ask you a few questions about your sister,
9 Gina. Was Gina living with you this summer?

10 A Yes, sir.

11 Q Where was she attending school at that time?

12 A At Radford University.

13 Q And how long had she been attending Radford?

14 A Since spring quarter had begun. I guess that would be
15 the end of February or first of March.

16 Q And what year was she in college?

17 A Freshman.

18 Q Had she attended any other school before coming to
19 Radford University?

20 A Yes, sir, she had.

21 Q Where was that?

22 A Emory and Henry College in southwest Virginia.

23 Q Did she go there the first two quarters of the academic
24 year?

25 A Yes, sir.

26 Q Did she then transfer to Radford?

1 A Yes, sir.

2 Q Was she attending summer school?

3 A At Radford?

4 Q Yes.

5 A Yes, sir.

6 Q Now when is the last time that you saw your sister?

7 A On Saturday, June the 28th, 29th.

8 Q I just want you to look at this photograph if you
9 would and tell me if that's your sister?

10 A Yes, sir.

11 Q Do you know when that photograph was taken?

12 A Her senior year in high school.

13 Q Do you know who took the photograph?

14 A A photographer in town, _____ (unintelligible) Studios.

15 Q In town, you mean Coeburn?

16 A Yes, sir.

17 Q Does that accurately show your sister. Is it a good
18 picture of her or--

19 A Yes, sir.

20 Q Your Honor, we'd like to offer this into evidence as
21 Commonwealth's Exhibit No. 1.

22 THE COURT: All right, let it be received and so marked.

23 Q The week before she disappeared, what was she doing in
24 school?

25 A Midterms. It was--we were both going through midterms
26 that week.

1 Q Was it a pretty difficult week from an academic stand-
2 point?

3 A Yes, sir.

4 Q Do you know when her exams finished up?

5 A That Friday.

6 Q And you said you last saw her on June 28th, would that
7 be a Saturday?

8 A Yes, I believe it was the 28th, that night, Saturday
9 night.

10 Q When did you last see her? What time?

11 A I believe it was around ten sometime.

12 Q Do you know where you were when you last saw her?

13 A Yes, sir.

14 Q Where was that?

15 A In our apartment.

16 Q In Radford?

17 A Yes, sir.

18 Q Do you know where she was going?

19 A Yes, sir.

20 Q Where was she going?

21 A To the Merriott.

22 Q The Merriott Inn in Blacksburg?

23 A Yes, sir.

24 Q Did she have a car of her own?

25 A No, sir.

26 Q Did you have a car?

1 A Yes, sir.

2 Q Did she take your car to the Merriott?

3 A Yes, she did.

4 Q She had your permission to take the car?

5 A Yes, sir.

6 Q Did she drive it as you drove it while she was living
7 in Radford with you?

8 A Yes, she drove it more than I drove it.

9 Q How was Gina when it came to dancing?

10 A Beautiful. She was excellent and had had quite a few
11 dance classes in terms of tap dancing, gymnastics and jazz, you
12 know that type dancing. She definitely stood out.

13 THE COURT: Could you speak just a little louder. We have
14 outside noises--

15 A O.k., I'm sorry.

16 THE COURT: And the jury wants to hear everything you say.
17 Just look right at them rather than to the lawyers and speak
18 right up, please ma'am.

19 Q Did she like to dance?

20 A Yes, she loved it.

21 Q Was that one of her favorite activities?

22 A I would say it was her most favorite activity.

23 Q When she left about 10:00 o'clock in your car to go to
24 Blacksburg to the Merriott, can you relate to the Court and the
25 jury the mood that she was in.

26 A Very relieved that she had a chance to go out and relax

1 and let all that tension off. She was excited. She hadn't really
2 been out for a week and even the weekend before because she had
3 studied so hard for her tests that she had had that week so she was I
4 guess, good would not even be the best word you could use. She
5 was in a great mood.

6 Q Was she happy?

7 A Yes, very happy.

8 Q Was she thrilled to be going dancing?

9 A Yes, sir, and to get out and be able to--

10 Q Had she completely finished her exams?

11 A Yes, she had.

12 Q When she left, do you know whether or not she left with
13 anyone?

14 A No, sir, she did not leave with anyone.

15 Q Do you know whether she had any plans to meet anybody
16 there?

17 A No, sir.

18 Q Are you saying you don't know or she did not?

19 A I'm sure, I don't think that she had. I don't know for
20 sure unless, you know, when you go to a place like that there is
21 always a chance you'll see people that you already do know and
22 I don't know of any plans that she had of meeting anybody there.

23 Q Let me ask you if you know someone by the name of Jan
24 Fisher?

25 A Yes, sir.

26 Q Who is Jan Fisher?

1 A He is a young gentleman that lived up above me for a
2 year when I lived at Cedar Valley Apartments when I was a senior
3 and also out teaching in the Town of Radford, and he, his family
4 was, his mother rather was very close to ours as far as, you know,
5 helping myself and my roommate out and he had dated my roommate
6 some so he was--

7 Q Did you consider Jan Fisher a pretty nice person?

8 A Yes, sir.

9 Q Did Gina know Jan Fisher? Had she ever seen him or
10 been around him?

11 A Yes, sir.

12 Q Can you tell me how many times or when she first met
13 him.

14 A When she first met him was when Gail was dating him and
15 I pointed him out, "That's Jan, that's who, so and so and so,"
16 and so she saw him quite a few times after that as far as, you
17 know, just seeing someone, but she would recognize him and did
18 know him and knew that I thought highly of him.

19 Q You had expressed to Gina that Jan was a pretty nice
20 person?

21 A Yes, I liked him very much. His family was always
22 kind to us and helped us out whenever we needed help in town.

23 Q Diana, was your sister when she was in high school pretty
24 active in civic affairs, school affairs, so on and so forth?

25 A Yes, sir, she was a member of the tennis team for three
26 years along with myself, we were together for one year together

1 on it. She played very hard. She--they went to state and she also
2 was a gymnast. She helped the children. Miss Vickey was the
3 lady, Vickey Halbert taught the children of our town, like gave
4 lessons in different areas and she would assist Vickey in this,
5 like gymnastics and tap dancing and choreographing programs, she
6 helped a little bit with that also, with the dance programs that
7 were put on.

8 Q To you knowledge did--well, let me ask you this first.
9 Was your family or is your family a pretty close knit family?

10 A Yes, sir.

11 Q Was Gina part of that closeness?

12 A Yes, sir.

13 Q Were you close with Gina?

14 A Yes, sir.

15 Q Was Gina close with your father?

16 A Very close.

17 Q Now, of course, I know that your father and your mother
18 are divorced, is that correct?

19 A Yes, sir.

20 Q And your father is remarried?

21 A Since we were very small, yes, sir.

22 Q So is your father still married to this woman?

23 A My stepmother?

24 Q Yes, your stepmother?

25 A Yes, sir.

26 Q And how long have they been married?

1 A Since I was seven, 13 or 14 years, I believe.

2 Q Was Gina pretty close to your stepmother?

3 A Yes, sir.

4 Q Did you have a pretty happy family life, I mean was
5 there any discord in the family, anything of that nature. Can you
6 relate to the jury maybe in a little more specific detail just how
7 close your family was.

8 A Gina was especially--

9 MR. LOOKABILL: Your Honor, I don't like to make a lot of
10 objections, but I fail to see how this is relevant.

11 THE COURT: Well, I assume that it is relevant and on that
12 premise I'll permit the question and answer. If I determine that
13 it's not relevant, I'll so advise the jury. You may proceed.

14 A Our family always was close in terms of even not just
15 our immediate family but with both grandmother's sides and whatso-
16 ever. We've always had our Christmases together and Thanksgivings
17 together and they were very big occasions. Gina always, always
18 helped my mother, Joan, my stepmother. I mean I might not have
19 all the time but Gina always was right at her side helping her
20 and would do anything to please her and she really--we had our
21 standards that my stepmother taught us well and what else was you--

22 Q Well, that may be enough. I just want to--I've talked
23 to your family and everything, of course, and I wanted you, the
24 words to come from you as to well how close you all were.

25 Q Did Gina respect your father?

26 A Yes, sir.

1 Q Did she love him?

2 A Very much so, sir. I think that he was her whole world.

3 Q Do you know of any times that Gina ever ran away?

4 A No, sir.

5 Q Do you know of any times that Gina ever considered sui-
6 cide or attempted suicide?

7 A No, sir. She would have been too afraid that hurt,
8 stepped on someone's, you know, hurt someone's feelings. She was
9 always very thoughtful in that respect and she would never have
10 done anything to hurt my father or my mother, Joan.

11 Q Do you know whether she ever had any emotional problems?

12 A No, sir.

13 Q Whether she ever sought counseling through a psychiatrist
14 or anything of that nature?

15 A No, sir.

16 Q Did you ever hear from Gina after she left your apartment
17 at 10:00 o'clock on June the 28th?

18 A Yes, sir.

19 Q And may I ask when?

20 A I believe it was around 1:00 o'clock. I was asleep and
21 I don't know the exact time, but I do know that I hadn't been
22 asleep maybe but an hour and a half or so.

23 Q Were you asleep at your apartment?

24 A Yes, sir.

25 Q Did Gina telephone you?

26 A Yes, she did.

1 Q You say you don't know exactly what time it was. Do you
2 know after what time it may have been?

3 A Yes, sir; I watched maybe 15 minutes of a show that was
4 on TV that night and so I know that I went to bed around 11:45 or
5 something to 12:00, around that time; and I remember kinda glancing
6 at the clock but not really making it strike on my mind just
7 exactly what time it was, but I do feel it was around anywhere
8 between 1:00 and 1:30.

9 Q And you say she telephone you?

10 A Yes, she did.

11 Q Did you recognize her voice?

12 A Yes, I did.

13 Q How did she sound on the telephone?

14 A Vary uneasy or out of character to the effect that she,
15 her voice seemed like it just was not herself as it, you know, it
16 was her voice but it was not her character.

17 Q Did she sound upset or worried or anything of that
18 nature?

19 A I thought, you know, it didn't make an impression on me
20 that night because I was asleep when she phoned and it just, my
21 phone at the side of my bed and I just picked it up and she said,
22 "Diana;" and I said, "Gina," and then, you know the conversation
23 began. I don't remember, "Hello Diana," or, you know, or any
24 explanation of what she was doing. I do know that her, I feel like
25 if it had been in her character she would have said something more
26 than just my name in that type of voice.

1 Q How long did you talk to her on the telephone?

2 A About, I guess, two minutes at the most. Our conversa-
3 tion was very short.

4 Q Did she sound depressed at all?

5 A Would you like for me to tell you what was said.

6 MR. LOOKABILL: We'd object, Your Honor, to what was said.

7 THE COURT: Gentlemen, it would seem to me that this is pro-
8 bably an exception to the hearsay rule either under the excited
9 utterance exception or the exception having to do with one's ex-
10 isting mental or emotional condition. If you wish, we will ex-
11 plore this evidence in the absence of the jury and make a definite
12 determination on it.

13 MR. SHOCKLEY: Your Honor, if I might, without giving the
14 specifics, I think that it would, her testimony would state where
15 she was and with whom she was.

16 MR. WARBURTON: It would be our position, Your Honor that
17 would be the rankest of hearsay.

18 THE COURT: All right, members of the jury, would you retire to
19 your room just a moment, please.

20 (The jury retires from the courtroom.)

21 THE COURT: All right, now in the absence of the jury, let's
22 examine this witness and then the Court will rule on the objection.

23 Q All right, just tell the Judge exactly what Gina said
24 to you on the telephone.

25 A O.k. Well, sir, she said, "Diana." and I said, "Gina?"
26 and she said, "Yeah." I said, "Where are you?" And she said, "I'm

1 out at the lake." I said, "What are you doing out at the lake?"
2 You know the first impression that went through my mind was she
3 has wrecked so I said, "Where are you?" and she said, "I'm out at
4 the lake." I said, "Well, what are you doing out at the lake?"
5 She said, "I'm looking at it." I said, "Well, who are you looking
6 at it with?" And she said, "Steve." And that was the end of the
7 conversation.

8 THE COURT: She said, "I'm looking at what?"

9 A I'm looking at it."

10 THE COURT: At it?

11 A At it.

12 THE COURT: And then you said what?

13 A I said, "well--I thought, gosh what does she mean.

14 THE COURT: All right, then what did you say?

15 A I said, "Who are you looking at it with?" I thought maybe
16 she might be at a party or something and she said, all she said
17 was "Steve." and that is all.

18 THE COURT: And how did she sound to you throughout this con-
19 versation?

20 A Very nervous.

21 THE COURT: You said something at the beginning of your testi-
22 mony about the sound of her voice, that she didn't sound like she
23 was herself or something. Could you explain in a little more de-
24 tail about that.

25 A Well, sir, after seeing the home and knowing my sister as
26 well as I do, she would not have sit there if she were talking to

1 me under any normal situation and say something to the effect, "I'm
2 looking at it." Why would anybody say, "I'm looking at it," re-
3 ferring to the lake when being in a home like that as much as my
4 sister and I loved beautiful homes. She would have said, "You
5 should see this place." That's what I mean when I say out of
6 character. It was not in character for my sister to talk to me
7 this way.

8 THE COURT: Well, what about the sound of her voice as compared,
9 was it normal or not?

10 A No, sir, I don't feel it was. I feel like it was an un-
11 easy voice.

12 THE COURT: You say she sounded nervous?

13 A To me, that's the impression that I felt when I thought
14 back about it, but I don't really know the correct word to use for
15 the sound of her voice except that to me I felt that it sounded
16 nervous and uneasy.

17 MR. SHOCKLEY: Judge, may I ask another question, please
18 before you rule.

19 Q Diana, did Gina ever make any remark about if she'd be
20 home or not?

21 A I asked her, you know, "Please, you need to hurry on
22 home," and she, she didn't say anything. That was the end of the
23 conversation. There was no bye that I can recall or anything.

24 Q Did she ever answer you?

25 A No, sir, I don't recall her saying anything except, you
26 know, maybe, but no clear indication.

1 THE COURT: All right, gentlemen, do you have any questions?

2 MR. WARBURTON: If it please the Court, first of all, Miss
3 Hall, I'm sure is very sincere in how she feels but she's made
4 a conclusion, a conclusion of the witness, "My sister, after I
5 have seen the house, would not have reacted that way." This Miss
6 Hall has made a conclusion about her sister's activities that night
7 after the fact, after thinking about it and after seeing this home
8 and after knowing all the other things that she knows about this
9 case. I think we need to focus in on what happened that night,
10 not what she may have learned or concluded since then. As to the
11 things that Gina Hall is alleged to have said, it would all be
12 hearsay under all the standard rules of evidence. As to state of
13 mind, it's not the _____ (unintelligible) case where we say, "I
14 am going to do whatever it is or, "I feel whatever it is. None
15 of those are what Diana Hall says Gina Hall might have said that
16 night. As to excited utterance, unless the Commonwealth of
17 Virginia is maintaining that Gina Hall died immediately thereafter
18 or was in such a state of emotional shock that we are to somehow
19 rely on exactly what she said is an exception to the hearsay rule,
20 I don't see how this evidence can be let in.

21 MR. SHOCKLEY: Your Honor, may we approach the bench just a
22 second, please.

23 THE COURT: All right, come up gentlemen.

24 (Conference off record.)

(Thereupon the jury returned into the courtroom.)

25 Q Now Diana, going back to the telephone conversation,
26 you say that it seemed out of character?

1 A Yes, sir.

2 Q Can you, without going into the context of the conversation,
3 can you describe what you mean?

4 A She sounded very nervous, very uneasy of maybe the situa-
5 tion.

6 Q Just not herself, would that be a fair summary?

7 A Yes, sir.

8 Q And you say the telephone conversation lasted about two
9 minutes?

10 A Yes, sir, at the longest.

11 Q Since that telephone conversation, have you heard or
12 seen Gina?

13 A No, sir.

14 Q At any time?

15 A No, sir.

16 Q Of course, Gina, I suppose you are aware of the extensive
17 searches that we have done for your sister?

18 A Yes, sir.

19 Q Let me ask you what she was wearing that night, if you
20 could tell me please.

21 A She had on white pants, high waisted, with a white
22 jacket and a purple Dan Skin type body suit that formed a "V"
23 shape in the back. She had on a pair of Diess shoes, the Candy
24 style with a velvety purple cover shoe that matched her shirt,
25 perfectly.

26 Q Let me ask you this just to back up a minute, when she

1 left the house, do you know whether or not she had an ankle brace-
2 let on?

3 A Yes, sir, she did. She left the house, went out to the
4 car, the apartment went out to the car, came back in the door all
5 bubbly and said, "I forgot my ankle bracelet and I can't go dancing
6 without my ankle bracelet"; and she went upstairs and got it and
7 came back on and put it on.

8 Q You saw that?

9 A Yes, sir, I did.

10 Q Now could you identify that ankle bracelet?

11 A I can by what she has told me about it.

12 Q But if I showed you an ankle bracelet, would you be able
13 to say whether that was the one she had on that night or not?

14 A She told me that she--

15 Q I don't want to get into what she told you.

16 A O.k.

17 Q We can't do that.

18 A O.k.

19 Q But my question is did you at any time yourself see the
20 ankle bracelet so as to be able today to identify that ankle
21 bracelet?

22 A I have not seen the actual ankle bracelet that she had
23 on up close, but I do know that it is very similiar to the one
24 that she had already had that was broken.

25 Q But if I showed you an ankle bracelet, you wouldn't be
26 able to tell me that this is the one she had on that night or

1 not?

2 A If it looked exactly like the one that I had, yes, I
3 could, because--

4 Q Well, just describe the ankle bracelet if you would that
5 she had on that night.

6 A Interlocked hearts.

7 Q White gold, yellow gold?

8 A Yellow gold interlocked hearts, and I remember she said
9 they were a little bit larger than what she really liked, so I
10 would say that they weren't very small.

11 MR. SHOCKLEY: Your Honor, I, of course, during the course of
12 this trial have several exhibits back here. I'd be happy to come
13 and go and tell Mr. Wilmore any exhibits that I want, if that's
14 all right with the Court.

15 THE COURT: That's all right, or he can--well, that'll be all
16 right.

17 MR. SHOCKLEY: --Court and defense counsel if Mr. Wilmore brings
18 these items into the courtroom as they are requested, do you have
19 any objections, gentlemen?

20 THE COURT: As long as he doesn't hear any of the testimony
21 that wouldn't violate the Court's separation rule.

22 MR. SHOCKLEY: Your Honor, again many of these items are sealed
23 because they have gone to the forensic labs and I don't want to do
24 anything that will disturb any chain of evidence or sealing, but,
25 of course, it's necessary at this time for me to pull out certain
26 items and--

1 THE COURT: All right, which item is it you wish to use?
2 Is it in that package?

3 MR. S. SHOCKLEY: This item first of all, Judge.

4 THE COURT: All right, you may open it and keep the identifying
5 tag with the material so we won't get them mixed up.

6 MR. SHOCKLEY: I may be awhile.

7 THE COURT: Would you like the gentleman to come back in and
8 help you with those bags?

9 MR. SHOCKLEY: I think I got it now.

10 THE COURT: Let me suggest, if there is any question, gentle-
11 ment do you have any difficulty with this procedure?

12 MR. WARBURTON: _____ (Unintelligible).

13 THE COURT: Bringing it in and letting the Commonwealth's
14 Attorney open the bags.

15 MR. WARBURTON: I have no problem with it, Your Honor. I've
16 never seen the stuff before. I don't know where it came from.
17 I don't know whose hands it's been in. I'm not going to waive any
18 objection to chain of custody.

19 THE COURT: No.

20 MR. WARBURTON: What's he's doing as far as opening this, I
21 have no problem with that whatsoever.

22 THE COURT: I'm not talking about chain of custody up to this
23 point. I'm talking about chain of custody from this point on.
24 If you prefer we can have the gentleman from the lab come in, open
25 each one of these, identify them and tell us where they came from,
26 where they've been and establish the chain of custody now and then

1 let him retire and let this witness resume the witness stand.

2 We can do that.

3 MR. WARBURTON: Mr. Shockley and I have already agreed about
4 the chain of custody since this material arrived at the courthouse.
5 We've agreed as to that. I assume Mr. Shockley will open the items
6 in Court, will seal them up, and have Mr. Wilmore take them to the
7 back to our agreedplace. _____ (Inaudible).

8 THE COURT: All right, if there is no--

9 MR. SHOCKLEY: Certain items, the foundation for the intro-
10 duction into evidence can be established right now.

11 MR. WARBURTON: That's fine.

12 MR. SHOCKLEY: And at the same time though you may have a
13 bag or something that contains these items now with certain initials
14 and dates put on there by various people who have had possession of
15 them and if I can introduce an item into evidence and have it
16 tagged or whatever and leave the bag with it until all the chain
17 is established--

18 THE COURT: Well, I gather that defense counsel has no objection
19 to this procedure. Of course, they are not waiving any objection
20 they may have prior to this time.

21 Q Dlana, I want you to look at that and tell me if you
22 can identify it?

23 A Yes, I can.

24 Q What is it?

25 A It's Gina's shoe.that she had on that night.

26 Q That's the shoe she had on that night?

1 A Yes, sir.

2 Q Are you sure of that?

3 A One Hundred per cent sure.

4 Q Do you know where Gina bought those shoes, do you have
5 personal knowledge, not what Gina told you, but do you have
6 personal knowledge of where they were purchased?

7 A Yes, I do. Joan, my mother, stepmother, bought my
8 sister a pair and myself a pair at this store in Abingdon that
9 was going out of business and--

10 Q Do you happen to have--

11 A Yes, I do.

12 Q --your pair of shoes with you?

13 A Yes, sir.

14 Q Is this your pair of shoes?

15 A Yes, sir.

16 Q How do you pronounce the brand name?

17 A Diesse.

18 Q Diesse. Are these two types of shoes the same brand
19 and style and so forth?

20 A Yes, sir. I believe hers might have been a nine and
21 mine a ten. My mother buys them a size larger in this type shoe.

22 THE COURT: Speak a little louder please and when the lawyers
23 get up close to you, you are going to naturally just begin to
24 converse with him quietly, but you have to keep in mind that you
25 need to speak right up so everybody can hear you, please.

26 A O.k.

1 Q Now, Gina, of course, there is a lot of markings on
2 the and black spots and so on and I'm sure that you don't know how
3 they got on there, is that correct?

4 A Yes, sir.

5 Q But this is the shoe that Diana had--or excuse me, Gina
6 had on when she left?

7 A Yes, sir, because I told her they looked pretty.

8 QMR. WARBURTON: Your Honor, I'm sorry I didn't hear that.

9 A I said I told her that they looked very nice with that
10 shirt. I saw those shoes.

11 MR. SHOCKLEY: Your Honor, I'd like to offer Gina Hall's shoe
12 into evidence as Commonwealth's Exhibit No. 2 and I would also
13 like to offer into evidence Diana's matching shoe or the same
14 style of shoe into evidence as Commonwealth's Exhibit No. 3.

15 THE COURT: All right, let them be received and marked.

16 MR. SHOCKLEY: Your Honor, I think it's best at this time to
17 keep the bag with it. I don't want the writing on the bag to be
18 seen by the jury, but--

19 THE COURT: Well, just leave the bag either there or under the
20 table or wherever, that'll be all right.

21 MR. SHOCKLEY: All right.

22 Your Honor for the record, the next thing that I will show her
23 would be Item no. 63. I know this would mean nothing to the jury,
24 but it would be, for purposes of identification if there ever comes
25 a question later, would be Item No. 63 on the submitted laboratory
26 sheet.

1 Q I'd like you to look at this, Diana, and tell me if you
2 can identify that?

3 A Yes, sir.

4 Q Would you look at the brand name of it?

5 A I saw it when you held it up.

6 Q Wrangler?

7 THE COURT: Speak up, please ma'am.

8 A I saw it when you held it up.

9 Q What's the brand name shown?

10 A Wrangler.

11 Q Have you ever seen that before?

12 A Yes, sir.

13 Q Have you ever worn it yourself before?

14 A Yes, sir.

15 Q When is the last time you saw it?

16 A Saturday night when Gina left, she was wearing it.

17 QMR. SHOCKLEY: Again Your Honor, this is Item No. 63 on the
18 Laboratory Sheet and I would offer--would this be the outer jacket
19 of the outfit?

20 A Yes, sir.

21 MR. SHOCKLEY: We would offer this into evidence, Your Honor,
22 as Commonwealth's Exhibit No. 4.

23 THE COURT: Let it be marked.

24 MR. SHOCKLEY: Your Honor, the next item is Commonwealth's
25 Exhibit No. or not Commonwealth's Exhibit, but Laboratory Item
26 No. 64. Your Honor, I take that back. This is Item No. 64 which

1 is a towel which will come into evidence at a later point. I re-
2 turned it to Mr. Wilmore.

3 Your Honor, this next item that I have opened is Item No. 62
4 on the lab sheet.

5 Q I'd like to ask you if you can identify those, Diana?

6 A Yes, sir.

7 Q Do you see the brand name, Bobbie Brooks?

8 A Yes, sir. They have splits up, straight legged at the
9 bottom. Right here, see the split.

10 Q Do you know the last time you saw these?

11 A I just was thinking a minute ago. I guess when I
12 identified them, also that would be the last time, but on her was
13 that night.

14 Q Well, my question, of course, is was she wearing these
15 the night that she went to the Merriott?

16 A Yes, sir.

17 MR. SHOCKLEY: Your Honor, we would offer this into evidence
18 as the next Commonwealth's Exhibit 5 is it?

19 THECOURT: All right, let it be received and marked.

20 MR. SHOCKLEY: Your Honor the next evidence is Item No. 61
21 on the Laboratory Sheet.

22 Q O.k. Diana, again I'd like you to look at this and tell
23 me if you can identify it?

24 A Yes, sir.

25 Q Can you tell me what it is first of all.

26 A It's her, Gina's body suit.

1 Q And when was the last time that you saw that?

2 A That night. I remember it because I put her necklaces
3 on, and around her for her.

4 Q This was what Gina wore when she went to the Merriott?

5 A Yes, sir.

6 MR. SHOCKLEY: Your Honor, I offer this into evidence as
7 Commonwealth Exhibit No. 6.

8 THE COURT: That's a blouse is it?

9 MR. SHOCKLEY: Body suit.

10 THE COURT: Body suit.

11 MR. SHOCKLEY: It goes below the waist as well.

12 Your Honor, this next item is Laboratory Item No. 60.

13 Mr. Lookabill and Mr. Warburton there are some other individually
14 packaged items that were contained in some of these bags. If
15 you don't mind, I'll just hand those back to Mr. Wilmore.

16 MR. LOOKABILL: Are they individually sealed?

17 MR. SHOCKLEY: Oh, yes, and they have initials _____
18 (inaudible, noise) if you care, you know, if you care to look at
19 them. If you don't mind I'll just give them back to him and
20 we'll talk about those a little later.

21 MR. WARBURTON: Won't it be relevant to know what bags they
22 came out of?

23 MR. SHOCKLEY: Well, they're marked by item number and every-
24 thing.

25 MR. WARBURTON: Oh, I just didn't know _____ (inaudible).

26 Q Can you identify these or not? If you can't--

1 A Yes, sir.

2 Q You can?

3 A Yes, sir.

4 Q O.k., how can you identify them?

5 A Because I have some just like them that my mother bought
6 both of us.

7 Q And these are panties, are they?

8 A Yes, cotton.

9 Q Pardon?

10 A Cotton.

11 Q Cotton panties?

12 A (Inaudible).

13 Q Of course, I take it that you don't know for sure that
14 that's what, the exact pair that Gina had on?

15 A I couldn't know for sure. I just know that mine are, the
16 pairs that I have are exactly the same as those from J.C. Penny
17 that my mother bought us.

18 MR. SHOCKLEY: Your Honor, I'd like to offer this into evidence
19 at this time. I realize that possibly the full foundation has not
20 been laid but I can assure the Court that we'll do so at a later
21 point.

22 THE COURT: All right. On that avowal, let the exhibit be
23 received and marked, Commonwealth's Exhibit 7.

24 Q Dlana I don't want to open this up because it's a clear
25 bag and you can see through it and if you can identify it, fine,
26 if not, but it appears to be some sort of bracelet. Can you

1 identify it?

2 A No, sir, I wouldn't know.

3 Q You just don't know one way or the other whether it
4 could have been--

5 A I know she had one on. I don't know. I never held it
6 myself. All of her others I've held but not the one she had just
7 bought.

8 MR. SHOCKLEY: If you all don't mind, I'll just hand these
9 back to Mr. Wilmore, is that o.k., these little bags?

10 MR. WARBURTON: Oh, sure.

11 Q Now Diana, did you and Gina have any curlers?

12 A Yes.

13 Q Hair curlers?

14 A She had hair curlers.

15 Q She had hair curlers.

16 A And I have some of the same kind.

17 Q Did you upon request of the police authority give Gina's
18 curlers to the police?

19 A Yes, sir.

20 Q Again there are some other samples inside there. You
21 gave this to the police?

22 A Yes, sir.

23 Q Do you recall who you gave it to?

24 A Most likely it was Trooper Austin Hall. I don't remember
25 which one or when.

26 Q But you did give it to a police officer?

1 A No, sir.

2 MR. WARBURTON: Your Honor, I'll object. I think that would
3 be a conclusion drawn by this witness. It would be improper for
4 the Commonwealth Attorney to ask this witness to conclude for the
5 jury something he may want to suggest by other means.

6 MR. SHOCKLEY: Your Honor, we are getting into character
7 evidence and actually habit evidence and I think it's fair for
8 the Court to know her opinion as to Gina's--

9 THE COURT: I think that is a conclusion that the jury can
10 draw from the evidence that is heard from this witness without
11 the witness reaching the conclusion for the jury so I sustain the
12 objection.

13 MR. WARBURTON: Thank you, your Honor.

14 Q Has Gina ever discussed with you, you know, disrobing
15 in front of men or women, maybe, with whom she's not acquainted?

16 A No, sir, the--

17 MR. WARBURTON: Go right ahead, I haven't said a word.

18 A Could you repeat it, please.

19 Q Yes, has Gina ever discussed with you about the thought
20 or the possibility of having to disrobe, the concept of it, the whole
21 idea.

22 A Just the fact of even being in a bathing suit embarrassed
23 her and the one thing that she had talked to both myself and my
24 stepmother--

25 MR. WARBURTON: I'll object, Your Honor, on the basis of

26 _____ (inaudible).

1 MR. SHOCKLEY: Your Honor, this is the state of mind exception,
2 I think.

3 THE COURT: I overrule the objection.

4 Q Go ahead and finish your answer, please.

5 A She discussed if she might, she was very worried about
6 her ever being able to conceive a child because of the physical
7 part of her body. She--her body would not have stretched in order
8 to allow this and it was just, you know, not long before this
9 happened that she discussed it with my stepmother and knowing this--
10 do you see what I'm saying--there is just, I mean the thought
11 really scared her, it terrified her to think that something might
12 ever even happen to her to cause this to happen. She would never
13 put herself in a situation to where she would have--

14 MR. WARBURTON: Again Your Honor, the witness is coming to
15 conclusions, speaking conclusions to the jury and it's unfair to
16 the jury and it's unfair to my client. I'll object again.

17 THE COURT: Objection sustained as to any opinion, conclusory
18 opinion expressed by the witness.

19 Members of the jury, witnesses ordinarily testify to facts
20 and then you as a trier of fact will draw your own conclusions
21 and the reasonable inferences from the evidence that you've
22 heard.

23 Q Diana, did Gina to your knowledge ever abuse alcohol
24 or drugs?

25 A No, sir, not abuse. I don't know if she might have even
26 been sociable in some situations. Around me though very seldom

1 would she drink over one drink.

2 Q Do you know of any time that she ever spent a night away
3 from home without notifying family members?

4 A No, sir.

5 Q What type of car do you have that she went to Blacksburg
6 in?

7 A Chevrolet Monte Carlo, brown and beige.

8 Q Did you ever see the car again after she left with it?

9 A Yes, sir, when they found it.

10 Q Where did you--o.k. someone else found it?

11 A Yes, sir.

12 Q Where did you see it?

13 A On Hazel Hollow Road.

14 Q Before it was ever, to your knowledge, moved back to
15 your apartment or anything like that?

16 A Yes, sir.

17 Q Did you ever see inside the trunk before anything may have
18 been removed from the trunk?

19 A No, sir, not there. No, I didn't really hang around.

20 Q When did you see it on Hazel Hollow Road?

21 A Monday night, evening. It was still light. Probably, I
22 guess, five to six. I don't remember the time but it was on Monday,
23 because my parents were, Jo--daddy had already been up there and
24 some friends of mine had been looking ever since I had called them

25 _____ (unintelligible).

26 Q Did you tell your father of her disappearance or did

1 someone else?

2 A I did.

3 Q And when did you tell your father?

4 A I called him Sunday when I, after I had talked, after
5 I didn't know anything else to do. He had been gone all day
6 Sunday.

7 Q Pardon?

8 A He had been gone all day Sunday.

9 Q Did he come up right away?

10 A Yes, he did. Well, no, it was late. It was about
11 10:30 and he came up early that morning.

12 Q How tall is Gina?

13 A Short.

14 Q Well, can you be a little more specific.

15 A I don't, I--

16 Q How tall are you?

17 A About five four and I'd say she's about four nine, five
18 foot or something. She's about that much shorter than I was
19 (indicates).

20 Q That much shorter and you're five--

21 A Four.

22 Q Did she have any--well, let me ask you this. How much
23 did she weigh?

24 A About 107, 108.

25 Q Is it safe to say that she was petite?

26 A Very.

1 Q Did she have any particular habits with reference to
2 position of the seat in the car when she drove it?

3 A Well, I couldn't even drive it after she had been driving
4 it. It'd be clear up under the steering wheel when I'd get in
5 there and I'd have to scoot it back and I'd always fuss at her for
6 always forgetting to push it back because I nearly broke my neck
7 when I got in there, so, yes, it was all the way up under there
8 as far as it would go.

9 Q Did she have a habit of doing that every time she drove
10 the car?

11 A Yes, sir, she couldn't reach the pedals unless she did
12 so.

13 Q Let me ask you about a particular key chain that you own.
14 Maybe before I ask you about that, when Gina left that Saturday
15 night, did she have any of your personal effects with her?

16 A Yes, sir.

17 Q Anything out of your pocketbook?

18 A My whole pocketbook was in the car. I did not realize
19 it, but my whole pocket book, I always left it up under where I
20 would sit so that if I did happen to forget it, it wouldn't get
21 stolen or whatever and I always pushed it up under there so my
22 pocketbook was in there and inside of my pocketbook was a clutch
23 that Gina sometimes used. A clutch that you keep a check book in
24 and money and that sort of thing, had pictures and ID and license
25 and sometimes she would use it so I don't know if she had it with
26 her or what.

1 Q Well, was there a key chain in that clutch purse or some-
2 where else in the car, your key chain?

3 A Yes, sir, there were two sets of keys in the car because
4 mine were in there also plus the set that I had given her to use.

5 Q Did you ever have any difficulty with your key chain?

6 A Yes, sir.

7 Q In what respect?

8 A It was given to me as a gift and I used it anyway a lot.
9 It screwed together and the screw was always coming apart so that my
10 keys would always fall.

11 Q You had problems keeping your keys on the chain?

12 A Yes, sir.

13 Q Have you ever seen the contents of that clutch purse
14 since Gina left to go to Blacksburg?

15 A The clutch, yes, sir, and the other.

16 Q When was that?

17 A Sometime this summer after they found every--I don't
18 recall.

19 Q Were you present when it was found?

20 A Yes, sir.

21 Q It was late one night, was that--

22 A Yes, sir, very late.

23 Q Do you recall where it was found?

24 A The contents of my clutch or my pocket--

25 Q Well, tell me about the contents of your clutch first.

26 A Clutch. They were found, everything had been taken out

1 of my clutch and was in a very nice pile. It was hidden under-

2 neath a garbage dump like place on Hazel Hollow Road.

3 Q How far from where the car was abandoned?

4 A I guess two curves, maybe, not very far. It wasn't very

5 far down the road.

6 Q Now you started to mention something about the pocket-

7 book did you?

8 A Yes, sir, I did. The other things were in my pocketbook,

9 I think a tube of lipstick and pencils and ink pens and things

10 of that nature were also found on--

11 Q Did you find them?

12 A No, sir, someone else found them.

13 Q O.k., you have seen those since?

14 A Yes, sir.

15 Q They were taken to Blackburg?

16 A (unintelligible).

17 Q So how many purses would have been in the car, I mean

18 you had left yours in there. Did Gina take--

19 MR. WARBURTON: Go ahead. (Unintelligible).

20 A There were two. She took one and then mine was in

21 there.

22 MR. WARBURTON: If it please the court, the question as it

23 was about to be asked, "How many were in there?" would have called

24 for a conclusion.

25 THE COURT: Well, the question wasn't asked was it?

26 MR. WARBURTON: You're right, Your Honor, it was about to be

1 asked and I apologize to the Court.

2 Q Now had you ever been down Hazel Hollow Road with Gina?

3 A No, sir.

4 Q Do you know whether Gina had ever been down that road?

5 A She had never told me she had and she had told me also
6 that she had not been to Claytor Lake since she had been at Radford,
7 which leads me--

8 Q And you say that she came to Radford to go to school in
9 either late February or March, is that correct?

10 A Whenever spring quarter began taht year, yes, sir.

11 Q And you last saw her on June the 28th?

12 A Yes, sir.

13 Q So she had been in Radford, what, four months?

14 A Yes, sir.

15 Q Approximately. Had she had occasion to visit you prior
16 to coming to Radford to go to school?

17 A At home?

18 Q While you were attending Radford University, did she
19 ever come down there?

20 A Yes, sir, she did.

21 Q Now, of course, you live in Coeburn, you say?

22 A Yes, sir.

23 Q Is that where you and your family resided while you were
24 an under graduate student?

25 A No, sir, I lived at Radford.

26 Q No, I'm sorry, maybe my question was wrong. Is that

1 where Gina and your family resided--

2 A Yes, sir.

3 Q --while you were in under graduate school?

4 A Yes, sir.

5 Q And, of course, Coeburn is out farther west of here in
6 the State?

7 A Yes, sir.

8 Q If you were to drive from Coeburn to Radford, what route
9 did you all take when you would come from Coeburn to Radford, how
10 would you get into Radford?

11 A By 81, the exit coming into the west end of Radford or
12 you could come one up and go in, depending on which time--when I
13 lived at Cedar Valley, I would sometimes go on up and take the
14 second exit but when I went to school I never even knew the other
15 exit was there for two years, I guess.

16 Q Of course, if you are on the interstate coming from Coe-
17 burn, would you not come from Wytheville, then Pulaski and Dublin
18 before you got to Radford?

19 A Yes.

20 Q You would be coming north on the interstate as opposed
21 to south?

22 A Yes, sir.

23 Q Is that correct?

24 A Yes, sir.

25 Q Was Gina familiar with Radford at all, the street layout
26 and the location of your apartment in reference to the school and

1 A Yes, sir.

2 Q Whose curlers are these?

3 A My sister's, Gina.

4 Q And they've been so far as you know with the police
5 ever since you turned them over?

6 A Yes, sir.

7 Q When were they turned over to the police?

8 A This summer, the first of July.

9 Q Did Gina use those regularly?

10 A Yes, sir.

11 Q Everyday?

12 A Yes, sir.

13 Q Or just about everyday?

14 A I would say everyday at least once.

15 Q Did you yourself ever have occasion to use the curlers?

16 A I have my own set just like those, but there could be
17 a possibility I could have used them you know, anywhere from now
18 to a year back, but I do not recall using those particular curlers
19 but maybe one time at the most.

20 Q All right.

21 MR. SHOCKLEY: Your Honor, we would like to offer these in
22 now. Again the significance will become apparent later.

23 THE COURT: Commonwealth Exhibit 8, I believe.

24 Q Diana, did anybody to your knowledge ever use those
25 curlers besides possibly you and Gina?

26 A Not to my knowledge.

1 Q Did a police officer at any time come to you and take
2 samples of your head hairs?

3 A Yes, sir.

4 Q Do you recall who that officer was?

5 A I believe again it was Trooper Hall.

6 Q Do you recall how many you gave?

7 A Fifty.

8 Q Fifty?

9 A Yes, sir.

10 Q I'm surprised you have any left. Goodness, that's
11 quite a few. I hope that you didn't suffer too much from it.
12 But you gave fifty head hair samples to Austin Hall?

13 A Twice. The first time we messed up. We cut instead of
14 _____ (inaudible).

15 Q So you gave a hundred?

16 A Yes, sir.

17 Q O.k. When did you report your sister missing to anyone?

18 A Sunday evening.

19 Q Sunday evening?

20 A About, around 9:30 or 10:00.

21 Q Which would have been?

22 A Almost twenty-four hours.

23 Q Almost twenty-four hours after you had seen her?

24 A Yes, sir. It still was not enough time.

25 Q And you never got any more phone calls after that 1:00
26 o'clock or 1:30 phone call?

1 A No, sir. And I sat beside the phone.

2 Q How years ago when Gina was real little--

3 MR. WARBURTON: If this deals with years ago, I don't believe
4 it would be relevant. I'll object to it on that basis.

5 MR. SHOCKLEY: Judge, I think it'll become most relevant in a
6 moment if I'm allowed to proceed.

7 THE COURT: All right, you may state your question and I'll
8 rule on it.

9 Q Years ago did Gina have an accident that caused her some
10 bodily harm?

11 A Yes, sir.

12 Q Would you tell us how she suffered her injury?

13 A When Gina was two and a half years old her pajamas was
14 caught on fire by a gas stove or whatever kind of stove we had at
15 the time. I believe it was--

16 Q You'll have to speak up. Mr. Warburton can't hear you.

17 A Gina's bod--her pajamas were caught on fire by a gas
18 stove and it completely burned at least, I guess, seventy-five,
19 I don't know how much per cent of the right side of her body. She
20 spent a great deal of time in the hospital/ ^{when} she was a baby.

21 Q Do you know where she was in the hospital?

22 A Charlottesville.

23 Q University of Virginia?

24 A Yes, sir. She was severely scarred. They did some
25 plastic surgery, grafted--I mean not plastic surgery, graft skin
26 from other areas of her body to at least cover part of it partially,

1 but her scars were very severe.

2 Q Did she still have these scars with her even the last
 3 time you saw her?

4 A Yes, sir, they were there for life. She had seen plastic
 5 surgeons at Duke, North Carolina, at the most, you know, the best
 6 hospitals we could find and there was nothing that could be done
 7 about it.

8 Q Would you tell me where she had some of these scars?
 9 A She had a very small scar on her right, right here
 10 (indicates) that was _____ (inaudible), I mean wasn't noticeable.
 11 She was burned very, very, the worst part was here (indicates).

12 Q You are indicating from above your right breast?
 13 A Yes, sir.

14 Q To your waist line?
 15 A Below the waist line.

16 Q Below the waist line?
 17 A Right below it. Her arm was burned from here to there
 18 (indicates), from her shoulder to her elbow.

19 Q Right arm from shoulder to elbow?
 20 A Yes, sir. And her leg was scarred from right below her
 21 thigh on to right this far before the knee and they weren't just
 22 your regular looking scars, you know, just a, you know, sometimes
 23 you see someone with white scars when they are burned or something.
 24 These were not like this. They were--
 25 Q Were they pretty?
 26 A No, sir, they were very--

1 Q Gross would that be--

2 A Yes, sir.

3 Q Did she have any type of disfigurement along in her
4 stomach area on the right side?

5 A Yes, sir. When she was ten years old or so, I guess,
6 ten, she had to be cut in order to be able to move, stretch. She
7 had an indented place from here to there (indicates) about this
8 deep (indicates).

9 Q Would that indentation on her stomach, was it ever visible
10 even when she had clothing on?

11 A If she had something tight on, but she very rarely did.
12 She always covered herself.

13 Q Well, how did Gina feel about her scars? Was she at
14 all self-conscious?

15 A She was very self-conscious but I think she accepted
16 herself very well. You know, she--

17 Q What about, what I'm getting at, she had accepted her-
18 self very well, but are you familiar with any situations where
19 she may have expressed embarrassment about other people seeing the
20 scars or having to expose the scars for some reason?

21 A Yes, sir. She never went swimming without at least two
22 big towels, beach towels. One would be wrapped around her. The
23 other one would be draped right here and cover her all the way
24 down to her knee. She would walk right up to the edge of the
25 water and then drop that off and then get in. All of her life
26 she's done that, even when we went to the beach this summer she

1 did that and she would, she never, never would wear, after awhile
2 like when she went into the eighth grade and with a new group of
3 people, a new different, and it took her awhile to adjust to that,
4 but for being, with the scars that she had, being an eighteen year
5 old girl, she accepted, you know, she handled herself well, but
6 there were many situations that I know Gina would have never put
7 herself in. She could not have handled the emotional stress of
8 having a relationship with somebody and she never put herself in
9 that situation. She--

10 Q Did she have a reputation of being promiscuous at all?

11 A No, sir.

12 Q The opposite?

13 A Yes, sir, very much so.

14 Q Did she ever express fear or concern about, you know,
15 about men or boys her age of possibly touching it or seeing it
16 or anything of that nature?

17 A Yes, sir, she--I can recall very clear one day, I guess
18 it was one of her high school dances and you know how a man will
19 lead you into a room, I mean just casually lead you and he casually
20 put his hand right here (indicates) and she jumped nine feet. I
21 mean she came home and she was so embarrassed that he could have
22 felt or, you know, just known, or just known that there was an
23 indentation there that it upset her very much and it was a long
24 time after that before she ever put herself in any situation.

25 Q Do you think that Gina would likely disrobe in front of
26 a person of the opposite sex?

1 A No, sir.

2 MR. WARBURTON: Your Honor, I'll object. I think that would
3 be a conclusion drawn by this witness. It would be improper for
4 the Commonwealth Attorney to ask this witness to conclude for the
5 jury something he may want to suggest by other means.

6 MR. SHOCKLEY: Your Honor, we are getting into character
7 evidence and actually habit evidence and I think it's fair for
8 the Court to know her opinion as to Gina's--

9 THE COURT: I think that is a conclusion that the jury can
10 draw from the evidence that is heard from this witness without
11 the witness reaching the conclusion for the jury so I sustain the
12 objection.

13 MR. WARBURTON: Thank you, your Honor.

14 Q Has Gina ever discussed with you, you know, disrobing
15 in front of men or women, maybe, with whom she's not acquainted?

16 A No, sir, the--

17 MR. WARBURTON: Go right ahead, I haven't said a word.

18 A Could you repeat it, please.

19 Q Yes, has Gina ever discussed with you about the thought
20 or the possibility of having to disrobe, the concept of it, the whole
21 idea.

22 A Just the fact of even being in a bathing suit embarrassed
23 her and the one thing that she had talked to both myself and my
24 stepmother--

25 MR. WARBURTON: I'll object, Your Honor, on the basis of

26 _____ (inaudible).

1 MR. SHOCKLEY: Your Honor, this is the state of mind exception,
2 I think.

3 THE COURT: I overrule the objection.

4 Q Go ahead and finish your answer, please.

5 A She discussed if she might, she was very worried about
6 her ever being able to conceive a child because of the physical
7 part of her body. She--her body would not have stretched in order
8 to allow this and it was just, you know, not long before this
9 happened that she discussed it with my stepmother and knowing this--
10 do you see what I'm saying--there is just, I mean the thought
11 really scared her, it terrified her to think that something might
12 ever even happen to her to cause this to happen. She would never
13 put herself in a situation to where she would have--

14 MR. WARBURTON: Again Your Honor, the witness is coming to
15 conclusions, speaking conclusions to the jury and it's unfair to
16 the jury and it's unfair to my client. I'll object again.

17 THE COURT: Objection sustained as to any opinion, conclusory
18 opinion expressed by the witness.

19 Members of the jury, witnesses ordinarily testify to facts
20 and then you as a trier of fact will draw your own conclusions
21 and the reasonable inferences from the evidence that you've
22 heard.

23 Q Diana, did Gina to your knowledge ever abuse alcohol
24 or drugs?

25 A No, sir, not abuse. I don't know if she might have even
26 been sociable in some situations. Around me though very seldom

1 would she drink over one drink.

2 Q Do you know of any time that she ever spent a night away
3 from home without notifying family members?

4 A No, sir.

5 Q What type of car do you have that she went to Blacksburg
6 in?

7 A Chevrolet Monte Carlo, brown and beige.

8 Q Did you ever see the car again after she left with it?

9 A Yes, sir, when they found it.

10 Q Where did you--o.k. someone else found it?

11 A Yes, sir.

12 Q Where did you see it?

13 A On Hazel Hollow Road.

14 Q Before it was ever, to your knowledge, moved back to
15 your apartment or anything like that?

16 A Yes, sir.

17 Q Did you ever see inside the trunk before anything may have
18 been removed from the trunk?

19 A No, sir, not there. No, I didn't really hang around.

20 Q When did you see it on Hazel Hollow Road?

21 A Monday night, evening. It was still light. Probably, I
22 guess, five to six. I don't remember the time but it was on Monday,
23 because my parents were, Jo--daddy had already been up there and
24 some friends of mine had been looking ever since I had called them

25 _____ (unintelligible).

26 Q Did you tell your father of her disappearance or did

1 someone else?

2 A I did.

3 Q And when did you tell your father?

4 A I called him Sunday when I, after I had talked, after
5 I didn't know anything else to do. He had been gone all day
6 Sunday.

7 Q Pardon?

8 A He had been gone all day Sunday.

9 Q Did he come up right away?

10 A Yes, he did. Well, no, it was late. It was about
11 10:30 and he came up early that morning.

12 Q How tall is Gina?

13 A Short.

14 Q Well, can you be a little more specific.

15 A I don't, I--

16 Q How tall are you?

17 A About five four and I'd say she's about four nine, five
18 foot or something. She's about that much shorter than I was
19 (indicates).

20 Q That much shorter and you're five--

21 A Four.

22 Q Did she have any--well, let me ask you this. How much
23 did she weigh?

24 A About 107, 108.

25 Q Is it safe to say that she was petite?

26 A Very.

1 Q Did she have any particular habits with reference to
2 position of the seat in the car when she drove it?

3 A Well, I couldn't even drive it after she had been driving
4 it. It'd be clear up under the steering wheel when I'd get in
5 there and I'd have to scoot it back and I'd always fuss at her for
6 always forgetting to push it back because I nearly broke my neck
7 when I got in there, so, yes, it was all the way up under there
8 as far as it would go.

9 Q Did she have a habit of doing that every time she drove
10 the car?

11 A Yes, sir, she couldn't reach the pedals unless she did
12 so.

13 Q Let me ask you about a particular key chain that you own.
14 Maybe before I ask you about that, when Gina left that Saturday
15 night, did she have any of your personal effects with her?

16 A Yes, sir.

17 Q Anything out of your pocketbook?

18 A My whole pocketbook was in the car. I did not realize
19 it, but my whole pocket book, I always left it up under where I
20 would sit so that if I did happen to forget it, it wouldn't get
21 stolen or whatever and I always pushed it up under there so my
22 pocketbook was in there and inside of my pocketbook was a clutch
23 that Gina sometimes used. A clutch that you keep a check book in
24 and money and that sort of thing, had pictures and ID and license
25 and sometimes she would use it so I don't know if she had it with
26 her or what.

1 Q Well, was there a key chain in that clutch purse or some-
2 where else in the car, your key chain?

3 A Yes, sir, there were two sets of keys in the car because
4 mine were in there also plus the set that I had given her to use.

5 Q Did you ever have any difficulty with your key chain?

6 A Yes, sir.

7 Q In what respect?

8 A It was given to me as a gift and I used it anyway a lot.
9 It screwed together and the screw was always coming apart so that my
10 keys would always fall.

11 Q You had problems keeping your keys on the chain?

12 A Yes, sir.

13 Q Have you ever seen the contents of that clutch purse
14 since Gina left to go to Blacksburg?

15 A The clutch, yes, sir, and the other.

16 Q When was that?

17 A Sometime this summer after they found every--I don't
18 recall.

19 Q Were you present when it was found?

20 A Yes, sir.

21 Q It was late one night, was that--

22 A Yes, sir, very late.

23 Q Do you recall where it was found?

24 A The contents of my clutch or my pocket--

25 Q Well, tell me about the contents of your clutch first.

26 A Clutch. They were found, everything had been taken out

1 asked and I apologize to the Court.

2 Q Now had you ever been down Hazel Hollow Road with Gina?

3 A No, sir.

4 Q Do you know whether Gina had ever been down that road?

5 A She had never told me she had and she had told me also
6 that she had not been to Claytor Lake since she had been at Radford,
7 which leads me--

8 Q And you say that she came to Radford to go to school in
9 either late February or March, is that correct?

10 A Whenever spring quarter began taht year, yes, sir.

11 Q And you last saw her on June the 28th?

12 A Yes, sir.

13 Q So she had been in Radford, what, four months?

14 A Yes, sir.

15 Q Approximately. Had she had occasion to visit you prior
16 to coming to Radford to go to school?

17 A At home?

18 Q While you were attending Radford University, did she
19 ever come down there?

20 A Yes, sir, she did.

21 Q Now, of course, you live in Coeburn, you say?

22 A Yes, sir.

23 Q Is that where you and your family resided while you were
24 an under graduate student?

25 A No, sir, I lived at Radford.

26 Q No, I'm sorry, maybe my question was wrong. Is that

1 of my clutch and was in a very nice pile. It was hidden under-

2 neath a garbage dump like place on Hazel Hollow Road.

3 Q How far from where the car was abandoned?

4 A I guess to curves, maybe, not very far. It wasn't very

5 far down the road.

6 Q Now you started to mention something about the pocket-

7 book did you?

8 A Yes, sir, I did. The other things were in my pocketbook,

9 I think a tube of lipstick and pencils and ink pens and things

10 of that nature were also found on--

11 Q Did you find them?

12 A No, sir, someone else found them.

13 Q O.k., you have seen those since?

14 A Yes, sir.

15 Q They were taken to Blacksburg?

16 A _____ (unintelligible).

17 Q So how many purses would have been in the car, I mean

18 you had left yours in there. Did Gina take--

19 MR. WARBURTON: Go ahead. _____ (unintelligible).

20 A There were two. She took one and then mine was in

21 there.

22 MR. WARBURTON: If it please the Court, the question as it

23 was about to be asked, "How many were in there?" would have called

24 for a conclusion.

25 THE COURT: Well, the question wasn't asked was it?

26 MR. WARBURTON: You're right, Your Honor, it was about to be

1 where Gina and your family resided--

2 A Yes, sir.

3 Q --while you were in under graduate school?

4 A Yes, sir.

5 Q And, of course, Coeburn is out farther west of here in
6 the State?

7 A Yes, sir.

8 Q If you were to drive from Coeburn to Radford, what route
9 did you all take when you would come from Coeburn to Radford, how
10 would you get into Radford?

11 A By 81, the exit coming into the west end of Radford or
12 you could come one up and go in, depending on which time--when I
13 lived at Cedar Valley, I would sometimes go on up and take the
14 second exit but when I went to school I never even knew the other
15 exit was there for two years, I guess.

16 Q Of course, if you are on the interstate coming from Coe-
17 burn, would you not come from Wytheville, then Pulaski and Dublin
18 before you got to Radford?

19 A Yes.

20 Q You would be coming north on the interstate as opposed
21 to south?

22 A Yes, sir.

23 Q Is that correct?

24 A Yes, sir.

25 Q Was Gina familiar with Radford at all, the street layout
26 and the location of your apartment in reference to the school and

1 so forth?

2 A Yes, sir. Her favorite thing to do was to go to
3 Kroger's and get apples.

4 Q Kroger's?

5 A Yes, sir.

6 Q Super market?

7 A Uh hum.

8 Q Was that the one located in Fairlawn?

9 A Yeah on the other side of the bridge.

10 Q Across the bridge?

11 A And she also went to the Thriftway to get apples.

12 Q Where is that located?

13 A On, I don't know the road, it was a main--

14 Q Oh, o.k. Thriftway, that's down on the west end of
15 Radford?

16 A Yes, sir.

17 Q And is it in that shopping center that's on the west
18 end of Radford?

19 A Yes, sir.

20 Q Did it used to be A & P or do you ever recall?

21 A I don't--

22 Q You don't know?

23 A No, sir.

24 Q But, correct me if I'm wrong, if you were driving through
25 Radford on 1st Street, would the shopping center be off to your
26 right when you got into west end?

1 A Going--

2 Q Well, let's say if you went from Bell Heath--

3 A Yes, sir.

4 Q By way of the college and down through Norwood and then
5 you would go by so that the Memorial Bridge is on the right?

6 A Yes, sir.

7 Q And you proceeded down, would the shopping center be on
8 your right in the west end?

9 A Yes, sir. She usually drove by the high school, Radford
10 High School and came down that way.

11 Q O.k.

12 A So she could either go right and go towards Kroger's
13 or go left.

14 Q And is Radford High School right near the bridge, the
15 Memorial Bridge?

16 A Yes, sir.

17 Q Did she have any problems getting around Radford, driving
18 around knowing where she was going, anything like that?

19 A Not around Radford, no.

20 Q And she knew her way to Kroger's you say?

21 A Very much so.

22 Q Did you ever have occasion to go with her to, you know,
23 to go off into the country, get out of the City of Radford and
24 ride out into the mountains or--

25 A No.

26 Q To the lake or anything of that nature?

1 A No, sir, we spent a week at the beach at the beginning
2 of summer so there went our week at Radford before school started
3 and then we were, of course, busy.

4 Q I just want to ask you if you will look at that for me
5 please.

6 A That's my things.

7 THE COURT: Speak up, please.

8 Q You'll have to speak up.

9 A They're my things.

10 THE COURT: They're your what?

11 A They're my junk, things, stuff.

12 THE COURT: Your belongings.

13 Q And there's various types identification, pictures and
14 so on in here?

15 A Yes, sir.

16 Q Now is this what you referred to earlier as being found
17 on the road side?

18 A Yes, sir.

19 Q And you were present when it was found were you, or not?

20 A Yes, I was.

21 Q Was all of this in the clutch purse to your knowledge?

22 A Yes, it was. Yes, these were.

23 Q Of course, the black and everything came from laboratory
24 work I assume you know.

25 A Yes.

26 Q And was not black like that the last time you saw it

1 was it?

2 A (Silence).

3 MR. SHOCKLEY: Your Honor, I would like to introduce this into
4 in this bag as one exhibit, please.

5 THE COURT: All right, it will be Commonwealth Exhibit No. 9

6 Q Was this contents out of your purse, was it scattered
7 around or was it in one pile or how was it?

8 A The contents out of the clutch that was in my purse were
9 the paper things, the pictures--

10 Q Right.

11 A That sort of thing, they were hidden underneath of all
12 this stuff and then the lipstick, like I say they on down scattered
13 like this in a row.

14 Q Again you were not present when the lipstick was found?

15 A Yes, I was present.

16 Q When the lipstick was found?

17 A I think so. I was up the road though but they found it
18 and that led them to that area to begin looking in the first place.
19 I wasn't right beside him but I was in the general area.

20 Q When Gina left the house that night, were her clothes
21 clean and neat and pressed and so on and so forth?

22 A Yes, sir.

23 Q Did they look like they look now?

24 A No, sir.

25 Q She was alive and well and well dressed when you last
26 saw her?

1 A And very happy.

2 Q Since you last saw your sister has anything been missing
3 from the apartment where you were both living?

4 A No, sir, nothing.

5 Q Did Gina have her clothes there?

6 A Yes, sir, we took her clothes home and gave them to the
7 Church, so we don't have anything anymore.

8 Q Well my question is after you last heard from her, did
9 you ever observe any of her clothing being missing?

10 A No, sir.

11 Q Any of her personal effects, her cosmetics, her toiletries,
12 suit case, anything of that nature?

13 A No, sir. We packed it all. Myself and my mother both
14 packed it up and there wasn't anything missing.

15 Q Answer these gentleman's questions, please.

16 CROSS EXAMINATION

17 BY MR. WARBURTON:

18 Q You started off with Mr. Shockley talking about your
19 educational background. I understand that you graduated from
20 Radford College?

21 A Yes, sir.

22 Q Was it college when you graduated from it?

23 A University.

24 Q Radford University, November of '79.

25 A I went under the ceremonies as the University.

26 Q Did you leave Radford at that time and come back?

1 A No, sir, I took a position at Bell Heath in Radford as
2 a Title I teacher which works with special children and I desired
3 my own classroom and was offered a position so I went home in
4 March of '80.

5 Q In March of 1980 you left the City of Radford--

6 A Beginning of February or March.

7 Q And have been living in the City of Coeburn?

8 A Yes, sir.

9 Q Your sister arrived at about the same time you left?

10 A Yes, sir.

11 Q You lived in Coeburn and have I assume since earlier in
12 the spring of this year?

13 A Yes, sir.

14 Q So it's safe to say that you--

15 A Except--

16 Q Pardon me.

17 A Except for the summer.

18 Q Except when you came back this summer?

19 A Yes, sir.

20 Q And that would have been when, about the middle of
21 June?

22 A First of June.

23 Q When your sister first moved to the City of Radford
24 where did she live?

25 A On Campus.

26 Q In a dorm?

- 1 A Yes, sir.
- 2 Q Owned by the University?
- 3 A Yes, sir.
- 4 Q When did she move out of there, to your knowledge?
- 5 A At the end of Spring Quarter when she moved in with me
- 6 in June.
- 7 Q And this is the apartment at Bell Heath?
- 8 A Yes, sir.
- 9 Q Did just the two of you live there?
- 10 A Yes sir.
- 11 Q Anyone else?
- 12 A No, sir.
- 13 Q Now you also mentioned Gina Transferred from Emory and
- 14 Henry?
- 15 A Yes.
- 16 Q Now that's at Emory, Virginia, correct?
- 17 A Yes.
- 18 Q Which is not the same county but one county over from
- 19 Wise County, am I correct?
- 20 A It's in I asume Washington County--
- 21 Q _____ (Unintelligible).
- 22 A Around Abingdon.
- 23 Q Close to Coeburn?
- 24 A An hour from Coeburn.
- 25 Q And Radford is how many hours from Coeburn?
- 26 A Two and a half.

1 Q Do you know why she came to Radford?

2 A Pardon me.

3 Q Do you know why she transferred to Radford University
4 from Emory and Henry University?

5 A Yes, sir.

6 Q Can you tell me, please.

7 A She was not happy at Emory. They didn't offer what
8 she wanted to do with her future. If she had planned on going
9 into nursing, she needed a better background which Radford does
10 offer in nursing and she also wanted to--I convinced that Radford,
11 she would be happy there.

12 Q Emory, Virginia, is a very sleepy little town, am I
13 correct?

14 A Well, the college is off to itself. It's really not in
15 Emory.

16 Q I know, but that's all there is, right?

17 A Yes, sir.

18 Q And suffice it to say, there's not a whole lot of
19 excitement down there in Emory, Virginia, am I right?

20 A Well, with 15 minutes drive you're in Bristol.

21 Q O.k.

22 A Which is a lot more excitement if you are looking for it.

23 Q Radford though _____ (unintelligible) Virginia, am
24 I right?

25 A Radford?

26 Q The City of Radford?

1 A Yes, sir, I would say so.

2 Q Now you said the week before, the last time you saw your
3 sister there were midterm exams. How many did she have?

4 A Three, I believe two.

5 Q One Monday and one Wednesday and one Friday?

6 A No, they were, no, we went everyday. You meet everyday
7 in the summer, and she had, I can't remember for sure but I'm
8 thought she had two on Friday and maybe one on Thursday. I'm not
9 positive.

10 Q She was relieved and elated that her exams were over?

11 A Yes, sir.

12 Q And she had from when those exams were over until when--

13 A Until that Monday.

14 Q That next Monday?

15 THE COURT: Mr. Warburton, let me interrupt just a minute. I
16 believe Mr. Lundy here is unable--can you see the witness, Mr.
17 Lundy.

18 MR. WARBURTON: Let me move just back a little bit.

19 THE COURT: Why don't you.

20 MR. WARBURTON: Thank you, Your Honor.

21 THE COURT: Can you see now, Mr. Lundy?

22 MR. LUNDY: Yes, sir.

23 THE COURT: All right, thank you, sir.

24 Q So she finished Friday and she had until the next Monday
25 to relieve the tension and to relax and to recreate, correct?

26 A Yes, sir.

1 Q And she was very excited. What happened Friday night?

2 A We went out together.

3 Q Where did you go?

4 A To some friends' house.

5 Q A party?

6 A More or less.

7 Q Dance?

8 A No.

9 Q What time did you get in?

10 A About 11:30, fifteen to 12:00.

11 Q All day Saturday did you relax and recreate together?

12 A No, I was dead tired and I didn't do anything all day
13 Saturday and she laid out in the sun in our back place and slept
14 most of the day outside because we had stayed up practically all
15 week.

16 Q Nerves a little frazzled, very tired both of you?

17 A No, she had rested. I was tired, tired. I was taking
18 graduate classes and she was taking freshman classes so she wasn't
19 as tired as I was. She never got tired.

20 Q She could go and go and go, huh?

21 A She could go and go and go, and go.

22 Q See her dance all night on occasion?

23 A Not all night, but I have seen her dance every dance.

24 Q Other people were dropping out and she was still
25 dancing she loved to dance so much?

26 A Well, I don't really, I never watched them, I wouldn't--

1 Q Never watched what, ma'am?

2 A Other people. She would dance.

3 Q Where have you seen her dancing?

4 A At the Disco Depot, in the shows that they performed at
5 hom. I've seen her dance at the Dance Factory at home, at the
6 Odessa at home. There were several places, even though we are
7 a small town, we do have places to dance.

8 Q I hope you don't think I was trying to make fun of
9 Coeburn or anything else. I was just talking about the difference
10 in size between Emory, Virginia and Radford, Virginia.

11 A I never saw her dance when she was at Emory and Henry.
12 She danced in Bristol somewhere. I don't know exactly where.

13 Q I take it from what you are saying, she was in shows.
14 You spoke of choreography and things like that. You may have to
15 educate me, are we talking about modern dance, talking about
16 dancing to rock music, loud music, soft music, ballroom music,
17 square dancing, all of them?

18 A The show consisted of all different types, but what Gina
19 worked with was gymnastics majorly, tap dance. You tap dance, I
20 guess to jazzy type music, not rock and roll or anything, not even
21 disco. She tap danced; she would help with the younger children,
22 especially one in particular with certain dancing, you know,
23 different kinds. She was just like an all around person when it
24 came to dancing, or anything to do with using her body in that way.

25 Q You say she loved it and I assume she was very proud of
26 her ability to dance?

1 A She should be; she should have been.

2 Q Well, was she?

3 A Yes, she was.

4 Q When you saw her, she was very proud of how she danced?

5 A Well, she might not have acted like it. I was proud of
6 her. I don't know what she felt like, you know, but I know she
7 knew she could dance, or she wouldn't have been as smart as I gave
8 her credit, if she didn't know that.

9 Q The next thing you went into with Mr. Shockley, was your
10 family, how close knit it is. We've heard about John, your father.
11 We've heard about your stepmother, whose name I haven't learned
12 yet.

13 A Joan.

14 Q Joan, thank you. And Gina is your one sister?

15 A One sister.

16 Q Do you have any other sisters?

17 A No, sir.

18 Q Do you have a brother?

19 A Two.

20 Q Two brothers and how old are they?

21 A Sixteen and ten, _____ (unintelligible) eleven now, just
22 turned eleven.

23 Q And how old are you Diana?

24 A I'm twenty-one.

25 Q You also mentioned that you've never had any discord in
26 the family?

1 A No.

2 Q Ever?

3 A Well, I mean every family has their, but no, nothing
4 serious.

5 Q No major disagreements?

6 A No.

7 Q No hassles really about anything?

8 A Except sister and brother picking at each other, those
9 little type things, no serious problems, relationships between Mom and
10 Dad no way, no serious, you know.

11 Q Father-daughter problems?

12 A Lord, no.

13 Q Not a one?

14 A No, especially Gina and Daddy.

15 Q Not a single problem?

16 A Well, you know--

17 Q John Hall never objected--

18 A What do you consider a problem?

19 Q Did John Hall ever object to anybody that you were dating
20 or anybody that Gina was dating?

21 A Oh, yes, sir, but that's just acting as a father; that's
22 not a problem.

23 Q Did anybody ever raise their voice about it?

24 A Who?

25 Q Your father, or you or Gina?

26 A Yes, but he's my daddy. He has every right to do that.

1 Q You and Gina both raised your voice with your father
2 and you raised your voice back?

3 A We never raised our voice but if Daddy felt like raising
4 his voice, Daddy could raise his voice, which he very seldomly did.
5 With Gina he never had any reason to.

6 Q Never raised his voice as far as you can remember with
7 Gina?

8 A Not, no, I've never seen him raise his voice to Gina.
9 I'm sure he probably has because daddys are normal. They can get
10 upset, but I've never seen him. He has with me, but--

11 Q Regarding boyfriends or persons that Gina has dated in
12 the past, was it frequent or infrequent that John Hall had an
13 objection to them?

14 A Well, to begin with she didn't date that much and most
15 of her dating boys were just friends whom she had, you know, played
16 tennis with or whatever. She very seldomly ever went out on a
17 date with someone and to also say I was not there during those
18 years where she really would have dated a lot. I know who she
19 dated and everytime that she did date someone, it was someone very
20 respected, you know. She never dated any slouch or anything so
21 Daddy never had any reason to get upset with her.

22 Q Going up to this evening that Gina left for the Merriott,
23 when was the last time she had a date. You and I understand exactly
24 we're talking about a date, boy calls girl, says, "Let's go out
25 Saturday night or dance _____ (unintelligible) or whatever."

26 A As far as going out?

1 Q Uh hum.

2 A Is sitting at home considered a date?

3 Q Did she specifically invite this person over, well, yeah,
4 just a date.

5 A Yes, she went out the weekend before.

6 Q That would have been right before exam week that she
7 went out?

8 A Yes

9 Q On a date?

10 A Wait, two weekends before, with a friend that I set her
11 up with, whom she had met three times before that.

12 Q Does John Hall know about this particular young man?

13 A No, she was, you know. Daddy was at home. I'm sure she
14 didn't get on the phone and call up and say, "Daddy, I have this
15 person that I want to--

16 Q Is it safe to say that men with whom she choose to associate
17 while she was in Radford were of her own choosing. She did not have
18 the influence or the--

19 A That was the only one.

20 Q --the input from John Hall?

21 A That was the only one she ever dated. She never dated,
22 I don't believe Spring Quarter and she wouldn't have gone on this
23 one--

24 Q You weren't there though?

25 A But she would have told me.

26 Q How about yourself, were you dating that summer?

1 A I have been dating the same boy for four years.

2 Q Who is that?

3 A Buzz Bodner.

4 Q I'm sorry?

5 A Buzz Bodner.

6 Q And Buzz is obviously a nickname?

7 A Yes, it is.

8 Q What does the S. and the E. stand for?

9 A Samuel Edward.

10 Q Did Mr. Bodner ever spend the night in the apartment?

11 A Yes, he has.

12 MR. SHOCKLEY: Objection, Your Honor. That's irrelevant.

13 MR. WARBURTON: Your Honor, we are going from _____ (unintelligible)

14 to other places. We have gone into, Mr. Shockley has, who lived

15 in the apartment, who stayed in the apartment.

16 A It was his apartment.

17 MR. WARBURTON; And I'm also about to ask about the car, which

18 I believe will tie Mr. Bodner in.

19 THE COURT: I'll permit you to show who the residents of the

20 apartment were. I think it's irrelevant to go into the question of

21 who occasionally visited anywhere.

22 Q Who lived in the apartment?

23 A This summer?

24 Q Yes, ma'am.

25 A My sister and myself. He was in _____ (unintelligible).

26 Q During that time from, did you say the beginning of June

1 until the end of June, did anyone else reside there?

2 A No, sir.

3 Q Keep their belongings there?

4 A No, sir.

5 Q Spend the night there?

6 A No, sir.

7 Q Mr. Bodner had access to your automobile, am I correct?

8 A Yes, he, when we were together I would let him drive it.

9 Q This summer did he drive it?

10 A No, sir, he drove--well, yes, he did.

11 Q He would take the car and be the only occupant in the
12 car, in other words loaning him your car rather than insist that
13 he drive when you were together?

14 A I was usually with him.

15 Q But there were times when he drove it and you were not
16 with him?

17 A I'm sure I've let him. I can't put my finger on anyone.

18 Q Then how is it that he has the keys from you. Did you
19 hand him this one set of keys that you have or did you go to your
20 clutch and get those keys out or were the keys in the clutch in
21 the car all the time?

22 A It depends on when he wanted to borrow my car, where my--

23 Q He didn't have a set of keys?

24 A No, he didn't. Yes, wait--

25 Q Pardon?

26 A Did he? No, he didn't, no.

1 Q Well, I want you to be sure.

2 A No, I don't know for sure. I don't remember if it was
3 the same set or what. I have a new car now and he has--

4 Q The apartment, did he have a key to that?

5 A Yes, he did. It was his apartment before I took it over
6 from him.

7 Q I just wanted to know if he gave you all the keys when
8 you took it over from him or he kept one. Do you know?

9 A He would have had to have given me the keys so Gina and
10 I both could have had one. So, yes, he did not have the key' yes,
11 I did have the key and Gina had the other key.

12 Q You testified that you saw Gina leave on the 28th day of
13 June which is a Saturday. The next time you heard from her was
14 somewhere in the neighborhood of 1:00 o'clock. I take it you
15 were--were you at the apartment alone?

16 A No, I was not.

17 Q Who else was there?

18 A Buzz was there.

19 Q You were asleep?

20 A I was asleep. He was downstairs.

21 Q Are the phones up and down?

22 A Yes, they are.

23 Q And you answered the phone because it was your apartment
24 at the time?

25 A Because it was right beside my ear and it woke me up.

26 Q At approximately 1:00 o'clock you answered the phone

1 Q --either in one sitting or a lot over a long period of
2 time or inhale marijuana smoke?

3 A No, sir.

4 Q Frequently?

5 A No, sir. In fact most of the time I have even seen her
6 order a virgin pina colada because she loved fruits. She loved
7 the taste of the frozen drink but she didn't like the feeling of
8 being that, you know. She just didn't do it. Her standards were
9 much higher then that.

10 Q Leading up to this weekend, did either you or Mr. Bodner
11 or your sister smoke marijuana leading up to that weekend?

12 A No, Gina did not. I don't know if he did and I did not.

13 Q Do you smoke cigarettes?

14 A No, sir.

15 Q How about Buzz?

16 A No, sir.

17 Q Gina?

18 A No, sir.

19 Q You seem to remember very, very carefully and with great
20 detail exactly what your sister was wearing that evening when she
21 left. When she left you had no idea that she would be missing
22 later. Would you be able to testify to what she was wearing on
23 any other given day with such clarity?

24 A Yes, I can remember what she wore Friday night.

25 Q Exactly?

26 A Yes, sir, I can.

1 Q Thursday night?

2 A Yes, sir.

3 Q And what she wore Friday when she went to take her
4 exams?

5 A No. I can remember what she wore Friday night and I
6 can remember what she wore Thursday night because we were out
7 together. I took great pride in what she looked like because
8 she was very beautiful.

9 Q I assume from what you say she was as carefully groomed
10 as you are today?

11 A She always was.

12 Q Always?

13 A Unless she was studying, at home.

14 Q I'm sorry, I was talking about if she were to go out
15 of the apartment, she would be very carefully groomed, am I
16 correct?

17 A She wore dresses to school, to class, beautiful, high
18 heels, I mean the typical college student would wear blue jeans a
19 lot of times just to class and she did in fact do that at Emory,
20 but when she came to Radford, especially this summer, lots of times
21 she would dress up because she said, "There is no use in letting
22 these clothes hang here in the closet" and she did start dressing
23 up a lot more because they were just hanging there.

24 Q She took a lot of pride in how she looked whenever she
25 left?

26 A Yes.

1 Q You also mentioned this, too, the hair curlers, she
2 used them everyday at least once. I assume from that that there
3 were days where she would curl her hair two or three times?

4 A Well, say she left that morning and then she were going
5 dancing again that night or she were going somewhere else that
6 evening, she would roll her hair again if she had the time. So
7 some days then she could use her rollers twice

8 Q Now as to these pieces of clothing that you have identified,
9 these items were brought to you I assume by the State Police and
10 you were shown one item, one purple shirt and said, "Is this
11 Gina's?"

12 A I was called down to the police department. I went into
13 a room. I didn't even--I was not allowed to touch them and I
14 looked at them.

15 Q Right, but I mean there was one purple shirt there, one
16 purple shoe, one white jacket and one white pair of pants, right?

17 A I guess so. I saw the jacket more so--the shoe was
18 brought to me to--

19 Q And they said, "These are Gina's aren't they?"

20 A Pardon me.

21 Q They said, "This is Gina's isn't it?"

22 A No, they didn't say that to me. They said, "Do you
23 recognize these?"

24 Q Now there was something and I want you to tell me again,
25 what you were saying about the hem of these pants.

26 A I know they are hers for a lots of different reasons.

1 She took these pants and fixed them herself. They were too, she
2 had very pretty small ankles and she liked her pants to be nicely
3 fit and so what she would do, she would take--she was so short
4 she would have to cut them off. She would cut them off and then
5 she would make a smaller straight leg because straight leg was
6 the style. She was a very stylish person and she took them and
7 obviously they already had the split, I mean without the split,
8 you can see where she has adjusted these pants.

9 Q I just wanted you to explain it to me more than anything
10 else. Certainly there are other persons in Virginia and certainly
11 there are other persons in Radford that own the same kind of
12 clothes. Wrangler is not a designer name is it?

13 A I don't know of anybody that would sew like that, take
14 them up like that.

15 Q I understand that but the name Wrangler and Bobbi Brooks and
16 Diesse shoes, there are a lot of people that have those, aren't
17 there?

18 A I'm sure, but, I, you know, the manufacturer probably
19 puts out a lot of them. I don't know.

20 Q You say you put some necklaces on Gina?

21 A Yes, I did.

22 Q I understand we are talking about around the neck. You
23 were talking about bracelets before. You _____ (unintelligible)
24 for her is that right?

25 A Uh hum.

26 Q Would you tell me that one more time.

1 A I think there were two. She usually never wore jewelry,
2 that's why I was, you know it made an impact on my mind. She didn't
3 like it, but since that collar went around like this and came down
4 the back, she felt she needed something to accent it so she wore
5 her gold chain and the other necklace, I'm not positive of what
6 kind it was. I helped her put her gold chain on.

7 Q Two necklaces, ankle bracelet, earrings?

8 A I don't know. We can't find her diamond earrings. I
9 don't know if she had them in or not.

10 Q _____ (Unintelligible).

11 A Earring.

12 Q Did she wear a ring?

13 A Not to my knowledge.

14 Q Did she have some though she could have worn?

15 A Not really. She didn't get her class ring because she
16 said she had short stubby fingers and she didn't like rings so
17 she didn't buy them.

18 Q The next thing that the Commonwealth Attorney went into
19 you with was Mr. Hall taking some head hair and I believe you said
20 he took fifty and "the first time we messed up," and so you had to
21 cut fifty again. I want to hear this. I didn't hear your whole
22 comment when you said we messed up. What was it that made it
23 messed up.

24 A I didn't understand that they wanted them pulled out.
25 I cut them and they wanted the root also.

26 Q With scissors and they wanted the whole thing.

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A So I had to pull them.

Q Gina, how much later was it, the same day that you took the other fifty out or was it a week later?

A I guess it was the next day. I'm not--it could have been that same night. I don't remember for sure.

Q You mentioned that you first reported Gina missing Sunday evening about 9:00 or 10:00 in the evening. To whom did you report that?

A Radford Police. Well, first, I called, I guess, it was the State Police in Wytheville.

Q You called long distance down to Wytheville first?

A No, I called Radford police first and they said that it had to be twenty-four hours before I could even make a complaint or report a missing person so I called Wytheville State Police and they couldn't help me until--I don't remember. I was terribly upset.

Q I'm sure you were.

A I don't--

Q All we are looking for is the truth Diana and I just wanted to make sure I understand.

A That's to the best of my remembering.

Q You first reported her missing Sunday evening about 9:00 o'clock at night to the Radford Police Department?

A Yes, to a I forget his name.

Q Mr. Roop?

A No.

1 Q You kept it washed?

2 A Very waxed, very much so.

3 Q Cleaned out?

4 A Yes, sir.

5 Q Vacuumed?

6 A Yes, more or less.

7 Q And you would know if something was missing from that
8 car that everyone would expect to have on it?

9 A Unless it was something to do with changing a tire--

10 Q I'm not talking about the inside, I'm talking about the
11 outside or else the interior?

12 A I would assume I would notice it.

13 Q Can you give us some idea until the car was out of your
14 hands for a few days when the last time was that you cleaned it
15 inside?

16 A No, I don't know.

17 Q Would it have been in the last month, within the last
18 week?

19 A I would assume I cleaned it before I brought it back to
20 school. I don't know for sure. I was very busy. I could have
21 and I could have not.

22 Q Can you give me an idea when the last time was that you
23 washed the outside of the automobile, would that have been within
24 the last week or within the last month?

25 A Within the last week I'm sure because it was clean.

26 Q Do you take it somewhere to be done or do you go to a

1 spray it yourself place or do you do it at the apartment at home
2 with a bucket?

3 A I take it and take the bucket with me and do it myself.

4 Q And you recall doing it within a week of that Saturday?

5 A Yes, I do.

6 Q Did you and Buzzy do it?

7 A I don't know if he helped me or not. I don't remember.

8 Q But you were definitely there doing it?

9 A Yes.

10 Q And that would have been within a week and you walked
11 all the way around the car on the outside and cleaned it off?

12 A Yes, sir.

13 Q You never noticed if anything was missing?

14 A I would think so.

15 Q And was there anything missing?

16 A Not to my knowledge, unless it was--I don't know if
17 the siding was messed up or not from where my brother hit it.

18 Gina had taken it home the weekend before, two weeks, yeah, I
19 don't know which one, the weekend before, I believe, yes, the week
20 before she had, no the weekend before was when she had her date.

21 Q Two weekends before she went to the Merriott she had
22 the date, one weekend before she went to Coeburn, visa versa?

23 A Two weekends before she had a date, the weekend before
24 she went to Coeburn, I think. I'm sorry, I don't--

25 Q That's all right. You know, I'm not trying to mix you
26 up; I hope that I'm not trying to mix you up. I'm just--

1 A But anyway that's when it got wrecked. I didn't have
2 a chance to look at it.

3 Q So you don't know if you washed it right afterwards or
4 right before, but you washed it fairly close to the time she left
5 for the Merriott Inn?

6 A Yes.

7 Q Was that like Gina to go some place by herself. You
8 mentioned that she asked you to go and you decided not to.

9 A Gina was very independent and she would go somewhere by
10 herself. It wasn't like her to go dancing by herself.

11 Q When was the last time you recall her doing that?

12 A Whenever she gets up every morning and goes to her
13 classes by herself or she--

14 Q No, ma'am, I'm talking about going out on a social
15 evening by herself, hopping in the car by herself, not with you,
16 not with a date, not with other friends.

17 A (Silence).

18 Q Did she ever do it?

19 A I don't recall.

20 Q She never did to the best of your knowledge go off by
21 herself for a social evening alone?

22 A I took her one time, but she came back out. She decided
23 not to go.

24 Q You took her once to drop her off somewhere?

25 A Uh huh.

26 Q And so she would be by herself in a social situation?

1 A Well, she wouldn't be by herself.

2 Q Well, I mean she would have entered by herself?

3 A Yeah, but I sat there and waited for her to come back
4 and tell me that she knew people in there and then she came back
5 and said, "No, I don't want to stay," and I took her on home.

6 A Was there any kind of discussion like that before she left
7 to go to the Merriott?

8 A No.

9 Q She didn't say, "I'd like for you to drive me there, even
10 though you won't go with me."

11 A She said, "Please, Diana, I can go on my own. You don't
12 have to." I was very tired.

13 Q But she didn't, I believe you stated she didn't indicate
14 she was meeting anyone in there?

15 A No, not to me, she didn't.

16 Q So unlike this other situation where she went to scout
17 the place to see if there were persons she knew, she left to the
18 best of your knowledge without any ideal there would be people
19 there that she was familiar with?

20 A Well, you know, I don't know what was in her mind. She
21 might have expected some of her friends to be there.

22 Q She didn't indicate that to you?

23 A No.

24 Q In addition she didn't indicate to you that this was a
25 new experiment she was going to be asserting and by golly this time
26 she was going to go by herself even though she never had before.

1 A She never said it. It just never came up. She just said
2 she wanted to go dancing and I said, "I can't go with you," and
3 she said, "But I want to go," and I said, "Well," so we discussed
4 it. She decided to go on. I gave her directions. I told her to
5 call me the minute she got there, which she didn't.

6 Q Is it safe to say that even when she left your apartment
7 it was an unusual evening. She had never, it wasn't rare and it
8 really wasn't unusual, it was unique that she went by herself?

9 A Not really.

10 Q Well, you just got done telling me that she had never
11 done it before.

12 A No, you asked me if she had ever gone to a social activity
13 by herself.

14 Q That's what I'm talking about. It was unique in that
15 she was going out in public social atmosphere by herself for the
16 first time as far as you know. Do you want me to start over. I'll
17 be glad to.

18 A O.k., what are you asking me, sir.

19 Q Diana, I'm asking you if it's true that this is the only
20 time you can ever remember Gina Renee Hall going out in a social
21 situation by herself?

22 A When you say social situation, are you referring to
23 dancing or to a party or are you referring to going to work, to be
24 with friends or--

25 Q I'm talking about going out in public and not going over
26 to a friend's apartment by prearrangement, not going to work, going
to classes, I'm talking about, I'm basically going to take myself

1 on a date, I'm going down to the Disco Depot, I'm going to the
2 Merriott.

3 A I guess so.

4 Q This is the first and only time you ever remember that
5 she did that by herself?

6 A I think so. I can't recall any time the kind of times
7 that you are referring to for her to go by herself. Now she did
8 a lot of other things by herself.

9 Q As a matter of fact she was very reluctant to do what
10 she did that night, am I right? You--

11 A No, it didn't bother her. She wanted to go.

12 Q In a certain situation. You told me about one instance,
13 we're going in circles here Diana. We are talking about one instance
14 in which she was going in a social situation essentially by her-
15 self and you had to drive her there and you had to wait to see if
16 it was ok.

17 A Yeah, but she didn't go by herself. I took her.

18 Q But you didn't go in with her.

19 A No, but if she's going in there to meet friends, then
20 that's o.k.

21 Q But she left Radford to drive all the way to Blacksburg
22 that night with the directions that you gave her by herself,
23 right?

24 A Yes, and that's o.k. IF she had been going to some
25 fluezy place over there, I would have objected to it, but she was
26 going to the Merriott Inn, and that--

1 and you said, "Thinking back about it, she seemed upset." At the
2 time, you just testified, at the time you didn't think anything of
3 it?

4 A No, I thought something of it. I just, you know, it
5 just did not dawn on me until I woke up at 7:00 o'clock that morning
6 and she was not there. Then when I, you know, thought about, "My
7 gosh, something was wrong."

8 Q You weren't sure if anything was wrong but when you woke
9 up the next morning, you decided something indeed had been wrong
10 six hours earlier?

11 A When I had been asleep, as tired as I was, you know,
12 nothing dawned on me.

13 Q And you told us how the conversation started, she said,
14 "Diana." and you said, "Gina?", right?

15 A Yes, sir.

16 Q You questioned her. Would that appropriately be with a
17 question mark after it?

18 A Yeah, because she shocked me. I just knew she had run
19 the car off the road or something or she had had an accident be-
20 cause there was no other reason why Gina would call me unless, you
21 know, something was wrong. She was out and she had to tell me
22 where she was at.

23 Q Did she mention anything to you during the conversation
24 about having tried to get in touch with you earlier?

25 A No, she did not.

26 Q She never said that?

1 A No, she didn't.

2 Q You weren't having trouble with the telephone?

3 A No.

4 Q How does Gina's voice sound when she's had something to
5 drink?

6 A Very happy.

7 Q Would it be fair to say that when she's a little ine-
8 briated or a little intoxicated, she's happy as opposed to a very
9 sloppy person or as opposed to an angry person when they drink?

10 A She never really drank enough ever in front of me to
11 see, you know, even have a slur, the slightest slur in her voice.
12 It was just, it relaxed her and I don't know. How do you mean
13 how her voice, it definitely wasn't slurred. I've never seen
14 _____ (unintelligible)--

15 Q Well, you said she sounded happy. I assume that you are
16 saying that with alcohol she gets happy?

17 A Yeah, she, you know, you don't sit there and be--I don't
18 know, she would just be herself, really. Let herself be herself
19 and she was a very happy person, bubbly attitude.

20 Q Now Mr. Shockley asked you if you had ever seen her
21 abuse alcohol or any other chemical and your reply was you had seen
22 her drink one drink at a time. I'd like you to finish answering
23 that question. Have you ever seen her abuse any substance?

24 A As in, what do you mean by abuse, have I ever seen her--

25 Q Drink an awful lot of alcohol--

26 A No, sir.

1 Q Captain Williams?

2 A No, it wasn't any one of those. It was just somebody
3 who sat there.

4 Q A dispatcher of some such?

5 A Yes.

6 Q The dispatcher told you you had to wait until she had
7 been missing 24 hours.

8 A He told me that she would be home by Monday, probably.
9 She was probably just--and there was no help at all from there.

10 Q You immediately called Wytheville State Police?

11 A Yes, I did.

12 Q And when is it you got in touch with your father?

13 A Right after, well, I think I called him to ask him what
14 I should do so I called him before but I couldn't get in touch
15 with him. He was playing in a golf tournament all day or something
16 of that nature. I don't remember for sure.

17 Q Sunday morning at 7:00 a.m. you said you woke up.

18 A Yes, sir, I did.

19 Q At that time you woke up and discovered that Gina was
20 not there?

21 A Yes.

22 Q Not for any other reason but to know, was Mr. Bodner
23 there at that time?

24 A Yes, he was.

25 Q I assume the two of you discussed the fact that Gina
26 was not there?

1 A Yes, we did.

2 Q Did you have the thought of calling anyone at that time?

3 A I didn't know what to do.

4 Q Did you call your father to find out what to do as you
5 did later?

6 A I didn't for a little while because I thought, well
7 knowing my sister--

8 Q I'm not going to ask you to make any conclusions, please
9 don't.

10 A I'm not.

11 Q I just wanted to know what you thought?

12 A I didn't know what to think.

13 Q O.k.

14 A I just knew that she wasn't there and I had to do some-
15 thing and Buzz told me that, you know, what can we do.

16 Q So you did not call you father at 7:00 in the morning?

17 A No, not at 7:00.

18 Q You didn't call the police until nearly 12, 14 hours from
19 then?

20 A Because I was told that it wouldn't make any difference,
21 that they couldn't do anything.

22 Q Well, who told you that?

23 A Well, if it's a twenty-four hour missing person--

24 Q Who told you that?

25 A I guess Buzz did. We were just discussing it--

26 Q Is he a police officer?

1 A No.

2 Q Ever been?

3 A No.

4 Q So Buzz told you you had to wait twenty-four hours before
5 you could call the police, is that right?

6 A Well, as we were discussing it, you know, it just came
7 up.

8 Q It stands to reason that you waited throughout Sunday
9 until 9:00 o'clock that night before you called anyone?

10 A Not the only reason, I didn't want to call the police
11 when I didn't know what had happened. It was just, you know,
12 you never expect something like this to happen, especially to your-
13 self.

14 Q 9:00 o'clock at night wasn't twenty-four hours yet, why
15 did you call then?

16 A Because I figured I'd tell them they left at 9:00 o'clock.
17 I didn't care.

18 Q Pardon me.

19 A I just wanted some help somewhere. I had already called
20 my friends. They had been out looking for the car.

21 Q And did Buzz encourage you to call or discourage you
22 to call?

23 A He had to go back home.

24 Q You got no response basically from the police at that
25 time, both Radford and the Wytheville Division Headquarters of the
26 State Police. You had called your father somewhere between 9:00

1 and 10:00 p.m.

2 A And he waited because he knew he had to go by Wytheville
3 when they opened to do whatever you do, you know, put the form,
4 complaint in or whatever.

5 Q What other actions did you take after you phoned your
6 father?

7 A Sat by the phone and called, trying to get people to
8 help me because I knew, you know, I thought, "My gosh, she's gone
9 off the mountain or something. I didn't know what. I had no idea
10 where she was at.

11 Q But you waited all day Sunday and even Sunday night,
12 going into Monday morning waiting for her to call or waiting for
13 her to walk through that door, right?

14 A Well, you always hope that she will.

15 Q I'm asking you what happened that day, Miss Hall, please.

16 A Well,--

17 Q You waited all day Sunday throughout the day and you
18 actually waited Sunday night through Monday morning waiting for her
19 to call or waiting for her to walk through the front door, right?

20 A I don't know what I was waiting for.

21 Q Well, I certainly don't know and you are the only one
22 that knows what you were feeling. I'd like for you to tell the
23 jury, please.

24 A I don't know what I was waiting for. I was just hoping
25 that she would come through that door. I was hoping she'd call up
26 and she'd say something like, you know, but not calling any time

1 to let me know where she was at, right there told me something had
2 to be wrong and everybody kept trying to con--what would be the
3 word, calm me down, tell me everything is going to be o.k. and she
4 is o.k. or she's just out skiing or something or she met some
5 people that she knew from Spring Quarter. They were trying to con-
6 vince me that everything would be o.k. and I, you know, I just--

7 Q This automobile is it a 1977?

8 A No, sir, '75, '74.

9 Q Is that a '75?

10 A Uh hum.

11 Q You said brown and beige. I believe it's kind of a
12 chocolate brown and a light colored vinyl top?

13 A Yes, sir.

14 Q Was there anything unusual about this automobile, Diana?

15 A Yes, my brother had just ran into the fence with it and
16 put a scrap on it, on the side.

17 Q Which side was that?

18 A The passenger side, I believe.

19 Q Anything that you would normally associate with an auto-
20 mobile that was missing such as one hub cap or something like that?
21 Did you have one hub cap missing or anything unusual like that,
22 something that's associated with every car that's perhaps missing
23 from your automobile?

24 A I would notice it.

25 Q You would notice it, you are sure?

26 A Yes, sir, I was very particular about my car.

1 Q A place that you have been before?

2 A Yes, I have.

3 Q A place that she had been before?

4 A I had taken her and we decided not to stay so she had
5 seen the place but she had never been in there and I had talked
6 highly about it because I had a good time there.

7 Q The next thing that you went through with the Common-
8 wealth Attorney was the contents of your clutch purse and I need
9 some explanation of that also. So that I don't spill it all out
10 again, can you tell me what all that, you know, basically is, is
11 it all papers?

12 A Receipts, pictures of my children that I taught.

13 Q This looks to be a rain bonnet.

14 A Check book, rain bonnet.

15 Q Whose check book is it?

16 A Mine.

17 Q It has your name on it. Now if I understand correctly,
18 this was in a clutch purse and the clutch purse was in a pocket-
19 book and the pocketbook stayed normally under the front seat of
20 your automobile?

21 A Yes, sir.

22 Q There were other things in the pocketbook besides the
23 clutch?

24 A Yes, sir.

25 Q And that was the pens and pencils and things that you
26 described?

1 A Lipstick.

2 Q And those are not in here?

3 A Yes, sir, the lipstick's in there.

4 Q And the set of keys. To the car?

5 A They were, I suppose they were in my pocket book. I mean
6 they were in there but when they found the car they weren't, the
7 pocketbook wasn't there.

8 Q What I'm asking, the last time you saw that pocketbook
9 would it have contained a set of keys?

10 A Yes, it would have.

11 Q A set of keys to the car?

12 A Yes, and to my apartment.

13 Q O.k., that's what I was going to ask you, two keys and then
14 one to the apartment?

15 A Uh hum.

16 Q And this key chain is the one with the screw that doesn't
17 stay screwed tight?

18 A It would either be that one or it would be a big key
19 thing with my initials on it. We just interchanged them. Which-
20 ever one she had at the time, I took the other. Whichever one she
21 had at the time, I took the other.

22 Q Basically one set of keys stayed in the car and one set
23 stayed in the apartment, right?

24 A Well, no, basically one stayed in my pocketbook and one
25 stayed in her possession. I never had any use for them. I hardly
26 ever drove the car. When I got home from class, she was usually

1 already there. I just never bothered with my pocketbook unless
2 I needed money and usually then I didn't bother with it because
3 there wasn't any in it.

4 Q You hardly ever drove the car. Did Gina drive it every-
5 day, would you say?

6 A Yes, she would get up--she had an 8:00 o'clock class and
7 she would go on to her 8:00 o'clock class. For a week I didn't
8 have any classes because our graduate classes started late so I
9 didn't have anything to do for a week so she just got in the habit
10 of taking my car and I decided, "Well, she's doing fine. I'll
11 just, instead of me getting up and getting ready and taking her,
12 she can do it herself, and then I can go. She can come back and
13 get me," which she did everyday.

14 Q So she'd be in that car everyday and you would go a couple
15 or three days without ever being in it, or so?

16 A No, I would be in it sometime.

17 Q Everyday?

18 A Probably, not everyday, probably every--

19 Q Well, if it was full of junk, you would have known it,
20 right?

21 A Yeah.

22 Q Papers and slop. You said you liked to keep it real
23 neat?

24 A I said clean. I might have had stuff in there, school
25 stuff, you know, that type thing, tapes, things like that, but as
26 far as clean, it was clean. The outside was always clean.

1 Q I asked you a little while ago if Mr. Bodner, yourself or
2 Gina ever smoked cigarettes?

3 A No, we don't.

4 Q I assume there have been people in that car who do smoke
5 cigarettes?

6 A Yes, there has.

7 Q You are anticipating I'm going to ask you a question.
8 Who is it that smokes cigarettes that rides in that car?

9 A Some friends of mine, were then. They were friends of
10 mine.

11 Q _____ (Inaudible).

12 A No.

13 Q How about your father, does he smoke cigars?

14 A No, sir.

15 Q You also, I believe told Mr. Shockley that you hardly
16 knew anything about the layout of Radford but your sister certainly
17 does know all of her way around Radford, knows where all the
18 streets are, knows where Kroger's is and Thriftway and everything
19 else?

20 A Excuse me, what did you say?

21 Q I believe you testified to Mr. Shockley that you really
22 don't know your way around Radford at all.

23 A Did I say that. I do know my way around Radford.

24 Q Pardon me. I made a mistake then with what I wrote down.
25 I thought you said you really didn't know your way around.

26 A No, sir.

1 Q You knew your way around Radford very well?

2 A Yes, sir.

3 Q As does your sister?

4 A My sister knew her way around the main part of town.

5 She didn't know all the back roads or the residential areas. She
6 knew the way to come from the apartment, to there, to there. She
7 knew those very well. The rest of them, she wasn't, she could
8 figure things out.

9 Q This pile of papers that I recently showed you, that
10 you've identified as having come out of your purse. You were in
11 the group of law enforcement officials when that was discovered?

12 A Yes, sir.

13 Q And it was discovered behind a store, I believe on First
14 Street in Radford, is that correct?

15 A No, sir.

16 Q O.k., where was it discovered?

17 A The papers in my clutch?

18 Q Yeah, in the envelope that _____ (inaudible, cough).

19 A They were found on Hazel Hollow Road on the left side
20 going towards Claytor Lake, on the right side coming back toward
21 Radford in a little cutout place underneath garbage like, whatever
22 you would call it, garbage like--

23 Q A lot of people call them dumpsters is that what you are--

24 A It wasn't a dumpster. It was just where people mess.

25 Q A green barrel?

26 A No, it was just junk.

1 Q Underneath it, now is this thing on wheels?

2 A No, sir, it was leaves and tree limbs and trash.

3 Q Just a pile of garbage. It wasn't an organized place
4 for garbage?

5 A No, it wasn't. It was where people had just decided,
6 "Well, I don't want to burn these tree limbs. I'm going to take
7 them and dump them here. I'm going"--It was just a lot of brush,
8 more or less, not really even--someone might throw a milk carton
9 over there; it wasn't, you know, a real trash dump. Just somewhere
10 people decided to put their trash.

11 Q Correct me if I'm wrong but I believe you said something
12 about them being very well, I mean in a compact area--

13 A Underneath things, like dirt. Underneath, wadn't it
14 underneath--

15 Q _____ (Unintelligible). Go ahead, what do you remember
16 about where they were?

17 A I remember the man stooping down and having to dig and
18 move a lot of tree limbs to get the things out, and he was scared
19 he was going to get snake bitten so he was pulling those tree limbs
20 up.

21 Q Once the tree limbs were removed, were all the papers
22 in one small area?

23 A Yeah, they were all folded up and congested just like
24 they had been taken out and just (indicated) under there like that.

25 Q Basically, _____ (unintelligible) basically?

26 A The papers from my clutch were put under there in such

1 a fashion to make you think that, well I mean they weren't all
2 spread all over the place. They were put in a particular place.
3 The rest of my contents weren't though, just from the clutch.

4 Q Did you ever say to anyone that you thought Gina Hall
5 was depressed before she left that night?

6 A Pardon me, before what?

7 Q Did you ever indicate to anyone that you thought Gina
8 Hall was depressed before she left going out that evening?

9 A No, sir.

10 Q You dey ever saying that?

11 A (Nods head).

12 Q To anyone?

13 A Unless, something, you know--she was not depressed
14 when she left.

15 Q She most definitely was not?

16 A No, she wasn't.

17 Q I'm not asking you whether she was or was not depressed,
18 I'm asking you whether you, yourself, ever told anyone that she was
19 indeed depressed?

20 A The night before she left for the Merriott, I mean the
21 night she left?

22 Q Regarding that night she left for the Merriott, yes.

23 A No, if I did, I didn't make it in my right mind.

24 Q What kind of plans did Gina have for the next week?

25 A Pardon me.

26 Q What kind of plans did Gina have for the next week?

1 You indicated that classes were to start that next Monday, June
2 30th.

3 A Continue, continue. She already had her classes.

4 Q Any other plans?

5 A No, sir, just to go to school.

6 Q How about plans for Sunday?

7 A Yes, sir.

8 Q O.k., what was that?

9 A A friend was coming to see her on that Sunday.

10 Q A friend. Do you know who that friend is?

11 A Yes, we've known him for a long time.

12 Q And who was that?

13 A Greg Bass.

14 Q Craig or Greg?

15 A Greg.

16 Q Greg and his last name?

17 A Bass.

18 Q Where did Mr. Bass reside?

19 A Italy.

20 Q Mr. Bass was to come see her that Sunday?

21 A Yes.

22 Q Do you know when, was he to come up to your apartment?

23 A Yes.

24 Q When was he to be there?

25 MR. SHOCKLEY: Objection, Your Honor, that calls for hearsay.

26 THE COURT: What was the question?

1 MR. WARBURTON: I asked Miss Hall when Mr. Bass was to be
2 there, and Mr. Shockley objected on the ground of hearsay.

3 THE COURT: Well, not necessarily hearsay. If you have in-
4 formation, if you know, you may answer.

5 A I don't know for--you know, sometime that morning.

6 Q How did you know that Mr. Bass was to be there on
7 Sunday?

8 A Gina told me.

9 Q When did she tell you?

10 MR. SHOCKLEY: Again, Your Honor, I'm going to object to all
11 of this as being hearsay. If we aren't able to go into a telephone
12 conversation that Gina had with her, I don't think that they should
13 be able to go into the conversation that Gina had with her.

14 THE COURT: I agree as to details of the conversation. I
15 sustain the objection.

16 MR. WARBURTON: I'm not asking for detail of the actual con-
17 versation. I'm asking when it occurred. I think that's--

18 THE COURT: All right, you may ask.

19 Q When did she talk with you about Mr. Bass coming over
20 to the apartment?

21 A Lots of times, Saturday night was the last one.

22 Q You say lots of times. Was that the subject of conver-
23 sation for the previous week?

24 A I don't see, what do you mean?

25 Q I asked you when you had talked about it and you said,
26 "Lots of times, the last one was that Saturday night." I want to

1 know basically when the other lots of times are?

2 A In letters and plus that weekend that she had gone
3 home.

4 Q To the best of your knowledge when was the last time
5 Gina Hall saw Mr. Bass?

6 A The weekend that she was home, and that was when he
7 came by I assume, Joan, my mother said he came by the house. I
8 don't know what else happened. I wasn't there.

9 Q To the best of your knowledge he was to be there Sunday
10 morning?

11 A Yes, on his way up to Washington, D. C. he was going
12 to stop by and see her.

13 Q Did he?

14 A Yes.

15 Q He did stop and see you?

16 A Yes.

17 Q What time did he arrive?

18 A Early that morning.

19 Q How early is early?

20 A I don't know for sure. I think it was about--I don't--

21 Q Before or after dawn?

22 A Well, his phone call woke me up around I believe 7:00
23 or 7:30 and he wanted directions.

24 Q To get to your apartment?

25 A Yes.

26 Q You gave them to him and he showed up a little while

1 later?

2 A Yes, he did.

3 Q You say he was there about 7:00 in the morning?

4 A Well, not that early.

5 Q Well, a little earlier, I'm sorry after 7:00?

6 A Yeah, sometime, yeah about 7:30 or 7:00. I don't
7 remember, 8:00, whatever time it was.

8 Q What explanation did you give Mr. Bass about where Gina
9 Hall was?

10 A I didn't know.

11 Q Did you make an explanation saying, "I don't know"?

12 A Yes, I did.

13 Q How long did Mr. Bass stay there?

14 A All day and then for a long time afterwards.

15 Q Do I assume from what you said that he began living in
16 the apartment starting Sunday morning at 7:30. I don't understand,
17 you say he was there for all day and then a long time.

18 A Well, he was concerned about where she was at also so--

19 Q Did he take up residence in that apartment?

20 A Yes, so did about 15 other people.

21 Q I understand. All I'm asking is if Mr. Bass did.

22 A Yes, he did.

23 Q So he stayed with you throughout the day also?

24 A Yes.

25 Q I'd asked you before about Mr. Bodner and whether he had
26 made any suggestions about calling the police or not calling the

1 police. Did Mr. Bass make any suggestions also?

2 A Sir, I really--when you are in that situation you don't
3 know what to do, especially if something like this has never happened
4 to you.

5 Q I'm not questioning why, I'm asking you if.

6 A I don't remember. He might have and he might not
7 have. He probably didn't know--

8 Q I want such answer as you can give us. I don't want you
9 to be upset because I've asked you. I just wanted to know if you
10 could remember whether Mr. Bass gave you any directions one way or
11 another to call the police or not to call them, but if you don't
12 know, you don't know and if you do you can tell me.

13 A He probably did. It was very chaotic, sir, and, you
14 know, people were just suggesting whatever they could suggest.

15 Q Because it was chaotic, you have some question about
16 whether your recollection would be exact as to any time that you
17 decided on Sunday or Monday, is that correct?

18 A About what?

19 Q Your recollections about any specific time would by the
20 very nature of your being upset be subject to some doubt one way
21 or another a little anyway, right?

22 A Well, my days and nights ran together, considering I
23 didn't go to sleep, but I did know whether it was Monday or Sunday,
24 Tuesday or--

25 Q I'm assuming you knew what day it was; I'm saying for
26 example when you testified Mr. Bass called about 7:00 in the morning

1 that's not 7:00 necessarily because of your excited state of mind.
2 It would have been within a little--

3 A Yeah, no, it was 7:00. It was early. He was, you know,
4 supposed to be there early.

5 Q It couldn't have been 6:00?

6 A No, sir, I don't think so. I think it was 7:00.

7 Q Do you know what time he was expected to be there?

8 A He just said early morning about 7:00.

9 Q _____ (Unintelligible).

10 A I don't know whatever, she just told me he was coming.

11 Q I realize this is _____ (unintelligible) I didn't
12 embarrass or upset you too much.

13 REDIRECT EXAMINATION

14 BY MR. SHOCKLEY:

15 Q Diana, I have just a few more questions, I'm sorry.
16 We're not done yet.

17 To your knowledge, Mr. Warburton asked you about the Monte
18 Carlo that you owned and that Gina took with her, to your knowledge
19 was there any type of blood or anything, any blood stain in the
20 trunk of the car?

21 A Not to my knowledge, that there'd be a reason for any
22 to be there.

23 Q You mentioned, Mr. Warburton was asking you about things
24 that Gina may have done by herself and the fact that maybe this
25 was the first time that she went out and went dancing by herself.
26 Just describe for the jury the other things that Gina did by herself

1 A She'd go play tennis against the wall lots of times
2 by herself; she would run by herself. She always was jogging.
3 She'd go to the store by herself. She walked to class by herself.
4 She, when she was in high school, she was very independent. She
5 did things by herself in that, you know. She would go to band
6 practice by herself. She would go, she just--

7 Q When you say independent, do you mean strong headed
8 or bull headed or anything of that nature or do you mean that she
9 just didn't mind being by herself?

10 A She didn't mind it. She, you know, it was fine with
11 her. It was just something she had to do and she wanted to do it,
12 so she went. You know, if she wanted to go jogging by herself,
13 then she would jog and she would come back.

14 Q Are you familiar with any other situations where Gina
15 had the opportunity to go out socially as Mr. Warburton put it
16 and didn't or--

17 A No.

18 Q By herself, I mean, or did the two of you pal around.
19 I don't know.

20 A Yes, we, I went dancing with her three to four times,
21 went out with her this summer and from what I understand she had
22 friends at Tech that she would go with every now and then. They
23 were some Coeburn friends from home. She would tell me of times
24 that she would go out down the Depot every Thursday night because
25 she would see Buzz and they would be together or she would go over
26 to Heath every now and then on campus. There were many places

1 that she went socially. It was just, you know.

2 Q Now, Greg Bass got there you say to the best of your
3 recollection sometime around 7:00 or after 7:00. He was to meet
4 Gina that morning?

5 A Yes, he was.

6 Q Did he ask where she was, did he come right out and
7 say, "Where is Gina?"

8 A Yeah, yes, sir.

9 Q And you told him that you did not know, you say?

10 A I told him I was sorry I didn't know.

11 Q Did it upset him?

12 A Yes, it did. He was very upset.

13 Q Was he in the military at the time?

14 A Yes, he was.

15 Q Is he in the military now?

16 A Yes, he is.

17 Q Is that why he resides in Italy?

18 A Yes, sir.

19 Q Is he originally from Coeburn?

20 A Yes, originally from our county, Norton.

21 Q Well, Wise County?

22 A Wise County.

23 Q Did he hang around so to speak, spend the night?

24 A Yes, he did.

25 Q At your apartment for some days?

26 A Yes.

1 Q Now not to testify myself or anything, but after the
2 ball got rolling so to speak, after your sister disappeared and
3 you contacted the police, is it safe to say that your apartment
4 was a gathering place?

5 A Yes, it was.

6 Q Friends of the family there?

7 A Very many friends. We had sometimes up to 15 or 20
8 people there.

9 Q Were the police there?

10 A Yes, sir.

11 Q Me there?

12 A Yes, sir.

13 Q Physic there?

14 A Yes, sir, relatives, friends, the family, friends from
15 school.

16 Q And do you recall when Mr. Bass left to go on to D.C.?

17 A He did not leave for awhile. He called and ten-day
18 extension or something where you call and get your--he called and
19 had that done so he didn't have to take his flight out--

20 Q Did he ever go out--excuse me, go ahead. I didn't mean to
21 interrupt you.

22 A Go ahead.

23 Q Did he ever go out and assist in the search for Gina?

24 A Yes, he did.

25 Q Everyday?

26 A Yes, sir.

1 Q I believe that's all I have. Now they have a couple
2 of more questions, I don't know.

3 MR. WARBURTON: No, sir, we do not have any more questions.

4 THE COURT: You may step down.

5 (The witness stands aside and leaves
6 the courtroom.)

7 THE COURT: Members of the jury, we'll take a 10 minute
8 recess at this time.

9 (Thereupon a recess was had and after a time all interested
10 parties, including the Court, jury, counsel and the defendant,
11 returned into the courtroom.)

12 JANE TOOTHMAN,
13 a witness called on behalf of the Commonwealth, after being first
14 duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MR. SHOCKLEY:

17 Q State your name, please.

18 A Jane Toothman.

19 Q And is that Dr. Jane Toothman?

20 A Yes, sir, I'm an M.D.

21 THE COURT: How do you spell that?

22 A T-o-o-t-h-m-a-n.

23 Q Are you a medical doctor?

24 A Yes, sir.

25 Q Do you have a private practice?

26 A Yes, sir, in Bristol, Virginia.

1 Q And how long have you been in practice? I don't want
2 you to tell your age, I'm not trying to get at that.

3 A I've been in Bristol, Virginia, three years. Prior to
4 that I was in Coeburn, Virginia, 10 years.

5 Q Did you know Gina Hall?

6 A Yes, sir.

7 Q Are you friends of the Hall family?

8 A Yes, sir, and I'm their family physician.

9 Q Do they still travel to you in Bristol from Coeburn for
10 your services?

11 A Yes, sir.

12 Q Do you specialize in any type of medicine?

13 A Family practice.

14 Q Family practice. And how long have you been the Halls'
15 physician, please.

16 A Since 1967.

17 Q And you knew Gina all during this time?

18 A Yes, sir.

19 Q First of all are you familiar with her body scars?

20 A Yes, sir.

21 Q I understand that you were not the treating physician
22 for any of the surgery or any of the skin grafting or anything of
23 that nature, is that correct or not?

24 A That's right. She had her last surgery prior to my be-
25 ginning to treat her.

26 Q To your knowledge had Gina ever had any psychiatric

1 problems?

2 A No, sir.

3 Q Had you ever prescribed any type of nerve medicine or any
4 type of medication for an emotional disorder or anything like that
5 for her?

6 A No, sir.

7 Q Do you know about Gina's repu--or situation, family
8 situation as far as whether or not the family was close knit.
9 How she got along with her father and her stepmother and her
10 sister and brothers. Are you familiar with that at all?

11 A I'm not aware of any problems. I am aware of the father
12 situation, the fact that she has a stepmother.

13 Q And would you say that the relationship between Gina
14 Hall and her parents was good?

15 A Yes, sir.

16 Q Do you know anything about Gina Hall's reputation as
17 far as morals? Did she ever have any bad reputation for being
18 promiscuous or being abusive of alcohol or drugs, emotional in-
19 stability, any of these negative characteristics?

20 A Not to my knowledge.

21 Q Was her reputation among friends, family members, and
22 so on a good reputation?

23 A Yes, sir, very favorable.

24 MR. WARBURTON: _____ (unintelligible) the gist of what
25 Mr. Shockley intends to get at, I'd like him to be directed not
26 to direct leading questions. _____ (unintelligible).

1 THE COURT: All right.

2 Q How long had Gina been your patient? You may have already
3 said; if so, I'm sorry.

4 A I first saw her--I can give you the exact date--January
5 24th, 1969.

6 Q Do you know how old she was at that time?

7 A She was seven years old at that time.

8 Q Do your records indicate how many times you saw Gina?

9 A Yes, sir.

10 Q Could you tell us, please.

11 A I saw her twelve times between January 24, 1969, and
12 January the 5th, 1978.

13 Q Over a nine-year period?

14 A Yes, sir.

15 Q Did you have any social relationship with the family
16 yourself? Did you socialize with Gina and her mother, stepmother
17 and father?

18 A I socialized with her father, her stepmother. I worked
19 with Gina when she was a member of a young people's singing
20 group in the church. We all went to the same church in Coeburn.

21 Q Was Gina active in the church activities?

22 A At the time I was in Coeburn she was.

23 Q You don't have any knowledge since that time, do you?

24 A Not since January, 1977.

25 Q Is that when you moved to Bristol?

26 A Yes, sir.

1 Q Is the Hall residence what you would say a nice home,
2 physically I'm talking about?

3 A It's a beautiful home.

4 Q Do you know where they live now?

5 A Joan and John Hall?

6 Q Yes.

7 A Yes.

8 Q And how long have they lived in that particular home?

9 A I would judge close to 10 years.

10 Q I don't want to get extravagant or anything in specifics
11 but could you just tell us about the home and family life, you
12 know I'm interested in things like social class, material comforts
13 that the parents may have provided and so forth.

14 A It's a very comfortable home.

15 MR. WARBURTON: Pardon me, ma'am. I believe we have to have a
16 little better foundation, whether she's ever been there and how often
17 before she can testify to these matters.

18 THE COURT: All right, she has said she has been a friend
19 of the family, but you might inquire further--

20 Q I thought you had said you had been to the home?

21 A I have been to the home.

22 Q How many--

23 A On several occasions.

24 Q Several occasions. Well, are you familiar then with
25 the home and the material effects in the home and so forth,
26 furnishings?

1 A Yes.

2 Q Would you describe it as a comfortable home?

3 A I would.

4 Q Would you describe it as above average?

5 A Yes, I would describe it as upper middle class.

6 Q Do you think that Gina or Diana or any of the children
7 ever wanted for anything?

8 MR. WARBURTON: Your Honor, that calls for a conclusion and
9 Mr. Shockley is leading again.

10 THE COURT: Well, I don't know how material it is, but I'll
11 permit the witness to state from her observation of the life
12 style there whether or not these children were ever deprived,
13 whether they had everything that they reasonably desired or re-
14 quired. You may answer the question.

15 A These were not deprived children. They had everything
16 materially that they needed.

17 Q You say you lived in Coeburn until 1977, is that correct?

18 A That's correct.

19 Q And lived there for a period of 10 years?

20 A From August, 1966, until January, 1977.

21 Q Was Gina's reputation for being a moral individual good
22 or bad?

23 A It was good.

24 Q Was she respected by her elders, her classmates, the
25 ones that you, of course, know about?

26 A Gina was, she was well liked. I had no problems with

1 Gina when I treated her. I know of no discipline problems. I
2 became involved in none, if there were any.

3 Q All right, that's all I have. If you will answer these
4 gentlemen's questions.

5 CROSS EXAMINATION

6 BY MR. WARBURTON:

7 Q Dr. Toothman, if I am correct, the last time you saw
8 Gina Hall would have been in January of 1977, is that your testi-
9 mony?

10 A 1978.

11 Q January?

12 A Yes.

13 Q Assuming she was 7 years old in 1969 when you first saw
14 her, that would make her 16 or 17 the last time you saw her?

15 A 16.

16 Q And you haven't then seen her in more than two years?

17 A That's right.

18 Q You know nothing about her reputation in the last two
19 years?

20 A Not directly.

21 Q You, yourself, don't know anything about her reputation
22 in the last two years?

23 A I know nothing bad about it. I know nothing good about
24 it.

25 Q You saw her for 12 visits as a physician?

26 A That's right.

1 Q Over a period of 8 years, 9 years pardon me.

2 A That's right.

3 Q A little more than once a year. Other than this church
4 group, did you have any other frequent contact with Gina Hall?

5 A Only when I visited in their home.

6 Q Have you been in the home since January of 1978?

7 A Yes, sir.

8 Q How many times, approximately.

9 A Two or three.

10 Q How many times of those two or three was Gina Hall
11 there?

12 A On at least one of them.

13 Q When would that have been? When was the last time you
14 saw Gina Hall, socially, medically?

15 A Medically.

16 Q In 1978?

17 A Yes.

18 Q And I'll ask you since 1978 have you been in the Hall
19 home at Coeburn?

20 A I've probably been there two or three times.

21 Q Was Gina there any one of those two or three times?

22 A If she was there, it was when I was a guest there at
23 a Christmas party.

24 Q But you can't recall?

25 A I don't recall.

26 Q Is it safe to say that over the last couple of years

1 there's a small possibility that you might have seen her once?

2 A Yes.

3 Q That's all the questions I have of you. Thank you,
4 doctor.

5 (The witness is excused and leaves
6 the courtroom.)

7 JOHN HALL,
8 a witness called on behalf of the Commonwealth, after being first
9 duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. SHOCKLEY:

12 Q State your name, if you would please.

13 A John Hall.

14 Q John, I've called you John many times talking to you
15 on the phone and I assume it's all right today to call you John,
16 is that right?

17 A All right, that'll be fine.

18 Q You are Gina Hall's father?

19 A Yes, I am.

20 Q And you reside in Coeburn?

21 A Yes, I do.

22 Q What is your occupation, please?

23 A I am an insurance agent.

24 Q What company?

25 A With State Farm Insurance Company.

26 Q How long have you been an agent with State Farm?

1 A For 18 years.

2 Q Have you had your own agency for that period of time?

3 A Yes, I have.

4 Q How many children do you have?

5 A I have four children.

6 THE COURT: Would you speak up a little bit, please, Mr. Hall
7 and talk to the jury rather than to Mr. Shockley.

8 A I have four children.

9 Q And their ages.

10 A Well, Diana is 21; Gina was 18; and John is 16 and
11 Garnett 10.

12 Q When is the last time you saw Gina?

13 A Probably about a, probably a week before the 29th. She
14 was home from school visiting on a weekend.

15 Q Were her spirits good at that time?

16 A Very good.

17 Q Mr. Hall, are you also a VPI graduate?

18 A Yes, I am.

19 Q I believe you used to play on the football team there
20 several years ago didn't you?

21 A Yes, sir, I did do that.

22 Q I want to ask you some questions about Gina. I know it
23 may be difficult for you to sit there and talk about it. I just
24 ask you to do the best you can. Are you aware of any suicidal
25 tendencies she may have had?

26 A No.

1 Q Ever have any problems keeping her at home?

2 A No, never had that problem.

3 Q Ever run away from home?

4 A Never.

5 Q How was your relationship with Gina, were you close?

6 A I would think probably that she was closer to me than
7 probably any of my children.

8 Q And I take it that you love all your children?

9 A Yes, I do.

10 Q Do you feel that Gina and all your children love you?

11 A I think they love me a lot.

12 Q Do they accept your wife, your second wife as a good
13 person?

14 A Very much so.

15 Q And love her?

16 A Yes, they did.

17 Q Did the fact that you had remarried ever bring about
18 any discord or any dislike of your second wife?

19 A Never in a, I'm sure there was a small item that all
20 children have to get adjusted to, no problem though at all, no
21 problem.

22 Q I know that you are obviously biased about your daughter
23 and all your children, but in your opinion, did Gina have a pretty
24 good reputation among her friends, among your acquaintances?

25 A She had a good, I mean, you know, she was just, she was
26 a different child. She was very, very good.

1 Q Did you ever have any problems at all with her, really,
2 any, anything--

3 A Sure, she loved to dance and, of course, she was in
4 different classes, gymnastics mostly, you know, and dance classes
5 and probably the only problem I could really ever say that I had
6 with Gina was that she, when it got Saturday night, her and her
7 friends they loved to dance and they loved to dance, and of course,,
8 whether I'm strict or not I did like for her to be in a little
9 early, you know.

10 Q Did she usually comply with your requests?

11 A She usually complied. Occasionally she would call and
12 they were going to have a dance contest. She'd want to stay and,
13 fo course, they was always at the end of a dance and that always
14 involved, you know, being out past midnight.

15 Q Did you like that?

16 A Well, as a parent, no, I didn't like it.

17 Q Did you try to encourage her to come in before midnight?

18 A Oh sure.

19 Q Did she have a curfew as such when she lived at home
20 with you?

21 A Did she what?

22 Q Have a curfew?

23 A Oh, she had her rules, yes, she did; and she broke a
24 few.

25 Q Well, I'm sure any child would do that. Did you provide
26 for her, did you give her things in life, a comfortable home,

1 clothing, material things?

2 A She had anything that she needed. I could have done more
3 for all my children, but material things they had all they needed,
4 yes, they did.

5 Q You know a lot of times you say, or people say that a
6 child that has these things might be spoiled. Did you ever consider
7 Gina a spoiled child?

8 A No, none of my children are spoiled, because like I say
9 I could give them more but I just don't do it. I feel like that
10 they have to earn it.

11 Q Well, did Gina ever work while she was in high school?

12 A Yes, she did.

13 Q Where did she work?

14 A She was the pop corn girl at the movie theater.

15 Q Work with Jeff Kiser?

16 A Yes, she did.

17 Q How long did she work for Jeff?

18 A Two years.

19 Q Did she--what did she do with her money?

20 A Well, she bought her a stereo and she definitely bought
21 clothes because anything she had extra, she always liked to, she
22 always like to dress. She was very neat, and she spent her extra
23 money on her cosmetics and her things of that nature.

24 Q Would you say she was self-sufficient?

25 A In a lot of ways.

26 Q I know that she didn't pay the house payment and the car

1 payment and electric bill and things like that, probably, but
2 as to her personal effects, was she self-sufficient?

3 A Yes, she was. She was, like I say, the things that she
4 wanted personally she always managed to get them and she always,
5 she wanted to work, wanted to be independent to buy those things.

6 Q Have you ever known of any occasion where Gina has just
7 not shown up overnight? You don't know where she is?

8 A Never.

9 Q When Diana called you from Radford to tell you that she
10 hadn't shown up and everything, were you worried?

11 A Oh, sure.

12 Q Were you worried at all because it was not like her?

13 A I was worried because I just couldn't imagine what
14 could have happened in that respect.

15 Q Has she had--

16 MR. WARBURTON: Your Honor, I'm going to ask again that the
17 Commonwealth's Attorney be instructed not to ask leading questions
18 on direct examination. Let the testimony come from the witness.

19 THE COURT: All right, do not ask leading questions, please
20 Mr. Shockley.

21 Q Has she ever had any treatment for any type of mental
22 disorder?

23 A Never.

24 Q Ever had counseling?

25 A Never.

26 Q Psychiatric treatment?

A None, whatsoever.

Q Mr. Hall, was your daughter injured when she was an

infant?

A Yes, she was.

Q And how did that occur?

A She was about two years old and--

THE COURT: Get Mr. Hall some water there, gentlemen.

A She was burned real bad when she was two years old.

Q Did she have any type of disabilities because of those

burns?

A Not, just unable to do anything, but she had some, she

had a disability, she had a restricted movement of her body, of

her arm and things like that.

Q Did she have any scarring on her body?

A Very much so. She was burned over 90 per cent of her

body, so she was left right scarred.

Q Where was she treated for those burns?

A Charlottesville, at the University of Virginia Hospital,

Mr. Hall, have you seen Gina's check book since she

disappeared?

A No, I haven't seen her check book.

Q You haven't seen the check book itself?

A I haven't seen the check book itself.

Q All right, sir. Did the statements from the bank--well,

let me ask you this, did she have an account somewhere?

A Yes, she had an account.

1 Q Where was that?

2 A In Coeburn.

3 Q And where did the statements, monthly statements come?

4 A They came to my address.

5 Q Have you received any since that time?

6 A No, check. No, we just closed the account out in
7 October.

8 Q Well, what I'm asking you, have any checks come to you
9 drawn on that account dated after, you know, Jan--June 29?

10 A No, we had one check on June the 28th is all. That was
11 the last check that we've had in that account.

12 Q To your knowledge has there been any checks presented on
13 that account?

14 A No, they have not.

15 Q Mr. Hall had you had any conversation with Gina when she
16 was home the weekend before she disappeared or two weeks whenever
17 it was?

18 A The last conversation I had with Gina was on the phone.

19 Q On the phone?

20 A On the phone.

21 Q And when was that, please.

22 A It was probably four or five days before the weekend
23 that she was missing.

24 Q Did she express to you any plans for the future?

25 A Yes, she did.

26 Q May I ask what they were, please?

1 A Yes.

2 Q As I think the majority of the people in this room have.
3 The last time you talked with her you testified was four or five
4 days before _____ (inaudible, cough)?

5 A Yes.

6 Q Was on the telephone. I assume you were in Coeburn?

7 A Yes.

8 Q Did she call you or did you call her?

9 A She had called us.

10 Q Did she talk with Joan, your wife,--

11 A She, no, I answered the phone. I was the only one she
12 talked to.

13 Q O.k., everyone else was at home but she didn't talk to
14 them?

15 A There was some other people at home but she just, she
16 wanted to talk with me.

17 Q Did you also talk with Diana at that time?

18 A No, no, just Gina and I were the only ones that talked.

19 Q Did Gina indicate to you that Diana was even at the
20 apartment?

21 A She, we didn't discuss it. The only thing we discussed--

22 Q What time a day was the phone call, sir?

23 A It was in the late afternoon.

24 Q Prior to that she had been in Coeburn, I believe, the
25 weekend before the 30th, is that correct?

26 A It was either the weekend before or the weekend before

1 that. It was one of the weekends though. before that.

2 Q The week right before would have been the 21st, 22nd,
3 in that area. Was she home from Friday until Sunday, sir?

4 A I do not remember it but I'm sure she either come home,
5 Saturday, Friday, or one or the other. They usually do.

6 Q She and Diana both?

7 A She and Diana both. No, in that particular case--

8 Q _____ (Unintelligible).

9 A No, just Gina, just Gina.

10 Q Was that significant to you that Gina come home by her-
11 self, was that often enough that this didn't stand out?

12 A That was the only time--she, that particular weekend
13 she came by herself.

14 Q Was that unusual, sir?

15 A Was that unusual? Well, I mean with both of them in
16 school I would think that, you know, if I were there, I would want
17 to come on in, too; but Gina enjoyed being home probably a little
18 more than Diana. Diana was a little older and, of course, she did
19 enjoy being home.

20 Q If Gina called you four or five days before that Satur-
21 day when she went to the Merriott, that would have put it about
22 Monday or Tuesday of that week?

23 A Probably.

24 Q Is that close to what your recollection is?

25 A That's the best I remember, yes.

26 Q Did you discuss things other than cosmetology school?

1 A She discussed that she would like to, you know, like to
2 go to cosmetology school and we discussed that.

3 Q How about anything more concrete as to time. Did she
4 discuss what she had done that day?

5 A No, we didn't discuss that.

6 Q Did you discuss Radford University at all?

7 A Well, no, not to my remembrance. I don't remember
8 saying anything about Radford College or--

9 Q You didn't discuss midterm exams?

10 A No, her entire purpose of calling me I would think would
11 be to ask me about my feelings about the, you know the change of
12 schools, going to cosmetology school, that was her sole intentions
13 of calling me that night.

14 Q You mentioned, sir, that she was very happy about her
15 plans for cosmetology school. Did she seem tense or uptight at
16 all?

17 A No.

18 Q Throughout the conversation?

19 A I don't remember, I'm sure I can't remember that she did
20 seem tense or anything like that at all. But, you know, she could,
21 like I say it was in early afternoon and the only specific thing that
22 I remember us talking about was, you know, "Dad, do you think may-
23 be if it would be all right if I changed my mind and go to cosme-
24 tology school."

25 Q You are aware now that she was in preparation for midterm
26 examinations?

1 A Yes, I--

2 Q She did not show any excitement or tense nature because
3 of that to your recollection?

4 A No more than usual.

5 Q O.k., so you discussed her changing schools once again.
6 Her intention was to stop with Radford University at the end of
7 the summer, is that correct?

8 A We hadn't made up a date. She said that she would
9 definitely know more in the summer, finish going to school at
10 Radford. Her intentions were to drop out the second semester,
11 come home, make arrangements and then go to Lynchburg. Her first
12 choice was Lynchburg.

13 Q As to when she would drop out of Radford University,
14 sir, was that intended to be during the second summer session or
15 did she express an intention to finish the second summer session?

16 A It had not been decided at that time.

17 Q Did she express a desire one way or another?

18 A She would liked to have come home.

19 Q Right away, at the end of those examinations that she
20 did take?

21 A Right, uh hum.

22 Q Those examinations were that week. They were between the
23 time that she talked with you on the telephone and the day she
24 went to the Merriott?

25 A Could have been.

26 Q And then that was the end of the first summer session?

1 A _____ (Unintelligible).

2 Q And that was the time sir, that she suggested she would
3 like to finish with Radford College?

4 A And come home and discuss it. Of course, we could have
5 changed her mind when she got there, but--

6 Q Did she consult with you when she changed schools from
7 Emory and Henry College to Radford University earlier this year?

8 A Did she what? Repeat that.

9 Q Consult with you, did you talk it over with her?

10 A Yes.

11 Q Helped her make that choice?

12 A Yes, I did.

13 Q Did she seek your advice on that?

14 A Yes, she did.

15 Q Was that with your pleasure or without your pleasure
16 that she decided to move from Emory, Virginia, to Radford, Virginia?

17 A It was with my pleasure.

18 Q You thought that was a good choice for her?

19 A Yes, I did.

20 Q And it didn't bother you that she would be quite a bit
21 farther away from you and your family in Radford even though she
22 would be closer to Diana?

23 A No, I was disappointed in Emory.

24 Q Was she disappointed with Emory and Henry?

25 A Yes, she was disappointed also.

26 Q Now were you aware of the living situation in Radford?

1 A The living situation?

2 Q Yes, sir, where your daughter Gina was going to live
3 when she came up in February or March?

4 A Oh, yes.

5 Q Had you, yourself, gone to the dorm before she moved
6 there?

7 A I have been to the dorm.

8 Q And did you approve of her moving from the dorm to
9 Diana's boyfriend's apartment at the beginning of June?

10 A At the beginning of what now?

11 Q I'm assuming, sir, that she moved in the beginning of
12 June from the dormitory on the campus to Diana's boyfriend's
13 apartment in about the beginning of June, am I correct?

14 A May I elaborate.

15 Q Please go right ahead.

16 A All right. In college many times you sublease an apart-
17 ment in the summer.

18 Q Oh, o.k. I'm not, I'm not trying to make a point that
19 it was Buzz's apartment. I'm asking you when she moved.

20 A She leased, my daughter Diana leased the apartment and
21 I thought it was an excellent situation for my younger daughter
22 to spend the summer with my older daughter.

23 Q Uh hum.

24 A And get the required credit that she was losing coming
25 from Emory to Radford.

26 Q So then you encouraged Gina to make the move from the
dorm to this apartment?

1 A Yes, I did, but I wanted them to share the apartment so
2 I could help share the expenses.

3 Q Did you see the apartment before they moved into it, sir?

4 A Yes.

5 Q And you approved of it?

6 A Yes.

7 Q And because of your approval they moved in, is that
8 correct?

9 A Yes, they did.

10 Q Did you buy the automobile that Diana claims is hers
11 that Gina drove frequently?

12 A Yes, I did buy that automobile.

13 Q Did you buy it for Diana?

14 A I bought it for Diana.

15 Q What year car is that, do you know?

16 A 70, '75 Monte Carlo.

17 Q You bought that car for Diana and I assume that even
18 though Diana claims it as her car, it was really hers and Gina's?

19 A Really, it was--like I say she was getting ready to
20 graduate from school and I bought the car so she would have a car
21 to start out with.

22 Q You never bought Gina a car?

23 A No.

24 Q O.k. You knew, of course, that Gina would use the car in
25 Radford?

26 A Very little, probably.

1 Q But you chose the car for your daughter, Diana?

2 A Right.

3 Q You chose the apartment for them and helped approve of
4 the apartment?

5 A Yes.

6 Q Would either one of them have moved into the apartment
7 without your approval or over your disapproval?

8 A Well, I would hope that they would not have.

9 Q The car was titled in your name, I'm sure.

10 A The title of the car?

11 Q Yes.

12 A In my name?

13 Q Was it, sir?

14 A No.

15 Q Was it in Diana's name?

16 A Diana's name.

17 Q Would she have consulted you if she wanted to sell it
18 and buy another car?

19 A She would have.

20 Q Gina would have consulted you if she wished to purchase
21 a car?

22 A Repeat that again.

23 Q If Gina wanted to buy a car, she would have consulted you?

24 A Oh, sure.

25 Q If she wanted to change colleges, she consulted you?

26 A Most likely.

1 Q If she wanted to change from the dorm to an apartment,
2 she consulted you?

3 A Oh, I'm sure she would.

4 Q Mr. Hall, did you have anything to say about the persons
5 that she surrounded herself with?

6 A I did try to teach her.

7 Q Did you ever express approval or disapproval of the
8 people that she went around with?

9 A As a father you never approve of very many of them.

10 Q I'm not suggesting that it's improper. I'm just asking
11 you if you have done it, sir?

12 A Repeat the question, will you.

13 Q I asked you if you had expressed approval or disapproval
14 of any of Gina's friends to Gina, if you ever expressed that to
15 her?

16 A Very few.

17 Q Persons that she would date, as men boys, did you ever
18 have discussions with her about particular individuals that she
19 had either intended to date or was dating?

20 A Well, as a daughter, most of them, you know, usually go
21 to Mama, if they have a problem about the boys.

22 Q Joan's not on the witness stand. You are and that's why
23 I'm asking you. Have you ever had a discussion with Gina about
24 that particular issue, about a particular individual?

25 A Yes, I have. I always discuss with my daughter--

26 Q Did you express disapproval of any particular gentleman?

1 or gentlemen?

2 A No, not strictly disapproval but--no, I have never
3 really disapproved of anybody that Gina dated.

4 Q That you've been aware of?

5 A That I know who she's with.

6 Q You admit that there may be people that she's gone out
7 with on social basis that you may never have known about, is that
8 fair to say?

9 A No, I don't admit that.

10 Q Hum?

11 A I don't admit that she has gone out and met somebody,
12 no.

13 Q Do you think that you know every person that she's ever
14 gone out with?

15 A Of course, not.

16 Q What I'm asking you--

17 A I'm saying that she could dance with somebody, sure.

18 Q But you'll agree with me that you don't know all the
19 men that she's been on a date with or the people whose homes she's
20 been in. There's a possibility that there are persons that you
21 might disapprove of that she's been out with.

22 A I will agree that she has danced with people on a dance
23 floor that I did not know, but I will not agree that she left the
24 house with anybody that I didn't know on a date.

25 Q How about the apartment in Radford.

26 A Well, now that's a different story. I wouldn't know,

1 of course.

2 Q Persons that she may have gone out with on a date on
3 social occasions from Radford, you don't know whether you know
4 them or not, is that right?

5 A No, not in college. I just have to trust her.

6 Q I understand. And you don't know whether these persons
7 might have met with your approval or disapproval, is that correct?

8 A I would assume.

9 Q Is your daughter, Gina, an independent person?

10 A She's independent in some ways, yes, she is.

11 Q When she has lived in Coeburn, have you ever known her
12 to go out on a social excursion by herself? Did she ever go to
13 Bristol by herself to dance?

14 A No.

15 Q Did she ever go anywhere in Coeburn by herself to
16 recreate?

17 A Not in Coeburn or anywhere that I know of. by herself.

18 Q She never went _____ (unintelligible) by herself?

19 A She went with girlfriends sometimes.

20 Q Or on a date or perhaps with her sister?

21 A Probably, yes.

22 Q To your knowledge has she ever done it by herself?

23 A Not to my knowledge, not in Coeburn, Virginia, while
24 she was living at my house.

25 Q Did you see Mana's automobile when Gina was in Coeburn
26 the week before she disappeared?

1 A Yes, I did.

2 Q Was it clean or was it dirty?

3 A Was it clean or dirty?

4 Q On the outside, sir?

5 A I could not answer that. I don't remember, but I assume
6 and knowing Diana that it was probably clean.

7 Q How about the inside of the automobile?

8 A I did not look in the inside of the automobile.

9 Q But knowing Diana how would it be?

10 A How would it have been? It would have been tidy clean.

11 Q Would you have noticed, sir, that week and before whether
12 there was anything missing from the automobile on the outside that
13 normally would have been there?

14 A I can't answer that because I don't remember.

15 Q I'm just wondering if you can tell us, basically whether
16 you observed that of it or not, no right or wrong answer.

17 A I just don't remember.

18 Q Have you ever known your daughter Gina to abuse any
19 substance?

20 A Never.

21 Q Have you ever seen her take a drink?

22 A Never.

23 Q You've never seen her take an alcoholic beverage?

24 A No.

25 Q Not egg nog at Christmas?

26 A We don't have it.

1 Q That's fine. I'm not suggesting that you have it in
2 your home. Anywhere else, sir?

3 A Never.

4 Q Did you ever see her smoke a cigarette?

5 A Never.

6 Q Have you ever asked her about the use of marijuana or
7 pills?

8 A I've never felt I had the need to.

9 Q Have you ever asked the question, sir?

10 A I have never asked her has she used marijuana. I have
11 told her many times never to do it.

12 Q Have you ever had a disagreement with Diana about her
13 living situations, sir?

14 MR. SHOCKLEY: Objection, Your Honor, that's totally irrele-
15 vant.

16 MR. WARBURTON: Your Honor, the issue has come up before.

17 THE COURT: I think the question's been raised in evidence
18 in chief. The question here is whether he's ever had any disagree-
19 ment with--

20 MR. WARBURTON: Yes, sir, I have _____ (unintelligible)
21 without objection gone into whether Mr. Hall has had disagreements
22 with his children, in the question--

23 THE COURT: I think that's appropriate in light of the
24 preceding testimony.

25 MR. WARBURTON: --The question that Mr. Shockley broke into.

26 Q Have you ever had any disagreements of a major nature

1 with your daughter, Diana, about her living situation, sir?

2 A Not really.

3 Q Would you agree with me that you are a very protective
4 parent?

5 A I think I am.

6 Q A concerned parent?

7 A Repeat that.

8 Q A very concerned parent?

9 A Yes.

10 Q And did your children, Diana and Gina, consult your advice
11 on any major decision that they made?

12 A Yes.

13 REDIRECT EXAMINATION

14 BY MR. SHOCKLEY:

15 Q Mr. Hall, Mr. Warburton has asked you about all of your
16 children for that matter, with particularly Gina consulting you,
17 and son on, you know, on major decisions, transferring to universi-
18 ties and so forth. Did they seem to do so voluntarily or did
19 they feel compelled?

20 A When I raised them, I feel like I want them to know they
21 can come to me if they got a problem. To answer your question I
22 just feel like that I want them to feel like they can come to me
23 any time.

24 Q Did you try to have an open relationship with your
25 children?

26 A Very much so.

1 Q Did Gina ever rebel to your standards like curfew or
2 those with whom she would like to go or those that maybe you
3 expressed a dislike for. Did she ever rebel to your standards of
4 time, people, places, things, or anything of that nature?

5 A I wouldn't call it rebel. I would call it persuasion,
6 "Daddy, can I stay a little longer."

7 Q Were you usually able to work out any differences or
8 did you ever have any blowups, flare-ups?

9 A Well, we resolved them and I can say that I'm sure as a
10 child, you resented some of it sometimes.

11 Q Well, any type of discipline I suppose a child would,
12 you know, feel that way. Anything out of the ordinary, anything
13 that brought great strife between you and her or between her and
14 the other family members?

15 A No, not at all.

16 Q I believe that's all, Mr. Hall.

17 (The witness stands aside and leaves
18 the courtroom.)

19 THE COURT: Now ladies and gentlemen, in the audience we are
20 going to adjourn at this point but do not rise at any adjournment
21 until Court is formally adjourned because every once in awhile, I
22 have some announcement I need to make to the jury and if you are
23 up scuffling your feet and moving about, it's hard for them to
24 hear so that's the reason for that rule.

25 Now members of the jury, if you will turn and face me please,
26 I'm going to again remind you and by repeating this, I'm sure you

1 will be impressed by the importance of what I tell you, that until
2 this case is submitted to you for your final deliberation, you
3 must not discuss it with anyone nor remain in the hearing of
4 anyone else talking about the case. You must not read anything
5 about it in the newspaper or other periodical. You must not listen
6 to it on radio or television. After the case has been submitted
7 to you, you must discuss the case only when all of your members
8 are present together in the jury room. You are to keep an open
9 mind and not decide any issue in the case until the case is sub-
10 mitted to you for your deliberations under the instructions of the
11 Court. I thank you for your attendance here today. You will
12 return tomorrow morning at the usual time, 9:15. Sheriff you may
13 adjourn to tomorrow morning at 9:30.

14 (Thereupon Court was adjourned to 12-11-80 at 9:30 a.m.)
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December 11, 1980
(Reporter sworn)

(The following proceedings took place in Chambers:)

MR. WARBURTON: If it please the Court, I wanted the Court to be aware as the Court is of my objection to having Mr. William W. King, Jr. present when we were on the view yesterday at the Davis home or the cabin on Claytor Lake. My recollection is that he was there as the van of jurors and the rest of us arrived. My recollection is also that Mr. Lookabill apprised the Court of the situation. The Court ordered Mr. King to leave the premises. My recollection is that when we were through with the view inside the home as we arrived back outside in the driveway area and the jurors got in the van, Mr. King was not more than 25 feet away leaning up against the Sheriff's car out in the gravel road area in front of the driveway. I want to note my exception to that.

THE COURT: All right, thank you, sir. Let the record also show that as Mr. Warburton has already stated that the Court ordered Mr. King to leave the premises before the view was commenced. This is the very first thing that was done when we alighted from our cars. At the time I was not aware that we were at Mr. King's residence and it rather embarrassed me later, but nevertheless I ordered him to leave the premises and he was not present in the house at any time when the view was being taken so I don't think there is any merit to this complaint although I appreciate counsel calling it to my attention.

MR. WARBURTON: Well, Your Honor, it would be my position the

1 view was not necessarily just the interior of the house, that the
2 view encompassed looking at the lake area and the layout of the
3 cabin and the neighborhood around it, which I agree that Mr. King
4 was not in the house when the view was taken and I have no quarrel
5 with that. I have quarrel with him being present at what I consider
6 to be part of the view and that was the outside.

7 THE COURT: Well, on this point let's make the record abundant-
8 ly clear. He was not in our group at all as we went around looking
9 at the inside and the outside of the house. I'm advised from what
10 you just said that he was within 25 feet or so of the cars when
11 we went back and got in our cars and left and that taken in con-
12 junction with the fact that we were at his own home, I think ex-
13 plains what had happened.

14 MR. SHOCKLEY: Judge, could I say something, please. The
15 Court will recall there were numerous cars there from the press
16 and there was a lot of people from television and radio and news-
17 paper running around taking photographs and there were twice as
18 many people there from--what I am saying is that there were just
19 as many people there from the press and outside sources as were
20 court personnel and I submit to the Court that, assuming that the
21 jury members did not know Bill King, I doubt they would recognize
22 him or know what roll he may have played there.

23 MR. WARBURTON: Of course, they are about to meet him.

24 MR. SHOCKLEY: Well, that's not to say they are going to--

25 THE COURT: All right, I've ruled on it gentlemen, let's
26 move on to something else. Now do you want to make a statement

1 about--

2 MR. WARBURTON: If you want that on the record I--

3 THE COURT: I don't, it's immaterial to me. All right, let's
4 go off the record, Elinor, thank you.

5 (Thereupon proceedings continued in the courtroom with all
6 interested parties, including the Court, jury counsel and the
7 defendant being present.)

8 THE COURT: All right, call your next witness, Mr. Shockley.

9 DIXIE BAUMAN,

10 a witness called on behalf of the Commonwealth, after being first
11 duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. SHOCKLEY:

14 Q I need you to speak up so the Court and jury can hear you
15 please. State your name.

16 A Dixie Bauman.

17 Q I'm sorry, I mispronounced your name.

18 A That's o.k.

19 Q Where do you live, Mrs. Bauman?

20 A In Coeburn, Virginia.

21 Q And do you know Gina Hall?

22 A Yes, I did, I knew her.

23 Q And how long did you know Gina?

24 A For a little over five years.

25 Q In what capacity?

26 A Well, as a neighbor, as her Sunday School teacher and as

1 a substitute teacher in the high school.

2 Q What does your husband do for a living?

3 A He's a minister.

4 Q Did Gina and her family attend your church?

5 A Yes.

6 Q During the time that you knew Gina, did you get to know
7 her pretty well?

8 A Pretty well.

9 Q Just, if you would, can you describe Gina and maybe
10 elaborate on her character and her reputation.

11 A Well, Gina was a lovely, happy young lady. I knew her
12 as her Sunday School teacher as a person with religious convictions,
13 high moral standards. She expected a lot of herself. As her sub-
14 stitute teacher, I guess over a period of four years I substituted
15 in the high school and had her in different capacities from P.E.
16 to math and English and she was always very conscientious about her
17 school work, dependable, responsible, anxious to do what she was
18 told to do.

19 Q How about her relationship with her father and the rest
20 of the family?

21 A Well, she had I thought above normal family relation-
22 ship. She communicated with her parents and on many occasions
23 I've heard her say--

24 MR. WARBURTON: I'll object, Your Honor.

25 MR. SHOCKLEY: Your Honor, I don't think we are getting into
26 hearsay. I think we are getting into--

1 THE COURT: You heard who say?

2 A I heard Gina say.

3 THE COURT: All right, you may proceed.

4 A That she had talked things over with her parents when
5 we discussed things in Sunday School, you know, youth classes you
6 do this; we talk about relationships with parents and family, and
7 it was always very positive.

8 Q Did you feel that they had a pretty close knit family?

9 A Yes. This is another thing, they always worshiped to-
10 gether. They sat together in church, as a family.

11 Q I believe that's all the questions I have. Those gentle-
12 men may have some for you.

13 A Certainly.

14 CROSS EXAMINATION

15 BY MR. WARBURTON:

16 Q Mrs. Bauman, when was the last time you saw Gina Hall?

17 A Well, I'm not sure about the date but it probably was
18 the last time she was at home.

19 Q O.k.

20 A They came to Church as a family.

21 Q Did you ever visit in the Hall home?

22 A Yes.

23 Q Frequently?

24 A Well, not real often, but occasionally.

25 Q Would it be safe to say this contact about which you
26 commented, her character, her reputation, how conscientious she

1 was about school work, that would all have been at least three
2 years ago, am I correct?

3 A Well, not three years ago, I don't think.

4 Q When did she leave Coeburn?

5 A She graduated in '79, I think. Is that right, I'm not
6 sure about that, but I think so.

7 Q Well, I only want to know what you know.

8 A Uh huh, '79.

9 Q When was the last time you were a substitute school
10 teacher for her?

11 A Well, probably within the last month after she, the last
12 month before she graduated because I go practically everyday.

13 Q The last time she was in your Sunday School class.

14 A Well, that would have been the, before she went to
15 college.

16 Q Is it safe to say you don't know anything about whether
17 or not she changed any other than what you might have heard from
18 other people, but of your own personal knowledge, you don't know
19 whether she changed any when she left Coeburn, do you?

20 A No, I know that she didn't seem to have changed when
21 she came back to Coeburn.

22 Q But you don't know what her life has been like in Radford?

23 A No.

24 Q You don't know whether she maintained that reputation
25 that you testified to?

26 A Uh, of course--

1 Q Have you ever been in Radford?

2 A Yes.

3 Q To see her?

4 A Not to see her, no.

5 Q Talk to her friends?

6 A Not to her friends.

7 Q You don't know what her reputation is in Radford then
8 do you?

9 A No, not in Radford.

10 Q You don't really know what kind of character she may
11 have projected in Radford, do you?

12 A No.

13 Q Thank you, ma'am.

14 (The witness stands aside and is
15 excused.)

16 DEBORAH STANLEY,

17 a witness called on behalf of the Commonwealth, after being first
18 duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. SHOCKLEY:

21 Q I want you to speak up now so the jury can hear you.
22 State your name, please.

23 A Deborah Stanley.

24 Q And where do you live, Deborah?

25 A Coeburn, Virginia.

26 Q Do you know Gina Hall?

1 A Yes, sir.

2 Q Now when is the last time that you saw Gina?

3 A About a couple of weeks before June 29th.

4 Q That's the last time you saw her?

5 A Uh huh.

6 Q Where did you see her?

7 A In town, we stopped, we talked to each other.

8 Q In what town?

9 A Coeburn.

10 Q This is while she was attending Radford was it?

11 A Yes, sir.

12 Q During the summer session. How old are you Deborah?

13 A I'm 19.

14 Q Do you go to school anywhere?

15 A I go to Virginia Intermont College.

16 Q And where is that located?

17 A Bristol.

18 Q And how long did you know, Gina?

19 A About five years.

20 Q How would you characterize your relationship with Gina?

21 A Very close. We were just very close friends.

22 Q If you would, I'll just turn the floor over to you a
23 minute and let you, I'd like you to expound upon her reputation
24 and character as you knew it as a friend and acquaintance of
25 hers.

26 A Well, her reputation was just that of a very nice girl.

1 She had never done anything to get a bad reputation. She just
2 wasn't the type of person that would do something to get a bad
3 reputation. She was just a happy person, is all I can say about
4 her. She was just--

5 Q Did people respect Gina?

6 A Yes, they had very much respect for her.

7 Q Can you tell me a little something about her relation-
8 ship with her father and the rest of the family?

9 A Her father, she loved her father. She loves her mother.
10 She was just a loving person. She just had so much love inside of
11 her to give to other people, especially her family.

12 Q Was she close with her father?

13 A Yes, sir.

14 Q Did she talk about her father very often?

15 A Yes, sir.

16 Q Did she express love for him?

17 A Yes, sir.

18 Q I believe that's all. Answer these gentlemen's questions,
19 please.

20 CROSS EXAMINATION

21 BY MR. LOOKABILL:

22 Q Now Miss Stanley, is it Miss or Mrs., Miss Stanley?

23 A Yes.

24 Q Did Gina consult her father about most everything she did?

25 A Well, she, you know, she made a few decisions on her own;
26 yeah, she consulted her father when her father needed to be consulted.

1 Q What type of decisions would she consult her father about?

2 A The type that she felt was important, that her father
3 needed to know about, that her father would want to know about.

4 Q Did her goals and her father's ideas for her life differ
5 very much?

6 A Not really, no.

7 Q Did she pretty much do what he wanted her to do or did
8 he allow her to do what she wanted to do?

9 A Usually the things she wanted to do was the things that
10 her father, you know, would want her to do.

11 Q Did you ever go dancing with Gina?

12 A Yes.

13 Q What type of dancing?

14 A Disco.

15 Q Where was that?

16 A ^{in the town} At places called Norton which is close to Coeburn.

17 Q Did just the two of you go together or did you go with
18 dates or--

19 A We went with friends.

20 Q Not dates, with friends?

21 A Sometimes we went with dates; sometimes we went with
22 friends.

23 Q How much contact have you had with Gina in the last year
24 or so?

25 A We averaged, well, she would call me when she came home
26 on the weekends. We averaged a letter back and forth a week.

1 Q Did you come down to Radford and see her at any time?

2 A I wasn't at Radford, no.

3 Q Did she come to Virginia Intermont to visit you?

4 A I just transferred to Virginia Intermont this year, but
5 she came to Clynch Valley last year to see me, and I went to Emory
6 last year when she was at Emory to see her. We stayed overnight
7 with each other.

8 Q What was her goal as far as what she wanted to do as an
9 occupation?

10 A Well, she had her eyes set on cosmetology.

11 Q Has that been a goal of hers for a long time?

12 A Yes, sir.

13 Q Did she also have a big interest in nursing?

14 A Seems like she had an interest in nursing but not as
15 much as cosmetology.

16 Q Were you aware that she was transferring from Emory and
17 Henry to Radford?

18 A Yes, sir.

19 Q Were you aware of any other moves that she had planned?

20 A She had planned, you know, to transfer away from Radford,
21 I think, but I'm not real sure.

22 Q You don't know how long she had been at Radford?

23 A She had been there since the end of the last quarter at
24 Emory which was last winter.

25 Q She was at Emory a short time and she transferred to
26 Radford and she was going to transfer again?

1 A From my best friends.

2 Q Uh huh. So you lived in the same dormitory?

3 A No, I lived in a different dorm.

4 Q Did you come over to your friends' place?

5 A We were over there everyday, and we would go to lunch
6 and dinner and things like that together.

7 Q And when is the last time that you saw Gina?

8 A Friday night before she disappeared.

9 Q Would that be the 27th?

10 A 27th.

11 Q And I would like just for you to tell the Court and jury
12 a little ^{ew} something about Gina, her reputation and character, what you know
13 about it.

14 A O.k., Gina was always an outstanding individual. She was,
15 she was a very beautiful person inside. She never raised, I never
16 heard her raise her voice. She was very soft spoken. Everyone
17 that met her fell in love with her. She was just that type of
18 person.

19 Q Her reputation, you know, she didn't have one. She would,
20 whenever she went anywhere she would go with us, and if, talking
21 to guys and things like that, she never really did that and when-
22 ever she went anywhere, she'd always be back early. She was always--
23 she always came in earliest of all of us. There was six of us in
24 our group and she was always the first one home.

25 Q Did you ever know of her to have any emotional problems
26 while she was at Radford?

1 A No, definitely not.

2 Q How about her state of mind as far as happy sad or
3 anything like that can you comment?

4 A She was never, she was never moody. She was always
5 smiling, never saw her in a bad mood.

6 Q All right, answer these gentlemen's questions, please.

7 CROSS EXAMINATION

8 BY MR. WARBURTON:

9 Q Miss Harold, you knew Gina Hall from February of 1980
10 until June of 1980, is that correct?

11 A Right.

12 Q You said February or March, somewhere in there?

13 A It was the beginning of the quarter. She came to spring
14 quarter.

15 Q Right. She lived in the dorm--

16 A She lived in Stewart Dormitory and I lived in Moffit
17 Dormitory.

18 Q Did she have a roommate?

19 A Yes, a good friend of mind.

20 Q And then, what, these two best friends of yours lived
21 across the hallway?

22 A Yeah, it was all of us hung around together, you know,
23 Gina and Liz and _____ (inaudible, noise).

24 Q Did you go to classes together?

25 A We didn't have classes together but mostly--

26 Q Well, did you go down on campus together is what I mean,

1 not necessarily to the same classroom. Did you leave from the
2 dorm to go to school?

3 A Yeah, or to lunch or something like that because--

4 Q To lunch, after hours and after school, parties, things
5 like that?

6 A Things like that, yeah.

7 Q And I believe you said whenever "we went anywhere, she
8 went with us"?

9 A Right.

10 Q Whenever she went anywhere you went with her as a group,
11 someone in that group?

12 A Yeah, right.

13 Q Almost never did anything individually, I assume?

14 A No, none of us really went anywhere alone.

15 Q Do you dance?

16 A I don't really like to.

17 Q Did you ever go anywhere--

18 A Where dancing--

19 Q With Gina where dancing was going on?

20 A Yeah, Thursday nights at the Radford Depot they always
21 had, their fraternity always put on something every Thursday night
22 and there was always a lot of dancing going on down there.

23 Q Did you and Gina and the rest of your friends attend
24 that fairly regularly?

25 A Yeah.

26 Q So you were there with Gina on several occasions?

1 A Uh huh.

2 Q I'm sure you saw her dance, correct?

3 A I'm sure she did, you know, like I would be somewhere
4 else. Once we got to the place, usually we would split up or,
5 you know.

6 Q Uh hum. Are you saying that you never saw her dance?

7 A I guess I have, but, you know, I just can't pinpoint
8 exactly when I saw her dancing, but I'm sure I did because she was
9 always, she always danced.

10 Q She went to places like this with the purpose of dancing,
11 am I correct?

12 A Oh, definitely.

13 Q She didn't go there with the purpose of drinking, for
14 example?

15 A No, she didn't like beer, so she wouldn't--

16 Q Was that the only thing served at the dance hall?

17 A Uh huh.

18 Q How about other places that you and Gina and the rest
19 of your friends went to. Did you ever go to places that served
20 alcoholic beverages of a nature other than beer?

21 A Except maybe parties that were on campus, but no other
22 night spots.

23 Q Did you ever see Gina drink anything?

24 A The only thing I have ever seen her drink, would be like
25 Seagram's 77, something like that. She didn't like beer so she never
26 drank that.

1 Q Right.

2 A But if she would have anything alcoholic it would be a
3 mixed drink, but then I've only seen her maybe have one or two,
4 never more than that. I don't think she could really handle alcohol.
5 I think she got sick any time she drank it.

6 Q How about wine?

7 A I never saw her drink wine.

8 Q Would it be safe to say that it would be unusual for
9 Gina Hall to go out to go dancing by herself. Were you ever aware
10 of ~~that~~ ever happening, Miss Harold?

11 A No, I've never known her to go anywhere by herself.

12 Q Anywhere by herself?

13 A Anywhere to a night spot.

14 Q Right, that's what I'm saying, on social occasions so far
15 as you know she has never gone anywhere by herself?

16 A Right.

17 Q Did you go places with Gina in Diana's car?

18 A No, I never have. I've never been in Diana's car.

19 Q Were you aware that Gina had access to an automobile?

20 A Any time that she really needed it, I knew she could get
21 it.

22 Q Did you walk from the dormitory to the Disco Depot in
23 Radford?

24 A Usually, none of us had a car.

25 Q Despite the fact that Gina could get one any time she
26 wanted it?

1 A Yeah, but it was only three blocks away.

2 Q Did you know Dlana?

3 A I've met her on a few occasions.

4 Q Did Dlana ever come visit Gina in the dorm?

5 A All the time.

6 Q All the time and you just met her on a few occasions,
7 despite the fact that you were there all the time?

8 A Well, she would come, like I would be there in the after-
9 noon or something and then Dlana would probably come on--they
10 switched clothes alot.

11 Q Uh hum.

12 A So Dlana would be there at night or she would go over
13 there, I think. They saw each other all the time though.

14 Q Now you testified that it was very frequent that Gina
15 would go dancing on Thursday night?

16 A Right.

17 Q At the Depot?

18 A Right.

19 Q Would it be safe to say that she took about every oppor-
20 tunity she had to dance whenever she had time that she could get
21 out and recreate, what she did was dance instead of something
22 else, am I right?

23 A Yeah, definitely, instead of going some place--

24 Q If she was going out and not studying and not watching
25 television, she danced, she didn't do hardly anything else but
26 dance, am I correct?

1 A That's correct, that's true.

2 Q And I assume that none of this interfered with her
3 studies. Would you say she was a book worm or a person who took
4 her classes lightly or an average student--I'm not talking about
5 grades here--your average student as far as the seriousness with
6 which she took her studies?

7 A Well, she wouldn't go out unless she had studied, unless
8 she was _____ (unintelligible).

9 Q O.k., I take it from that, that there were frequent
10 occasions on which you, Gina and the others in your group would
11 leave to go out as late as 10:00 or 11:00 o'clock at night, you
12 would leave then?

13 A Oh, no, if there was something to do the next day, we
14 wouldn't--if we went out we would go out at 8:00. If we didn't
15 go out at 8:00, we'd probably put it off and not go out at all.

16 Q How about the weekends?

17 A The weekends?

18 Q Yes, ma'am.

19 A That's a little, that's a little different. I guess we
20 would go out later at night.

21 Q If you got all your work, school work, doing the laundry
22 and everything, done at 9:30 or 10:30 at night, you might leave at
23 10:00 or 11:00 o'clock at night to go out for a few hours of re-
24 creation, am I right?

25 A On a weekend?

26 Q Uh hum.

1 A Oh, yeah.

2 Q Did that happen frequently?

3 A Going out later?

4 Q Uh hum.

5 A I guess about half and half.

6 Q Gina, I assume went to Coeburn on several weekends?

7 A Uh hum, she was very tight with her family.

8 Q She would go to Coeburn more often than stay in Radford?

9 A Probably about 25 per cent of the time or less she'd
10 go to Coeburn. The rest of the time she'd just stay in Radford.

11 Q Twenty-five per cent of the time or less?

12 A Uh huh, during the school year.

13 Q During the school year. So from February until June,
14 from March to June--

15 A I didn't see her that much in June because I was up in
16 northern Virginia.

17 Q All right, from February or March until May--

18 A About, yeah.

19 Q It would have been about ten weekends, and twenty-five
20 per cent of the time?

21 A Uh hum.

22 Q So she only went to Coeburn two or three times in the
23 period that you are familiar with?

24 A Probably, uh huh.

25 Q And would she leave on a Friday and come back on Sunday?

26 A That's usually _____ (inaudible, cough).

1 Q Did you ever know her to go to Coeburn by herself or
2 did she--

3 A I really don't know. I really don't know.

4 Q As it approached summertime in the month of May and the
5 month of June, if Gina were to stay around the dorm area, did you
6 ever go to her apartment?

7 A Dlane's apartment?

8 Q Gina's apartment.

9 A Oh, during the summer?

10 Q Uh hum.

11 A No, like I was only down one time.

12 Q As you approached the summer months, say in May and the
13 beginning of June, if you saw her at all in June, did she ever
14 participate in what seems to be a college activity at that time,
15 and that's laying out in the sun?

16 A Oh, no. I know.

17 Q Why is that, do you know?

18 A I know why, but I've never--I know that she has scars.
19 Liz, her roommate said something once, but I never saw any.

20 Q Mr. Shockley, asked you about her character and reputation
21 so I will ask you if that's just an unthinkable thing from your
22 knowledge of Gina.

23 A What, to lay out in the sun?

24 Q Uh hum.

25 A I don't think--she never really talked about it. She
26 never said, you know, "I'm not going to lay out" or anything.

1 Q You'll admit that was a frequent thing for people to do,
2 am I right?

3 A Yeah, it's pretty frequent. I never did it, but I guess--

4 Q From all of your group of six people in this group that
5 you keep talking about, I'm sure that some liked to lay out?

6 A Yeah, un huh.

7 Q And I'll ask you again, that would be an unthinkable thing
8 for Gina to do from what you know about her, am I right?

9 A I guess it would be. She never did it so I guess she never
10 thought about it.

11 Q Thank you very much.

12 REDIRECT EXAMINATION

13 BY MR. SHOCKLEY:

14 Q Let me just ask you a couple of more questions. Mr.
15 Warburton asked you about leaving at 10:00, 10:30, something like
16 that to go out. Most college students, 18 and 20 years old, things
17 of that nature, what is their life style with reference to going
18 to bed?

19 A Well, on--it depends, on weekends everyone's so tired of
20 studying and sitting in all week, that usually it's late nights,
21 depending on what the activity is and how late, what's going on.
22 Sometime Radford can be pretty boring. If it's a quite night,
23 then everyone's in by 9:00 o'clock or 12:00, 1:00 o'clock.

24 Q I guess my ultimate question is it unusual for college
25 students to be out til 1:00 or 2:00 o'clock?

26 A Definitely not, that's, you know, that's basically pretty

1 normal unless it's--

2 Q Is that college life?

3 A Uh huh.

4 Q That's all I have, thank you.

5 (The witness is excused and leaves the
6 courtroom.)

7 MR. SHOCKLEY: Diane Tate.

8 MR. WARBURTON: Your Honor, before this next witness is called,
9 could Mr. Shockley and I have a conference with the court.

10 THE COURT: All right, come back, please, gentlemen.

11 (Thereupon the following proceedings were had in chambers,
12 with the Court, counsel and the defendant being present:)

13 THE COURT: All right, Mr. Warburton.

14 MR. WARBURTON: If it please the Court, I am apprised that
15 Mr. Shockley intends to introduce two more character witnesses
16 from Radford University, who may or may not have known Gina Hall,
17 to testify to her good character and her reputation. I am also
18 apprised that Mr. Jeff Kiser from Coeburn, Virginia, who is an
19 intended witness to follow the two young ladies to testify about
20 the chain of custody and also to testify to her character as a
21 hard working individual and I object to any further character witness-
22 es. I think it's prejudicial to my client and I think we've heard
23 enough from four character witnesses plus two family members who
24 also touched on her character and reputation.

25 THE COURT: All right, I'll permit the Attorney for the
26 Commonwealth to use the two girls from Radford College who have

1 been here for three or four days awaiting being called. When he
2 puts the employer on for other purposes, I will not permit that
3 witness to go into character.

4 MR. SHOCKLEY: I'd rather have him than the other girl.

5 THE COURT: All right, we've got to draw the line somewhere.

6 MR. SHOCKLEY: We are spending more time back here than we
7 are if we just get on the road out there and get it over with.

8 MR. WARBURTON: That's not the point either.

9 THE COURT: Well, he's not worried about the time. He's
10 worried about the _____ (unintelligible, noise) impact of
_____ (unintelligible) noise) character witnesses.

11 MR. SHOCKLEY: We're concerned--I've put on character witnesses
12 to establish her until she got to Radford College and I had to do
13 that. You know, these girls--the girl who just testified hasn't
14 known her long enough to get into her character and so on to any
15 great extent. Then as soon as I put the ones on from Coeburn, of
16 course, Mr. Warburton asked them this question, you know, "Well, you
17 haven't seen them for months or years and you don't know what re-
18 putation they had or enjoyed while they were in Radford so--

19 THE COURT: Well, you use one of the Radford girls then and
20 blame, tell them, blame me, tell her that I've cut off any more
21 character witnesses and then use the gentleman from Coeburn.

22 MR. SHOCKLEY: All right.

23 THE COURT: All right. Off the record please.

24 (Thereupon the Court, counsel and the defendant returned to
25 the courtroom and proceedings continued there.)

26 BETH COOK,

1 a witness called on behalf of the Commonwealth, after being first
2 duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. SHOCKLEY:

5 Q State your name, please.

6 A Beth Cook.

7 THE COURT: Beth what?

8 A Cook.

9 THE COURT: Kirk?

10 A Cook, C-o-o-k.

11 THE COURT: Cook.

12 Q And Beth, where do you live?

13 A I'm at Radford University right now.

14 Q You are a student there?

15 A Yes, sir.

16 Q What year are you?

17 A Junior.

18 Q Did you know Gina Hall?

19 A Yes, sir.

20 Q When did you first meet Gina Hall?

21 A March, the beginning of spring quarter last year.

22 Q You were a student there at that time?

23 A Yes, sir.

24 Q When is the last time you saw Gina?

25 A The last day of school, around the 23rd I guess it was.

26 Q Of what?

1 A May.

2 Q How did you know Gina?

3 A She lived across the hall from me.

4 Q Did you have contact with her very frequently?

5 A Yes, sir.

6 Q How often?

7 A Everyday.

8 Q I'd like for you to, to just look at the Court and the
9 jury and tell me a little something about Gina, describe about her
10 reputation and her character and the type of person that she was.

11 A She was very shy and quiet and reserved and she liked
12 to go out with us to places and she did when we went unless she
13 went with her sister somewhere instead. She always came home
14 early. She drank very little. She would drink a few beers but
15 not much at all. Uh--

16 Q Well, what about her reputation for being a moral person?

17 A She was so far as we knew very moral. She always came
18 home by herself and never went off with anybody, never, I never
19 saw her around any kind of drugs or anything like that.

20 Q Was her reputation good or bad?

21 A Very good.

22 Q While she was there at the school was her emotional state
23 good?

24 A Yes, sir.

25 Q Was she a happy person or a sad person?

26 A She seemed very happy. She used to say how much she

1 preferred to be at Radford than Emory and Henry. She liked it very
2 much there. She got to see her sister and she said she liked the
3 people better, and--

4 Q Did she ever talk about her father and her family?

5 A Yes, she always--I believe she saw him a couple of times
6 and she was always looking forward to seeing him or hearing from
7 him and--

8 Q Did she seem to love her father?

9 A Yes, sir, very much.

10 Q All right, answer these gentlemen's questions?

11 A CROSS EXAMINATION

12 BY MR. LOOKABILL:

13 Q How long did you know Gina, from March until May or June?

14 A Til the end of May, the last day of school.

15 Q For about two months, two and a half months?

16 A About, yes, sir, maybe three months.

17 Q Would you say that she liked Emory and Henry very much?

18 A Well, she preferred Radford. She did go back to visit it.
19 once. She liked her friends there that she had.

20 Q Did she say anything negative about it? Did she seem to
21 like being at Emory and Henry generally?

22 A Yeah, she liked it.

23 Q Why did she change to Radford College?

24 A I really don't remember. But her sister went there and
25 she had been up to visit her sister at Radford and she liked it.

26 Q Do you think her sister encouraged her to come to Radford?

1 A Maybe, but I really don't know.

2 Q What, do you know what she was studying, what she wanted
3 to do with her life?

4 A No, sir, I don't remember.

5 Q You didn't discuss that?

6 A I'm sure we did discuss it, but I don't remember right
7 now.

8 Q You say that the best you know, she just drank, she liked
9 beer and drank a few beers and that was about it?

10 A I don't know if she liked it. I think that she did
11 drink a few.

12 Q She did drink a few beers in your presence?

13 A Yes, sir.

14 Q Did she ever drink any other thing, mixed drinks or--

15 A Not that I can remember.

16 Q You say she was very shy and quiet?

17 A Uh hum.

18 Q Did you ever go dancing with her?

19 A Yes, sir.

20 Q Did she, was she shy and quiet when she danced?

21 A Well, she would dance because she enjoyed dancing.

22 Q Did she get pretty limber and loose when she was dancing.
23 She enjoyed herself when she was dancing?

24 A She enjoyed herself when she went dancing.

25 Q How frequently would you say she danced, where did she
26 go to?

1 A Well one time we went to After Sundown.

2 Q Where is that?

3 A That's a disco in Blacksburg.

4 Q Did you go with her there?

5 A Yes, sir.

6 Q Did you all go with dates or did you go with a group?

7 A No, just a group of girls went.

8 Q How many went, do you remember, approximately?

9 A I guess four of us went and then we met a few friends,
10 a couple of people there, two people.

11 Q You mean men?

12 A A friend of mine and her boyfriend with her.

13 Q A friend of yours with a boyfriend of hers?

14 A Yes.

15 Q You say you met. Did you go some place with them after
16 the dance?

17 A No, sir, we went home afterwards.

18 Q How many times would you say that she went to this Disco
19 Place in Blacksburg?

20 A I believe she went twice that I know of.

21 Q Did she ever go with other people other than--were you
22 in the group that more or less ran around together?

23 A Yes, sir.

24 Q Did she go with other, did she have another group of
25 people that she went places with or basically with you all?

26 A She basically went with us or her sister places.

1 Q Did her sister generally go with her when you all went
2 to the disco?

3 A No, sir.

4 Q Where would she go with her sister, do you know?

5 A I really don't know.

6 Q Do you know how often she went home?

7 A I remember she went to Emory and Henry once and I can't
8 remember if she went home or not.

9 Q Was that the time she went to Emory and Henry to vist
10 some of her friends?

11 A Yes, sir.

12 Q Did Gina ever get depressed or was she always happy?

13 A She always seemed happy to me. She never in my presence,
14 she was never depressed.

15 Q Did she talk about whether or not she was happy with
16 what she wanted to do with her life or did she discuss that with
17 you?

18 A She never really discussed what she wanted to do with
19 her life with me.

20 Q Did you tell me what she was studying?

21 A No, sir, I don't know. I don't remember.

22 Q How many times a week would you see Gina?

23 A Everyday I would say unless she went away for the week-
24 end.

25 Q Were you in the group that walked to lunch together
26 occasionally and--

1 A We ate lunch with her a few times. She didn't eat a lot
2 in the cafeterias.

3 Q Did Gina study a lot?

4 A Yes, sir.

5 Q Did she study more than most people or about average or--

6 A Well, she studied more than the group of friends that I
7 was in, I'd say.

8 Q Do you know what courses she was taking?

9 A No, sir, I don't recall.

10 Q Did, during, at your last exams this spring, did you sun
11 bathe. Do you like to do that?

12 A Uh huh, yes, sir.

13 Q Did Gina ever sun bathe with you?

14 A No, sir.

15 Q To your knowledge did she ever lie out in the sun just to
16 get a sun tan?

17 A No, I don't believe she did that I know of.

18 Q Had she done so, you would probably have known it
19 wouldn't you?

20 A Yes, sir.

21 Q You associated with her quite a bit.

22 A Yes, sir, and it was above our dorm. There is a sun
23 deck up there so everyone goes up there.

24 Q Would you say that during the hot weather, warm weather
25 when you weren't studying, you were out catching the rays as we
26 used to call it?

1 A Yes, sir. We studied up there sometimes.

2 Q And you never saw Gina up there sun bathing?

3 A No, sir.

4 Q You say the last time you saw her was on the 23rd of
5 May?

6 A It was the last day of school. I'm not sure if that was
7 the correct date.

8 Q That was the end of the spring quarter?

9 A Yes, sir.

10 Q Do you know if there was any reason why Gina didn't like
11 to lie in the sun?

12 A Well, her roommate had told me one time that she had had
13 some scars and that she had brought it up with her roommate one
14 time and had been, not really wanting to discuss it but I don't
15 even know why she did and her roommate told me that because she--

16 Q Excuse me.

17 A She always wore long sleeves and things.

18 Q Do you know Diana, her sister?

19 A Yes, sir.

20 Q Were you ever at her apartment?

21 A No, sir.

22 Q Were you ever at the apartment where Gina lived in the
23 summer?

24 A No, sir.

25 Q You were gone?

26 A Yes, sir.

1 Q Where do you live?

2 A In Burke, Virginia.

3 Q Pardon?

4 A Burke, Virginia.

5 Q Where is that?

6 A It's in northern Virginia near Fairfax.

7 Q And you never knew of Gina to go anywhere by herself?

8 A No, if she went by herself it was usually to meet like
9 us if she wasn't ready and we went ahead, then she would meet us
10 there but she never went anywhere that she didn't know anyone at
11 all would be there?

12 Q Was that because she was shy or do you know?

13 A Well, most people just don't go places by themselves,
14 but I think she was rather shy and she wouldn't have done that.

15 Q Would you say that it would be almost unheard of if she
16 would go some place by herself?

17 A Yes.

18 Q Thank you.

19 (The witness is excused and leaves
20 the courtroom.)

21 MR. SHOCKLEY: Your Honor, I'd like to request just a short
22 recess, please. I need to--

23 THE COURT: All right, members of the jury, you may retire
24 to your room.

25 (Thereupon a recess was had and after a time all interested
26 parties, including the Court, jury, counsel and the defendant returned

1 WILLIAM WHITMAN KING, JR.,
2 a witness called on behalf of the Commonwealth, after being first
3 duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. SHOCKLEY:

6 Q State your name, please.

7 A William Whitman King, Jr.

8 Q Mr. King, where do you reside?

9 A I'm living in Radford right now.

10 Q May I ask your age, please.

11 A 27.

12 Q And where did you go to school, Mr. King?

13 A I went to Radford High School and VPI.

14 Q Did you graduate from both?

15 A Yeah, uh hum.

16 Q Did you ever play any football at VPI?

17 A Yes, sir.

18 Q Did you play, I believe, under Coach Jimmy Sharpe?

19 A That's right.

20 Q Do you know the defendant, Stephen Epperly?

21 A Yes, sir.

22 Q How long have you known him?

23 A Since I was about 8 years old.

24 Q Have you been close friends over the years?

25 A Yes, sir.

26 Q I want to ask you about the night of June 28 of this

1 year. Do you recall that night?

2 A Yes, sir.

3 Q Do you recall seeing the defendant on that night?

4 A Yes, sir.

5 Q When did you first see the defendant?

6 A About 10:00 to 10:15 that night.

7 Q Where did you see him?

8 A I picked him up at his house.

9 Q Did you have prior arrangements to do so?

10 A Yes, sir.

11 Q And had the two of you made plans for that night?

12 A Yes, sir.

13 Q And what were your plans?

14 A I was to pick him up and we were going to the Merriott in
15 Blacksburg.

16 Q For what purpose?

17 A Just a night out, you know.

18 Q Was anybody else with you?

19 A No, sir.

20 Q Did you pick him up and take him to the Merriott?

21 A I picked him up and took him up to the lake first.

22 Q To the lake?

23 A Uh hum.

24 Q What was your purpose of going to the lake?

25 A My parents were on vacation. They were having a party
26 up there and I just went by to check on the house to make sure

1 nothing was--they've had a lot of vandalism and what have you up
2 there and I just went by to make sure everything was o.k.

3 Q You say they were having a party up there. Who's "they"
4 and where?

5 A They were having it at Appalachian Dam. I'm not sure
6 exactly--

7 Q O.k. What I was getting at, the party was not at your
8 parents' house?

9 A No.

10 Q Now is your parents' home, the home the jury saw yester-
11 day on the view?

12 A Correct.

13 Q Right there on the lake edge?

14 A Uh hum.

15 Q How long had Mr. Davis owned that home?

16 A About '74. He built it himself.

17 Q And Mr. Davis, I believe is married to your mother, is
18 that correct?

19 A Correct.

20 Q Were your parents at home when you went to the house?

21 A No, they were on vacation.

22 Q And where were they again, please.

23 A In Myrtle Beach.

24 Q When is the last, or the next time that you saw your
25 parents?

26 A The following Sunday, I think.

- 1 Q What two days later, or a week and two days, how long?
- 2 A A week later.
- 3 Q A week later. What time did you arrive at the Merriott?
- 4 A Approximately 11:00 o'clock.
- 5 Q Were they still open for business at that time?
- 6 A Yeah, uh hum.
- 7 Q Did you see Jan Fisher that night?
- 8 A Yeah, they pulled up exactly the same time we pulled in.
- 9 Q Who is "they"?
- 10 A Mr. Epperly and myself in my car and Jan Fisher pulled
- 11 up with Jimmy Curtis and Bucky Cochran in Jan's car.
- 12 Q How did you, or did you speak to each other when you
- 13 arrived in the parking lot simultaneously?
- 14 A Yeah.
- 15 Q Did you have plans to meet up there?
- 16 A Yeah, uh hum.
- 17 Q When you went inside, did you sit together?
- 18 A Some of us, yeah.
- 19 Q Well, can you tell me how you were seated inside the
- 20 Merriott?
- 21 A I was seated beside or I think we were standing. Mr.
- 22 Epperly and I were standing. I think at one time or another, Jan
- 23 and Jimmy may have been standing there and everybody was kinda
- 24 mingling around, moving, dancing, whatever.
- 25 Q Did you see Gina Hall that night?
- 26 A Yes.

1 Q Did you see her at the Merriott?

2 A Uh hum.

3 Q Do you know if she was with anyone at that time?

4 A No, she came, she got there exactly the same time we got
5 there.

6 Q Had you known Gina Hall before that night?

7 A No.

8 Q I want to show you this photograph and ask if that's who
9 you know to be Gina Hall?

10 A Yeah, that's her.

11 Q Is that the girl you saw there that night?

12 A Uh hum.

13 Q Where was she inside the Merriott with reference to you
14 and Mr. Epperly and Jan Fisher and the other fellows that you were
15 with?

16 A When we first came in she was, well, of course, she got
17 there at exactly the same time we did, I think, just coincidence
18 and when she went in she was seated with uh, seated with somebody
19 at the table. I don't know who it was.

20 Q Did you speak to her inside the Merriott?

21 A I was introduced to her by Mr. Epperly.

22 Q Did you see Mr. Epperly at the Merriott have any contact
23 with her?

24 A Yeah, they danced.

25 Q Did you see how they came into contact for the first
26 time that night?

1 A Yeah, I think we just turned around once and noticed
2 that she was kind of looking at him and everything and so he went
3 up and asked her to dance.

4 Q And did they dance?

5 A Yeah, uh huh.

6 Q Do you know how many times?

7 A I don't know, you know, four or five times, something
8 like that.

9 Q Did, when you were introduced to her was that at your
10 table or hers or where?

11 A That was going out the front door, before we went out
12 the front door.

13 Q Did you speak to her at all inside the Merriott?

14 A No, just said, "How you doing?" when I was introduced
15 to her, "Glad to meet you."

16 Q When Mr. Epperly went over and asked her to dance, was
17 Jan Fisher standing in your group at that time or sitting in your
18 group at that time?

19 A I don't know.

20 Q You don't know. Had he been?

21 A Well, like I say, everybody was kinda moving around. I
22 don't know exactly where they were at that time but they were in-
23 side.

24 Q Had you talked to Jan Fisher on the inside?

25 A Yeah, uh hum.

26 Q Do you know if Mr. Epperly had?

1 A I would assume so. I don't know for sure.

2 Q Had you had anything to drink there, Mr. King?

3 A Yeah, I had probably a couple of beers in there.

4 Q Did the defendant ever come to you and ask you for any-
5 thing?

6 A Yeah, he asked me for the key to the lake.

7 Q To the cabin on the lake, you mean?

8 A Uh hum.

9 Q And did you give it to him?

10 A Yes, I did.

11 Q Did he say what he was going to do?

12 A Well, it was kind of understood that my parents were
13 gone and that if he wanted to use the place, he was welcome and
14 he came to me and told me that he wanted the key and so I told him
15 I didn't have it. I'd have to go to the car and get it.

16 Q When he came to you and asked for the key, were you still
17 inside the Merriott?

18 A Yes, sir.

19 Q Was Gina Hall at his side or had she been left at a
20 table or on the dance floor?

21 A I think she was kinda standing back and he had walked off
22 and come to me.

23 Q During this time was the band playing or was there even
24 a band. I don't know. Was there?

25 A No, they just had records that play music.

26 Q Records?

1 A Uh hum.

2 Q Do you know the noise level in the place at that time?

3 A It's not so loud you can't hear anybody, you know; I don't know
4 what exactly, you know, you want there.

5 Q Well, I didn't know if it was the type of thing that
6 you had to be face to face with somebody to have conversation or
7 whether you could talk as we are talking now or--

8 A Well, you would have to be closer, yeah, which we were.

9 Q You told him that you didn't have a key but you had to
10 go out to the car and get it?

11 A Right.

12 Q Did you do so?

13 A Yes.

14 Q And who all went out to the car?

15 A Myself and Mr. Epperly and Gina.

16 Q Anyone else?

17 A To the best of my knowledge, no.

18 Q And did you get the key out of your car?

19 A I did.

20 Q And at what time did Mr. Epperly introduce you to Gina
21 Hall?

22 A It was before we went outside at the front door.

23 Q Did you say, "Hello" to her?

24 A Yeah, I said, "Hi, glad to meet you."

25 Q Did she speak to you?

26 A I think she might have said, "How are you doing or

1 Hang around." I said, "We're just going swimming," and he said,
2 "Well, she's got to be getting back." I said, "Well, o.,k.,
3 whatever."

4 Q Did you see Stephen Epperly?

5 A I did not.

6 Q Are you saying that your conversation was a blind con-
7 versation or--

8 A It was.

9 Q And did Robin Robinson go in the house or not?

10 A She was right behind me.

11 Q And after you announced your intention to go swimming,
12 what did you do?

13 A I went into the bathroom on the middle floor and got a
14 couple of towels. Walked back out the same way I came in and
15 around the side of the house and went down to the dock.

16 Q You went back out the same door that you came in and
17 around the side of the house, is that your testimony?

18 A Correct.

19 Q Did you go out to the dock?

20 A Yeah, uh hum.

21 Q Did Robin go with you?

22 A Yeah, she went down and she had a bathing suit on under
23 her clothes and she dove in the water.

24 Q What did you do?

25 A I just stayed on the dock.

26 Q When you went in the house, did you see Gna Hall?

1 A No.

2 Q Did you hear Gina Hall?

3 A No.

4 Q At any time?

5 A No, definitely no.

6 Q Did you see Gina Hall or hear Gina Hall at any time that
7 night after you last saw her at the Merriott?

8 A I did not.

9 Q Have you seen or heard Gina Hall since you last, at any
10 time to this day since you last saw her at the Merriott?

11 A No.

12 Q How long were you down there at the dock, you and Robin?

13 A Fifteen or twenty minutes.

14 Q Do you recall seeing the defendant at all that night
15 there at the lake?

16 A When I was at the dock there came a point where I heard
17 him say, "Bill, I'll see you later," and he flipped the outside
18 porch light on.

19 Q Now where is this light, what room, or can you tell
20 where on the house this light would be?

21 A O.k., there's two different ones. I'm not sure exactly
22 which one he flipped on. There are two lights on the house and
23 there is another spot light outside. I'm not exactly--

24 Q Which side of the house are we talking about?

25 A The side facing the lake and dock. One of those two lights
26 was flicked on real quick ^{to get my attention} and then he said, "Bill, we're leaving."

1 I'll see you later."

2 Q Would this be an inside light or an outside light?

3 A Outside.

4 Q Do you know how long the light was on when it was
5 flicked on?

6 A Just flicked on real quick, you know, like for a second.

7 Q Do you know how many times it was flicked on?

8 A I think just once.

9 Q When you were down at the dock, did you ever have occasion
10 to look back at the house?

11 A Yeah, when he flicked the light on and hollered and
12 said, "Bill, I'll see you later; we're leaving," I glanced back
13 like that (indicates) just for a second and I could see Steve.

14 Q O.k., did you see Gina?

15 A No, there was no light on inside.

16 Q Did you see Steve?

17 A Yeah, I saw what looked to be Steve, yes, sir.

18 Q Did you see anybody else?

19 A No.

20 Q While you were down there at the lake, did you ever
21 observe whether or not any lights were on inside the house other
22 than the one that was flicked on?

23 A There were no other lights on.

24 Q Did you say anything else to Steve before he left?

25 A No.

26 Q Did you see how they left?

1 A No.

2 Q Did you hear a car engine or anything of that. You are
3 going to have to say "yes" or "no" for the tape, please.

4 A No.

5 Q Did you and Robin at any time go back into the cabin that
6 night?

7 A We did.

8 Q And approximately how long after you had been or got
9 down to the dock?

10 A Well, like I say 15 to 20 minutes.

11 Q How long was it after you saw Steve Egerly flip the
12 light on and say, "Bye" that you went back in the house?

13 A Probably about five minutes.

14 Q When you went back in the house were there any lights on?

15 A No.

16 Q How did you gain entrance to the house this time?

17 A The door was open.

18 Q Which door?

19 A I think I had told him to leave the door open?

20 Q Which door?

21 A It's two sets of sliding glass doors facing the lake,
22 the one on the right, the middle.

23 Q As you would walk to the house from the lake, it would
24 be the one on the right?

25 A Uh huh.

26 Q Was it open or shut when you got there?

1 A It was open.
2 Q I mean, did you have to slide it open?
3 A No, it was open.
4 Q It was open?
5 A Yeah.
6 Q The door was left open?
7 A Yeah.
8 Q Did you and Robin spend any time down in the den?
9 A We did.
10 Q I want to ask you if anything was unusual about the
11 carpeting?
12 A I noticed a wet spot on the carpet.
13 Q When was that?
14 A I had pulled some cushions that were laying over on the
15 side out and we were on those cushions and I just noticed my foot
16 was in something wet.
17 Q Can you tell me where that was please, approximately?
18 A As soon as you walk through the door, it's slightly to
19 the left about a foot, two foot to the left, probably about mid-
20 way between the pole for the winding stair case and the door.
21 Q How do you know it was wet?
22 A I know it was wet for my foot was in it.
23 Q Did you foot have any shoe on it?
24 A No.
25 Q Sock?
26 A No.

1 Q You were bare footed?

2 A Right.

3 Q Did you pay any particular attention to it at that time?

4 A Just that it was wet. I didn't think anything about it.

5 He said he was going to go swimming, you know, so.

6 Q What time did you wake up the next morning?

7 A It was 9:00 o'clock.

8 Q And what did you do the next morning?

9 A You mean when I first woke up?

10 Q Well, did you leave the house the next morning?

11 A I left at 10:00 o'clock.

12 Q And what did you do?

13 A I took Robin back to Blacksburg and then I came back to

14 Radford to my grandmother who was keeping my son and I think we

15 ate lunch there and then left, the two of us, Todd, my son and I

16 left and we drove back up to the lake.

17 Q Do you know what time you got back to the lake?

18 A Approximately 12:00 o'clock noon.

19 Q Was anyone there when you arrived?

20 A No.

21 Q Did anyone else arrive after you did?

22 A About 15 minutes later Steve got there by himself.

23 Q And what time would this have been approximately?

24 A I'd say fifteen after 12:00, 12:30 at the latest.

25 Q Do you know how he got there?

26 A Yeah, he drove his car.

1 Q Did anyone else come?

2 A Then about 15 minutes later Jan Fisher and Jimmy Curtis
3 came up in Jan's car.

4 Q And what were you all doing there that afternoon?

5 A When they all got there, I had Todd down at the water.
6 He's only four and I had to watchhhim closely and he was swimming
7 and I was down in the water watching him when everybody came. I
8 think at first everybody came down there and we were just sitting
9 around talking.

10 Q Was any type of recreational activity going on that in-
11 volved the defendant?

12 A Yeah, later on, Jimmy, Jan and Steve went up and got
13 the horse shoes out of the house and went down and started throwing
14 horse shoes.

15 Q Where is the horse shoe area in your yard?

16 A As you are in the house looking out at the lake, it's
17 down on the left side.

18 Q Is it near where your dog was tied up yesterday?

19 A Yeah, that's it. He was tied to one of the pegs.

20 Q As they were pitching horse shoes, first of all how
21 many of your friends were involved in pitching horse shoes, number-
22 wise?

23 A Steve, Jan and Jimmy, all three of them.

24 Q Do you know whether or not the defendant ever entered
25 your home that day or your parents' home?

26 A Yes, he did.

1 Q Can you tell me when approximately, maybe the time, and
2 if not the time, when in relation to your son's swimming or the
3 horse shoe activity?

4 A Well, I think they were throwing horse shoes and I was
5 down at the water watching Todd and Steve came to me and asked me
6 if he could go get a Coke and I said, "Sure, you know where they
7 are at." So he went to the house.

8 Q Had Steve ever been inside the home before?

9 A Many times.

10 Q Over how long a period of time?

11 A Since it's been built.

12 Q Since, you gave that year as '74, is that right?

13 A Uh hum.

14 Q So for six years--

15 A Uh hum.

16 Q He's been in there several times?

17 A I think he had been there actually about a week before
18 that this happened. was the last time.

19 Q Had he been in most of the rooms of the house?

20 A Probably so.

21 Q Have you been in the house with him when he had been
22 there?

23 A Yeah.

24 Q Was he familiar with the layout of the house?

25 A Uh hum.

26 Q Was he welcome to fix himself a drink when he was there?

1 A Yeah.

2 Q Get something to eat or use the bathroom?

3 A Uh hum.

4 Q Or things of that nature. Where did you keep Cokes or
5 beer or whatever you had there to drink?

6 A They were always kept downstairs in a refrigerator.

7 Q And where is that refrigerator located?

8 A It's in a tool room.

9 Q And can you tell the jury--I know they were in the house
10 yesterday, can you tell them which room we are talking about?

11 A It's the room straight across from the fireplace. There
12 is a door where you go in, enter it. It's just cinder block wall
13 so it hasn't been fixed up, just a lot of tools and stuff laying
14 around.

15 Q On the bottom level?

16 A Yeah, uh hum, the basement, directly below the garage.

17 Q And you say there was a refrigerator in there?

18 A Uh huh, yeah.

19 Q Was that a practice to keep drinks in that refrigerator?

20 A Yes.

21 Q What did you say to Mr. Epperly when he came down to the
22 dock and asked if I can go get a drink?

23 A I said, "Sure, go ahead. You know where they are at.
24 Help yourself."

25 Q What did he say?

26 A He went on up there. He said, "O.k." so he went on up

1 there.

2 Q Do you know how long he was in the house?

3 A I don't know exactly how long it was but I remember--

4 MR. WARBURTON: Your Honor, I'm anticipating the witness to
5 state a conclusion and I'd like for him to be instructed not to.

6 MR. SHOCKLEY: It's not a conclusion.

7 THE COURT: He can give his best estimate as to the time
8 that the defendant--

9 A Five and ten minutes.

10 MR. WARBURTON: Thank you.

11 Q Five or ten minutes?

12 A Uh hum.

13 Q Do you know when he went up there if anyone else was
14 in the house?

15 A No, no one else was.

16 Q When he came back out, did he have a drink?

17 A Yeah, uh hum.

18 Q Did you say anything to him?

19 A Yeah, I asked what happened. I said, "Where you been?
20 Did you fall in a hole or something up there?" And he said, "Well,
21 I couldn't find an opener." And I just told him, "I said, "Well,
22 you know where they are." and he just went, "Well," like that
23 (indicates).

24 Q When did you learn of Gina Hall's disappearance?

25 A Tuesday morning about 9:15. I had a class at Radford
26 College, got out and was riding through Radford, the city, and

1 nodded her head.

2 Q And describe to the Court and to the jury what transpired
3 when you went outside and handed the key to Mr. Epperly?

4 A Well, we walked outside. I got the key and at some point,
5 I don't know when it was, whether it was walking out or inside,
6 Mr. Epperly asked me to use my car and I told him no, I couldn't
7 do that. We walked outside, opened the door, gave him the key
8 and then they left. There was, you know, a little bit of conversation
9 but--

10 Q Did he make any statement to her in your presence; when
11 I say he, I'm talking about Mr. Epperly?

12 A I just heard him say something about, "We'll take your
13 car. That is o.k., isn't it?" and she said, "Yeah."

14 Q At any time at this point did there appear to be any
15 confusion on Gina Hall's part?

16 A She seemed to be confused as to what car was going and
17 exactly who was going. I think when she came out she thought may-
18 be I--

19 MR. WARBURTON: Your Honor, I object to what Mr. King might
20 say about what Mrs. Hall might have thought.

21 THE COURT: I sustain the objection.

22 Q Did she verbalize any types of thoughts in those direc-
23 tions?

24 A Only when he said, "We'll take your car, that's o.k.,
25 isn't it?" and she said, "Yes."

26 Q Well, what time was this that you all went to the car

1 and gave the key to Mr. Epperly?

2 A I estimated it to be 12:30.

3 Q Is that based upon, I assume a watch, or the length of
4 time you had been inside?

5 A The length of time being inside.

6 Q Did you go back into the Merriott after you gave the key
7 to Mr. Epperly?

8 A Yes.

9 Q And how long did you stay?

10 A I stayed until it closed which was 1:30.

11 Q And what did you do after it closed?

12 A I left with Jimmy Curtis, Jan Fisher and Bucky Cochran.
13 We went to get something to eat.

14 Q And what did you do after you got something to eat?

15 A We went to the apartment of a friend's of Jan's.

16 Q During this night did you run into Robin Robinson?

17 A She was at the Merriott that night.

18 Q Did you see her at a later point after closing time?

19 A Well, I called her from the apartment I was at and asked
20 her if she wanted to go to the lake and she said, "Yes."

21 Q And what time did you call Robin Robinson?

22 A Approximately 3:00 o'clock a.m.

23 Q And did you go by her place?

24 A Yeah, I picked her up.

25 Q In your car?

26 A Uh hum.

1 Q And between that time or the time that Mr. Epperly got
2 your key and the time you went to pick up Robin Robinson, had you
3 seen Stephen Epperly or Gina Hall?

4 A No.

5 Q Heard from them?

6 A No.

7 Q When you picked Robin Robinson up, did you in fact go
8 to the lake?

9 A Yes.

10 Q May I ask what route you followed?

11 A I don't know for sure; I think I went 114.

12 MR. WARBURTON: Your Honor, if the witness, doesn't know, I
13 don't think he can testify.

14 A I do know that I went the Hazel Hollow Road.

15 Q O.k. From where, where did you get on Hazel Hollow Road?

16 A At the bridge, Memorial Bridge from Radford to Pulaski
17 County.

18 Q Route 11?

19 A Yeah.

20 Q And then went down Hazel Hollow Road?

21 A Uh hum.

22 Q At approximately what time did you leave Blacksburg?

23 A Somewhere around, as soon as I called her, I went down
24 pretty, you know, quick, within the next ten minutes to pick her
25 up so 3:00 to 3:15 at the latest.

26 Q Do you know what time you arrived at your parents' house

1 on the lake?

2 A It was about 4:00 a.m., somewhere between a quarter til
3 and 4:00 a.m.

4 Q O.k., when you went inside, can you tell me the means
5 that you went in, which door?

6 A I went through the garage door, not the garage. There
7 is another door. I went through that door.

8 Q Now looking at your house, to make sure the jury knows
9 which door you are talking about, would we be talking about the
10 side of the house nearest the lake or farthest away from the lake?

11 A Farthest away.

12 Q Would this be near the driveway?

13 A Correct.

14 Q When you went inside, did you see any lights on?

15 A No.

16 Q Anywhere?

17 A No.

18 Q Did you turn any on yourself?

19 A I turned the kitchen light on.

20 Q And did you see Gina, or Diana Hall's car there or the
21 one that Gina Hall had?

22 A Yes, I saw it.

23 Q Did you see it at the Merriott?

24 A I saw it when she pulled in and I saw it when I went out
25 to the car. She was parked right beside us.

26 Q Did you see that same car at your house?

1 A Yes, sir.

2 Q When you went inside did you think the two of them were
3 still there?

4 MR. LOOKABILL: Your Honor, I object to the leading questions.
5 I think he ought to ask for a response from the witness.

6 THE COURT: Objection sustained.

7 Q Let me ask you this, when you went into the house, what
8 were you thinking?

9 A Well, when I went in the house I knew from the car
10 being there that they were probably there and probably he didn't
11 expect me to be there.

12 Q Why do you say that?

13 A Because it was late and if I wasn't coming by, usually
14 by 3:00 a.m., I wouldn't be there. So what I did was slam both
15 doors; I slammed the door into the garage and then went through
16 the kitchen door and I slammed that door to let him know I was
17 there and I turned the kitchen light on.

18 Q Was there any conversation between you and the defendant?

19 A There was.

20 Q Would you relate that to the Court, please.

21 A I walked from the kitchen door over to the winding stair
22 case that goes down to the basement and I stood there and Steve
23 said, "Bill is that you?" I said, "Yeah, it's me." I said, "I've
24 got somebody with me and we are going down to the dock and go
25 swimming and he said, "Well, we've got to leave," and "we're
26 leaving." And I said, "Well, that's o.k. you don't have to leave

1 heard it. I had the radio on and heard it.

2 Q Did you recognize the name at that point?

3 A No, I didn't recognize the name. They just stated that
4 there was a girl missing and she had last been seen at the Merriott
5 Inn on Saturday night. That caught my eye because I knew I was
6 over there and it said that she, it described her clothes. She
7 had on some kind of white jump suit with a dark shirt and I recog-
8 nized that so I remembered what she had on and then it said that
9 her car was last seen or was found on Hazel Hollow Road between
10 Claytor Lake and Radford.

11 Q Because of what you heard on the radio, did you ever
12 mention this to the defendant?

13 A Yes.

14 Q What did you say to him?

15 A He was at work and I went and found him and I thought he
16 should know about it and I went and found him and he was in a--
17 he was doing some work down there and he was in a truck and I saw
18 one of the guys in the truck and pointed up and said, "Is Steve
19 in there?" and he said, "Yeah." So Steve hopped out and came around
20 and got in the car with me.

21 Q What did you say to him?

22 A I told him what I had heard on the radio and I said, "If,
23 you know, if I were in your shoes, I'd want you to do the same if
24 you had heard something like that;" and I proceeded to tell him what
25 I had heard on the radio.

26 Q Did you give him any advice?

1 A Yes, I did. I told him I knew that, you know, that was
2 the girl he was with and that if it were me, I would get in touch
3 with somebody as quickly as possible and tell them so that they
4 wouldn't think that I had anything to hide.

5 Q What did he say to you?

6 A He asked me who all I had told or who knew about it,
7 and I told him that I had been down the Weight Room. Before I
8 went to talk to Mr. Epperly I stopped in after I heard it on the
9 radio I stopped in a bar bell club where I work out in Radford and--

10 Q Did you tell this to the people in there?

11 A As soon as I walked in the door Jan Fisher asked me if
12 I had heard and I said, "Yeah, I've already heard." And he told
13 me that Gina Hall's sister had called him or I don't know if he
14 said her sister had called or her mother and said they had called,
15 it was Diana--

16 MR. WARBURTON: This is all hearsay anyway.

17 Q Did you have conversation with the fellows down at the
18 Weight Room about this?

19 A Yes.

20 Q Did you ever mention to them that, you know, Steve had
21 been with her that night?

22 A I think they made the statement first that that's the
23 girl he was with.

24 MR. WARBURTON: Again it's hearsay, Your Honor.

25 THE COURT: All right, I sustain that objection. Members of
26 the jury you will please disregard this last statement that was

1 just made by the witness. All right, you may proceed.

2 Q Did you ever tell the defendant that you had been down
3 to the Weight Room talking to, you know, the guys down there?

4 A Yes.

5 Q And what did Mr. Epperly say in response to that?

6 A He asked me if I would go back down there and tell them
7 not to say anything, just kinda talk it down, not broadcast it.

8 Q Did you do so?

9 A I did.

10 Q Mr. King, were you ever contacted by police authorities?

11 A Yes, sir.

12 Q About her disappearance and everything?

13 A Uh hum.

14 Q Who contacted you?

15 A Trooper Austin Hall. I called him first.

16 Q Do you recall the night of July 2nd, I believe was a
17 Wednesday?

18 A Uh hum.

19 Q Do you recall being at your parents' home any time that
20 night?

21 A Yes.

22 Q Was it with police authorities?

23 A Yes.

24 Q Had they asked permission to search your home?

25 A They had.

26 Q Did you allow them to do so?

1 A I did.

2 Q Who had a key to the home at that time other than, you
3 know, your parents, anybody that you know of?

4 A No.

5 Q And did you go to the cabin that night with the police?

6 A I went there that evening with Trooper Hall and Gerald
7 Williams from Radford, and then came back that night later with
8 more police.

9 Q Did you, were you inside the house when several police
10 officers were there and sort of looking around?

11 A Yes, sir.

12 Q Did you find anything yourself?

13 A I did.

14 Q What did you find?

15 A I found what looked to be a necklace or a bracelet, or
16 an ankle bracelet.

17 MR. SHOCKLEY: Your Honor, I've opened up Lab Item No. 6,
18 sealed and everything at this point for Mr. King to examine. I
19 want you to look at that please and tell me if that's the one you
20 found.

21 A Yeah, that's it.

22 Q Is there anything unusual about that?

23 MR. WARBURTON: Mr. Shockley, do you think we could see it
24 first.

25 Q Is that ankle bracelet damaged in any way?

26 A Looks like it's broke to me.

1 Q Who did you give this bracelet to, do you recall?

2 A Yeah, I think I gave it to you.

3 Q Gave it to me?

4 A I gave it to somebody down there.

5 MR. SHOCKLEY: Your Honor, we offer this ankle bracelet into
6 evidence as the next Commonwealth's exhibit.

7 MR. WARBURTON: Your Honor, we have no objection providing
8 Mr. Shockley can provide the chain of custody from Mr. King to
9 whomever he may have given it to and back down here to the court-
10 house.

11 THE COURT: All right.

12 MR. SHOCKLEY: Well, Your Honor, it really doesn't make any
13 difference at this time because he's been able to identify it as
14 the one he picked up.

15 THE COURT: All right, let the exhibit be received and
16 appropriately marked.

17 Q Now did you have any other conversation with the de-
18 fendant about your arriving at the house?

19 A Yes, I did.

20 Q Would you relate that to the jury, please.

21 A What day do you mean?

22 Q Well, I'm not sure of the exact date. You'll probably
23 have to supply that. I'm not sure that it's really critical,
24 but as far as what I'm asking, not to lead you or anything, about
25 your seeing or hearing Gina was that ever discussed between you
26 and Mr. Epperly?

1 MR. WARBURTON: If the Court please, I would like a foundation
2 provided since we are talking about an out of court statement
3 made allegedly by the defendant. I'd like to know when it was and
4 in what context. I think it's proper to ask him that.

5 THE COURT: All right, see if you can lay a foundation,
6 Mr. Shockley.

7 Q Did you at any time ever have a discussion with Mr.
8 Epperly about whether or not you had seen Gina Hall?

9 A I did.

10 Q And do you recall, do you have any idea when it was, I
11 mean date is not exact, or not that exactly necessary, if you can,
12 and if not, if you can't say so.

13 A It was either when I picked him up in the car at work
14 or it was when I went and talked to him at his house that Friday.

15 Q What did Mr. Epperly say to you?

16 MR. WARBURTON: Your Honor, I'd like to know when this was.

17 THE COURT: He's done the best he can do. I don't know that
18 a witness has to fix the exact minute, Mr. Warburton of everything
19 he said. He's done the best he can do. He's said it was either
20 one time or the other and he may--

21 MR. WARBURTON: I apologize to the Court. Perhaps I didn't
22 hear correctly. He referred to two events--

23 THE COURT: That's right. He said it was either one time
24 or the other. I overrule your objection. You may answer.

25 Q Would you relate that conversation. If you feel that
26 you need to give any buildup to it fine, but you know what I'm

1 interested in.

2 A He just asked me at that time if I saw or heard Gina
3 Hall and he didn't ask me that way. He said, "You did, you did
4 hear her didn't you?"

5 Q What did you say in response?

6 A I said, "No."

7 Q As the investigation developed and Mr. Epperly became a
8 suspect, did you ever have an opportunity to go talk to him
9 again?

10 A I did.

11 Q Did you ever ask him whether he killed Gina Hall?

12 A Yes, I did.

13 Q Do you recall when approximately that was?

14 A It was on Friday whatever the date would be, the following
15 FRiday. I forget the date though.

16 Q The Friday after she disappeared on the Saturday?

17 A Yeah.

18 Q And what did Mr. Epperly say to you?

19 A When I asked him that question?

20 Q Yes, uh hum. First of all, tell the jury what you said
21 to him and then tell his response?

22 A I told him I didn't especially want to ask him that
23 question but I was going to because some people wanted me to ask
24 him that question so I said I'm going to ask you.

25 MR. WARBURTON: Well, Your Honor, I think we need to know
26 who asked that specifically since Mr. Shockley has just eluded

1 to the fact that he was a suspect. I think we need to know under
2 the--

3 THE COURT: Well, you are--I'm sure you will elicit that on
4 cross examination. I don't think--

5 MR. WARBURTON: Well, I'd like _____ (inaudible, cough).

6 THE COURT: I don't follow you. I just don't follow the
7 point that you are making, Mr. Warburton.

8 MR. WARBURTON: I think you have a _____ (inaudible)
9 problem there.

10 THE COURT: Have a what?

11 MR. WARBURTON: _____ (Unintelligible) v. United States,
12 Your Honor. He was a suspect and if Mr. King was asked to elicit
13 words from him by any police authority, I think we have a right
14 to know that before the jury or anybody else does.

15 THE COURT: All right.

16 A Some law authority, I don't know who. I don't remember.

17 Q Did they specifically ask you to go ask him or--

18 A They did.

19 Q They did. Did you obtain any sort of confession?

20 A He told me, he said, "Bill, I don't know anything about
21 it," said, "We'll just have to wait and see."

22 MR. WARBURTON: I'll withdraw my objection, Your Honor.

23 Q Did he ever deny killing Gina Hall to you?

24 A No, that's the way he answered me, just the way I told
25 you a second ago.

26 Q The key that you gave to Mr. Epperly, you know when he

1 left the Merriott, did you ever see that again?

2 A Yes.

3 Q When and where, please.

4 A Sunday morning. When I came downstairs to leave it was
5 on the table.

6 Q The ankle bracelet, had you ever seen it before that
7 night?

8 A No.

9 Q Answer these gentlemen's questions, please.

10 CROSS EXAMINATION

11 BY MR. WARBURTON:

12 Q Mr. King, how old are you?

13 A Twenty-seven.

14 Q And where are you employed?

15 A St. Alban's Hospital.

16 Q What are you doing there?

17 A Working as an aid.

18 Q And how long have you been in that employment, sir?

19 A Approximately a month.

20 Q What were you doing before that, sir?

21 A Going to school.

22 Q Did you have a part-time job?

23 A No.

24 Q In June of this year were you employed or going to
25 school?

26 A I was in school.

1 Q This school would be Radford University?

2 A Correct.

3 Q Did you have any odd jobs or any kind of employment at
4 that time?

5 A Painted occasionally.

6 Q Painting what, houses?

7 A Painted houses.

8 Q Inside or outside?

9 A Either way.

10 Q We're talking about rollers and brushes?

11 A Uh hum.

12 Q How many painting jobs did you have last summer?

13 A Probably one to two.

14 Q Because this was at other persons' homes if you were on
15 the job there would be someone who would know where you were and
16 how to get in contact with you, but not necessarily, am I correct?

17 A State that again.

18 Q Since you were painting other persons' homes besides the
19 one in which you lived if someone wanted to get in touch with you
20 while you were working, they'd have to find out where you were first
21 and then try to find you, am I correct?

22 A Correct.

23 Q I assume as a house painter, you would paint on the days
24 with good weather and when it would rain, you would paint inside or you
25 would not paint at all, right?

26 A Correct.

1 Q So with days of good weather, you would probably be
2 painting, is that correct?

3 A Yeah, un huh.

4 Q And days that it was raining, you would probably not?

5 A Right.

6 Q How many hours of academic courses were you pursuing in
7 Radford this summer?

8 A I had one course.

9 Q One course?

10 A Uh hum.

11 Q Can you tell me when that course met.

12 A Everyday from 8:00 to 9:00 Monday through Friday.

13 Q Did you attend almost every class, most of the classes,
14 half of the classes, which?

15 A Most.

16 Q And that was the only connection you had with Radford
17 University at that time?

18 A (Inaudible, cough).

19 Q Now I understand from your testimony that you have a
20 son whose name is Todd who is four years old?

21 A Right.

22 Q This summer were you living with your wife or is she an
23 exwife?

24 A No, she's an exwife.

25 Q O.k., and you were living where this summer?

26 A I was living at my grandmother's house which is on

1 Clement Street.

2 Q In the City of Radford?

3 A Right.

4 Q How often would you go to this cabin on the lake when
5 your parents were also there, I mean when they were living there,
6 when they were not on vacation?

7 A Most of the time just weekends.

8 Q Would it be safe to say that on the weekends we could
9 find Bill King up there on the lake?

10 A It'd be a place to try. I wouldn't definitely say I
11 would be there every weekend.

12 Q Did you ever paint on the weekends or did you try to keep
13 that down to Monday through Friday?

14 A Mostly Monday through Friday.

15 Q The persons that live in that home more or less full time
16 would be Ron Davis and Betty Davis, is that correct?

17 A Right.

18 Q And Betty is your mother?

19 A Right.

20 Q And Ron your stepfather. How long have they been married,
21 sir, do you know?

22 A I think about '73, '74.

23 Q And there is on children or anyone that lives in that
24 house?

25 A No. huh uh.

26 Q You have a bedroom though at that house?

1 A Correct.

2 Q It's Bill's room or Skip's room, right?

3 A Uh hum.

4 Q And that would be on the third floor or third level?

5 A Right.

6 Q If I am correct, on that third level there is a master
7 bedroom and Skip's bedroom?

8 A No there are two bedrooms exactly the same size.

9 Q Right, but there are just two bedrooms up there?

10 A Right.

11 Q And one is your parents and one is yours?

12 A No, my parents' bedroom is on the middle level.

13 Q Oh, o.k., the two bedrooms upstairs, who occupies those?

14 A One is a guest room and the other one is mine when I'm
15 there.

16 Q You keep, I assume, an assortment of clothes there?

17 A No, most of my clothes are down in Radford.

18 Q Very well, where are you living now, sir?

19 A I'm living at Clement Street still.

20 Q With your grandmother?

21 A Yeah.

22 Q During the month of June how much time did you spend at
23 the lake cabin? I assume that's prime time, isn't it?

24 A What's that?

25 Q It's prime time. The days are long, the weather is
26 nice. That would have been a time when you would have enjoyed

1 more activities at the lake am I right?

2 A On weekends.

3 Q I assume you occasionally went up there during the week?

4 A Very seldom.

5 Q Did you eat meals there on the weekend?

6 A Probably on Saturday and Sunday, yeah.

7 Q Sleep there on either Friday night or Saturday night or
8 both?

9 A Mostly Saturday.

10 Q And you certainly knew your way around the house?

11 A Yes.

12 Q And you had been in every room?

13 A Uh hum.

14 Q You knew where everything is?

15 A (Silence).

16 Q And you've been in and out of that house now since 1974
17 when it was built? How would you characterize the furnishings in
18 that house, sir?

19 A What do you want specifically?

20 Q I'd like your impression--I realize we were over there
21 yesterday and your impression of the quality of the furniture, the
22 quality of the carpeting, nicknacks, colored TV?

23 A I'd say it's very nice.

24 Q Luxurious?

25 A Uh hum.

26 Q And what is the usual state of that house? Is it usually

1 messy, usually fairly neat, usually immaculate?

2 A Neat, clean.

3 Q Very neat?

4 A Uh hum.

5 Q Very clean?

6 A Right.

7 Q There would rarely be an occasion where you couldn't wipe your
8 finger across anything and find dust, am I right?

9 A Right.

10 Q Rare, I'm sorry. Are you disagreeing with me or are
11 you agreeing with me?

12 A I agree with you.

13 Q And there would be a rare occasion there would be any
14 dishes in the sink left unwashed, I assume?

15 A No, occasionally you might find some washed that were
16 not just put up, left to dry.

17 Q And the magazines were all in neat piles?

18 A Uh hum.

19 Q The plants that are there, I'm sure are/watered?
well

20 A Right.

21 Q Leaves that drop off the plant are picked up?

22 A Uh hum.

23 Q Do you know whether or not your parents have a maid
24 come in?

25 A No.

26 Q Or does your mother do that?

1 A She does it all.

2 Q And she does a very good job at it?

3 A Uh hum.

4 Q Takes a lot of pride in it. Would it be safe to say,
5 Mr. King that if there was something out of place that you would
6 notice it because everything has a place and everything is always
7 in its place?

8 A I wouldn't say I'd notice it, no.

9 Q If your mother rearranged the furniture or took one
10 piece of furniture, moved it from one room to another, you'd
11 certainly notice that, wouldn't you?

12 A Correct.

13 Q If you came in on say a Sunday and the Sunday paper were
14 all over the floor in the den downstairs, you'd notice that be-
15 cause that would be unusual?

16 A Yes, sir.

17 Q And if a plant was knocked over, you would notice that?

18 A Yes.

19 Q You would really in essence notice things being out of
20 place in that house, wouldn't you?

21 A Uh hum.

22 Q Now, if I can review with you what you and Mr. Shockley
23 talked about for awhile. You testified that on Saturday you had
24 plans to go to the Merriott. With whom did you make these plans?
25 With everyone or just yourself and Steve?

26 A No, I think at first it was with Jan and Jimmy and I

1 knew Steve wanted to go so we couldn't all ride in the same car.

2 Q You picked Steve up at his house on Second Street in
3 Radford?

4 A That's correct.

5 Q In what kind of an automobile, sir?

6 A A '78 Thunder Bird.

7 Q And is that your car or your _____ (inaudible)?

8 A That's my mother and stepfather's car.

9 Q And apparently they took a different car to Myrtle
10 Beach. They did drive to Myrtle Beach?

11 A They rode with somebody else?

12 Q O.k.

13 A And your mother's car was left behind at the lake?

14 A No, my car, was left--oh, yeah, o.k.

15 Q Right, and so you had access to that automobile?

16 A Uh hum. I didn't pick Steve up in that car. I picked
17 him up in a brown LTD which is my car.

18 Q Now I'm confused, first you said a Thunder Bird and then
19 you said an LTD?

20 A Yeah, I picked him up in my car, drove with him to the
21 lake, switched cars.

22 Q Switched cars when you got to the lake. You picked him
23 up at his house on Second Street in Radford about 9:00 p.m.?

24 A Right.

25 Q On that Saturday?

26 A Uh hum.

1 Q And you had planned to go to the Merriott Inn for a
2 little recreation?

3 A Uh hum.

4 Q And apparently you got in the car, when did you tell
5 Steve you were going back to the lake instead of going to the
6 Merriot?

7 A I don't remember if I told him on the phone or after
8 I picked him up.

9 Q You went I assume across Memorial Bridge and down Hazel
10 Hollow Road?

11 A Uh hum.

12 Q _____ (Unintelligible)?

13 A Right.

14 Q And you got there and the Thunder Bird was sitting out
15 there in the driveway?

16 A Right.

17 Q No other cars there except for the one that was in the
18 garage?

19 A Truck and a boat.

20 Q There was a truck?

21 A Truck and a boat.

22 Q Oh, the Ford pick-up truck was there?

23 A Uh hum.

24 Q And then there's an antique black automobile in the
25 garage?

26 A That stays in the garage.

1 Q And the Thunder Bird?

2 A Right.

3 Q And you went in the house through what door?

4 A Back door.

5 Q What do you call the back door? Is that the one--

6 A The garage, away from the lake.

7 Q In between the garage and what is it a kitchen _____

8 (unintelligible)?

9 A Yeah.

10 Q That's what you call the back door, that's the door you
11 went in?

12 A We always use that door to go in.

13 Q That's the one that you have a key to?

14 A Uh hum.

15 Q Is there a key to that door that's on the front of the
16 house?

17 A No, if there is I don't know about it. I don't think
18 there is.

19 Q I assume there's a lock on it. You went through that
20 door and what did you do when you were inside?

21 A I think that I first switched keys. Or I didn't switch
22 keys. I got the keys to the Thunder Bird.

23 Q Now let's discuss that, Mr. King. When you went to pick
24 Steve up, you had your automobile?

25 A Right.

26 Q You had a, one key chain?

1 A My key chain.

2 Q Your key chain, on that other than numerous other keys
3 you may have had, there were keys to your LTD and a key to the
4 cabin?

5 A Right.

6 Q When you arrived at the cabin, you used one of those
7 keys to go inside?

8 A Right.

9 Q While you were in there, you found the keys to the
10 Thunder Bird is that correct?

11 A Right, they hang up in there.

12 Q I'm sorry.

13 A They're hanging in there.

14 Q Now what's on that key chain?

15 A Just two keys, a key to the trunk, the Thunder Bird, and
16 a key to the door and the ignition.

17 Q When you left, I assume you had both sets of keys?

18 A Right.

19 Q And while you were in that house, what did you do?
20 This is about 9:30 to 10:00, correct?

21 A Yeah, uh hum.

22 Q What did you do while you were there?

23 A I think we went pretty much, walked in just about every
24 room just to make sure nobody had gotten in the house or anything
25 and just kinda checked to make--

26 Q Walk around together?

1 A Yeah, uh hum, to make sure everything was ok.

2 Q You were on all three levels?

3 A Yeah, turned the lights on and looked around and then
4 left.

5 Q Was there anything out of place?

6 A No.

7 Q And you just told me you would notice if there had been?

8 A Uh hum.

9 Q Did Steve walk around directly with you? He was in
10 every room?

11 A I think so.

12 Q Did you look around outside?

13 A I don't recall.

14 Q You mentioned vandalism and a problem with neighbors.

15 Can you elaborate on ~~that~~ a little bit? What kind of vandalism has
16 occurred to your cabin?

17 A I don't--

18 Q Are we talking about throwing eggs, ^{are} we talking about
19 breaking windows, are we talking about breaking and entering?

20 A I think my stepfather can probably give you a better
21 answer on that.

22 Q I'd like to know what you know, Mr. King?

23 A I'll just say I don't know. I just know from what he's
24 told me.

25 Q He asked you though specifically before he and your
26 mother left--

1 A Yeah, to check on the house.

2 Q --check the house frequently? Had you been in the house
3 anytime that weekend prior to when you and Steve were over there?

4 A No.

5 Q So this was your weekly check?

6 A No, they were just gone. I just went up there. They
7 were on vacation. They asked me to--

8 Q When is it that they left?

9 A I think they left on Friday morning.

10 Q O.k. and so you went--

11 A This is Saturday night.

12 Q Twenty-four hours or so more than that later. O.k.

13 Problems with the neighbors up there, Bill?

14 A Yeah.

15 Q What kind of problems?

16 A Well, like I say I'd prefer you to ask my stepfather
17 that. I don't know the details. Anything I tell you is not
18 documented.

19 Q I want to know what you know about it.

20 A Very little.

21 MR. SHOCKLEY: Your Honor, he's asking for hearsay evidence.

22 MR. WARBURTON: I'm not asking for hearsay. I'm asking for
23 what Mr. King knows.

24 A I can't give him an honest answer. I don't know.

25 THE COURT: He told you he doesn't really know anything.

26 Q Everything was o.k.

1 A As far as I know, yeah.

2 Q Then you hopped in the Thunder Bird?

3 A Right.

4 Q The two of you?

5 A Uh hum.

6 Q And you drove?

7 A Right.

8 Q And you drove to the Merriott?

9 A Uh hum.

10 Q And got there at 11:00?

11 A Approximately 11:00, yeah.

12 Q Let's kind of walk around mentally in the Merriott.

13 Let's describe it. I believe it's at the corner of Price's Fork

14 Road and--what is the road that goes down on the inside of the

15 shopping center?

16 A I believe that's called University Boulevard.

17 Q O.k. and it's in that corner there?

18 A Uh hum.

19 Q Hotel, restaurant, and what these folks on the front row

20 call a night spot, a large parking lot on the Price's Fork side

21 curving around behind all the way over to University Boulevard?

22 A All the way around it.

23 Q Right?

24 A Uh hum.

25 Q But is it not true that in front of the main building

26 there is just merely a driveway behind the night spot?

1 A Uh huh.

2 Q The parking for persons who want to go directly into
3 the night spot part would be back in behind away from Price's
4 Fork and away from University?

5 A Not necessarily.

6 Q Well, where did you park?

7 A We parked around back. I think it was pretty crowded
8 when we--

9 Q The area I just described, right?

10 A Uh hum.

11 Q And apparently there were three empty parking spaces
12 fairly close together?

13 A They were right beside--no, o.k., two of them were to-
14 gether and then there was another.

15 Q You said you parked all the way back there because it
16 was crowded?

17 A Uh hum.

18 Q A large number of cars there?

19 A Right.

20 Q You parked about as far away from the night spot portion
21 of the building as you could without parking off the premises of
22 the Merriott?

23 A No, I could have moved over one more section.

24 Q Did you pull in off of Price's Fork or did you pull in
25 off the University?

26 A I don't remember.

1 Q Did Jan and Jimmy and Bucky pull in off of University
2 or Price's Fork?

3 A I don't remember that either.

4 Q The car that you thought might be Gina's, did she pull
5 in off of University or Price's Fork?

6 A I don't know that either.

7 Q I'm assuming that if you all pulled in at the same time,
8 you followed each other in or you met each other?

9 A We just all of a sudden met right there, coincidental.

10 Q O.k., after you got there did you sit in the car for a
11 minute or--

12 A Well, we got out.

13 Q You and Steve just pulled in, _____ (unintelligible)
14 and got out?

15 A Right.

16 Q And directly went in?

17 A I think we went over to Jan and Jimmy and Bucky. Like I
18 say they had pulled in and we had all went over together. Then we
19 walked up.

20 Q Since you noticed Gina Hall's car, I'm sure you noticed
21 Gina Hall getting out of the car?

22 A Right.

23 Q Right next to it?

24 A Uh-hum.

25 Q What did she do?

26 A I don't really remember what she did. I just know she

1 started walking toward the place as far as I know.

2 Q Did you and Epperly talk with Jimmy and Bucky and Jimmy
3 and Jan?

4 A Uh hum.

5 Q And what were they doing?

6 A They just got out of their car. They were going in, too.

7 Q Would you say they got out of the car as soon as they
8 turned off the ignition and opened the doors?

9 A Right.

10 Q They didn't stop to finish a beer or anything?

11 A I don't know. I couldn't say for sure.

12 Q Well, did they sit in the car for a few minutes then?

13 A I don't know, not over two minutes, I'll say that, or
14 a minute, you know.

15 Q Mr. King, I need to know, as do the members of the jury,
16 need to know whether they got out of the car right away?

17 A Sixty seconds or less.

18 Q They did spend some time in the car. When you got in-
19 side, how large would you say is the night spot where the Merriott
20 is, is it a room as big as this?

21 A No.

22 Q --Or bigger?

23 A Smaller.

24 Q How many persons were there that night, can you guess
25 for me, as many people as here?

26 A Probably so. I don't know.

1 Q Since it would be smaller than this room and there might
2 have been as many people as there are here, it would be shoulder
3 to shoulder?

4 A It was fairly crowded, yeah.

5 Q Except for the area in which the people were dancing,
6 it was--

7 A Well, it was full.

8 Q Hot?

9 A I don't remember.

10 Q Or do you remember?

11 A I don't remember.

12 Q And there is a dance floor that's kind of in a pit, is
13 that right?

14 A Right.

15 Q And I believe there is a _____ (unintelligible) or
16 something like this--

17 A Right.

18 Q Between the dance floor and where the booths are?

19 A Uh hum.

20 Q And you have high backed booths that line the wall and
21 a table?

22 A Right.

23 Q Kind of a stand-up table?

24 A Right.

25 Q And over here on this thing you've got little, kind of
26 fold down seats. If you sit on them, they stay down and if you

1 stand up, they plunk back against the wall, is that right?

2 A I've never sat there. I've always stood when I'm there
3 but they may be, yeah.

4 Q And there is a bar, there?

5 A Yeah, uh hum.

6 Q And they serve mixed drinks?

7 A Right.

8 Q Wine?

9 A Right.

10 Q Beer?

11 A Right.

12 Q Soft drinks?

13 A Yeah.

14 Q Fruit juice?

15 A Uh hum.

16 Q I don't suppose anybody eats in this area, eat a meal?

17 A I, I'm not sure on that.

18 Q And you've described, I believe that they have it was
19 loud music over what, speakers?

20 A Uh hum.

21 Q And is it records?

22 A Right.

23 Q They have a person who acts as a disc jockey?

24 A Uh hum.

25 Q Or is this a person who merely plays records?

26 A Well, he's a DJ I--

1 Q Does he talk and everything?

2 A Yeah.

3 Q What kind of music was being played that night, sir?

4 A I'd assume disco.

5 Q I don't want you to assume. I want you tell me if you
6 remember?

7 A Disco.

8 Q Is it safe to characterize that as loud?

9 A Not so loud that it hurt your ear but loud enough, you
10 know.

11 Q Pulsative?

12 A No.

13 Q Not pulsative? I thought that's what disco was. Is
14 the music more or less continuous?

15 A Yeah, uh hum.

16 Q Is there a break in each hour so the DJ can get a glass
17 of water or is it just continuous?

18 A It's continuous.

19 Q Cover charge to get in?

20 A No, I don't think so.

21 Q Was there anything like "wet tee-shirt night", anything
22 of that character, "ladies night", "half price", anything like
23 that?

24 A Not that I knew.

25 Q Were you aware that Radford University just finished
26 mid-terms in the summer quarter, having attended that university

1 at the time, sir?

2 A I'd say if I was there, I probably did. I don't recall
3 right now.

4 Q Well, did you have mid-term that prior week in your one
5 class, do you know of your own knowledge whether you had mid-term
6 that week?

7 A I had a mid-term yeah.

8 Q Was it that week?

9 A Let me think about it. (Pause) I'll say this, I finished
10 a week late so I'm not real sure exactly on a date. I mean if
11 you got a calendar, I can sit here and figure it out.

12 Q Well, do you know if other people that you were mingling
13 with when you went down there as a student that week were having
14 mid-terms?

15 A If it was mid-term week, yeah.

16 Q I'm asking you if you know whether those people were
17 having mid-terms, Mr. King?

18 A O.k.

19 MR. SHOCKLEY: Your Honor, I object. That's for hearsay
20 evidence. It would be what somebody else told him.

21 MR. WARBURTON: I'm asking him if he was aware of it being
22 mid-term week?

23 MR. SHOCKLEY: You asked him if his friends had informed him
24 that it was mid-term week.

25 THE COURT: Well, he can answer on the basis of what he
26 knows. If he doesn't know, just say, "I don't know."

1 A I don't know.

2 Q Your memory is really not all that good is it Mr. King?

3 A Yeah I think it is.

4 Q Do you ever recall telling anyone that you have a bad
5 memory?

6 A Probably so.

7 Q That's been done frequently hasn't it?

8 A No.

9 Q You've mentioned it to most of your best friends that
10 you don't think you have a very good memory?

11 A No.

12 Q Some of them?

13 A I have occasionally, yeah.

14 Q What kind of problems do you have with your memory?

15 A I guess I'm just like everybody else. I don't remember
16 everything that ever happens to me in my life.

17 Q Now going back to the Merriott, who went through the
18 door as a group, Bucky, Jan, Jimmy, Steve, Skip?

19 A Right.

20 Q All five of you kinda went in together?

21 A Right.

22 Q Any idea whether Gina got there before you or after you?

23 A No, I don't know.

24 Q How long were you in the place before you saw someone
25 that you thought was Gina Hall?

26 A I didn't know her until he introduced me to her going

1 out the front door.

2 Q All right but once you were introduced, you looked back
3 in your memory and you thought, "Ah ha, I saw Steve dancing with
4 her earlier"?

5 A Right.

6 Q How long from when you went through the door until you
7 saw Steve dancing with this person that you later recognized as
8 Gina Hall?

9 A Probably 30 minutes.

10 Q And is that, you said you drank, was that one or two
11 beers after you got there?

12 A Two.

13 Q And how much had you had to drink before you got there?

14 A I had some wine to drink.

15 Q How much wine, sir?

16 A Some portion of a bottle. I don't know how much.

17 Q What time of a day did you drink the wine?

18 A Started probably about 8:00 o'clock that night.

19 Q Finished drinking the portion of that bottle about what
20 time, right before you left to pick up Steve?

21 A I think I drank it as we were going over there.

22 Q To the Merriott?

23 A Right.

24 Q Out of the bottle?

25 A Uh hum.

26 Q How large is the bottle, I mean are we talking about, is

1 it a split or a pint or a quart?

2 A A quart, yeah.

3 Q A quart bottle?

4 A Uh hum.

5 Q Was it full when you started drinking it at 8:00 o'clock?

6 A No, I already had it. It was in the car.

7 Q I'm just trying to figure out how much of that bottle
8 you drank?

9 A I'd say approximately half.

10 Q Half a bottle?

11 A Because I had the bottle before.

12 Q That would be about a pint then, or more?

13 A Yeah.

14 Q And did you dance at all that night?

15 A I don't think I did.

16 Q Do you dance on occasion?

17 A Yeah.

18 Q Had you struck up conversation with some other young
19 ladies that were there?

20 A No, I was talking with Steve most of the time.

21 Q But then Steve went out and started dancing, what were
22 you doing then?

23 A I was talking to somebody. I don't recall who it was.

24 Q And is it safe to say that at the Merriott there is a
25 whole lot of people and it's probably not anybody there over 35 or
26 if it is, it's rare?

1 A No, there are people there 35.

2 Q All ages?

3 A Yeah.

4 Q But you would, I'm sure characterize it though as a
5 young crowd though after all?

6 A Uh huh.

7 Q Mostly single people to the best of your knowledge?

8 A Mostly.

9 Q Also safe to say that a lot of people meet there for
10 the first time?

11 A Probably so.

12 Q Strike up a conversation?

13 A Uh hum.

14 Q Dance?

15 A Uh huh.

16 Q _____ (Unintelligible) leave together?

17 A Right.

18 Q I believe you said that you saw the defendant dancing
19 with Gina Hall four or five times?

20 A Uh hum.

21 Q Four or five times in a row or just dance one and rest?

22 A Pretty much in a row, I think.

23 Q Did you see them rest any between the four or five
24 dances?

25 A I don't think so.

26 Q Did you see them before they were dancing or was that

1 when you first saw her?

2 A No, I saw her before.

3 Q Oh, what was she doing then?

4 A She was sitting over at a table.

5 Q By herself?

6 A No, she was sitting with somebody.

7 Q With someone. Was this a man or a woman?

8 A Male.

9 Q What was on the table?

10 A They were having a drink.

11 Q Each had a drink?

12 A Uh hum.

13 Q Was there an ash tray on the table?

14 A I don't know.

15 Q Either one of them smoking a cigarette to the best of
16 your knowledge?

17 A I don't know.

18 Q Both of them had a drink, same thing?

19 A I don't know.

20 Q Is this a bar where they put certain drinks in very tall
21 glasses and certain in goblet glasses so you can kinda tell from
22 your glass what it is?

23 A Yeah.

24 Q O.k., what kind glasses were these?

25 A I don't recall.

26 Q Did they have straws in them?

1 A I don't recall.

2 Q A little plastic sword with fruit on it?

3 A They have them. I'm not saying theirs had it, you know.

4 Q Could you see in the glass to see how much of the alcohol,

5 the beverage, if that's what it was, was consumed _____

6 (unintelligible)?

7 A No.

8 MR. SHOCKLEY: Objection, Your Honor, this is all getting
9 irrelevant.

10 MR. WARBURTON: Your Honor, I believe we can question whether
11 Miss Hall had anything to drink, who she was with, who bought the
12 drink for her, if anyone.

13 THE COURT: Of course, you may pursue that but I don't think
14 we need to call the bar tender to find out how the drink was made,
15 and what was put in it, but you may pursue that general line of
16 questioning.

17 Q Did you see Gina drinking from this glass in front of
18 her?

19 A I don't recall if I did or not.

20 Q Was that a person that you--do you know this person that
21 was sitting at the table with her?

22 A No.

23 Q Did you see him anymore that night?

24 A No.

25 Q Somehow Steve and Gina got together and started dancing.

26 They danced four or five dances. At the end of that what did they

1 do?

2 A Steve came to me and asked me for the key to the lake
3 house.

4 Q And you said?

5 A I said, "I'll have to go out and get it."

6 Q There was no problem with that?

7 A No.

8 Q Now why did you have to go out to your car and get it?

9 A Because I carry a bunch of keys on a ball. I mean it's
10 on a chain.

11 Q Is that what you referred to earlier as your key chain?

12 A Yeah, and I don't usually when I go in somewhere I don't
13 want to carry that thing around so I take the car key off, leave
14 the rest of the keys in the car.

15 Q You say you take the car key off of that big ball of
16 keys?

17 A Right.

18 Q Except this night the car key wadn't on ~~that~~ ball of keys
19 was it?

20 A The car key was in my pocket. I took it off.

21 Q Off the big ball of keys?

22 A Right.

23 Q I thought you were in the Thunder Bird?

24 A I was.

25 Q You told me earlier when we were going over keys back
26 at the lake that your car keys to the brown LDT were on that big

1 ball of keys and you picked up a little thing which had two keys
2 on it to the Thunder Bird.

3 A Along with my keys and put them in my pocket.

4 Q O.k, but the key to the Thunder Bird was the only one
5 you had in your pocket?

6 A Right.

7 Q And you told Steve you'd have to walk all the way back
8 out and around to your car to get the key to the lake?

9 A That's right.

10 Q The three of you left. The police asked you so I'll ask
11 you, did anybody seem nervous?

12 A No.

13 Q Did anybody seem depressed?

14 A No.

15 Q Coerced?

16 A No.

17 Q Unhappy?

18 A No.

19 Q Scared?

20 A No.

21 Q On the contrary Mr. Epperly and Miss Hall were happy?

22 A As far as I know.

23 Q Certainly weren't in love but they were happy, right?

24 A Uh hum.

25 Q Each person acting of their own free will?

26 A Right.

1 Q Walking pleasantly behind or with or in front of you?

2 A Right.

3 Q How warm was it that night, Bill, jacket weather?

4 A What's that?

5 Q How warm was it?

6 A I think it was quite warm that night. I didn't have a
7 coat, I don't think.

8 Q Quite warm. I'm just wondering if they had to stop and
9 pick up jackets before they could leave?

10 A She had a jump suit on when she went in. I don't know
11 what, you know.

12 Q A purse?

13 A I don't know.

14 Q You never saw one if she had one?

15 A I don't know if she had one or not. I just don't know.

16 Q Well, I'm asking though before you left, whether she had
17 to say, "Wait" and go and grab a purse somewhere?

18 A I don't recall.

19 Q No hesitation from Gina Hall at all?

20 A No.

21 Q You walked out, I believe you ^{on} the way to the car you said,
22 well when is it that you told Steve that he couldn't take your car?

23 A I think he asked me inside. I'm pretty sure it was in-
24 side.

25 Q Was that when Gina was next to him?

26 A No, that's when he came to me and said, "I want the key."

1 Q "Bill, can I have the key to your cabin and can I
2 borrow your car"?

3 A Yeah.

4 Q You said, "You can have the key to the cabin, no problem,
5 but you can't have the car"?

6 A Right.

7 Q And you estimate solely on the basis of how long you
8 figure you had been there that that was about 12:30?

9 A Uh hum.

10 Q You walked out to the parking lot, you went all the
11 way to your automobile, Steve and Gina went with you?

12 A Uh hum.

13 Q Your car is how far from Gina's car?

14 A Right beside it.

15 Q Directly beside it?

16 A Uh hum.

17 Q You opened, I'm sure the driver's door and found this
18 lot of keys in the console or whatever, "Here's the key to the
19 lake, Steve."

20 A Uh hum.

21 Q "See you later"?

22 A Right.

23 Q Then is that when Steve said to Gina, "We'll take your
24 car. There is no problem with that"?

25 A Yeah, I just remember her saying something and Steve--

26 Q Her saying something?

1 A She mumbled something to Steve. I didn't pay any attention
2 to it. I don't know what she said, but he said, "We'll take your
3 car. That's o.k. isn't it?" and she said, "Yes."

4 Q And there was no problem then?

5 A Right.

6 Q And nobody was depressed?

7 A No.

8 Q Coerced or scarred or anything of that sort?

9 A No.

10 Q So they got in the car. Did you watch them get in the
11 car?

12 A I turned around--

13 Q Do you know who drove?

14 A I don't know. I turned around and walked off.

15 Q After locking your car and going back inside?

16 A Uh hum.

17 Q You didn't have another key to the house at the lake
18 did you?

19 A No, huh uh.

20 Q At that point when you were walking back to the Merriott
21 how did you plan to get into the house that night?

22 A It wadn't definite that I was even going to go up there.

23 Q You would go back to Grandma's house?

24 A Yeah.

25 Q But if you wanted to get to the lake, how were you going
26 to get in this place that you frequent on the weekends?

1 A Knowing that I had just given him the key and he was
2 going up there, if I were going up there, I'd go up there and
3 knock on the door and say, "Hey, let me in."

4 Q And before you left Steve and Gina, you said, "See you
5 later, Steve.", something to that effect?

6 A Yeah.

7 Q O.k. if Robin was at the Merriott Saturday night, when
8 did you see her at the Merriott?

9 A I saw her in there a couple of times somewhere. You
10 know she was--

11 Q She--

12 A She was in there with a friend, right.

13 Q She danced with _____ (inaudible)?

14 A I think so.

15 Q Did you talk with her after you went back in?

16 A No, I didn't talk with her in there.

17 Q So you went with everybody and you got something to eat
18 and you went to, that's Terrace View that you went to next, is
19 that right?

20 A Right, uh hum.

21 Q Terrace View Apartments. I believe you told me earlier
22 that you looked down and saw lights on in her apartment?

23 A Yeah, uh hum.

24 Q _____ (Unintelligible)?

25 A Uh hum.

26 Q You had been in her apartment before?

1 A Right.

2 Q Many times?

3 A No, only about, only once.

4 Q Well, you knew where it was from whatever apartment you
5 were in?

6 A It just happened that the apartment we were going to was
7 here and hers was right down there. You could see it.

8 Q Did you see her through the window?

9 A No.

10 Q You just saw light from them?

11 A Uh huh, curtain _____ (inaudible, noise).

12 Q At the apartment in which you were in, is that the
13 Morris apartment? Whose apartment were you in?

14 A Three girls from Pulaski formerly, they were going to,
15 two of them were going to I think Tech and one to Radford; they
16 all three lived together there.

17 Q Morris?

18 A I don't know their names. I know one girl's name.

19 Q At any ~~me~~ you used the telephone in that apartment?

20 A Uh hum.

21 Q And called Robin?

22 A Right.

23 Q Look up the number in the phone book?

24 A I don't know. I don't know if I knew it or looked it
25 up. I found it some way though.

26 Q You called Robin up. What did you say to Robin?

1 A I just asked her, I said, "You want to go to the lake?"
2 and she said, "Yeah." I said, "Maybe go swimming or something,"
3 and she said, "O.k., I'll put a bathing suit on." I said, "I'll
4 be down and pick you up in just a second. I'm just right up the
5 road."

6 Q You left then immediately?

7 A Uh hum.

8 Q You got in the car and drove down by her apartment?

9 A Yeah.

10 Q She got in the car?

11 A Uh hum.

12 Q And you went directly to the lake?

13 A Right.

14 Q When you got to, you know, come down the road and turn
15 onto the gravel road there. I think since you turn on the gravel
16 road, your headlights then would have been right on the garage
17 area and everything, am I correct?

18 A Right.

19 Q You were not surprised to see the pick-up truck, the
20 brown LTD and a brown Monte Carlo were you?

21 A No, I wadn't surprised.

22 Q And you got there and you parked where, you parked behind
23 your car?

24 A I don't recall where I parked. I've been asked that
25 before. I don't recall exactly where I parked. I think I parked
26 behind the truck. The truck's backed in with the boat on it and

1 I pulled in right there so that when they left, they could pull
2 out.

3 Q Now the boat that we saw yesterday that's up underneath
4 the deck that was attached to the back of the pick-up truck?

5 A Right.

6 Q And there was still space going from the back of the
7 driveway, for both your pick-up truck and the Thunder Bird?

8 A Yeah, uh hum.

9 Q Then what car was right in front of the garage door?

10 A Gina's car.

11 Q And then over here was the LTD?

12 A No, it was sitting back--it's almost like when you are
13 getting ready to pull straight into the garage, I parked the LTD
14 in the grass this way.

15 Q Was the car _____ (inaudible, cough), backed in?

16 A I think it was pulled in so the trunk was, you know,
17 nearest the driveway.

18 Q Wait a minute, it's on the driveway?

19 A No, it's not. The Thunder Bird is on the driveway, part
20 on the driveway and part in the gravel.

21 Q The Monte Carlo is not parked in the driveway?

22 A The Monte Carlo was. The LTD was parked over in the grass.

23 Q Right, I'm asking you about the Monte Carlo. I said
24 brown car.

25 A O.k.

26 Q I confused both of us. I'm sorry.

1 A O.k. My car, the LTD is brown.

2 Q Yeah, I know. I'm sorry. The Monte Carlo was parked
3 on the driveway, basically in front of the garage?

4 A Uh hum.

5 Q With the front of the car closest the garage door?

6 A I have no idea which way that car was facing.

7 Q You can't remember _____ (Inaudible, noise).

8 A No.

9 Q Did you tell the police at any time which way it was?

10 A I told them I didn't know.

11 Q You haven't known since the day you saw it, which way
12 it was?

13 A No.

14 Q And you estimate that you arrived about 4:00 a.m., quarter
15 to 4:00 or 4:00?

16 A Uh hum.

17 Q You went through the garage?

18 A I went through the door right beside the garage.

19 Q And what, did you just open it?

20 A Yeah, it had to be because I didn't have the key.

21 Q You didn't knock first. You said you slammed the door
22 to announce your presence?

23 A Yeah, I just opened the door.

24 Q Pardon me?

25 A I just opened the door and slammed it.

26 Q Right, so you didn't knock first and then go through the

1 door--

2 A Uh hum.

3 Q You just merely slammed the door when you got in?

4 A Uh hum.

5 Q Did Robin follow you in?

6 A Yeah she was right behind me.

7 Q Coughed a couple of times (illustrates) and said, "Steve
8 I'm here," right?

9 A Uh hum.

10 Q No lights on anywhere?

11 A I think he--let me go back there. I think he was the
12 first one to say something. He said, "Bill is that you?"

13 Q O.k.

14 A And I said, "Yeah."

15 Q Said, "Bill is that you?"

16 A Uh hum.

17 Q Were there any lights on in the house whatsoever?

18 A No.

19 Q Not even a glow from the television set or anything?

20 A No, I turned the kitchen light on when I came in.

21 Q Was that before anybody said anything?

22 A I don't recall.

23 Q From your knowledge of the house could you tell where
24 this voice was coming from?

25 A Downstairs, basement.

26 Q Den, is that, I believe that's what you call it?

1 A We call it rec room. The room where the fireplace is
2 in the basement.

3 Q The fireplace and the tool room?

4 A Uh hum.

5 Q Bathroom and everything?

6 A Yeah.

7 Q You heard a voice. Can you tell me or tell the jury
8 where in that den, it's a very large room, that voice probably
9 came from?

10 A I was standing at the very top of the stair case where
11 it goes down. It seemed like Steve's voice was coming from
12 directly under me back where I couldn't see.

13 Q You were then looking into the den area through the
14 stair case?

15 A I was probably about two feet back. It wadn't like I
16 was trying to see down there.

17 Q Right, o.k. Now there was some light in the house,
18 was there not?

19 A Yeah, the kitchen light was on then.

20 Q But there was other light too; wasn't there a full moon
21 that night?

22 A I don't recall.

23 Q You don't recall seeing moon light?

24 A Huh uh.

25 Q You went down on the lake swimming and you don't recall
26 whether the moon was out?

1 A I sure don't.

2 Q Did you have the flood lights on you when you went down
3 there swimming?

4 A No, because I went out the back door. You turn those on
5 downstairs.

6 Q So you went swimming down on the lake at 4:00 o'clock in
7 the morning or so and you can't tell me whether the moon was
8 bright, not bright?

9 A That is correct.

10 Q You don't know whether it was a cloudy night or not?

11 A I don't know.

12 Q "Bill, is that you?" "Yeah, I got someone with me," is
13 what you said?

14 A Uh hum.

15 Q "And we're going swimming." "We are going swimming,"
16 is what you said referring to yourself and Robin?

17 A Right.

18 Q And Steve says, "We are leaving," referring to himself
19 and Gina?

20 A Uh hum.

21 Q Did Robin say anything?

22 A No.

23 Q So Steve didn't hear Robin say anything. Steve doesn't
24 know if Robin was there either?

25 A I don't know if he knew or not. I said, "We" I assume
26 he figured she was there.

1 Q You went in the bathroom there on the midlevel?

2 A Uh hum.

3 Q To get some towels?

4 A Yeah.

5 Q And then went out through that door next to the garage?

6 A Uh hum.

7 Q And out?

8 A Right.

9 Q When you were in the kitchen and in the bathroom, you
10 have a basement the length of the house on that midlevel?

11 A Right.

12 Q And I assume you got the light from the kitchen carried
13 you all the way to the bathroom and I assume you turned on the
14 light in the bathroom?

15 A Uh hum.

16 Q Was there anything out of place?

17 A I didn't notice, if there was.

18 Q You would notice if it had been?

19 A Probably so if it was something large. If it was some-
20 thing small I might not.

21 Q Well, I'm not talking about if somebody puts a bottom
22 magazine on the top.

23 A I mean if somebody picked the commode up and moved it,
24 I would have noticed.

25 Q And you went down to the water and you did not go in
26 swimming?

1 A No.

2 Q Dangle your feet in?

3 A I think so, yeah.

4 Q You were dressed I assume in the same clothes you had
5 gone to the Merriott in?

6 A Uh hum.

7 Q And you did not change once you got there?

8 A No.

9 Q You were wearing long pants?

10 A Long white bell bottom pants.

11 Q Dress code at the Merriott, right?

12 A Right.

13 Q No Crumby looking clothes, no jeans?

14 A Right.

15 Q Got to have shoes?

16 A Uh hum.

17 Q Did you take your shoes and socks off after you got down
18 to the dock?

19 A Yeah, I think so.

20 Q And maybe rolled up your pants and dangled your feet in
21 off the dock?

22 A Uh hum.

23 Q Robin, you said peeled her clothes because she had a
24 swimming suit on?

25 A Uh hum.

26 Q And then she went swimming?

1 A Right.

2 Q Now are we talking about swimming where you go swimming
3 out and back or are we talking about just getting in and splashing
4 around?

5 A She dove in and came back.

6 Q Was it still warm out?

7 A Yeah as far as I can remember.

8 Q How many towels did you pick up in the bathroom, Mr.
9 King?

10 A I think two.

11 Q Why?

12 A I didn't know if I was going in or not so I took two.
13 When I got down there I decided not to go in.

14 Q If you decided to go in swimming, I assume you would
15 have gone in then without a swimming suit?

16 A That's correct.

17 Q After Robin dove in and _____ (unintelligible) back
18 and you're facing the water, I assume?

19 A Uh hum.

20 Q Facing west?

21 A Facing up the lake. The dam's to the left. I'm looking
22 up this way.

23 Q And then behind/ ^{you/ew} directly behind you flood light or
24 flood lights come on, flick on and flick off?

25 A Uh hum.

26 Q And you heard a voice?

1 A Right.

2 Q Now did you look around when you heard the voice or did
3 you look around when you saw the lights?

4 A It was like they were, you know, pretty close together.

5 Q Twice?

6 A I don't know. They just flicked on, I think once. Just
7 flicked on and said, "Bill, we're leaving," so I looked back like
8 that (indicates).

9 Q That was said, you assume through a screen door?

10 A Probably not, probably through the sliding glass doors
11 was the only thing that was open.

12 Q And the light switch to those flood lights is in the mid-
13 level or lower level?

14 A Lower.

15 Q And those words were said to you from the lower level?

16 A Uh hum.

17 Q "We are leaving"?

18 A Uh hum.

19 Q Did you speak anything back, you said you glanced back.
20 Did you say anything?

21 A I said, "O.k., I'll see you later."

22 Q Did you ask him about the key?

23 A I don't recall if I did or not. I think I did tell him
24 to leave the door open, that's all.

25 Q "Leave the door open"?

26 A Uh hum.

1 Q And did Robin say anything?

2 A No. That was it.

3 Q Can you state that she said nothing?

4 A I can state I don't know.

5 Q To the best of your knowledge no one heard Robin say
6 anything at that juncture?

7 A (Nods head)

8 Q Can you at the dock hear a sliding glass door open or
9 close?

10 A No.

11 Q Was the picnic still going on down at the AEPCO picnic
12 grounds?

13 A No, it was over.

14 Q The party?

15 A It was over.

16 Q Was it fairly quiet?

17 A Uh hum.

18 Q I assume there was crickets and things like that but was
19 there noise from neighbors?

20 A No. There were a couple of people fishing.

21 Q Where were they fishing?

22 A They were in a boat out in the lake, probably 50 to 75
23 yards off.

24 Q Directly in front of your cabin?

25 A Uh hum.

26 Q You would not have heard a sliding glass door open?

1 A Probably not.

2 Q And you probably didn't hear a car start either?

3 A No.

4 Q A couple of minutes later you and Robin went on back up
5 to the house. I assume she used the towel or towels. Did she use
6 both of them?

7 A I don't know how many she used. She used at least one.

8 Q And you went in through the sliding glass door?

9 A It was open.

10 Q AT the lower level and that would be the right-hand of
11 the two as you are looking at the house?

12 A Right.

13 Q Coming back from the lake?

14 A Uh hum.

15 Q And the door that slides is the right hand of those two
16 panels?

17 A Well, there is three sections. The one that slides is in
18 the middle.

19 Q Oh., o.k. I assume there were no lights on in the house
20 at that point?

21 A No.

22 Q And you are stating under oath that you stepped in what
23 you thought was a wet spot in the carpet when you came back up
24 from the dock with Robin Robinson somewhere about 4:30 in the
25 morning Sunday?

26 A Uh hum.

1 Q Do you remember talking with me in the City of Radford
2 on November 6?

3 A I do.

4 Q Do you recall talking about this specific night?

5 A I do.

6 Q Do you recall talking about the wet spot?

7 A I do.

8 Q Do you remember telling me that you stepped in the wet
9 spot after the horse shoe game got started and you were there with
10 your son?

11 A I do.

12 Q Were you wrong then?

13 A I was.

14 Q What has changed your mind since November 6th?

15 A I just thought about it and remembered that when Robin
16 and I were downstairs I noticed it then. When we came in the door,
17 I pulled some cushions over. We were laying on them and I just
18 remember that my foot got in something wet.

19 Q When you went through the door with Robin I assume again
20 right behind you, what did she do with the towels?

21 A I really don't know.

22 Q Well, did she have them or did you have them?

23 A I would say they were probably left on the floor.

24 Q They would have been wet before they were deposited on
25 the floor?

26 A Probably one of them.

1 Q And what did you do in that room?

2 A We stayed there for about 15 minutes.

3 Q Where?

4 A In the rec room.

5 Q Well, you were talking about where the--

6 A Walked straight through the door and take about three

7 steps and we were right there on the floor.

8 Q Laying down on the floor?

9 A Right.

10 Q Doing what?

11 MR. SHOCKLEY: Objection, Your Honor.

12 THE COURT: Objection sustained.

13 Q I would like to know how close from where you were to

14 this spot that you are talking about. You and Miss Robinson were

15 on the floor.

16 A My foot was in it.

17 Q The whole time, the 15 minutes?

18 A I'd say probably I moved after I noticed it, probably

19 scooted away from it.

20 Q During that 15 minute period, how long did it take you to

21 notice your foot was in something wet?

22 A Sometime during there. I don't know.

23 Q All right, after the 15 minutes was up, what did you

24 do?

25 A Robin and I went upstairs to third level, my room.

26 Q Up the spiral stair case?

- 1 A Yeah, uh hum.
- 2 Q Through that door into the kitchen?
- 3 A Right.
- 4 Q And you went, I'm sure to that bathroom and got some
5 more towels?
- 6 A Uh hum.
- 7 Q Two again?
- 8 A No, I just got one. I wadn't going in.
- 9 Q Was Todd already in his bathing suit?
- 10 A I think so, yeah.
- 11 Q And how did you get down to the lake then?
- 12 A Went down the steps to the basement.
- 13 Q Down the spiral stair case?
- 14 A Uh hum.
- 15 Q And now you are in the den and this would be about noon
16 on Sunday?
- 17 A Uh hum.
- 18 Q Anything out of the ordinary?
- 19 A I noticed the spot again.
- 20 Q O.k. It was still wet?
- 21 A Uh hum.
- 22 Q Did you step in it again?
- 23 A It wadn't as wet. It was still damp.
- 24 Q Did you step in it again?
- 25 A Yeah, I had flipflops on. I remember kicking them off.
26 That's what I told you previously.

1 Q Right.

2 A I kicked them off at the bottom of the steps and walked
3 and noticed it again.

4 Q Did you ever look at your foot either the night before
5 or after you stepped in it on Sunday?

6 A No.

7 Q It never occurred to you?

8 A Huh um.

9 Q And anything out of the ordinary besides that that comes
10 to mind at all?

11 A I didn't notice it.

12 Q Books off the shelf, plants turned over?

13 A I didn't notice it.

14 Q How about the cushions?

15 A They were in the floor where I left them the night before.

16 Q Did you go out the sliding glass door and down to the
17 lake with your son?

18 A Uh hum.

19 Q He went in swimming?

20 A Right.

21 Q You did not?

22 A Right.

23 Q Did you get in the water at all?

24 A I think I waded in it at my knees.

25 Q Well, you were talking about being careful with Todd and
26 I wondered if you had to be in the water with him or whether you

1 just had to be near in case something happened.

2 A Well, like I say I was in up to my knees.

3 Q And 15 minutes later Steve arrived?

4 A Uh hum.

5 Q Did you hear the car rolling out in the gravel?

6 A No, I didn't hear him.

7 Q Did you hear a car door slam?

8 A Huh um.

9 Q You just first saw him, I assume you are looking out at
10 the lake at Todd?

11 A Yeah.

12 Q You had your back to the house?

13 A Uh hum.

14 Q When did you first see Steve?

15 A When he walked around the corner of the house.

16 Q Did you hear him and look around?

17 A No, I was, like the lake is here (indicates) and I'm
18 sitting--I'm on a different dock. I'm over at the boat launch.

19 Q Oh, o.k.

20 A And I'm sitting there looking out this way. We're al-
21 most directly toward the dam and I just, you know, I just saw him.

22 Q "Hello Steve"?

23 A Uh hum.

24 Q Anything different about him?

25 A (Shakes head).

26 Q Good ole Steve?

- 1 A Yeah.
- 2 Q The same person?
- 3 A Uh hum.
- 4 Q And he ambled on down to the dock?
- 5 A Uh hum.
- 6 Q Todd was still in the water?
- 7 A Right.
- 8 Q He spoke with you down there at the dock for 15 minutes?
- 9 A Approximately, yeah.
- 10 Q And Jan and Jimmy show up?
- 11 A Uh hum.
- 12 Q Did you hear their car?
- 13 A No.
- 14 Q Hear the doors slam or anything like that?
- 15 A Huh uh.
- 16 Q Did they just come around the side of the house?
- 17 A I saw them when they come around the side of the house.
- 18 Q Did they look any different?
- 19 A Huh um.
- 20 Q So there would have been five of you down at that dock,
21 Jan Fisher, Jimmy Curtis, Skip King, Steve Epperly and Todd?
- 22 A Right.
- 23 Q King?
- 24 A Uh hum.
- 25 Q Whose idea was horse shoes?
- 26 A I don't recall who. I may have suggested it. I don't

1 Q And what did you do in that room?

2 A We stayed there for about 15 minutes.

3 Q Where?

4 A In the rec room.

5 Q Well, you were talking about where the--

6 A Walked straight through the door and take about three
7 steps and we were right there on the floor.

8 Q Laying down on the floor?

9 A Right.

10 Q Doing what?

11 MR. SHOCKLEY: Objection, Your Honor.

12 THE COURT: Objection sustained.

13 Q I would like to know how close from where you were to
14 this spot that you are talking about. You and Miss Robinson were
15 on the floor.

16 A My foot was in it.

17 Q The whole time, the 15 minutes?

18 A I'd say probably I moved after I noticed it, probably
19 scooted away from it.

20 Q During that 15 minute period, how long did it take you to
21 notice your foot was in something wet?

22 A Sometime during there. I don't know.

23 Q All right, after the 15 minutes was up, what did you
24 do?

25 A Robin and I went upstairs to third level, my room.

26 Q Up the spiral stair case?

1 A Right.

2 Q All right, when you woke up at 9:00 a.m. was there any-
3 thing amiss in that room?

4 A You mean in which room?

5 Q The room that you woke up in?

6 A No.

7 Q Nothing was out of the ordinary?

8 A Huh um.

9 Q That would be a room that you definitely would know about
10 because that's your room?

11 A Well, like I said it would depend on what it was. If it
12 were small I might not notice it. To the best of my--

13 Q --Then Miss Robinson--Pardon me.

14 A To the best of my knowledge everything was o.k. though.

15 Q Then Miss Robinson woke up. You went down to the mid-
16 level?

17 A Uh hum.

18 Q Did you fix bacon and eggs and whatever?

19 A I asked her if she wanted something to eat and she said,
20 "No."

21 Q On midlevel you were in the kitchen?

22 A Uh hum.

23 Q Living room?

24 A No, just kitchen, just came down the steps and walked
25 into the kitchen.

26 Q --in the living room when you came off the steps?

1 A Uh hum.

2 Q Before you left the den area, did you notice anything
3 out of the ordinary, other than this supposedly wet spot?

4 A No, I did not.

5 Q You would have noticed it if something had been out of
6 the ordinary?

7 A I doubt it. The lights were off.

8 Q This experience with the wet spot didn't encourage you
9 to turn on a light to find out what it was?

10 A No.

11 Q Didn't want to take any moisture or whatever it was out
12 of the carpet at that time?

13 A Just figured it was water. I knew he had access to the
14 lake and everything if he wanted to go swimming. Mighta peeled his
15 clothes off and just let them lay there.

16 Q You probably had a towel there right near where you
17 were laying?

18 A Uh hum.

19 Q That's a whitish carpet, is it not?

20 A It's a green and off white.

21 Q It's light, stains easily?

22 A Depending what was on it.

23 Q Now you went up two flights of stairs through the spiral
24 stair case?

25 A Uh hum.

26 Q And that would have been what time, sir?

- 1 A I'd say 4:30, 4:35, 4:45, something like that.
- 2 Q You got up the next morning at 9:00 a.m.?
- 3 A Uh hum.
- 4 Q I assume Miss Robinson woke up about the same time?
- 5 A No, I got up first.
- 6 Q You were on the third level?
- 7 A Right.
- 8 Q Anything out of the ordinary up there?
- 9 A Huh um.
- 10 Q Which of the two rooms were you in--
- 11 A As you are facing the house from the lake, the one on
- 12 the right that's got orange carpet.
- 13 Q Is this Skipper's room or is that the guest room?
- 14 A Right.
- 15 Q That's your room?
- 16 A Uh hum.
- 17 Q Now when you woke up--I assume when you got up there
- 18 with Robin and I don't want to get into what happened, but I
- 19 assume you just merely got up there and pulled the sheets back and
- 20 went to bed?
- 21 A Uh hum.
- 22 Q You didn't sit up and talk in an easy chair or anything?
- 23 A No.
- 24 Q So the room would have been the same in the morning as
- 25 it had been when you entered it that previous night except that
- 26 the bed clothes would have been messed up?

- 1 A Uh hum.
- 2 Q You went through the dining room also?
- 3 A Well, just kinda, you've been up there. You just kinda
4 go around the corner and you are in the kitchen.
- 5 Q Did you see anything out of the ordinary in there?
- 6 A I didn't notice it.
- 7 Q And Robin didn't want any breakfast so you decided to
8 leave?
- 9 A Right.
- 10 Q And did you go out that door then to the car?
- 11 A Uh hum.
- 12 Q Sunday morning then before you got back with Todd, you
13 didn't go down into the den area?
- 14 A No, huh um.
- 15 Q When you left the house, did you walk around and make
16 sure all the doors were locked and the windows saure?
- 17 A I think the night, that night before we went upstairs
18 I locked the door. Then we went up so I didn't--I knew it was
19 locked so I didn't--
- 20 Q You locked the door in the den area?
- 21 A Right.
- 22 Q The sliding glass door?
- 23 A On the right.
- 24 Q O.k., and then you went straight up to bed?
- 25 A Uh hum.
- 26 Q You didn't bother to lock the door next to the garage?

1 A That door stays locked. We don't use that door.

2 Q This is the door you came in I'm talking about?

3 A The right door, o.k, yeah.

4 Q And you didn't lock that one?

5 A I did lock it.

6 Q When?

7 A I just told you before we went upstairs.

8 Q I thought you just told me you locked the sliding glass
9 door and went straight upstairs? All right, so you went out that
10 door then that's off the kitchen that's right next to the garage
11 and you went out and you got in what car that time?

12 A The Thunder Bird.

13 Q You took Robin home, you went to your grandmother's, you
14 picked up Todd and basically just made one big round trip, right?

15 A Uh hum.

16 Q To Blacksburg and back down to Radford and then back down
17 Hazel Hollow Road?

18 A Uh hum.

19 Q And you did that in an hour?

20 A We left after I woke up, we left about say 9:30, 10:00
21 o'clock, somewhere in there. I'd estimate I was back up there
22 somewhere around noon.

23 Q You stopped for lunch with Grandma?

24 A Uh hum.

25 Q And you and Todd got there. Did you go in the house
26 then?

1 know for sure.

2 Q Now that pit we all saw yesterday, that's a permanent
3 horse shoe pit?

4 A Uh hum.

5 Q It's been there for awhile, I assume?

6 A Yeah, it was there then.

7 Q And Skip, are the pegs always in there or do you have to
8 put them in?

9 A They stay in there.

10 Q So if someone said that on that day someone had to pound
11 those pegs in, they would be lying?

12 A Probably so.

13 Q As far as you are concerned?

14 A Uh hum.

15 Q The horse shoes themselves, were there four of them?

16 A Uh hum.

17 Q They are kept in the house in the utility room?

18 A Right.

19 Q Who went and got those?

20 A I think I did. I know I did.

21 Q Well, you did go in the house?

22 A Uh hum, at that time.

23 Q On direct testimony, Mr. King, you said, "Jan and Jimmy got
24 the horse shoes." Were you in error at that time?

25 A They went in with me. I actually picked them up.

26 Q And handed them to Jan and Jimmy?

1 A Uh hum.

2 Q So you could make a phone call?

3 A Yeah, uh hum.

4 Q Who did you call?

5 A I was trying to get in touch with a fellow. Like I say,
6 my stepfather was away. I was trying to get in touch with a friend
7 of mine that had a boat, thought he might come up and pull us be-
8 cause I don't usually take the boat out unless they're there.

9 Q Was that the only phone call you made that midmorning
10 or midafternoon?

11 A No, I think I called two or three people trying to get a
12 hold of this person and couldn't get him.

13 Q As a matter of fact you called someone when Steve was in
14 there getting a Coke, didn't you?

15 A No, not when he was getting a Coke. He just came in
16 there.

17 Q Where was Todd, when you went in to get the horse shoes?

18 A He came in there. At one time I was in there I think,
19 maybe, when I made the first phone call or so I had told Steve
20 to, if he would mind staying there in the water and watching Todd.
21 He said, no, he didn't mind and then they came up while I was
22 still up there making phone calls.

23 Q Steve came out with a Coke after he told you he was
24 going to go in and get a Coke?

25 A Uh hum.

26 Q Now Mr. King, did Jimmy go inside the house as far as

1 you know?

2 A Well, like I say, I'm pretty sure they went behind me
3 when I went in to get the horse shoes.

4 Q So they would have been in the den area?

5 A Uh hum.

6 Q Did you mention the pool of water to them or what you
7 perceived to be a pool of water?

8 A (Shakes head).

9 Q Did you mention it to Steve?

10 A Huh um.

11 Q Very odd though wasn't it for that house to have some-
12 thing like that out of the ordinary?

13 A No, I wouldn't say so.

14 Q You didn't mention it to the one person you knew had
15 been there?

16 A Huh um.

17 Q And yet you had just stepped in it a half hour before
18 you all went back up there?

19 A That's right. You go swimming and pull your clothes off
20 and lay them down, naturally there's going to be a wet spot if
21 you leave them there for long.

22 Q You see this wet spot--

23 A I didn't even look at it.

24 Q You stepped in it. You put your foot in it once when
25 you were laying down and you put your foot in it the next day during
26 the daylight and didn't even look down to see what you'd--

1 A That's correct.

2 Q You all played horse shoes for awhile. I'm sorry, you didn't
3 play horse shoes?

4 A Uh hum.

5 Q Jan, Jimmy and Steve played horse shoes?

6 A Right.

7 Q And what, did you and Todd watch or did you and Todd go
8 back to the water?

9 A Went back to the water.

10 Q How long was everybody there?

11 A I wouldn't say over two hours.

12 Q 1:30 or 2:00 you all left?

13 A Yeah.

14 Q Everybody pretty much left at the same time?

15 A No, Jimmy and Jan left first and I think Steve and I
16 left probably 15 or 20 minutes later.

17 Q And you left with Steve for what reason?

18 A He had a hole in his radiator and wanted me to follow
19 him back up the road.

20 Q You had no problem with that?

21 A Huh um.

22 Q As you were going, were you going back to Grandma's
23 house?

24 A Yeah I was going back to it.

25 Q You had no problem following him?

26 A No.

1 Q And you followed him--

2 A I don't know really if I followed him. He may have
3 followed me but we were together.

4 Q Went together so in case something happened to the radiator
5 you'd be able to bail him out?

6 A Uh hum.

7 Q You didn't see Steve the rest of Sunday?

8 A No, I don't think so.

9 Q You didn't see Steve Monday?

10 A I wouldn't say one way or the other whether I saw him
11 Sunday or Monday. I don't know for sure.

12 Q From the events of that night then you can't recall
13 whether you seen Steve or not on a specific occasion?

14 A Monday or Sunday.

15 Q _____ (Unintelligible) you seem to be a little fuzzy
16 and hazy _____ (inaudible, cough).

17 A The next time I'm positive I saw him was when I went and
18 picked him up at work.

19 Q Now Sunday he was the same person you had always known
20 him to be since you were 8 years old?

21 A Yeah.

22 Q Monday, if you saw him, was he any different?

23 A Well, like I say I don't know if I saw him.

24 Q I'll ask the same question about Tuesday. Now Tuesday
25 morning at 9:15, I suppose it was morning you said?

26 A Uh hum, a.m.

1 Q You had already been to the Weight Room?

2 A When I talked to him?

3 Q No, before 9:15?

4 A No, that's when I heard it on--

5 Q At 9:15 you were listening to K92 I think is what you
6 said.

7 A I'll say this way. I went to class, got out at 9:00
8 o'clock and was going to go to the Weight Room. On the way there
9 was when I heard on the radio.

10 Q And I believe you didn't recognize the name but they
11 described the clothes. How did they describe the clothes?

12 A They just mentioned that it was a white jump suit with
13 some kind of dark shirt and, you know, I pretty much recognized it.
14 I remember--

15 Q --Merriott _____ (unintelligible) car. Did they
16 describe the car?

17 A I don't know if they did or not. They might have. I
18 didn't pay any attention to that.

19 Q At that time you made up your mind that it concerned
20 you?

21 A Uh hum.

22 Q And so you went to see Steve at work. What time would you
23 say you got there or did you go to the Weight Room first?

24 A I went to the Weight Room before I went to him.

25 Q And so you hear this at 9:15 and you go to the Weight
26 Room. How long were you there?

1 A I was there a pretty good while.

2 Q Two hours?

3 A I'd say probably til about 11:00, 11:15, something like
4 that.

5 Q And apparently Jan was there?

6 A Yeah, uh hum.

7 Q Then you went on down to Steve's place of work, would
8 that be about noon?

9 A Uh hum.

10 Q Thought he should know about it?

11 A Yeah.

12 Q Because you had heard three hours earlier that, the in-
13 formation that was given and you knew that it concerned you?

14 A Uh huh.

15 Q Trooper Hall called, you--now let me go back. When you
16 were talking with Steve there at Radford, he mention to you that
17 Gina had a date at 6:00 in the morning?

18 A What?

19 MR. SHOCKLEY: Excuse me, Your Honor, this calls for hearsay.
20 It's double hearsay.

21 THE COURT: Restate your question, please.

22 MR. WARBURTON: Well, Your Honor, I don't believe I can to
23 get around, if you are sustaining the objection. I don't think I
24 can rephrase it.

25 THE COURT: I said restate it.

26 MR. WARBURTON: I'm sorry.

1 THE COURT: _____ (Unintelligible) exactly what the objection
2 is.

3 Q When Mr. Epperly was talking with you on Tuesday morning
4 at his place of employment, did he mention to you that Gina had
5 a date at 6:00 a.m. I'm referring to Sunday morning. That's my
6 question, Your Honor.

7 THE COURT: I overrule the objection.

8 Q Did Mr. Epperly state to you that Gina Hall had a date
9 at 6:00 in the morning on Sunday?

10 A I don't recall if he did or not.

11 Q Or any other time?

12 A At some later time he did.

13 Q Are you saying he did not tell you that on that Tuesday?

14 A I don't think he did, no.

15 I'm sure he didn't.

16 Q Tuesday at noon Gina Hall had been listed as missing by
17 the police for a couple of days. The cabin is involved, a friend
18 of yours you thought was involved. You had been at the Merriott
19 where she was alleged to have been and last seen. You called the
20 police for the first time on the second day of July?

21 A Wednesday, whatever that date was. I told Steve--

22 Q Wednesday, the 2nd of July, so it was from the 29th of
23 June to the 2nd day of July that you first got in contact with the
24 police, is that correct?

25 A Yeah.

26 Q Now on that particular day what time a day was it that

1 you talked to the police?

2 A It was about 10:00, 10:00 at night.

3 Q 10:00 at night?

4 A Uh hum.

5 Q And who did you call?

6 A I called Trooper Austin Hall.

7 Q Where were you when you called Austin Hall?

8 A I came to Steve's house to call.

9 Q Steve had asked you to get in touch with Austin Hall,
10 hadn't he?

11 A He had come up there. I was painting that day and he
12 come up there. He had already talked with them and said that
13 they wanted to talk with me and I said, "Fine."

14 Q So you first got in contact with the police after Steve
15 had talked with them and after you knew that Steve had talked with
16 them?

17 A Uh hum.

18 Q And Steve asked you to, did he not. That may not have
19 been the reason you did it, but indeed Steve did ask you to get
20 in touch with the State Police?

21 A Yeah.

22 Q As a matter of fact he told you to get in touch with
23 C. Austin Hall or C. A. Hall?

24 A Yeah.

25 Q Am I right that you wouldn't have known who was doing
26 the investigation, that is county authorities as opposed to state

1 police if you hadn't talked with Steve?

2 A Right.

3 Q And am I also correct when I say that you wouldn't know
4 whether to talk to Mike Church or Austin Hall or Tex Hall or any-
5 body else unless you heard it from Steve?

6 A Right.

7 Q Now you found that little thing you've described as a
8 necklace, bracelet or ankle bracelet?

9 A Uh hum.

10 Q Where did you find it?

11 A It was at the bottom of the steps. They had asked me
12 to go upstairs and get a trash bag for evidence, they wanted to
13 put some evidence in it and I said, "O.k." I was walking up the
14 stairs and they had already told me before to be on the lookout
15 for a necklace, bracelet, anklet or anything like that and we had
16 the lights on and I just remember right when I started up the
17 steps I saw something sparkle in the carpet and I put my hand
18 down and picked it up and said, "Hey, I found this."

19 Q That's shag carpet, right?

20 A Uh hum.

21 Q And this was right next to the stairway?

22 A Directly at the bottom, or as you come off the last step
23 of the stairway the necklace was right in front of it on--

24 Q It's in the _____ (unintelligible) there?

25 A Uh hum.

26 Q And that ankle bracelet has a single heart if I'm correct?

1 A Uh hum.

2 Q And it's--you gave it to someone, you don't really know--

3 A Uh hum.

4 Q It was a police officer you gave it to I assume. Oh no,
5 you said you thought you gave it to Mr. Shockley?

6 A It was either, it was some authority. I thought it was
7 him. It may not have been, somebody there.

8 Q And then after you were aware that Mr. Epperly was a
9 suspect in this disappearance, a police officer asked you to ask
10 Steve whether he killed Gina Hall?

11 A Someone asked me that.

12 Q You don't know who?

13 A Huh um, I don't remember.

14 Q Or exactly when?

15 A Sometime between Wednesday and Friday.

16 Q 2nd, 3rd or 4th of July?

17 A Uh hum.

18 Q Now on direct, you said it was Friday. You couldn't
19 remember the date. Could you explain to me and the jury why it
20 is that you wouldn't know when the 4th of July is?

21 A That was on Saturday, right?

22 Q No, it wasn't. It was on Friday.

23 A O.k. I guess I don't know when the 4th of July was.

24 Q Hadn't you and Jan and Jimmy and Steve talked about
25 possibly having a 4th of July party?

26 A We had.

1 Q Didn't you when you were talking about it, know what day
2 of the week it would be on?

3 A After what had happened I could care less.

4 Q Mr. Epperly said, "I don't know anything about it."?

5 A Uh hum.

6 Q You didn't think that was a denial?

7 A I didn't think anything. I just asked him.

8 Q And what did you do with that information? After you
9 left Steve's presence, did you indeed tell this police person
10 whoever that may have been--

11 A I did.

12 Q --what the fruits of your little discussion were?

13 A I did.

14 Q Now when Mr. Epperly asked you if you could remember
15 whether or not you heard Gina, of course, you didn't know whether
16 or not he had heard Robin, right?

17 A Uh hum.

18 Q He had already been to the police three times, am I
19 right?

20 A I don't know how many times he had been to them.

21 Q He had told you that he had been to the police so you
22 knew he had been at least once?

23 A Uh hum.

24 Q As a matter of fact this discussion, if it occurred at
25 all, happened after you had called Austin Hall?

26 A Right.

1 Q So you knew that he had been to the police already?

2 A Right.

3 Q And you first got in contact with the Virginia State
4 Police at Steve's insistence?

5 A Uh hum.

6 Q From Steve's house?

7 A Right.

8 Q From his sister's bedroom?

9 A Right.

10 Q On a private telephone?

11 A I don't know if it was private or not, on a telephone
12 in that room.

13 Q I assume you sought out this bedroom so you wouldn't be
14 down in the kitchen area?

15 A Well, I asked him if his parents knew about it then and
16 he said, "No", he hadn't told them. I asked him, I said, "Let's
17 go upstairs."

18 Q Mr. King, thank you very much.

19 MR. SHOCKLEY, Your Honor, I have some redirect. I don't
20 know if you want to break for lunch.

21 THE COURT: Well, let's--how long do you think it will take?

22 MR. SHOCKLEY: Five or ten minutes.

23 THE UCOURT: Well, let's go ahead and finish with this witness.

24 REDIRECT EXAMINATION

25 BY MR. SHOCKLEY:

26 Q Mr. King, prior to going to the Merriott with Mr. Epperly,

1 did you ever have any discussions as to what--

2 MR. WARBURTON: _____ (Unintelligible).

3 Q --did you ever have any discussions as to why you were
4 going there or what you were going to do there or anything like
5 that?

6 A No, not really, just that we were going over there.

7 Q Had women ever been mentioned in the context of going
8 to the Merriott?

9 A I think--I mean he was well aware that my parents were
10 not there and if he--you know, I knew he was living at home. If
11 he wanted to pick a date up and he needed a place to go, you know,
12 I had told him then that it's open to you if you want to go.

13 Q You had told that to him?

14 A Uh hum.

15 Q Prior to going to the Merriott?

16 A Yeah.

17 Q Is your cabin or your father-in-law and your mother's
18 place, residence where the jury took a view, is that located in
19 Pulaski County?

20 A It is.

21 Q Where--and you went to the defendant's home, is that
22 what you testified to or not?

23 A Yeah.

24 Q And where is that located exactly?

25 A Second Street, Radford.

26 Q Radford. How long had your parents been gone?

1 A I think they left on Friday. I won't swear to that,
2 but I think it was Friday.

3 Q Is that the day before you went to the Merriott?

4 A Uh hum, that morning, they left early that day, I think.

5 Q When you got to the Merriott, did you drink anything?

6 A Yeah, I had a couple of beers over there.

7 Q O.k., that's right. I remember you saying that now.

8 Do you know whether the defendant had anything to drink?

9 A He drank a pineapple juice.

10 Q Pineapple juice. Did he ever drink anything alcoholic
11 in nature?

12 A No, not that I saw.

13 Q Did the defendant ever tell you why he didn't drink any-
14 thingaalcoholic?

15 A He told me--

16 MR. WARBURTON: Your Honor, I'm going to have to ask for
17 approximate time this took place in context to this.

18 MR. SHOCKLEY: Your Honor, this is also something I would rather
19 bring up out of the context of the jury if I could, please.

20 THE COURT: Well, can you complete the rest of your examina-
21 tion or is this--

22 MR. SHOCKLEY: All right, sir.

23 THE COURT: And then we'll take that up during the luncheon
24 break.

25 Q How was the defendant dressed when you all went to the
26 Merriott?

1 A He had on slacks and a cotton shirt, collar buttoned a
2 couple of buttons here.

3 Q Neat attire?

4 A Uh hum.

5 Q Well groomed?

6 A Yeah.

7 Q Now I think Mr. Warburton asked you about the two towels
8 that were taken out of the bathroom and down to the lake with you
9 and Robin. I believe he asked you if you knew what Robin had done
10 with the towels. Do you recall what was ever done with those parti-
11 cular towels?

12 A No, I don't.

13 Q Where did you get it exactly?

14 A In the middle level bathroom.

15 Q Where?

16 A Well, there's kinda like a little door you push open
17 and they got a towel rack, you know, in there keep towels and wash
18 rags and stuff.

19 Q Would it be safe to call it a linen closet type thing?

20 A Yeah, uh hum.

21 Q Just for the record is this the man you know as Stephen
22 Epperly?

23 A It is.

24 Q Seated over here in the middle (indicating defense
25 table)?

26 A Uh hum.

1 Q Is he the one that went with you to the Merriott and
2 then you saw later at the cabin?

3 A Yes, sir.

4 Q You say that you never had occasion to look down at the
5 spot. Was there any particular reason for that, the wet spot I'm
6 talking about?

7 A Just like I say, it was wet, you know. It was understood
8 if he wanted to go in swimming, you know, there's the whole lake,
9 you go in there. I didn't know but what he hadn't just pulled
10 their clothes off or something and left them laying there and it
11 got wet you know. I just had no reason to look at it.

12 Q To your knowledge has anybody ever been injured in that
13 cabin so as to--

14 A No.

15 Q Passing of blood or anything of that nature?

16 A No.

17 Q Did you ever discuss with Steve after that night as to
18 any romancing that may have gone on between him and Gina Hall?

19 A I did.

20 Q Would you tell us what he told you, please.

21 A He just told me there was nothing special that went on,
22 you know; he made the statement, you know, a little fondling
23 through the clothes, that's it.

24 Q A little fondling through the clothes?

25 A Uh hum.

26 Q Did he elaborate, did he indicate whether or not he

1 made other advances?

2 A No. He had mentioned that he went in swimming but she
3 wouldn't, that's all.

4 MR. SHOCKLEY: Your Honor, the only other thing I have I again
5 would like to bring up--

6 THE COURT: All right.

7 RE CROSS EXAMINATION

8 BY MR. WARBURTON:

9 Q Mr. King, do you have something written on your hand?

10 A Yeah.

11 Q What is it?

12 A Do I need to tell him that?

13 Q I don't know what it is. Maybe, Mr. Shockley can look
14 at it.

15 THE COURT: What's the question?

16 MR. WARBURTON: I asked him if he had something written on the
17 inside of his hand.

18 THE COURT: Oh, you have a right to inquire.

19 Q What is it, Mr. King?

20 A (Pause).

21 MR. LOOKABILL: Well, you know--

22 THE COURT: Go ahead and answer it.

23 A I don't think it's any of his business, Your Honor.

24 THE COURT: Well, we'll have to find out.

25 MR. WARBURTON: I was going to ask, if Mr. Shockley would
26 look at it and vouch to me and the Court--

1 THE COURT: All right.

2 MR. SHOCKLEY: I have no idea what it is. I'll be glad to
3 look. (Reads writing) Oh, I don't think we want to talk about
4 that. You can read it yourself, Mr. Warburton.

5 THE COURT: You gentlemen look and let me know whether you
6 think it had anything to do with this case.

7 MR. SHOCKLEY: Would you like for him to read it?

8 MR. WARBURTON: No, sir. Thank you.

9 THE COURT: All right, is that all of this witness?

10 MR. SHOCKLEY: Yes, no, I've got the one matter--

11 THE COURT: You've got the one matter and we'll dispose of
12 that during the luncheon recess. I'll ask this witness to return
13 after the luncheon recess; and then we'll decide whether or not we
14 need to ask you a few more questions.

15 Members of the jury, of course, you recall the Court's admoni-
16 tion about discussing the case and letting anybody try to talk
17 about it to you or in your presence. Do not look at any newspapers
18 or listen to any radio or television during this or any other recess.

19 Sheriff, let's recess until, let's say 1:30. We'll try to
20 get back by 1:30.

21 (Thereupon Court was recessed for lunch and after a time pro-
22 ceedings were resumed in Chambers, with the Court, counsel and
23 the defendant being present, being redirect examination of Mr.
24 King out of presence of jury:)

25 BY MR. SHOCKLEY:

26 Q Mr. King,-- _____ (malfunction of recording

1 equipment) of alcohol to your knowledge?

2 A Uh hum.

3 Q I wanted to ask you if you were familiar with Mr.
4 Epperly's drinking habits?

5 A He never drank to the best I can remember. I mean at
6 one point he drank, but it's been four years since he's had a
7 drink, to the best of my knowledge.

8 Q Did Mr. Epperly at any time ever tell you why, he did
9 not drink?

10 A I don't think any real specific thing. I think probably
11 he realizes he's a little hype or something, maybe, if he had a
12 drink or something, he'd be more prone maybe to get in a fight or
13 something like that as anybody would.

14 Q That's what I'm asking you. That may be speculation on
15 your part. I wanted to know if he had ever expressed that to you,
16 those thoughts?

17 A I'd say so, sometime, you know.

18 THE COURT: Do you really remember, Mr. King or are you just
19 speculating that he probably told you.

20 A I don't remember--

21 (Here reporter informed Court that beginning of these pro-
22 ceedings were not recorded.)

23 THE COURT: All right, let's start over.

24 Q Mr. King, are you familiar with the drinking habits of
25 Mr. Epperly?

26 A Yes.

1 Q And tell us whether or not he drinks any to your know-
2 ledge?

3 A He does not and hasn't for the last four years.

4 Q And again my question to you is if you knew why, not a
5 guess, but if he had ever indicated to you, why he had never
6 drank?

7 A Just that there were a possibility that drinking you'd
8 be more apt to take less lip off somebody and maybe get in a
9 fight.

10 Q Had he ever expressed that to you?

11 A I would say so, yeah.

12 Q Do you recall any specific instances?

13 A No.

14 Q Can you say with great certainty or little certainty,
15 you know, how confident are you that he has at some time expressed
16 to you the notion that he'd better not drink because it might
17 cause him to get in a fight or something, however you said it?

18 A I wouldn't say 100 per cent, I'd say 75 per cent sure.
19 How else would I know it, you know.

20 THE COURT: All right, I expect this is a little too remote to
21 get into. I suppose you wanted my ruling on it in advance, didn't
22 you?

23 MR. SHOCKLEY: Yes, sir.

24 (The witness is allowed to depart.)

25 (Thereupon proceedings were resumed in the Courtroom with the
26 Court, jury, counsel and the defendant being present:)

1 ROBIN ROBINSON,
2 a witness called on behalf of the Commonwealth, after being first
3 duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. SHOCKLEY:

6 Q I want you to speak up now so that the jury can be sure
7 to hear everything that you have to say. Would you state your
8 name, please?

9 A Robin Robinson.

10 Q Miss Robinson, where do you live now?

11 A Salem, Virginia.

12 Q Do you know Bill King?

13 A Yes, I do.

14 Q Have you known him for some time?

15 A Yes, I have.

16 Q Did you happen to see Bill King on June 28th or 29th?

17 A Yes, I did.

18 Q Was that, what day of the week was that?

19 A I saw him on Saturday night, the 29th, I mean 28th, I
20 believe.

21 Q The 28th would be Saturday and the 29th Sunday. What
22 time did you see him, you know, that night?

23 A That night I saw him around 11:00 o'clock.

24 Q And where did you see him?

25 A At the Merriott in Blacksburg.

26 Q Did you leave with him?

- 1 A No, I didn't.
- 2 Q Did you see him at any time later?
- 3 A Yes, I did.
- 4 Q And when was that?
- 5 A About 3:15 on Sunday morning.
- 6 Q That would be the 29th?
- 7 A Yes, sir.
- 8 Q And where did you see him?
- 9 A He came by and picked me up at my apartment.
- 10 Q And did he indicate to you where, what he wanted to do?
- 11 A He asked me to go in swimming out the lake.
- 12 Q Where on the lake?
- 13 A At his parents' home.
- 14 Q Had you ever been there before?
- 15 A Yes, I have.
- 16 Q And did you in fact go there?
- 17 A That night?
- 18 Q Uh hum.
- 19 A Yes, I did.
- 20 Q Do you know the defendant, Mr. Epperly?
- 21 A No, I don't.
- 22 Q Had you seen him at the Merriott?
- 23 A No, I didn't see him at the Merriott.
- 24 Q When you got to the Davis home, tell us how you got in-
- 25 side, please.
- 26 A O.k., we walked in through the garage and then through

1 the kitchen.

2 Q And did you at any time see Mr. Epperly?

3 A Yes, I did.

4 Q And tell me where you were in the house and where Mr.
5 Epperly was.

6 A I was standing at the spiral staircase looking down into
7 the rec room and he was coming from the direction of the utility
8 room from the left.

9 Q Did you see him come out of the utility room or just
10 from that direction?

11 A From that direction.

12 Q Did you notice whether or not the door was opened or
13 closed that leads into the utility room?

14 A I didn't notice.

15 Q Can you tell me how Mr. Epperly was dressed?

16 A He didn't have a shirt on and he had a pair of slacks on.

17 Q Did you notice whether or not he had any shoes on?

18 A No, I didn't.

19 Q Did he have anything in his hand?

20 A Had a towel.

21 Q Do you know what color that towel was?

22 A I think it was blue.

23 Q Do you or would you be able to identify that towel if you
24 saw it?

25 A No.

26 Q Just a blue towel and he had it in his hand?

1 A (Nods head).

2 Q Can you tell me what, if anything, Mr. Epperly was doing
3 with that blue towel?

4 A He was wiping himself off.

5 Q Where?

6 A Around his shoulders.

7 Q Anything else?

8 A No.

9 Q Do you recall any conversation between Bill King and
10 Mr. Epperly?

11 A Bill just yelled down that we were going down to the
12 lake, and that was it.

13 Q Do you recall anything that Mr. Epperly may have said?

14 A He said, "O.k., we're getting ready to leave."

15 Q Did you see Gina Hall?

16 A No, I did not.

17 Q Have you ever seen Gina Hall?

18 A No, I have not.

19 Q At no time in your life?

20 A No.

21 Q So you would not have recognized her that night?

22 A No, sir.

23 Q Did you hear any female voice?

24 A No, sir.

25 Q Did you see any female?

26 A No, sir.

1 Q Did you see anyone in the house other than Stephen
2 Epperly?

3 A No, sir.

4 Q And approximately again what time was it that you got at
5 the house?

6 A 4:00 o'clock.

7 Q How can you be sure of that?

8 A I saw a clock when we walked in.

9 Q A clock in the Davis home?

10 A It was in the kitchen, uh hum.

11 Q And what did you do after you saw Mr. Epperly and he had
12 a few words with Mr. King, what did you and Mr. King do?

13 A We went out around the side of the house down to the
14 lake to go swimming.

15 Q How did you get back out of the house to go to the lake?

16 A We went back out through the kitchen door and through
17 the garage.

18 Q Then around the house and _____ (inaudible, cough)?

19 A Uh hum.

20 Q Did you go swimming?

21 A Yes, I did.

22 Q And do you know how long you were down there at the lake?

23 A I'd say at the most maybe 15 or 20 minutes.

24 Q Did you see Mr. Epperly at any other time?

25 A Yes, I did. He came to the sliding doors that were
26 facing the lake and I saw him in the light.

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Q Saw what?

A Saw him in the light through the doors because the

lights were on in the rec room.

Q And what did he do or say or whatever?

A Well, I saw him and Bill, he said he was getting ready

to leave, and Bill just yelled up to tell him to leave the door

unlocked so he could get in that way.

Q Do you recall exactly what Mr. Epperly said as he was

leaving?

A No, I don't.

Q Can you summarize what he said?

A He, all he said is they were leaving.

Q At that time did you see any female figures?

A No, sir.

Q Did you hear any female voices?

A No, sir.

Q Did you, can you tell the jury how Mr. Epperly left

there?

A I can't be sure but I believe he walked around--

MR. WARBURTON: I'll object, Your Honor; if she can't be sure

she's guessing and I don't think the jury has a right to hear that.

MR. SHOCKLEY: Judge, I think the evidence is perfectly ad-

missible for the weight, whatever weight the jury may assign to

it. She can be, you know, subject to cross examination.

THE COURT: All right, now what was the question again?

MR. SHOCKLEY: My question to her was did she see Mr. Epperly

1 leave and if so, what manner of, how he left, what, you know,
2 direction he took when he left.

3 THE COURT: All right and she started to answer and you inter-
4 rupted and what--

5 A I said I can't be sure but--

6 THE COURT: All right, I'll permit the answer and members of
7 the jury you'll give the answer such weight as you think it's
8 entitled to.

9 Q Go ahead and answer the question.

10 A O.k., I believe he left to the side of the house, came
11 out the sliding doors and went up to, it would be on my right
12 looking up from the lake.

13 Q Are you talking about the same sidewalk that you used
14 to get down to the lake?

15 A Yes, uh hum.

16 Q Did you notice any cars in the driveway that you were not
17 familiar with?

18 A Yes, when we pulled up there was a brown car. I believe
19 it was a Grand Prix or a Chevy.

20 Q Do you know the next morning whether that car was there?

21 A That car was not there the next morning.

22 Q Did you ever see how the car got away from the house?

23 A No, I did not.

24 Q When did you learn of Gina Hall's disappearance?

25 A The following Thursday morning.

26 Q Did Mr. Epperly ever say anything to you?

1 A No, sir.

2 Q Were you just a bystander to the conversation he had
3 with Mr. King?

4 A Yes, sir.

5 Q How long were you in the house before you left to go out
6 to the lake?

7 A Not more than five minutes.

8 Q Miss Robinson do you wear ankle bracelets?

9 A No, sir.

10 Q Do you own any?

11 A No, sir.

12 Q Have you ever seen this one before?

13 A No, sir.

14 MR. SHOCKLEY: Your Honor, I refer to Commonwealth's Exhibit
15 No. 10.

16 Q You have not seen that any time?

17 A No, sir.'

18 Q How did you and Bill King get back into the house when
19 you came up from the lake?

20 A Through the sliding doors.

21 Q And were the lights on or off when you went in yourself?

22 A When we went in, I believe the lights were off.

23 Q Do you recall stepping in anything yourself on the carpet?

24 A No, sir.

25 Q Do you know whether or not Bill did?

26 A Yes, he did.

1 Q And how do you know that he did?

2 A Because he made a comment. He said, "It's wet here,"
3 and that was it.

4 Q At approximately what time was that that he said, "It's
5 wet here"?

6 A I'd say between 4:30 and 5:00.

7 Q What time did you leave the house the next day?

8 A Around 1000 o'clock.

9 Q Did Bill take you home?

10 A Yes, he did.

11 Q Do you recall which direction the car was pointed in in
12 the driveway, I'm talking about the Chevrolet Monte Carlo.

13 A Headlights were straight forward. It was straight
14 forward.

15 Q Facing the house?

16 A Uh hum.

17 Q All right, answer these gentlemen's questions, please.

18 CROSS EXAMINATION

19 BY MR. WARBURTON:

20 Q Miss Robinson, I believe you said you live in Salem,
21 Virginia, now?

22 A Yes, I do.

23 Q And what is your occupation?

24 A I'm currently working at Stewart-McGuire as a clerk in
the mail room.

25 Q You lived in the City of Blacksburg, is that correct?

26 A Yes, sir.

- 1 Q When did you move?
- 2 A I moved in August, the middle of August, around the
3 14th.
- 4 Q And this apartment that you had, were you the only
5 occupant?
- 6 A No, I had another roommate.
- 7 Q And is she there?
- 8 A No, she is in Fairfax, Virginia now.
- 9 Q That's at Terrace View Apartments, is that right?
- 10 A Uh hum.
- 11 Q Now you say that you knew Bill King. Does your friend-
12 ship go back a few years or a few months?
- 13 A A few years.
- 14 Q Did you speak to him at the Merriott?
- 15 A That night, yes.
- 16 Q Did you have some conversation?
- 17 A Just "Hi."
- 18 Q You didn't mention perhaps getting together later?
- 19 A No, I did not.
- 20 Q You were there with friends?
- 21 A Uh hum.
- 22 Q Or were you there on a date?
- 23 A No, I was with friends.
- 24 Q What time did you leave the Merriott?
- 25 A 12:00 o'clock.
- 26 Q Do you know what time the Merriott closes?

1 A Approximately, the last drinks are served at 1:30 and
2 they close at 2:00.

3 Q The last call is at 1:30?

4 A Uh hum.

5 Q And then they ask you to leave at 2:00 o'clock?

6 A Uh hum.

7 Q Did you dance that night?

8 A Yes, I did.

9 Q Are you a pretty good dancer?

10 A Yes.

11 Q Now you said that you had never met Gina Hall?

12 A Huh uh.

13 Q You didn't know her that night; you've never met her,
14 never seen anything, I assume, more than a photograph?

15 A That's all.

16 Q And you can't tell us whether she was even at the
17 Merriott?

18 A No, I can't.

19 Q Was Steve at the Merriott that night?

20 A I did not see Steve either.

21 Q You don't know?

22 A No, huh um.

23 Q My understanding is that Mr. King looked down from the
24 apartment that he was in and saw lights on in your apartment?

25 A Uh hum.

26 Q The apartment he was in, is that of a young lady named

1 Morris, who lived there?

2 A I don't know her name.

3 Q Mr. King called you on the telephone?

4 A Uh hum.

5 Q And said, "Hi, I'm in the same apartment complex. Would
6 you like to go to the lake to go swimming"?

7 A Uh hum.

8 Q You apparently replied, "Yes. Give me a moment. I'll
9 put on my bathing suit"?

10 A Uh hum.

11 Q Then what did you have on over your bathing suit?

12 A Oh, I had on a terry cloth pullover.

13 Q Was that a warm night or a chilly night, do you know?

14 A It was a warm night.

15 Q Despite the fact that it was 3:00 or 4:00 in the morning
16 it was warm enough to--

17 A It was warm, uh hum.

18 Q That's probably why you were up at that hour, right,
19 couldn't get to sleep?

20 A (Unintelligible).

21 Q How about the moon. Do you remember whether there was
22 a full moon or not?

23 A There was a moon, uh hum. I don't know if it was full
24 or not, but there was a moon.

25 Q A circular moon?

26 A I don't recall.

1 Q Let me ask you this, when you ended up swimming, there
2 was light across the lake, wasn't there?

3 A Uh hum.

4 Q What kind of car did Bill have?

5 A That night he was driving a green Thunder Bird.

6 Q He drove from the Merriott--I'm sorry--from Terrace
7 View to the house on the lake?

8 A Uh hum.

9 Q You had been there you said several times. How many
10 times?

11 A I've not been there several times. I've been out there,
12 I've never been in the house. I've been out there once or twice.

13 Q You had never been in the house before?

14 A Never been in the house before, huh uh.

15 Q Now I guess I am confused about what door you went in
16 when you arrived there.

17 A When we arrived, o.k.

18 Q First, if you can take me--did you have anything to
19 drink by the way?

20 A I had two drinks at the Merriott and that was it.

21 Q That would have been prior to midnight?

22 A Yes, uh hum.

23 Q And there was a party or something going on in your
24 apartment?

25 A No, I had friends. They were from out of town.

26 Q Just sitting around talking?

1 A Uh hum, we were just talking.

2 Q You arrived and you turned down a gravel road toward the
3 cabin?

4 A Uh hum.

5 Q And the front of the cabin would be there and the lake
6 is behind it. Where were the cars?

7 A O.k., Bill's LTD was out on the street. Out, not in the
8 driveway but parked to the left and then as we pulled in on our
9 left there was the brown car and after the brown car there was
10 the boat and we were to the right of those two.

11 Q So in the driveway after you got out of the thunder Bird,
12 would have been the Thunder Bird, the brown Monte Carlo and the
13 boat?

14 A Uh hum.

15 Q Is that all?

16 A Yes, sir, that's all I recall.

17 Q You mentioned the garage and you mentioned the door that
18 you went in. Did you go into the garage and follow through a door
19 between the garage and the house or did you go in the door that's
20 on _____ (inaudible, cough).

21 A No, we went into the garage and took a quick right in
22 through the kitchen door.

23 Q O.k., the garage door up or down when you got there?

24 A No, there's a door that opens.

25 Q O.k., that's what I'm asking you, there's a door on the
26 front of the house that takes you to the garage?

1 A Well, no the garage, the door opens into the garage.

2 Q That's what I'm talking about.

3 A Yeah, there's a lifting garage door and there's also a
4 door that opens--

5 Q Right next to the garage door?

6 A Uh hum, that's the one we went into.

7 Q So if you opened that door, you're in the garage?

8 A Yeah, right.

9 Q And then you take another door into the kitchen?

10 A Uh hum.

11 Q And that's the route that you took?

12 A Uh hum.

13 Q Did that door just open?

14 A I don't recall.

15 Q Do you specifically recall Mr. King using a key?

16 A Yes, I do.

17 Q Did he use a key to get in?

18 A Yes, he did.

19 Q This is when you came from your apartment to the cabin,
20 the first time that you had ever been in that cabin, Mr. King used
21 a key to get in, and you specifically remember that?

22 A I remember him fumbling with some keys, yes.

23 Q Can you--and I want you to think very carefully--can you
24 think back to that moment as he fumbled with the key, did he put
25 a key in that lock?

26 A I cannot remember him doing that precise act, no.

1 Q Your best recollection though is that he used the key
2 to get into the house?

3 A Yes, it is.

4 Q Do you remember him putting something back into his
5 pocket after you got into the garage or into the kitchen?

6 A No.

7 Q Were there any lights on in the house that you could
8 see from the outside on the front of the house?

9 A The kitchen lights were on when we went in.

10 Q The kitchen light was on when you went in?

11 A Uh hum.

12 Q Was this before Bill used the key in the lock?

13 A Uh hum.

14 Q The kitchen light was definitely on so if Mr. King said
15 that he turned on the light after you got there, he would have been
16 in error, am I correct?

17 A I guess. I believe the lights were on, yes.

18 Q You got inside the kitchen?

19 A Uh hum.

20 Q And you are, and I don't know how much you know about
21 the house, you were on the midlevel of the house, correct?

22 A Uh hum.

23 Q Now where did you go from the kitchen?

24 A Into the living room.

25 Q And that would have been in the area of the spiral
26 staircase?

1 A Yes.

2 Q And you followed Bill into the living room?

3 A Uh hum.

4 Q Both of you were standing near the spiral staircase?

5 A Uh hum.

6 Q And Bill had slammed the door, is that right?

7 A I don't remember, no.

8 Q What is your recollection about the door, _____

9 (unintelligible) slammed it?

10 A Well, if he slammed it I wasn't aware of the fact.

11 Q Would you have been if he slammed it?

12 A Maybe not, I wasn't paying any attention to it.

13 Q You got over to the spiral stair case. Who spoke first?

14 A Bill did.

15 Q And said, "Steve, we're here"?

16 A Yeah.

17 Q He said, "We are here"?

18 A Uh hum.

19 Q And you assume he meant Robin Robinson and Skip King?

20 A Yeah.

21 Q Did you speak?

22 A No, I didn't.

23 Q Steve's reply is "O.k., we are leaving", correct?
ready

24 A "We are getting/to leave," uh huh.

25 Q And you didn't hear the other half of the "we" that he
26 referred to either did you?

1 A Nope.

2 Q Did Mr. King look down at about the angle you did into
3 the den?

4 A No, he didn't.

5 Q Was he looking down there at all?

6 A He was looking down there but from where he was stand-
7 ing, he was standing at a different angle than I was.

8 Q Any lights on downstairs?

9 A Uh hum.

10 Q The lights were on?

11 A Lights were on in the rec room when we looked down.

12 Q Your impression, did you see them being turned on?

13 A No. huh um.

14 Q Your impression was that they were al--

15 A They were already on.

16 Q And as you looked across the living room there were
17 no lights on in there?

18 A Not in the living room.

19 Q In the kitchen though. Could you see the light coming
20 up the hole there where where the stair case was as soon as you
21 looked in that direction?

22 A No, I just walked, when we walked over there I saw
23 the lights when I looked down.

24 Q Bright lights, subdued lights?

25 A Regular lights that you'd expect in a rec room.

26 Q And Mr. Epperly was between the spiral staircase and

1 the utility room?

2 A Uh hum.

3 Q Without a shirt on rubbing his, what, chest?

4 A No, his shoulders.

5 Q Rubbing his shoulders?

6 A Uh hum, wiping his shoulders off.

7 Q Did he have it more like behind his neck?

8 A No, he was just wiping it like this (indicates).

9 Q And Mr. King represented to Steve that you and he were
10 going down to the lake?

11 A Uh hum.

12 Q Now after Bill King said, "We are going to the lake,"
13 did you say anything?

14 A No, I didn't.

15 Q What did you do right then as soon as Mr. King said, "We
16 are going down to the lake"?

17 A Bill went back and got some towels and then we walked
18 out, went back out the kitchen door.

19 Q Some towels?

20 A Uh hum.

21 Q Three, a dozen, one?

22 A I don't know.

23 Q Two?

24 A I guess two because we were both going to go swimming.

25 Q Mr. King said he was going swimming?

26 A He said he was, yes.

1 Q You walked back through the kitchen. Did you stand back
2 next to the spiral staircase while Mr. King went back to--

3 A Huh um.

4 Q Where were you?

5 A I walked a little bit over towards the diningroom and
6 then walked in the kitchen waiting for Bill.

7 Q And you went back through the door between the kitchen
8 and the garage and then the garage to the outside and around?

9 A Uh hum.

10 Q The only other direct route or actually more direct
11 route down to the lake would have been to go down the spiral stair-
12 case and out?

13 A Uh hum.

14 Q But you didn't want to bother the two people down there?

15 A I suppose. I was just following Bill.

16 Q What about the outside, were the floodlights on?

17 A I don't recall.

18 Q Was there enough light from the moon that you could see
19 the dock and the water and swim safely?

20 A Uh hum.

21 Q When did you take off your terry cloth jump suit?

22 A When we got down to the dock.

23 Q And kicked off your shoes?

24 A I didn't have any shoes on at that time.

25 Q All the way from your apartment?

26 A No, I left them in the house.

1 it still on?

2 A I couldn't tell from that point.

3 Q You got to the dock, you took off your terry cloth jump
4 suit and started wading in?

5 A No, I dived in.

6 Q So you dove in. Did you swim?

7 A Uh hum.

8 Q Out and swim back?

9 A Uh hum.

10 Q And got out of the water and that was it?

11 A Got out of the water, uh hum.

12 Q When did Bill tell you he wasn't going in?

13 A As soon as I dove in.

14 Q Did he at any time get in the water in any way?

15 A No, he didn't.

16 Q He didn't even put his feet in?

17 A Nope.

18 Q Did he sit on the dock and dangle his feet in the water?

19 A Nope, said the water was too cold.

20 Q Was it cold?

21 A I thought it was nice.

22 Q You got out of the water, presumably upset with Mr. King
23 for having gotten you in the water and not going in himself?

24 A Yeah.

25 Q And you picked up one of the towels?

26 A He put a towel over my shoulder.

1 Q Did you use--was there another towel after he did that?

2 A I don't remember.

3 Q Did you use a--more than just the one towel? I mean did
4 you use one for your body and one for your hair for example?

5 A No, except the one on my shoulders.

6 Q And you both were standing on the dock when you saw some
7 lights flick?

8 A No, we weren't standing. We were sitting on the dock
9 talking when I saw lights flick.

10 Q Which way were you facing?

11 A We were facing out to the right side of the dock.

12 Q You were sitting on the right-hand side of the dock?

13 A All right, we were sitting on the side, right-hand side
14 of the dock looking that way.

15 Q If you are looking at the lake, you were sitting on the
16 right-hand side of the dock?

17 A Uh hum.

18 Q You were sitting on the right-hand side of the dock--

19 A Just--

20 Q Really away from your house?

21 A Uh hum.

22 Q Did you hear a voice first or did you see lights first?

23 A No, I looked up and saw Stee at the door.

24 Q What is it that made you--

25 A Well, we were sitting--I could see it in the side of
26 my eye. I could see the lights and I just happened to glance up
there.

1 Q I'm sorry, I'm a little confused. Which of the two
2 docks are we talking about?

3 A The diving platform.

4 Q If you are standing at the back porch, looking at the
5 two docks is it the one on the left?

6 A No, if you are looking down on the lake, it's the one on
7 the right.

8 Q O.k., the two docks if you are looking directly to the
9 lake, it would be the right-hand one and you were on the outside
10 of that?

11 A Uh hum.

12 Q Looking that way?

13 A O.k., if you walked down from the house, o.k., walked down
14 from the house, the diving platform's behind the house. O.k., if
15 I were to look up at the house, standing directly looking at the
16 house, I was not on my right side, I was on my left side if I was
17 facing the house.

18 Q Let's try it one more time. If this back here was the
19 house--

20 A Uh hum.

21 Q And this is the lake--There are two docks right?

22 A Uh hum.

23 Q Which one of these two were you on. The house is right
24 there. The lake is back there.

25 A On the right one.

26 Q Which one of these, these are the docks, the tables?

1 A O.k., we were on this diving platform (indicates).

2 Q You were on this one?

3 A Uh hum.

4 Q And you were on that side where those gentlemen are
5 sitting?

6 A Uh hum.

7 Q The sliding glass door on the house is back here.

8 A Wait a minute we were directly--I don't understand what
9 you are saying. We were, I don't know of another diving platform.
10 To me there was only that one that was to the left side of the house
11 going down to it. It was almost directly down from the sliding
12 doors.

13 Q Out of the corner of your eye you saw Steve standing at
14 the door?

15 A Uh huh.

16 Q Lights on behind him?

17 A Uh hum.

18 Q Did you just see, you know, like a figure in the door,
19 or did you see his face?

20 A I saw his face.

21 Q Dressed?

22 A Yes.

23 Q Shoes?

24 A I couldn't see his shoes from that distance.

25 Q Had a shirt and pants on?

26 A Yes.

- 1 Q Did he flick the lights?
- 2 A I don't recall.
- 3 Q YOU don't recall--
- 4 A No.
- 5 Q --flood lights being on or off?
- 6 A No.
- 7 Q Did he say anything?
- 8 A I don't recall. I just remember Bill was yelling up to
- 9 him and saying not to lock the doors because we wanted to get in
- 10 that way.
- 11 Q "Hey, Steve don't lock the doors"?
- 12 A Uh hum.
- 13 Q "Don't lock that door"?
- 14 A Yeah, don't lock that door because, so we could get in
- 15 that way.
- 16 Q Did Mr. King say anything about a key?
- 17 A I don't recall.
- 18 Q I take it from what you are saying this was an extremely
- 19 short conversation?
- 20 A Yes.
- 21 Q Couldn't have had more than two or three things in it?
- 22 A Huh uh.
- 23 Q And you remember one of them and you can't tell me what the
- 24 rest of it was about?
- 25 A I wasn't really paying that much attention to it.
- 26 Q Did you hear Steve Epperly at that point?

1 A No.

2 Q Are you saying he didn't say anything or are you saying
3 you didn't hear it if he did?

4 A I didn't hear it if he did.

5 Q Was there a pause and then Bill said something else?

6 A No, all I recall is Bill saying that one statement.

7 Q How long had you been looking at Steve Epperly standing in
8 that doorway?

9 A Not more than 30 seconds.

10 Q Did you see him go out the door?

11 A I'm not sure.

12 Q Did you hear the sliding doors slide?

13 A No.

14 Q YOU don't know how or how many people left that house?

15 A No.

16 Q Did you hear a car door or two car doors or anything
17 slam?

18 A No, sir.

19 Q Did you hear a motor start?

20 A No, sir.

21 Q Did you hear gravel?

22 A No, sir.

23 Q How long was it from that point til when you went back
24 in the cabin?

25 A Not more than 15 or 20 minutes.

26 Q You and Mr. King discuss Mr. Epperly at that point?

A No, sir.

1 Q And Mr. King was dressed how?

2 A Bill was fully--no, I don't remember how he was dressed.
3 I don't know if he went back and put shorts on or not. I don't
4 remember. No, I do--

5 Q How was he dressed--

6 A O.k., no I do remember. I just remember. O.k. he had--
7 he had what he had on at the Marriott on.

8 Q What was that?

9 A He had a pair of white slacks on and I don't remember the
10 shirt.

11 Q Shoes?

12 A I don't remember.

13 Q As you went around the side of the house on the garage
14 side and down towards the water as you passed the corner of the
15 house where the sliding glass doors are to the den, did you glance
16 back?

17 A No, I didn't.

18 Q Do you know whether the lights were still on?

19 A No.

20 Q When you got down to the water, you admit you can see
21 the house?

22 A Uh hum.

23 Q Did you at any time look back up at that house?

24 A Yes, because lights were on when we were on the dock.
25 The recreation lights were on.

26 Q Those lights were on. How about the kitchen lights, was

1 Q When you got back up to the cabin, you went through that
2 sliding glass door, that Bill asked Steve to leave open and Steve
3 left open?

4 A Yes, sir.

5 Q Lights on?

6 A I'm not sure. I don't recall.

7 Q You've been sure about each other set of lights and
8 whether they were on or not. Why are you not sure about those?

9 A I don't recall.

10 Q That would have been the first time you had ever been in
11 that den?

12 A Yes, uh hum.

13 Q Were there lights on at some point?

14 A No, not that night, huh uh.

15 Q Well then are you stating that the lights were not on
16 when you got back up to the cabin?

17 A I don't remember the situation that well, whether the
18 lights were on or the lights were off

19 Q Did you see the den that evening or that early morning,
20 I guess?

21 A Yes.

22 Q How was it that you saw the den. Were there lights on
23 inside or was the moonlight perhaps bright enough or did you have a
24 flashlight?

25 A I don't know there was the reflection of some type of
26 light in there. I saw, I recall it was like a dusky color.

1 Q Could it have been the kitchen light coming down through
2 the spiral staircase?

3 A It may have been.

4 Q But you don't know where the light was coming from?

5 A No, I don't recall.

6 Q Once you got inside the house, what happened next?

7 A Bill and I laid down on some cushions.

8 Q Were the cushions already there?

9 A Yes, they were.

10 Q As soon as you walked in they were already there?

11 A Yes, uh hum.

12 Q Without getting into detail, the two of you reclined to-
13 gether on the cushions?

14 A Yes.

15 Q Were you holding each other?

16 MR. SHOCKLEY: Your Honor, this is all totally irrelevant.

17 MR. WARBURTON: It won't be if we can get into the matter that
18 Mr. Shockley brought up about what happened _____ (inaudible,
19 cough) at that point, Your Honor.

20 THE COURT: Well, go ahead.

21 Q Were you holding each other?

22 A Yes.

23 Q Did Mr. King at any point tell you that his foot had
24 hit something wet while you were laying down?

25 A No, that happened before we laid down.

26 Q Mr. King stated to you, "It's wet here," is that correct?

1 A Yes.

2 Q That happened before you laid down?

3 A Uh hum.

4 Q Do you know whether or not Mr. King had shoes on at that
5 point?

6 A He must not have if it felt wet.

7 Q Do you know whether he had shoes on at that point or not?

8 A I don't know.

9 Q Did he turn on a light to find out what he stepped in?

10 A No, he didn't.

11 Q Did he look at his foot to see what he had stepped in?

12 A No, he didn't.

13 Q Did he ask you to look at it?

14 A No, he didn't.

15 Q After you had gone through that and whatever else may
16 have occurred in the den downstairs, what did you do next?

17 A We went upstairs and went to sleep.

18 Q That would have been up one floor or up two floors?

19 A Up two floors.

20 Q Can you give me an approximate time for that please.

21 A 5:15 or so.

22 Q Was it dark out or light out at 5:15, if that's your
23 recollection?

24 A It was still dark, getting a little light. It was starting
25 to get a little light.

26 Q What time on Sunday morning did you wake up?

- 1 A I woke at approximately 9:30.
- 2 Q Did you wake up alone?
- 3 A Yes, I did.
- 4 Q What did you do when you woke up?
- 5 A I went downstairs and straightened things up.
- 6 Q You came down the two flights of stairs?
- 7 A (Nods head), uh hum.
- 8 Q Was Mr. King in the rec room when you arrived?
- 9 A No, he wasn't he was still asleep.
- 10 Q You got out of bed at 9:30?
- 11 A Uh hum, I don't know it might have been earlier.
- 12 Q --were you in the bed with Mr. King?
- 13 A No he was on the floor and I was in the bed.
- 14 Q And you got up at 9:30.
- 15 A Uh hum.
- 16 Q Mr. King was asleep on the floor next to you?
- 17 A Yes.
- 18 Q Or next to that bed?
- 19 A Yes, next to the bed, uh huh.
- 20 Q You got up and either walked over him or around him?
- 21 A I went around him, yes.
- 22 Q And went downstairs?
- 23 A Uh hum.
- 24 Q And you went down to the rec room?
- 25 A Uh hum.
- 26 Q And you cleaned up?

1 told him it was time, what time he was and he said we had to get
2 going.

3 Q And you woke Bill King up and then you left within ten
4 minutes?

5 A Uh hum or so, around there, yes.

6 Q Now you cleaned up the rec room?

7 A Uh hum.

8 Q Was there anything out of place besides the clothes or
9 cushions?

10 A No.

11 Q Think. Now I realize that that was the first time you
12 had ever been there, but did anything look out of place?

13 A No, it didn't.

14 Q Do you know whether the sliding glass doors were closed?

15 A Yes.

16 Q They were?

17 A Yes, they were closed.

18 Q Locked, do you know?

19 A I don't know.

20 Q Did Bill check that before you went upstairs?

21 A I don't recall.

22 Q Did he check the door that goes between the garage and
23 the kitchen. You would have noticed that because he would have
24 taken a detour after you got up one flight of stairs?

25 A No, I don't think he did. No, I don't think he did,
26 uh uh. We went straight upstairs.

1 Q He didn't check that?

2 A Huh uh.

3 Q So you descended from the third floor to the bottom
4 floor?

5 A Uh hum.

6 Q And then you went back upstairs to wake Mr. King up.
7 You went through the second floor to the third floor?

8 A Uh hum.

9 Q Now on any floor in that house did anything look out of
10 place in the morning at 9:30 to 10:00 o'clock?

11 A No, it didn't.

12 Q Not a thing?

13 A Nothing.

14 Q Did you use any of the three or four bathrooms in that
15 house?

16 A Yes, I did.

17 Q Which ones if there was more than one.

18 A I used the one in the middle level, and I used the one
19 upstairs level.

20 Q Now the one on the midlevel has the black fixtures?

21 A No.

22 Q No, where is that one?

23 A That one's down in the rec room.

24 Q O.k. the one on the den level has the black sink and the
25 black toilet?

26 A Uh hum.

1 Q And all that?

2 A I believe so, yes.

3 Q It's located directly underneath the bathroom that's on
4 the midlevel?

5 A Uh hum.

6 Q You used the one on the midlevel and you used the one
7 that's upstairs where there's just two bedrooms and one bath?

8 A Uh hum.

9 Q Anything unusual?

10 A No, sir.

11 Q This towel that you saw Steve drying himself off with,
12 did you see that?

13 A Laying around, no.

14 Q Did you go in the utility room?

15 A No, I did not.

16 Q Do you know whether the door was open or closed?

17 A I don't recall.

18 Q Bill presents himself after waking up. You decide to
19 leave?

20 A Uh huh.

21 Q It's almost 10:00 o'clock in the morning?

22 A Uh huh.

23 Q Which door did you go out?

24 A Kitchen door.

25 Q To the area in the garage and then out?

26 A Uh hum.

1 Q Did Bill check the doors then?

2 A I guess he checked it to see if it was locked. I'm not
3 sure.

4 Q The sliding doors, did he ever go down in the den before
5 you left after he got up?

6 A I don't remember. He could have. I don't remember.

7 Q Did he say anything to you in the kitchen?

8 A No, huh um.

9 Q Offer you breakfast?

10 A He asked me if I wanted something to drink and that was
11 it.

12 Q You went out. To the best of your knowledge did he check
13 any of the sliding glass doors to see if they were locked before
14 you left at 10:00 a.m. on Sunday morning?

15 A I don't--

16 Q He did not?

17 A I don't remember him doing it, no.

18 Q When you got up there then to the front of the house,
19 what was in the driveway?

20 A The boat and the Thunder Bird.

21 Q And that is all?

22 A That's all.

23 Q --was in the driveway?

24 A Uh hum.

25 Q And Bill's car was parked up in the gravel or on the
26 grass?

1 A The LTD?

2 Q Yes, that's the one I'm talking about.

3 A That was parked up on the gravel, to the right.

4 Q Right, o.k.

5 A Uh hum.

6 Q But in the driveway on that concrete platform there was
7 a boat and a Thunder Bird?

8 A Uh hum.

9 Q Nothing else?

10 A That was it.

11 Q You are positive?

12 A I'm positive.

13 Q You got in the Thunder Bird?

14 A Uh hum.

15 Q Took off, Bill drove you out Hazel Hollow Road, 11--

16 A Uh hum.

17 Q 114, Price's Fork?

18 A Uh hum.

19 Q Terrace View?

20 A Right.

21 Q And you would have gotten home--

22 A Around 11:00 o'clock.

23 Q An hour later?

24 A Uh hum.

25 Q Did you stop anywhere along the way?

26 A No, we didn't.

1 something vaguely on Sunday morning. He said something about he
2 couldn't find the keys.

3 Q Would you recognize either key chain that he had?

4 A No.

5 Q _____ (Inaudible, cough) keys on it?

6 A No, huh um.

7 Q You just know that he was fumbling with some keys?

8 A Uh hum.

9 Q Now when you come into the house, you say that the
10 kitchen light was on. Again, are you sure of that or do you have
11 any doubts about that. How is your position on that?

12 A I'm fairly sure they were on. I don't remember him
13 turning them on.

14 Q What does "Fairly sure" mean?

15 A To the best of my recollection.

16 Q Is it possible that you are mistaken?

17 A Yes, it could be.

18 Q Is it also possible that you are mistaken as to the den
19 lights?

20 A No, the den lights were on.

21 Q They were certainly on?

22 A They were on, yes, sir.

23 Q Are you mistaken about seeing Stephen Epperly?

24 A No, sir.

25 Q Are you mistaken about seeing him with a towel?

26 A No, sir.

1 Q Are you possibly mistaken about whether he had a shirt
2 on or not?

3 A I'm positive he didn't have a shirt on.

4 Q Now the dock you talked about going down to and diving
5 off of and sitting on later, is that dock on the Davis property.
6 I'm not sure where their property lines are. To the best of your
7 knowledge was it on the Davis property?

8 A To the best of my knowledge. The dock is directly down from
9 the sliding doors.

10 Q In other words if you walked out the sliding doors, and
11 walked right down straight to the lake, you'd run into the dock?

12 A Uh hum.

13 Q There are some docks, I believe off to the right-hand side?

14 A Way down to the right.

15 Q Way down?

16 A Uh hum.

17 Q What were you talking about the right and left-hand dock.

18 A Well, you see, I don't understand what he was saying. I
19 was only aware of one dock when I was down there.

20 Q That's the one down at the edge of the lake on the Davis
21 property?

22 A Uh hum.

23 Q You say you dove in the water and then sat on the right-
24 hand side and when you were sitting on the right-hand side, would you
25 then have been looking towards those other boat docks I just men-
26 tioned to you?

1 A Yes, sir.

2 Q And again what caught your eye or your ear to cause you
3 to turn around back to the house?

4 A I don't remember--I saw a reflection or something out of
5 the corner of my eye and just glanced up and then I said, to Bill,
6 I said, "There's Steve at the door."

7 Q Was the person you saw at the door the same person that
8 you had seen over the railing and down in the den?

9 A Yes, sir.

10 Q Now, Mr. Warburton asked you a question something to the
11 effect, "So you don't know how many people may have left?" or
12 something like that. How many did you see leave?

13 A I believe I saw just Steve leave at those back doors.

14 Q Did you see anybody else?

15 A No, sir.

16 Q As to Bill checking the doors, at anytime whether it was that
17 night before you all went to bed or before he left the next morning,
18 do you specifically recall seeing him doing it at anytime?

19 A No, I don't.

20 Q Would it be possible, let me ask you this, was Bill King
21 in your sight all that night?

22 A No, sir. When he went to get the towels, I didn't see
23 where he went to get the towels.

24 Q Is it possible, that's my question--

25 A Is it possible?

26 Q Do you know whether he could have gone and checked ten

1 doors or each one three times or something and you never have seen
2 him.

3 A Yes, it's possible.

4 Q It's possible as well that maybe he didn't do it?

5 A Uh hum.

6 Q You just don't know?

7 A I don't know.

8 MR. LOOKABILL: Mr. Shockley is cross examining his own witness.
9 I object to that.

10 THE COURT: All right. I sustain the objection.

11 Q Now as to the towel that you said Mr. Epperly had wiping
12 his shoulders with, you testified earlier that you would not be
13 able to identify it, is that correct?

14 A No, I, I--it was blue. I couldn't identify it though
15 even at that.

16 Q Well, when you came back into the house from the lake, did
17 you see any towel anywhere in the house that resembled the one that
18 he had in his hand?

19 A No, sir.

20 Q Is this gentleman seated in the middle over here the man
21 that you saw that night down in the rec room and then _____
22 (unintelligible) down at the sliding glass doors?

23 A Yes, sir.

24 Q That's all the questions I have.

25 RE-CROSS EXAMINATION

26 BY MR. WARBURTON:

1 Q Miss Robinson a couple of questions that Mr. Shockley's
2 reopened again.

3 A Uh hum.

4 Q Regarding this towel, what happened to the towels that
5 you and Mr. King used down at the, well, that you and Mr. King took
6 down to the dock and you used one of them, what happened to those?

7 A I don't know.

8 Q You have no idea. You brought one with you back up
9 from the lake?

10 A Uh hum.

11 Q Wrapped around you?

12 A Around my shoulders, yeah.

13 Q What happened?

14 A I don't know. Probably just dropped in the floor. Bill
15 could have taken it back and put it in the bathroom. I don't
16 know.

17 Q When you got up the next morning and tidied up down
18 there, looking for towels, right, did you find one?

19 A I don't remember seeing any towel, no.

20 Q Did you find one or two?

21 A I don't remember seeing any towels whatsoever.

22 Q Did you look in the downstairs bathroom?

23 A I went back there but I don't remember seeing any towels.
24 I wasn't looking for them.

25 Q Vanished?

26 A No, I just wasn't looking for them. They may have been

1 A Uh hum.

2 Q What do you mean by "clean up"?

3 A I just picked up his pants and put them over a chair and
4 straightened things up a little bit. It wasn't that messy.

5 Q It's a very neat house, is it not?

6 A Yes, it is.

7 Q The only thing out of place then would have been some
8 clothing and perhaps those cushions?

9 A Uh hum.

10 Q Did you move those cushions?

11 A No, I didn't.

12 Q Did you look to see where this infamous wet spot was?

13 A No, I didn't.

14 Q Didn't occur to you to look or--

15 A It did not occur to me to look.

16 Q What color is the carpet there?

17 A I can't recall.

18 Q Light or dark?

19 A It was light, I believe.

20 Q At 9:30 you woke up and came down two flights of stairs
21 and cleaned up and when did Mr. King present himself?

22 A I went back upstairs around ten til and got him up.

23 Q Ten til 10:00 a.m.?

24 A Uh hum, he was awake.

25 Q And you, well, was he awake or did you wake him up?

26 A He was awake. He was half asleep and half awake and I

1 Q You went directly there and it took you an hour?

2 A Uh hum.

3 Q Did Bill say "Good bye"? Did he tell you where he was
4 going?

5 A To pick up his son, Todd.

6 Q So far as you know that's what he did?

7 A Uh hum.

8 Q Have you ever been up there again?

9 A No, I haven't.

10 REDIRECT EXAMINATION

11 BY MR. SHOCKLEY:

12 Q Miss Robinson, you've testified that Bill King used a key
13 to get into the garage door when you got there. Are you sure of
14 that or--

15 A No, I'm not sure. I know that he was fumbling with some
16 keys but I'm not sure he used a key to get into that door.

17 Q And who had driven the car from your apartment to the
18 cabin?

19 A Bill.

20 Q Did you see him stick keys in the ignition and start the
21 car to drive there?

22 A Uh hum.

23 Q Do you recall whether or not he took those keys out of his
24 pocket when he got to the house, I mean, excuse me, took them out
25 of the ignition?

26 A Out of the ignition? I believe he did, yes. I remember

1 something vaguely on Sunday morning. He said something about he
2 couldn't find the keys.

3 Q Would you recognize either key chain that he had?

4 A No.

5 Q _____ (Inaudible, cough) keys on it?

6 A No, huh um.

7 Q You just know that he was fumbling with some keys?

8 A Uh hum.

9 Q Now when you come into the house, you say that the
10 kitchen light was on. Again, are you sure of that or do you have
11 any doubts about that. How is your position on that?

12 A I'm fairly sure they were on. I don't remember him
13 turning them on.

14 Q What does "Fairly sure" mean?

15 A To the best of my recollection.

16 Q Is it possible that you are mistaken?

17 A Yes, it could be.

18 Q Is it also possible that you are mistaken as to the den
19 lights?

20 A No, the den lights were on.

21 Q They were certainly on?

22 A They were on, yes, sir.

23 Q Are you mistaken about seeing Stephen Epperly?

24 A No, sir.

25 Q Are you mistaken about seeing him with a towel?

26 A No, sir.

1 there. I might not have noticed them.

2 (The witness stands aside and leaves
3 the courtroom.)

4 LLOYD MATTHEWS,
5 a witness called on behalf of the Commonwealth, after being first
6 duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. SHOCKLEY:

9 Q State your name if you would, please.

10 A Lloyd Matthews.

11 Q Mr. Matthews, how are you employed?

12 A I'm a selfemployed land surveyor.

13 Q And where do you have an office?

14 A Dublin, Virginia.

15 Q How long have you been a surveyor?

16 A I've been a registered surveyor for 30 years.

17 Q What's a registered surveyor?

18 A A registered surveyor is one who is certified by the
19 state to make land surveys in the state.

20 Q Do you do a lot of surveying?

21 A Yes, I do.

22 Q Do you have any idea how many surveys you've made in
23 your life?

24 MR. LOOKABILL: Mr. Shockley, we'll be glad to stipulate the
25 qualifications. I am very familiar with Mr. Matthews.

26 MR. SHOCKLEY: Yeah, I guess you are.

1 Q Mr. Matthews, I just want to ask you if at my request
2 and the request of some of the law enforcement officers, you had
3 prepared a survey of the Hazel Hollow Road area, showing the rail-
4 road trestle, Memorial Bridge and things of this nature?

5 A I made a map; I drew a map of the area and the process
6 I used was to trace it from a U.S. geological survey map of a
7 smaller scale and had it enlarged.

8 Q Is this map pretty well to scale?

9 A Yes, it is.

10 Q Would you show the jury please exactly what you have
11 prepared?

12 A The map covers an area from about a mile or so south of
13 Claytor Dam.

14 Q Can you show me where the dam is on that please.

15 A The dam is right here (indicates). It's southwestward
16 about two miles towards Dublin, northward about a mile above the
17 New River Bridge, that's the bridge on Route 11, and eastward
18 about three or four miles _____ (unintelligible) the City of
19 Radford, and part of Pulaski.

20 Q Do you know where Mr. Ronald Davis maintains his residence
21 in Pulaski County?

22 A Yes, I do.

23 Q Would you show me where that is located on the map?

24 A At this point (indicates).

25 Q The jury has been there, of course, to see this, but I'd
26 like for them to see where it is on the map. Did you make a notation

1 on there? A We have a--

2 A Did you have any type of legend--

3 A --a small figure on there to show, a letter H, no a

4 letter A shows the Davis house.

5 Q Now where is Hazel Hollow Road. First of all what is

6 the route number for that--

7 A Hazel Hollow Road is 626 running from _____ (unintelligible)

8 on 611 to U.S. Route 11.

9 Q So it would go from G to--

10 A R.

11 Q R. Now this, of course, is New River, is that correct?

12 A Yes, sir.

13 Q What is this right here, Mr. Mathews?

14 A This is the New River Bridge.

15 Q Is this Pulaski County?

16 A Right.

17 Q And the City of Radford. And where is the railroad

18 trestle?

19 A The railroad trestle is at this point (indicates).

20 Q And do you have marked on here where the defendant

21 lives?

22 A I have a point that shows the intersection of 2nd Street

23 and _____ (unintelligible) Street.

24 Q Is that a--

25 A _____ (unintelligible).

26

1 Q _____ (Unintelligible) You've designated that down here
2 as intersection of 2nd and Wirt Street?

3 A Right.

4 Q Is there anything else that you can tell us about this
5 particular map that you feel should be pointed out.

6 A A geological map that's accurate is scaled one inch
7 equals a 100 feet.

8 Q Is this map on the back, is that something else?

9 A It's just a copy of this one.

10 Q O.k., that's what I thought.

11 A Should be torn off.

12 Q You can leave it on there. It's perfectly all right with
13 us. That's all the questions I'm going to have of him.

14 CROSS EXAMINATION

15 BY MR. LOOKABILL:

16 Q All right, Mr. Matthews you indicated you got this, or
17 reproduced this map from a geological survey. What was the date
18 of that map?

19 A 1970.

20 Q Who did that?

21 A The U. S. Government does it, the U. S. Geological
22 Survey.

23 Q Where is that map kept?

24 A I have copies of it. They can be ordered from Washington
25 or you can buy them at Virginia Tech, and various places in the
26 state.

1 Q Is that a photographic map?

2 A They are made from photographs and some ground surveys.

3 Q And that scale is one inch equals a 100 feet?

4 A The scale of the map that I used of the inches was 2000
5 feet, which is a fourth of this size. When you blow it up to double
6 it increases the size of the map by fours.

7 Q Are the things still in the exact same proportion as
8 they would be otherwise, as they are in actuality?

9 A Well, except maybe you would have a railroad shown here
10 and naturally I used a designation of a cross mark as ties, naturally
11 wouldn't be--

12 Q Well, I understand that--

13 A Railroad ties and things like that, pretty well accurate
14 and pretty well to scale.

15 Q So far as the scale proportion between various items on
16 here, these specific items that Mr. Shockley asked you about is that
17 in proportion?

18 A Yes, sir.

19 Q When was this prepared, sir?

20 A It was prepared December the 1st. It's not on there,
21 but I'll put in on there.

22 Q December 1st, you recall that being the date?

23 A Well, you know around that, 1st, 2nd, it took several days.

24 Q And at whose request did you prepare this map?

25 A Officer, Trooper Austin Hall contacted me.

26 Q Of the Virginia State Police?

1 A Yes, sir.

2 Q Thank you, Mr. Matthews.

3 MR. SHOCKLEY: Your Honor, we would offer this map into
4 evidence at this point as an exhibit.

5 THE COURT: All right, it will be Exhibit 11, I believe.

6 MR. SHOCKLEY: Yes, sir, and I anticipate that this map will
7 be used in later testimony.

8 THE COURT: All right.

9 MR. MATTHEWS: Sir, could I observe the trial for the rest of
10 the trial?

11 THE COURT: Are we through, there would be no objection to
12 Mr. Matthews staying in the courtroom.

13 MR. SHOCKLEY: I don't think so. I don't anticipate having
14 to recall him or anything.

15 MR. WARBURTON: Of course, we have no objection to him staying
16 at the trial but that would foreclose Mr. Shockley from calling
17 him as a witness in this case. That's fine if that's Mr. Shockley's--

18 THE COURT: Well, I was hoping you would waive that as to a
19 professional witness such as this, but anyway if you are willing
20 to run that risk Mr. Shockley, it is perfectly--

21 MR. SHOCKLEY: I don't think there is any need--

22 THE COURT: All right Mr. Matthews you are excused and you may
23 remain in the courtroom.

24 (The witness is excused and stands
25 aside.)

26 MR. SHOCKLEY: Your Honor, I'd like to position this so that

1 its' easy for the jury to see and not block our view of the wit-
2 nesses.

3 THE COURT: The only place I know to put it is over to the
4 side here. Move your table back up to where it was.

5 F. W. DUFFY, JR.,

6 a witness called on behalf of the Commonwealth, after being first
7 duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. SHOCKLEY:

10 Q Your Honor, Mr. Duffy will need to testify on some
11 evidential matters later on in this trial but I'd like for him to
12 testify now just as to some photographs that we have and recall
13 him at a later time.

14 THE COURT: May I get your name, please, sir.

15 A F. W. Duffy, Jr.

16 THE COURT: Duffy?

17 A Duffy, Daf-f-y.

18 Q State your name, please.

19 A F. W. Duffy, Jr.

20 Q And I take it by your uniform, Mr. Duffy, that you are
21 employed with the Virginia State police?

22 A Yes, sir, I am a sergeant with the Virginia State Police.

23 Q How long have you been with the Virginia State Police?

24 A Just a little over ten years.

25 Q And are you employed in Pulaski County?

26 A Yes, sir, I am.

1 Q Stationed in Pulaski County?

2 A Yes, sir.

3 Q Now I'd like to ask you if at anytime during this in-
4 vestigation you had occasion to be up in the air looking for
5 Gina Hall?

6 A Yes, sir, I have.

7 Q Would you relate to me the date and under what circum-
8 stances?

9 A Let me think a little bit.

10 Q O.k.

11 A This was--I'm not sure of the date but it was a Thursday
12 after the young lady was--

13 Q Disappeared?

14 A Disappeared.

15 Q That would be July the 3rd. I believe we've all established
16 that July 4th was a Friday.

17 A It was Thursday, which would be July the 3rd. I had the
18 occasion to fly in the State Police helicopter which was approximately
19 an hour and a half and numerous times we did pass over Radford and
20 the general vicinity of where the car was found and the Claytor
21 Lake Dam area, all up and down New River.

22 Q How far--I don't know in which direction it would be, but
23 how far I guess in a westerly direction did you go along New River?

24 A Going toward--

25 Q Towards West Virginia?

26 A O.k., we went back I'd say almost into Giles County.

1 Q And how far away from that towards the dam area?

2 A We went back over the lake area past the dam.

3 Q Well, maybe you could on this map, if you would come
4 over here just a second and show us on this map. Are you familiar
5 with this map at all?

6 A No, sir, I am not.

7 Q O.k., can you briefly look at it and get your bearings?

8 A Yes.

9 Q Now if you will--let me get out of your way--just to
10 point out to the jury maybe the flight of your helicopter or what
11 areas were covered by the helicopter.

12 A O.k. the helicopter covered an area from here (indicates)
13 which would be back in the lake area. This is where the Davis
14 house is located in the general vicinity here (indicates). The
15 helicopter went back as far as this on the lake. The helicopter
16 traveled the whole route of the river. It would be on back further
17 than the map here shows.

18 Q All right, sir.

19 A This is the Radford area and we flew over this.

20 Q Do you know how many times the helicopter went here and
21 back and here. Do you know how many times?

22 A 15 or 20 times, numerous times.

23 Q Well, my ultimate question to you Mr. Duffy is do you
24 feel that you can identify what Radford looks like from the air?

25 A Yes, sir.

26 Q And the Hazel Hollow Road area?

1 A Yes, sir.

2 Q And the dam area?

3 A Yes, sir.

4 Q And if you were shown a photograph of this _____
5 (unintelligible, cough) from the air, would you be able to identify
6 it?

7 A Yes, sir.

8 Q All right, I have a photograph here I'd like for you to
9 look at. Mr. Duffy, can you come over here--

10 MR. LOOKABILL: Your Honor, I'd like some foundation for this
11 map before we go to comparing maps and drawings.

12 MR. SHOCKLEY: This is a photograph of the Radford area and
13 Mr. Duffy, Mr. Duffy has flown over the area.

14 MR. LOOKABILL: Your Honor, if Mr. Shockley--

15 THE COURT: They want to know who made this photograph and
16 where it came from.

17 MR. SHOCKLEY: Well, I don't know that that question can ever
18 be answered because the photograph came from the City Manager's
19 Officer in Radford and they obtained the photographs from the High-
20 way Department, I believe, in Richmond, and it's the type of thing
21 that there's possibly no records--

22 THE COURT: Well, if you avow that this came from the City Mana-
23 ger's office in Radford and was kept by them as part of their
24 official records, I think that's satisfactory.

25 MR. SHOCKLEY: Yes, sir, you know, that's where we got the
26 map. _____ (Unintelligible) Again Mr. Duffy, I feel can

1 look at this and give an opinion as to whether or not the photograph
2 is accurate. I think that's all that's required under the law.

3 THE COURT: All right, you may proceed.

4 MR. LOOKABILL: Your Honor, we won't object to not having
5 the witness, you know, who presented this to Mr. Shockley.

6 MR. SHOCKLEY: Well, it was not presented to me. It came to
7 me through Agent Wilmore. Now he is here and if you want, I'll
8 be glad to call somebody City Management Office and they can--

9 MR. LOOKABILL: I just wanted to know where it came from.
10 That's what we didn't know.

11 MR. SHOCKLEY: All I'm saying is that if you want somebody
12 from the City Manager's Office here, I'll get them here. I'll

13 MR. LOOKABILL: I'll stipulate that.

14 Q Again Mr. Duffy, I just wanted you to look at this and
15 tell me in your opinion it portrays the City of Radford accurately
16 and the Hazel Hollow Road area and the highway structure and so forth?

17 A Yes, sir.

18 Q Can you--

19 A I can identify certain points if you wish me to.

20 Q Yes, I'd like for you to.

21 THE COURT: Wait just one minute, gentlemen.

22 (At this point the microphones were adjusted for better pick-
23 up of voices).

24 THE COURT: All right, now you may proceed.

25 MR. SHOCKLEY: O.k., first of all can all the members of the
26 jury see. I know some of you are at some distance.

1 THE COURT: If any of you would like to move up closer, you
2 may do so.

3 Q Go ahead Sergeant.

4 A I'll start here. This is Claytor Lake (indicates.)
5 This is the dam. This is Interstate 81 here. This is Exit 34.
6 It's going on back into Radford. Here is Memorial Bridge. This
7 is the trestle that goes across New River and this is Hazel Hollow
8 Road running down here. We go back over here and connects with
9 another road and then runs back then, back under the interstate.
10 This goes out to the area of the Davis residence which is located
11 on the lake, Memorial Bridge. This is the foundry here. I live
12 in Radford. This is the house I live in.

13 MR. SHOCKLEY: (To Mr. Lookabill) Do you have any questions
14 about that?

15 CROSS EXAMINATION

16 BY MR. LOOKABILL:

17 Q Do you know when this map was made, Sgt. Duffy?

18 A No, sir, I have no idea.

19 Q Has anything to your knowledge changed in this picture
20 since, any items in the city or otherwise changed since this map
21 was made?

22 A I don't know. I know it is a fairly recent photograph.
23 This is the shopping center (indicates), New River Shopping Center.
24 You got Kroger's here. This is McDonald's. McDonald's hasn't
25 been up that long.

26 Q This is Interstate 81 up here?

1 A Yes, sir, this is Interstate 81. This is Exit 34.

2 MR. SHOCKLEY: Your Honor, at this point we'd offer this into
3 evidence as our next exhibit. Quite frankly, I'm not sure what
4 roll this particular photograph will play but I wanted to have it
5 here for more detail than the drawing that Mr. Matthews has and
6 I have a section of this that is enlarged that I'll get Mr. Duffy
7 to comment on in just a minute. So it might be best if we just
8 roll this up and keep the other one exposed.

9 THE COURT: All right, just roll this one then, and offer the
10 other one.

11 REDIRECT EXAMINATION

12 BY MR. SHOCKLEY:

13 Q Now Sergeant I want to ask you a few questions about
14 this. Do you recognize what's shown in this photograph?

15 A Yes, sir this is Radford here (indicates), the Foundry,
16 Lynchburg Foundry in Radford. This is the trestle crossing New
17 Rive. This is the access. You cannot see Memorial Bridge
18 here. This is Hazel Hollow Road. It runs along down the side the
19 river.

20 Q Is the Davis residence shown on this particular blow-
21 up?

22 A No, sir.

23 MR. LOOKABILL: Do you know a little bit about this may also?

24 MR. SHOCKLEY: Let me just explain to you that it is a blow-
25 up of one portion of that other map.

26 MR. LOOKABILL: And who prepared it?

1 MR. SHOCKLEY: Agent Wilmore had it done. He is here.

2 THE COURT: Subject to tying it in through Mr. Wilmore; Mr.
3 Wilmore we'll receive this as Exhibit 13.

4 MR. SHOCKLEY: All right, sir.

5 Do you have any more questions of Mr. Duffy?

6 MR. LOOKABILL: No.

7 (The witness stands aside and leaves
8 the courtroom.)

9 W. B. WILMORE, JR.,
10 a witness called on behalf of the Commonwealth, after being first
11 duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. SHOCKLEY:

14 Q State your name, please.

15 A W. B. Wilmore, Jr.

16 Q Mr. Wilmore at this time I just want to ask you about
17 this particular photograph. Are you familiar with it?

18 A Yes, sir.

19 Q Do I need to unroll it?

20 A VOICE: No, his initials are on the top corner there.

21 Q Are those your initials?

22 A Yes, sir.

23 Q I'd like you to just tell me where you got this.

24 A This was obtained from Mr. Robert Lloyd, the assistant
25 manager of the City or Radford on the 5th of December.

26 Q Do you know who actually prepared the photograph?

1 A This was an excerpt from the large photo.

2 Q O.k., we've already introduced the large aerial photo.

3 A Yes, sir.

4 Q You say this is a portion of it?

5 A This is two sections of that large photograph.

6 Q Again do you know by what process or whomade the enlarge-
7 ment?

8 A No, I don't know who made it. Mr. Lloyd had someone in
9 is office prepare it for us.

10 Q Had it prepared for you?

11 A Yes, sir.

12 MR. LOOKABILL: No questions.

13 (The witness stands aside and leaves
14 the courtroom.)

15 WILLIAM E. PATTON,

16 a witness called on behalf of the Commonwealth, after being first
17 duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. SHOCKLEY:

20 Q State your name, please.

21 A William E. Patton, Deputy Sheriff, Pulaski County.

22 Q Mr. Patton, were you so employed on June 29th, of this
23 year?

24 A Yes, sir, I was.

25 Q And what particular shift were you working on that day?

26 A I was working the 11 to 7 shift.

1 Q Eleven--

2 A At night til 7:00 in the morning.

3 Q All right, sir. On that particular shift did you ever have
4 occasion to go to Hazel Hollow Road?

5 A Yes, sir, I did.

6 Q And did you at that time notice any suspicious vehicles?

7 A Yes, sir.

8 MR. LOOKABILL: Your Honor, I object; that's a conclusion
9 about how suspicious anything is.

10 Q Did you have occasion to check out any vehicles?

11 A I saw three vehicles parked at the trestle on Hazel
12 Hollow Road.

13 Q Did you examine any of them?

14 A Just from my car. I didn't get out and look and check
15 the cars there.

16 Q Did you obtain a license number from any one of those
17 cars?

18 A No, sir, not at this time.

19 Q Did you on that shift?

20 A No, sir, I did not.

21 Q Do you recall seeing the vehicle that you looked at at
22 a later time?

23 A Yes, sir, I did.

24 Q When was that, please.

25 A It was the night and morning of the 29th and 30th, which
26 would be Sunday night and Monday morning was whenever I checked

1 the car.

2 Q O.k., now your 11 to 7 shift would have been the 28th and
3 the 29th, is that correct?

4 A Yes, sir.

5 Q And are you talking about the next day that you worked
6 or the next night that you worked?

7 A Yes, sir, that's whenever I checked the vehicle.

8 Q Did you work the same shift, 11 to 7?

9 A Yes, sir, I did.

10 Q And when you worked the 29th through the 30th, did you
11 have occasion to see that same vehicle back there?

12 A Yes, sir, I did.

13 Q Can you describe the vehicle.

14 A It was a Monte Carlo Chevrolet. I can't say what the
15 model was. I don't remember.

16 Q When you saw it the first time on your 11 to 7 shift,
17 do you know what time it was?

18 A It was sometime after 4:00 a.m. and before daylight.

19 Q After 4:00 and before daylight. Do you recall what time
20 it got daylight during that time of the year?

21 A I believe it's around 5:30 or so, quarter after to 5:30,
22 in that area.

23 Q How do you know that it was that time or during that
24 time?

25 A Because the first half of the shift I worked the upper
26 ndeof the county; I worked in Pulaski, Dublin, Newbern, in that

1 area. At 3:00 o'clock we change. I go to the lower end and my
2 partner comes back up into this part of the county. We usually
3 have breakfast and then we switch areas.

4 Q What's usually the earliest time that you would ever get
5 down that far in the county, that far east in the county?

6 A Around 4:00 or a little after.

7 Q When you saw it on your, the first shift that you mentioned,
8 the 28th and 29th, do you recall anything about the trunk?

9 A Yes, sir, the trunk was open.

10 Q What do you mean by "open"?

11 A It was up at an angle, fully open.

12 Q Fully opened?

13 A Yes, sir.

14 Q Did you get out, or you say you didn't get out the first
15 time?

16 A No, sir, I did not.

17 Q When you went back the next day, did you get out and examine
18 the car in anyway?

19 A Yes, sir, I did. I pulled in behind the vehicle, gave
20 the tag number to the county and told them I was getting out and
21 checking the car. As I walked up to it, the trunk was still open
22 and I just flashed my light in it. I didn't examine it closely. I
23 seen the spare tire was in it. I walked around to the front of
24 the car. I noticed that the windows was down on the driver's side.
25 There was a hair brush laying in the front seat, a round hair brush
26 and I walked on to the front of the car to check and see if there

1 was any damage or if the tires were flat or anything like that
2 which there was not that I could see.

3 Q What type of registration came back on the vehicle?

4 A It came back it belonged to a Mrs. Hall who lived in
5 Coeburn, Virginia. Whenever I came back to the upper end of the
6 county, we called Wise County trying to find out something about
7 the vehicle. We gave them the name and the address. They said
8 they didn't have a listing for it in the telephone directory or
9 anything like that and that they would try and find something out
10 on daylight when the day shift people came in.

11 Q What time was it on the second time back to the car was
12 it that you examined it?

13 A It was sometime after midnight, but before 3:00. I
14 couldn't tell you the exact time.

15 Q When you say, "After midnight but before 3:00", had you
16 flipflopped rolls that right with your partner?

17 A Yes, sir; yes, sir, I had.

18 Q Is that why you were on that end of the county at that
19 time?

20 A Yes, sir, it was.

21 Q Now when you looked in the trunk, how closely did you
22 examine it?

23 A Not very close at all. As I walked by it, I flipped my
24 flashlight on and examined the trunk, just flashed the light in
25 and I seen the spare tire was in it. I didn't walk over and look
26 down into the trunk itself.

1 Q Do you recall whether there was anything else in the
2 trunk?

3 A No, sir, the only thing I saw was the spare tire.

4 Q All right, answer these gentlemen's questions, please.

5 CROSS EXAMINATION

6 BY MR. WARBURTON:

7 Q Deputy Patton, you had worked the midnight shift. Is
8 that what you call the midnight shift even though it starts at
9 11:00 p.m. and goes to 7:00 in the morning?

10 A Yes, sir.'

11 Q One hour on Saturday night and 7 hours on Sunday morning
12 and then one hour Sunday night, the 29th and 7 hours of Monday
13 morning?

14 A Yes, sir.

15 Q You worked the Fairlawn, the lower end--is that what you
16 call it?

17 A Yes, sir.

18 Q --the second half the first night that you were on, the
19 second half of your shift?

20 A Yes, sir.

21 Q You went down Hazel Hollow Road and saw three vehicles
22 at the trestle?

23 A Yes, sir.

24 Q Now when you say, "At the trestle" there is, I believe,
25 a graveled area that's carved out on one side of the road right
26 before you get to the trestle. Right at the trestle there is no

1 stop off places except for a grass shoulder?

2 A Yes, sir.

3 Q All three vehicles were on the grass shoulder?

4 A Yes, sir.

5 Q Were they basically in a line?

6 A Yes, sir.

7 Q All three facing the same direction?

8 A Yes, sir.

9 Q One of them a Monte Carlo?

10 A Yes, sir.

11 Q And what were the other two, sir?

12 A One of them was a Cadillac and I can't tell you what
13 the other one was.

14 Q Were they all three large cars, sir?

15 A Yes, sir.

16 Q Was the trunk lid up on all three?

17 A No, sir.

18 Q Just the one?

19 A Yes, sir.

20 Q Did that peak your imagination?

21 A No, sir; a lot of fishermen park their vehicles in that
22 area along the river bank and that's what I thought it probably
23 was at that time.

24 Q A lot of fishermen who park their cars along that side of
25 the road between Hazel Hollow Road and New River leave their trunk
26 lids up, am I right?

1 A No, sir, not that I know of. What I--

2 Q You have never seen that to happen?

3 A No, sir, I have not.

4 Q Then why is it that it didn't give you some kind of
5 imagination about something that might have happened?

6 A Because I thought that possibly the man was carrying
7 fishing tackle or something to the river.

8 Q You pulled up by the side of all three of these cars
9 and just looked at them?

10 A I did not stop. I just drove by them.

11 Q Did you slow down?

12 A I was driving at a slow rate of speed.

13 Q Didn't call into the county?

14 A No, sir, I did not.

15 Q Am I correct Deputy Patton that the person who work the
16 midnight shift are to report to the investigators, one of the
17 three Pulaski County Sheriff's investigators at 7:00 a.m. anything
18 that they saw through the night?

19 A No, sir, not to my knowledge.

20 Q You did not report this to anyone?

21 A No, sir.

22 Q Does the Sheriff's Department have a shift commander or
23 were there just two of you on the road that night?

24 A No, sir, there's three of us on the road.

25 Q O.k., is there a commander among those three persons?

26 A Yes, sir, there is.

1 Q Is that you?

2 A No, sir, it is not.

3 Q Did you report it to whoever it was?

4 A No, sir, I did not.

5 Q You didn't leave a message, written or radio regarding
6 this incident at all?

7 A No, sir, I did not.

8 Q You are positive it was a Monte Carlo?

9 A Yes, I am.

10 Q And you know that the other car was a Cadillac and the
11 third one you cannot identify at all?

12 A No, sir, I cannot.

13 Q That would have been between 4:00 a.m. and daylight?

14 A Yes, sir.

15 Q Which you estimate to be a period of about an hour and
16 a half?

17 A Yes, sir.

18 Q You went back approximately 24 hours later. Did you
19 get on Hazel Hollow Road as a routine matter, Deputy?

20 A Yes, sir.

21 Q Did you have thoughts that you might see something when
22 you went down that road?

23 A No, sir, I did not.

24 Q When you saw this Chevrolet Monte Carlo, did you immed-
25 ately recall the previous night's discovery?

26 A Yes, sir, I did.

1 Q Is that why you got out and checked it this time?

2 A Yes, sir, I did.

3 Q Did you have any idea about fishermen at that time?

4 A No, sir, I did not.

5 Q Did you call in before you got out of your automobile?

6 A Yes, sir, I did.

7 Q O.k. and that was to report where you were and also to
8 call in the license number?

9 A Yes, sir.

10 Q I assume that your headlights were spotlight on the back
11 of the vehicle?

12 A Yes, sir.

13 Q Let's establish this by the way, as you are looking toward
14 Memorial Bridge it's on the right-hand side of the road, correct?

15 A Yes, sir.

16 Q Directly under the trestle facing Memorial Bridge?

17 A Yes, sir.

18 Q You had your headlights on the back of the automobile,
19 that's where you got the license number and that's what you radioed
20 in?

21 A Yes, sir.

22 Q When you got out, the trunk was open. You used a flash-
23 light is that correct, or did you say spotlight?

24 A Flashlight.

25 Q Saw the spare in the trunk and figured that everything
26 was o.k. as far as that went?

1 A Yes, sir.

2 Q You walked around the automobile?

3 A Yes, sir.

4 Q Is the automobile in your headlights in addition to you having a flashlight?

5 A Yes, sir.

6 Q Was the outside of the car dirty or clean?

7 A I don't recall.

8 Q Did you flash the light at the interior of the automobile?

9 A Into the front seat.

10 Q What did you see on the front seat? You mentioned a hair brush?

11 A Yes, sir.

12 Q Anything else?

13 A There may have been some papers but I couldn't--I'm not positive.

14 Q Papers, as in the kind of papers that are on the table here?

15 A No, sir, I believe it was smaller.

16 Q But we are talking about white pieces of--

17 A Yes.

18 Q --writing paper or printed matter?

19 A Yes, sir.

20 Q Anything else on the front seat?

21 A Not that I noticed.

22 Q Driver's window was down?

23 A Yes, sir.

24

25

26

1 Q Any other windows down?

2 A I don't recall whether the passenger side was down or
3 not.

4 Q You didn't investigate that?

5 A No, sir, I didn't go--I went to the front of the vehicle.
6 I didn't go all the way completely and circle the vehicle.

7 Q Anything unusual about the front of the vehicle, Deputy?

8 A Not that I noticed, no, sir.

9 Q There was nothing missing from the front of the vehicle
10 that would normally be there?

11 A I don't recall anything.

12 Q And you proceeded from there to finish your shift?

13 A Yes, sir.

14 Q You got a report I take it--did you get the whole report
15 on the registration of the car before you got out of your Sheriff's
16 cruiser?

17 A No, sir, I did not.

18 Q Did you call in, get out and look around and then get
19 back in and get the report?

20 A Yes, sir.

21 Q And then you went on up Hazel Hollow Road?

22 A Yes, sir.

23 Q Anything else around the car that you investigated that
24 night or that you saw?

25 A No, sir.

26 Q Is that basically the last you heard of it as far as

1 your involvement?

2 A Uh--

3 Q I mean did you notify your shift commander that night?

4 A Yes, sir, I did.

5 Q And as the result of informing him were you asked to do
6 anything else?

7 A No, sir, I was not asked to do anything else.

8 Q Thank you.

9 (The witness stands aside and leaves
10 the courtroom.)

11 ROBERT LENT,
12 a witness called on behalf of the Commonwealth, after being first
13 duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. SHOCKLEY:

16 Q State your name, please.

17 A Robert Lent.

18 Q And Mr. Lent--

19 THE COURT: Ronald what?

20 A Robert Lent.

21 THE COURT: Robert _____ (inaudible, noise)

22 Q L-e-n-t

23 A Lent.

24 THE COURT: Lent.

25 Q And where do you reside, Mr. Lent?

26 A In Pulaski now.

1 Q What do you say when you mean now?

2 A Well, three months ago I lived in Radford.

3 Q Have you ever been, have you ever lived down the Coeburn
4 way?

5 A No, I have not.

6 Q Did you know Gina Hall?

7 A Slightly.

8 Q Do you know her sister, Diana?

9 A Yes.

10 Q I just wanted to ask you if you had ever at anytime
11 after her disappearance participated in, you know, the search for
12 her?

13 A Yes, Diana called me and a friend up the night she knew
14 Gina was missing Sunday night and she was upset and asked us to
15 come over and we came over and that night Craig Runyan, the man
16 that was with me, we searched for her car.

17 Q Excuse me just a second, is Mr. Runyan here?

18 A Yes, he's downstairs. We searched for the car that night
19 and stayed with Diana that night. We quit about midnight, got up
20 the next morning and searched until we found it later on that day.

21 Q The next morning, when would that be?

22 A We started probably at--

23 Q No, no, wait a minute, I'm talking about date.

24 A It would be Sunday, no I guess it would be Monday morning.

25 Q Monday morning?

26 A Yes.

1 Q And did you find the car?

2 A Yes, we did later on that afternoon, early afternoon.

3 Q Where did you find it?

4 A We found it under the trestle on Hazel Hollow Road,
5 right by the river.

6 Q Did you notify Diana?

7 A When we came across it Craig stayed with the car to make
8 sure nobody touched it after we found it and I drove over to the
9 Radford city Police and informed them that the car was found and
10 where it was found, and then I drove back with them to show them
11 and at that time I went and called Diana.

12 Q Do you know how the vehicle was ever moved from that
13 location?

14 A It stayed there for quite awhile while the police lab
15 looked at it and it was later driven to Diana's apartment in Rad-
16 ford.

17 Q Were you present at anytime when Austin Hall may have been
18 present at the car?

19 A Yes, I was there when he came.

20 Q Did he come over with the Radford Police or did he come
21 at a different time?

22 A No, first, we just drove over with a Radford Officer,
23 and he I guess took control. Then two city detectives showed up
24 and shortly thereafter a few, the State Police came. I think
25 Austin Hall was the first to show up.

26 Q Do you recall again what time this--this was Monday you

1 say?

2 A This was Monday.

3 Q Do you recall what time it was you found the car and do
4 you recall what time the first police officer got to the car?

5 A I'm not real sure. It was early afternoon. It was
6 probably 1:00 o'clock and it was probably, by the time I brought back
7 the officer from Radford, it was probably a half an hour later
8 at the longest.

9 Q All right. Do you recall anything about the trunk of the
10 vehicle?

11 A The trunk was wide open and the windows were down on at
12 least the driver's side.

13 Q All right, answer these gentlemen's questions please.

14 CROSS EXAMINATION

15 BY MR. LOOKABILL:

16 Q When you arrived, did you know immediately that that was
17 the car you were looking for?

18 A No, we weren't sure. We had both seen the car before
19 but Diana had given us the license plate and we knew that the first
20 three letters matched so for all practical purposes we were sure
21 it was the car.

22 Q Now did you look at the rear or front license plate?

23 A One of the license plates was missing. I'm not sure
24 which one it was.

25 Q You don't recall which one it was?

26 A No, I remember that we verified the first three numbers

1 Q You stayed in Radford with Diana and other people
2 during the four or five day period?

3 A Yeah, it was more like three weeks.

4 Q I think that's all.

5 REDIRECT EXAMINATION

6 BY MR. SHOCKLEY:

7 Q Mr. Lent, did you ever talk to Greg Bass while he was
8 there at Dana's apartment?

9 A Yeah, I had quite a few conversations with him.

10 Q Had you known Greg Bass before that time?

11 A No, that was the first time I had ever met him.

12 Q At anytime did he ever appear upset because Gina was not
13 there?

14 A He was very upset at times.

15 Q Thank you.

16 (The witness stands aside and leaves
17 the courtroom.)

18 CRAIG RUNYAN,

19 a witness called on behalf of the Commonwealth, after being first
20 duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. SHOCKLEY:

23 Q State your name, please.

24 A Craig Runyan.

25 Q And where do you live, Mr. Runyan?

26 A Well, my home is Coeburn.

1 Q Do you know the Hall family?

2 A Yes, sir.

3 Q How long have you known them?

4 A Oh God, I've known John for about, I guess five years,
5 almost six years now.

6 Q Did you know Gina?

7 A Oh, yes.

8 Q Diana?

9 A I know all of them.

10 Q Where are you living now?

11 A Well, basically out of Coeburn but I'm taking post-
12 graduate work up at Radford.

13 Q Where were you living on June the 29th?

14 A Well, I was staying in, during the week I was staying in
15 Radford.

16 Q Do you know Mr. Lent who just testified?

17 A Right.

18 Q Were you friends of his?

19 A Oh, yes.

20 Q Have you known him for sometime?

21 A I've known him ever since I was in graduate school.

22 Q I just want to ask you about any searching that you and
23 he and maybe others, you know, did when Gina first disappeared when
24 you were out looking for her and her vehicle.

25 A O.k., basically what happened was that I came back on a
26 Sunday evening and I was in Heath which is the Student Union over at

1 the University and I got a phone call and the only time they accept
2 phone calls are for emergency purposes and when I went to pick it
3 up, it was Diana and she was very upset and she mentioned about
4 Gina being gone and she said she got a phone call that really upset
5 her and she gave me someone, but she was at the point of tears and
6 everything and I said, "Just wait a minute, me and Bob will go right
7 over, and well sit down and talk this over. What I did at that time,
8 I went over to where Diana and Gina were living at that time for
9 the summer and she told me that she got a phone call late at night
10 and basically what it was--
11 Q Well, I don't want to go into what she told you, but I
12 just want to ask you if you went with Mr. Lent and if you found
13 her car?
14 A O.k., that night, I went right straight over to the
15 Merritt and I had a picture of Gina and I was asking a bunch of
16 questions.
17 Q O.k., I just want to ask you if you found the car?
18 A Right and that was on Monday.
19 Q Monday, do you know approximately what time?
20 A It has to be between 1:00 and 1:30.
21 Q And what happened when you and Mr. Lent found the car?
22 A O.k., as soon as I found it I have to admit I was shouting
23 for Gina because I was kinda shocked about it's location and every-
24 thing and I said, "I'll stay here with the car and you go get in
25 touch with the police."
26 Q And did he do so?

1 of the license plate, but I remember that one of the license
2 plates was missing. It was inside the car.

3 Q Where was it inside the car?

4 A I don't really recall for sure.

5 Q Did you get in the car or in any way--

6 A No, as soon as we got out of Craig's car, I immediately
7 I think it was me, one of the two of us mentioned it, "Don't touch
8 the car," and we didn't get near the car.

9 Q The trunk was still open?

10 A The trunk was open.

11 Q What did you observe, without touching it, what did you
12 observe looking in the car?

13 A I didn't even really look. As soon as we found the car,
14 we checked the license plate and I drove to get the police.

15 Q I take it from what you say that when you arrived, there
16 were no officers there with the car?

17 A No, there was nobody there with the car.

18 Q Were there any other cars in the area?

19 A Not at the time, except for the cars passing up and
20 down the road.

21 Q Were there any people or anything?

22 A Not immediately there but there might have been a few
23 people fishing on the bank.

24 Q Anybody jogging up and down the road?

25 A I didn't see anybody.

26 Q The door was not locked and--

- 1 A The door--
- 2 Q And at least the driver's window was open?
- 3 A Yes, I believe that to be true.
- 4 Q What did you notice about the inside of the car?
- 5 A It was, there was empty glasses in it. There was trash.
- 6 One of the door, door pulls was ripped off.
- 7 Q Empty glasses?
- 8 A Yeah, there was an empty Virginia Tech glass, I think it
- 9 was, or no, it was a Tennessee Volunteers glass.
- 10 Q It was a glass glass?
- 11 A No, it was, you know, the plastic things they serve--
- 12 Q A plastic glass?
- 13 A Yeah, plastic glass.
- 14 Q Did you notice anything in the back seat or outside the
- 15 car?
- 16 A No, not that I recall.
- 17 Q The things that you described, you know, did you see any
- 18 papers?
- 19 A You mean newspapers?
- 20 Q Well, any type of paper, anything written material, matter.
- 21 A There was, not that I can recall. I'm not sure.
- 22 Q Any purses?
- 23 A There, no, we didn't see purses.
- 24 Q Were the doors shut tight to the vehicle?
- 25 A I believe so. I didn't test them.
- 26 Q This was about 1:00 p.m. in the afternoon?

1 A Approximately.

2 Q Did you go directly from there to the Radford Police
3 Department?

4 A Directly.

5 Q And how long after that did you return?

6 A Like I said it was probably about a half an hour at the
7 longest.

8 Q Very many people there when you returned?

9 A No, the only person there was Craig and he was watching
10 the car.

11 Q Who is Craig again?

12 A Craig Runyan is a graduate student at Radford University.

13 Q He was with you in search of the car, vehicle?

14 A Yes.

15 Q Just the two of you?

16 A Yeah, just the two of us.

17 Q Do you know Greg Bass?

18 A I met him later on.

19 Q Where was he?

20 A He was, he was with the Air Force somewhere and he had
21 been through earlier that time, but I didn't meet him at the time.
22 He was through Radford but I didn't meet him at that time.

23 Q Were you at Diana's apartment or did you go by there
24 before you--

25 A I stayed at Diana's apartment, Craig and I that night.

26 Q The night after you found the vehicle?

1 A No, it was the night before we found the vehicle.

2 Q And was Greg Bass there then?

3 A Greg Bass wasn't there then. He showed up either that
4 day or the day after.

5 Q Now what day was this. This was Sunday?

6 A He was, he was, he was--

7 Q It was Monday you were looking for the car?

8 A Yeah, we found the car Monday. Greg Bass had gone to
9 Coeburn and then come back, I believe.

10 Q When had you actually seen him?

11 A I saw him maybe Monday night or Tuesday. I'm not sure
12 when, the exact date.

13 Q What night was it that you stayed at Dlana's apartment?

14 A It was--she called me Sunday and we stayed Sunday night
15 there.

16 Q And Greg Bass was not there?

17 A No, he didn't sleep at the apartment that night.

18 Q And you saw him there sometime Sunday?

19 A No, I didn't.

20 Q When did you see him?

21 A It was either Monday or Tuesday.

22 Q And how long did you then stay at Dlana's?

23 A We, I kept in close contact with Dlana and later her
24 father for probably three weeks. At times over the three weeks
25 I slept on the floor downstairs if we were out late at night, or
26 had something to do early in the morning.

1 A Right.

2 Q Did the police come back to the car?

3 A Right. Mr. Hall came very shortly.

4 Q Austin Hall?

5 A Right. He came shortly after I was at the car.

6 Q The State Trooper?

7 A Right.

8 Q And at that point was the investigation more or less
9 turned over to him?

10 A Right.

11 Q Do you know Greg Bass?

12 A Oh, yeah.

13 Q Did you see him at anytime during the first few days of
14 Gina's disappearance?

15 A Oh, he was up there. I'm trying to remember the exact--

16 Q Do you recall when the first time it was that you saw
17 him during this period of time?

18 A I think it was on Sunday. It had to be Sunday or
19 Monday, sometime during that because she was expecting him to come
20 up.

21 Q Was he upset about her disappearance?

22 A Very upset.

23 Q All right, answer the gentlemen's questions please.

24 THE COURT: Mr. Runyan, you mentioned the time as 1:30 or
25 something like that. Was that A.M. or P.M.?

26 A That would be in the afternoon, Your Honor.

1 CROSS EXAMINATION

2 BY MR. WARBURTON:

3 Q Mr. Runyan, regarding it has to be between 1:00 and
4 1:30. Why does it has to be then?5 A Because I had a morning class and as soon as I got out
6 of class, my roommate, Bob, I was to meet him over at Dlana's and
7 as soon as we had something quick to eat we were going to go
8 right straight out and head towards the lake.

9 Q You drove from Route 11 then down Hazel Hollow Road?

10 A Right.

11 Q How far?

12 A Right to where the bridge--

13 Q How far is that?

14 A I guess it would be about what 2, 2 1/2 miles.

15 Q This is Monday between 1:00 and 1:30 in the early after-
16 noon?

17 A Right.

18 Q You and Mr. Lent?

19 A (Nods head).

20 Q You saw the car then. I guess it was facing you if you
21 drove up to it?

22 A Right.

23 Q It was on the opposite side of the road?

24 A Right.

25 Q What was the first thing you did when you saw the car,
26 other than mentally say that it might be Dlana's car?

1 A Well, once I got around the curve I jammed on the brakes
2 and came back to the car.

3 Q Did you know the license number?

4 A Right.

5 Q What did you do with it?

6 A Pardon me?

7 Q What did you do with that knowledge?

8 A Well, I was there at the car while Bob took off to go
9 after the police.

10 Q What did you do with the fact that you knew the license
11 number. Did you look at the license number on the car?

12 A Right, that was verification of it.

13 Q That's the first thing you did?

14 A Well, I saw the car and then I checked the license
15 plate with the number I had.

16 Q And I assume because you came at it in the car you were
17 in you were looking at the front of the car, you checked it with
18 the front license plate, am I right?

19 A Back license plate.

20 Q You checked it with the back license plate. Did it
21 match the number you had in your mind?

22 A Right.

23 Q Did you have it written down?

24 A I had it written down.

25 Q Did you check it with what you had written down?

26 A Yeah.

1 Q I don't believe I heard you. You said something about
2 you were in shock. Were you shouting for Gina, is that what you
3 said?

4 A Right.

5 Q I assume you didn't get any response. Other people around
6 there, any?

7 A You mean at that particular moment?

8 Q Yes, sir.

9 A Not at that particular moment.

10 Q Any cars?

11 A Not right at that part.

12 Q Any cars parked around there?

13 A Down by the landing.

14 Q Down by what, sir?

15 A The landing. There's a fishing spot down below there.

16 Q How far is that?

17 A I guess about a 1000 feet.

18 Q And there were some cars there?

19 A One or two.

20 Q Trunk lid up?

21 A I didn't notice down there.

22 Q And you stayed with the car and you told Mr. Lent to go
23 on and get the police?

24 A Right.

25 Q Did you say which police?

26 A I said, "Just get the police."

1 Q I mean it had a red light on top?

2 A Yeah, I think so.

3 Q In uniform?

4 A Right.

5 Q And then who showed up next?

6 A I think it was Radford police.

7 Q In a Radford Police car?

8 A _____ (Unintelligible).

9 Q Uniformed officers or not?

10 A Yeah.

11 Q Two?

12 A Just one.

13 Q One uniformed officer in a Radford car, is that right?

14 A I think that's the way it is, yeah.

15 Q O.k. who showed up next?

16 A Well, after ~~that~~ people started coming. I don't know where
17 they were coming from.

18 Q Well, when did Bob Lent get back there?

19 A Bob came only a few minutes after, I would say within
20 20 minutes of when Trooper Hall came.

21 Q So while you are there waiting this 10 minutes between when
22 you sent Mr. Lent off to the police station and when Trooper Hall
23 showed up, did you walk around the car?

24 A I walked, let's see I walked down under the trestle, more
25 or less down the road that way.

26 Q For what reason?

1 A Well, mainly I was just looking to see if there was any-
2 thing along side the road to see how the tire tracks went in or
3 anything like that.

4 Q Did you look around the car at all?

5 A Not really. I didn't want to push it too much.

6 Q How was it you knew the front license plate wasn't there?

7 A I never said it wasn't there. I said I looked at the
8 back license plate.

9 Q And did you look inside the car?

10 A Yes.

11 Q How many windows were down?

12 A If I recall, it was the driver's window down.

13 Q And that is all?

14 A I think the passenger was also down, but I didn't want to
15 go too much around the car because in case police came, I didn't
16 want to have anything disturbed.

17 Q So you didn't want to touch it?

18 A Right. Also I didn't want to tramp any of the grass
19 around there.

20 Q You would have looked at I guess, the driver's side of
21 the car without touching it, without tramping grass, could you do
22 that?

23 A Right.

24 Q What did you see inside the car?

25 A Well, the thing that caught me was the handle, like a
26 leather strap handle, and it was broken.

1 Q On the driver's side door?

2 A Right, I believe it was the driver's dside.

3 Q Well, was it or wasn't it?

4 A I'll say it was.

5 Q O.k., I'll take your answer. What else did you see?

6 A Basically, there was a little disarray, just like it
7 hasn't been cleaned for a little while, and there was newspaper
8 on the passenger side floor and there were some match packs.

9 Q Anything on the seat?

10 A I think there was a brush. The interesting thing about
11 the seat was that it was pushed back far and Gina was a little girl.

12 Q I don't want you to testify to any conclusions. I just
13 want to ask you what you saw. You saw the seat back?

14 A Right, far back.

15 Q Hum?

16 A A pretty good distance back.

17 Q Have you ever been in that car?

18 A Yes, and Gina kept it close.

19 Q Have you ever driven it?

20 A Huh, no.

21 Q I didn't ask you about Gina now. What else did you see
22 on the front seat--

23 A Maybe--

24 Q --brush.

25 A I think I saw a brush and a couple of match packs.

26 Q Something that would have been standing up on the front

1 seat about the size of this pitcher, you would have noticed, would you not have?

3 A Well, I saw, there were a couple of cups, you know,
4 plastic cups.

5 Q Uh hum.

6 A And if I remember there was an orange one and I'm trying
7 to remember whether it was some fast food place cup or a paper bag.
8 I can't remember the actual name but it was some fast food, some
9 hamburger place or something, paper bag and, you know, a lot of
10 cups like pop would come in.

11 Q And where was that?

12 A That was on the front seat.

13 Q Wasn't it on the front seat exactly where a passenger would
14 sit?

15 A I think it was more towards the middle. It seems to me
16 like it was. Well, the orange cup was more towards the middle.

17 Q Was there moisture inside the car?

18 A I really didn't notice any moisture.

19 Q You apparently were in shock when you first got to the
20 car and you sent Mr. Lent off. When did you recover?

21 A You mean from the shock?

22 Q Yes, sir.

23 A Pretty fast because that's when we made the decision,
24 quick, get the police.

25 Q Oh, you went into shock, screaming for Gina, recovered
26 and then said, "Mr. Lent--

1 A First thing, "Get the police."

2 Q _____ (unintelligible) that fast?

3 A Pretty fast.

4 Q Now regarding Mr. Bass, you've met him?

5 A Right. I met him a long time ago.

6 Q You know him from Coeburn?

7 A No, he lives in Norton.

8 Q I'm sorry. I realize that those are probably close
9 together from my viewpoint because I don't live down there. Did
10 you know Mr. Bass from years ago because you lived in the same
11 geographic area in the State of Virginia?

12 A Well basically through his sister.

13 Q Did you speak with him in the City of Radford then the
14 first few days or weeks of July?

15 A Yeah.

16 Q Was he there for quite a period of time?

17 A He was there for--I don't remember the exact number of
18 days but I think it was a week or something like that.

19 Q And you, did you spend the next couple of days after
20 you went out flat footing it, did you stay in that apartment?

21 A Where was I staying at,--

22 Q --I meant to ask you if you stayed in Diana's apartment?

23 A No.

24 Q Did you ever spend the night in Diana's apartment after--

25 A The first night after I came back from the Merriott and
26 a few other places--

1 A Right. I spent about 4 or 5 hours there--

2 Q That's the only night you stayed the night in Diana's
3 apartment?

4 A Right.

5 Q Was Mr. Lent there or not there?

6 A Yes, we both had each couch.

7 Q Was Mr. Bass there or not there?

8 A Somehow I don't remember on that.

9 Q Was he there or not, just your recollection?

10 A I just can't remember him being there.

11 Q Are you stating he wasn't there?

12 A I'm stating I can't remember him being there.

13 Q All right, thank you very much.

14 REDIRECT EXAMINATION

15 BY MR. SHOCKLEY:

16 Q Mr. Runyan, just a couple of more questions, please. You
17 started to comment on Gina's habits about the position of the seat
18 in the vehicle. I'd like you to just, if you are familiar with her
19 habits relate those to the jury.

20 A Well, the few times which I did ride with Gina I was
21 always complaining about how she kept me so close to the dash board
22 my nose was against the windshield.

23 Q On the particular day that you found the vehicle with
24 Mr. Lent did you observe the position in which the seat was located?

25 A Right. It was pushed back.

26 Q That's all I have.

1 (The witness stands aside and leaves
2 the courtroom.)

3 THE COURT: Gentlemen, we will take a 10 minute recess at
4 this point.

5 (Thereupon a recess was had and after a time all interested
6 parties including the Court, jury, counsel and the defendant
7 returned into the courtroom.)

8 GERALD WILLIAMS,
9 a witness called on behalf of the Commonwealth, after being first
10 duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. SHOCKLEY:

13 Q State your name, please.

14 A Gerald Williams.

15 Q Mr. Williams, where are you employed?

16 A The Radford Police Department.

17 Q And were you employed there on June the 28th of this
18 year?

19 A Yes, sir, I was.

20 Q How long have you been employed there?

21 A About 17 years now.

22 Q What is your occupation with the Radford police?

23 A Investigator.

24 Q How long have you been an investigator?

25 A A little over five years.

26 Q I want to ask you just first of all in general if you

1 participated in the finding and taking of various forms of evidence
2 in the disappearance of Gina Hall?

3 A Yes, sir, I did.

4 Q When did you first become involved as an investigator?

5 A On June the 30th.

6 Q And how did you become involved?

7 A Through a report from Mr. Hall that his daughter was
8 missing.

9 Q What would have been the first thing that you saw or
10 came upon in your investigation?

11 A The vehicle when it was located over on Hazel Hollow
12 Road.

13 Q Do you have photographs with you today that show the ve-
14 hicle and its location?

15 A Yes, sir, I do.

16 Q Would you please pull those photographs out.

17 (Photographs were obtained and examined by counsel.)

18 Q Just tell me what this first photograph shows please.

19 A Overhead is the railroad bridge as it crosses Hazel Hollow
20 Road there. The Hall vehicle is parked almost directly under the
21 railroad trestle and it's a shot of the Hall vehicle going west
22 on Hazel Hollow Road.

23 Q Would that be facing in the direction of Route 11?

24 A No, that would be on back toward uh--

25 Q No, I'm saying in which direction was the vehicle facing,
26 towards Route 11 or away from it?

1 Q Did you indicate which police?

2 A Well, he was going to go to Radford Police Station.

3 Q That's what he indicated to you?

4 A Right.

5 Q And, of course, you weren't with him so you don't know if
6 he did, but it's your sworn testimony that he came back with a
7 Virginia State Trooper named Officer Hall?

8 A No, he did not come back. The State Trooper, my testi-
9 mony was that I was there and then the State Trooper came.

10 Q Who'd Mr. Lent come back with? Did Mr. Lent come back?

11 A I think he just came back by himself because he had my
12 car.

13 Q Did he come back before Trooper Hall came?

14 A No, Trooper Hall came first.

15 Q You are there by yourself. Trooper Hall's the first one
16 there?

17 A Right.

18 Q Then others?

19 A After _____ (inaudible, cough) Trooper Hall, I guess
20 he called somewhere because people started coming.

21 Q Well, that's what I'm asking you. Mr. Hall got there.
22 How long after Craig, I'm sorry, after Mr. Lent, Bob, how long
23 after he left before Trooper Hall got there?

24 A At the most I would say about 10 minutes.

25 Q A marked cruiser?

26 A It was a gray car.

Williams - Direct

1 A The vehicle was facing toward Route 11, yes.

2 Q All right, now would the vehicle be on the river side
3 of the road or on the mountain side of the road?

4 A It's on the river side.

5 Q Your Honor, we would offer this photograph--oh, they
6 wanted me to ask you about the notations that you made on the back
7 of these photographs and when you did so.

8 A I did those sitting here Monday morning while we were
9 going through the jury selection so I wouldn't have to stop and think
10 about what was there.

11 Q And you just made a little designation stating what each
12 photograph is?

13 A That's correct.

14 THE COURT: Gentlemen, why don't we let the reporter mark all
15 of them at one time and then you won't have to go backwards and
16 forwards.

17 MR. SHOCKLEY: All right, sir, I have 20 here.

18 THE COURT: All right, do you want them marked separately
19 for identification.

20 MR. SHOCKLEY: I really don't care. It makes no difference to
21 me.

22 THE COURT: It might be better so that you can refer to them
23 by number as you discuss the photograph. Just let her number them
24 in sequence. You don't have to take time, Miss Williams, to put
25 your stamp on each. Just take your pen and just write the number
26 starting with--what is it, Number--whatever the next exhibit number

1 is, No. 14?

2 Q All right, Mr. Williams, the photograph that you have
3 just described we've marked as Commonwealth's Exhibit No. 14.
4 Commonwealth's Exhibit No. 15, if you would please tell me
5 what that photograph shows.

6 A This is the same area except that it's facing back in
7 the opposite direction toward Route 11.

8 MR. SHOCKLEY: Your Honor, I'd like to go ahead and let the
9 jury beiseeing these photographs if I could, please.

10 THE COURT: If it would be helpful, you could have your witness
11 stand right here and point out on the photograph what he's talking
12 about. Maybe the jury will understand it better.

13 A This area here is the railroad trestle where it crosses
14 over Hazel Hollow Road. This is the Hall vehicle _____
15 (unintelligible, noise). This is Hazel Hollow Road itself here.
16 _____ (unintelligible, noise).

17 Q When you got to the scene, in what position was the
18 trunk of the vehicle?

19 A The trunk of the vehicle was open.

20 Q I'll ask you about the next photograph, please.

21 A This is the very same area, except that it was taken,
22 the picture was taken facing in the opposite direction. This one
23 was taken facing towards Route 11 and that one back from it.

24 Q The next one is Commonwealth's Exhibit No. 16.

25 A Again this is the same area and there are several police
26 vehicles that have accumulated in the area since then and this

1 _____ (unintelligible?)

2 Q Did you do so?

3 A Yes, sir.

4 Q I take it that this one was taken a little earlier,
5 Item No. 17.

6 A It was taken, well it was still the same day. It might
7 have been a few minutes before _____ (unintelligible) This is
8 the same area and again facing left on Route 11. It shows the hall
9 vehicle right there.

10 Q And again where the Hall vehicle is, would the river's
11 edge be down toward the left-hand side of this photograph?

12 A Right. I'm looking at it backwards. The river would be
13 to the left side.

14 Q And Commonwealth's Exhibit No. 18.

15 A Again the Hall vehicle, which is more or less a close-
16 up shot taken from the upper side.

17 Q Commonwealth's Exhibit No. 19.

18 A O.k., this one now is more of a close-up of the Hall ve-
19 hicle as it was found except that it was taken closer than the
20 other picture that you have there and shot back toward the other
21 direction.

22 Q Commonwealth's Exhibit No. 20.

23 A In this particular picture I attempted, I say attempted
24 because it doesn't show it very well, shows about how much distance
25 there was between the side of the vehicle and the river bank it-
26 self.

1 Q And Commonwealth's Exhibit No. 21. I'd like for you to
2 put this in perspective to where the vehicle was because the ve-
3 hicle's not shown.

4 A All right, this particular picture is a key that was
5 found almost directly under the rear bumper of the Hall vehicle.

6 Q Did you do anything with that key when you found it?

7 A It was left as it was until it was photographed and I'm
8 not sure whether it went on to the lab or not.

9 Q Well, my question is did you try to use the key to see
10 if it fit any particular lock, if you recall?

11 A It's a key to the Hall vehicle.

12 Q It is?

13 A Yes.

14 Q How do you know that is my question.

15 A It was tried in the vehicle.

16 Q And Commonwealth's Exhibit No. 22.

17 A This particular picture you might have to look a little
18 close to see what it is. There is a screw driver right here that
19 was laying there when we arrived at the scene. Whether there was
20 any connection or not we didn't know so I went ahead and photo-
21 graphed it. It's kind of in front of the left rear tire.

22 Q Anything unusual about the left rear tire or not unusual
23 that you, is there anything you observed about the left rear tire?

24 A Just the mud on the tire.

25 Q Commonwealth's Exhibit No. 23.

26 A This is a picture of the interior of the Hall vehicle.

1 This was taken from the right side of the vehicle toward the back
2 seat and shows a set of keys laying right here on the back seat.

3 Q Commonwealth's Exhibit No. 24.

4 A Picture of the interior of the front floor board of this
5 particular picture was taken from the left side of the vehicle.

6 Q Commonwealth's Exhibit No. 25.

7 A This one is a picture of the front seat of the vehicle.
8 These items that we see on the front seat were in the vehicle when
9 we found it. This particular picture was taken from the right
10 side of the vehicle.

11 Q All right, I want to ask you about the thing on the very
12 bottom there. Would you tell me what that was.

13 A It was a check book.

14 Q Does it have a name printed on the checks?

15 A The name imprinted on the checks was Gina Hall.

16 MR. LOOKABILL: May we assume that all of these pictures were
17 taken at the same time?

18 A Yes, sir.

19 MR. LOOKABILL: They were all taken when you first got there
20 or when the Radford PD--

21 A --sequence of pictures, yes, sir.

22 MR. LOOKABILL: Well, I think it's o.k. to tell the Court
23 whether that's the front or back seat, but I think the pictures
24 speak for themselves. Other than that/Your Honor I don't see any sense in
25 going into a lot detail. I think the pictures--

26 MR. SHOCKLEY: In what sense are you talking about?

1 MR. LOOKABILL: I mean as far as describing things or to see
2 them, these people, themselves--

3 THE COURT: Well, if it's something so small like a check
4 book, you know, and if he knows of his own observation, of course,
5 he can testify to that. All right.

6 Q Commonwealth's Exhibit No. 26.

7 A Another shot of the back seat of the Hall vehicle. This
8 one was taken from the right side of the vehicle.

9 Q No. 27.

10 A Another shot of the front seat of the Hall vehicle
11 showing a portion of the floor board and the articles that were
12 on the front seat.

13 Q 28.

14 A Another shot of the front seat of the Hall vehicle taken
15 from the right side of the vehicle.

16 Q 29.

17 A A shot of the back seat of the Hall vehicle taken from the
18 right side of the vehicle, correction, the left side of the ve-
19 hicle.

20 Q No. 30.

21 A Another shot of the front seat and the floor board area
22 of the front. This particular picture was taken from the left
23 side of the vehicle.

24 Q No. 31.

25 A This was just a paper bag that was found laying kind of
26 under the vehicle, and in the front of the left rear tire.

1 Q Mr. Williams, do you have any photographs of the inside
2 of the trunk of the car?

3 A Pardon me?

4 Q Do you have any photographs of the inside of the trunk
5 of the car. I know you had some--

6 A Yes, sir, I do.

7 Q O.k. would you get those please.

8 Mr. Williams, will you come on down agin, please.

9 MR. LOOKABILL: I think they're duplicated. I don't think
10 you need all of those pictures. I think they all show the same thing.

11 MR. SHOCKLEY: Well, I'm going to offer them.

12 MR. LOOKABILL: Well, I object to more then one or two.

13 _____ (Inaudible).

14 Q Item No. 32.

15 A O.k., this is a shot of the trunk area of the Hall ve-
16 hicle. It was taken from the right side of the car facing into
17 the trunk.

18 Q Were these items there when you arrived?

19 A Yes, sir, they were.

20 Q Were they in that position when you arrived?

21 A Just as they are there.

22 Q What is this over here. I don't think that's something
23 the jury might be able to determine by themselves.

24 A There is an inner tube--

25 Q Let me turn that around so the jury can see it.

26 A There is a wooden board laying here and there is an inner

1 tube laying in behind it.

2 Q Did you remove those items from the trunk?

3 A Yes, sir.

4 Q Did you observe any type of staining on the carpet of
5 the trunk?

6 A Yes, sir.

7 Q O.k., I'd like for you to look at 33 and see if that,
8 can you tell me what that appears to be please.

9 A O.k. this is a stain and this is taken from the left
10 side of the vehicle facing into the trunk which shows a stain on
11 the carpet of the vehicle.

12 MR. SHOCKLEY: Your Honor, I would withdraw Commonwealth
13 Exhibit No. 34, and since she's marked them, we'll just have a
14 void there if that's o.k..

15 Q Commonwealth's Exhibit No. 35.

16 A This is more of a closer shot of the stained area on the
17 carpet.

18 Q No. 36.

19 A This also is a close-up of this same stained area.

20 MR. LOOKABILL: Is that the same picture?

21 A There is maybe some-- (unintelligible).

22 MR. LOOKABILL: There is a little different (unin-
23 telligible), ok.

24 Q And then finally Commonwealth's Exhibit No. 37.

25 A And again the same stained area. I believe it was
26 taken from a little different angle so maybe to give you a little

1 better picture of it.

2 Q Mr. Williams, what did you do with the carpet that was
3 in the trunk?

4 A Trooper Hall and myself removed the carpet from the ve-
5 hicle.

6 Q And what did you do with it?

7 A It was taken to the State Lab.

8 Q For analysis?

9 A Yes, sir.

10 Q Is that bothering you? Is that in your--

11 A I't o.k. I can--

12 Q O.k. I'll try to block it. At this particular time was
13 anything done with reference to the vehicle?

14 A The vehicle was dusted for prints and the inside, the
15 interior, the items that was on the seat was all dusted for prints
16 and, of course, all of these were negative.

17 Q All right, sir. Now when was the car eventually re-
18 moved from the railroad trestle, do you know? Were you present?

19 A I don't recall being there when the car left the area.
20 It did, was removed that afternoon.

21 Q All right, sir. And I notice you said, I'm trying to
22 go back again, what day of the week?

23 A It was on a Monday.

24 Q Did you do any investigation uh, Monday to Wednesday?

25 A On Tuesday, we went to the house, to the Davis home over
26 on the lake.

1 Q Who is "we"?

2 A Trooper Hall, myself. There were some other officers
3 along with us. I don't recall who all they were.

4 Q Do you recall what time of day you first went to the
5 Davis residence? This is you say, Tuesday?

6 A Yes, sir.

7 Q Do you know what time?

8 A It was around 3:00 o'clock in the afternoon the first time
9 that I was there.

10 Q Is this the first time that you'd ever been to the Davis
11 residence?

12 A Yes, sir, it is.

13 Q Did you conduct any type of investigation as to the out-
14 side of the Davis home?

15 A We checked the area outside the home and found some
16 spots or stains on the walkway outside the home.

17 Q And what did you do with those stains or spots?

18 A I used a Q-tip swab with saline solution.

19 Q All right, is this the procedure that's normally followed
20 to lift stains?

21 A Yes, sir.

22 Q Of a nature that you want to analyze?

23 A Yes, sir.

24 Q Where did you get your saline solution?

25 A From the Community Hospital in Radford.

26 Q All right. Captain Williams, when you took this swab,

1 what did you do with it?

2 A I soaked the tip of the swab in the saline and then
3 rubbed the spot and then, of course, placed it in a plastic bag
4 and sealed it.

5 Q All right, did you also take that to the Consolidated
6 Laboratories?

7 A Yes, sir we did.

8 Q And do you have any type of marking on here? Your Honor,
9 I refer now to Item No. 13 on the laboratory sheet. I do not
10 want to open it at this time, but I'll introduce it into evidence
11 at a later point but I do for purposes of establishing the chain
12 would like to be on the record that I'm referring to these items
13 by laboratory number.

14 Is this, if you can identify that please.

15 A Yes, sir, this is my handwriting on the slip that is there
16 with the swab.

17 Q Is this the swab from the--what did you say it was, the
18 sidewalk or--

19 A The sidewalk or walkway.

20 Q All right. Where was this area of the walkway that you
21 took this particular swab?

22 A It would have been, if you consider it as a walkway, it's
23 right behind the driveway or it would be actually considered a
24 portion of the driveway.

25 Q O.k. as you would go up to the Davis home, drive up and
26 pull in the driveway and you are facing the garage, and you get out

1 of the car, where would you go to find this where this stain was
2 found?

3 A If you pulled up facing the garage, it would have been
4 almost directly in front of the vehicle.

5 Q In front of the vehicle?

6 MR. LOOKABILL: I'm sorry, in front of the what?

7 MR. SHOCKLEY: Vehicle, I think he said.

8 A Right.

9 Q Would this be between the vehicle and the garage, is that
10 what you are saying?

11 A Yes, sir.

12 Q Is this a, what type of surface was this? I'm not--

13 A Concrete.

14 Q Concrete, and did you remove this particular stain from
15 the concrete?

16 A Yes, sir.

17 Q Did you remove any other stains that particular day?

18 A There was a stain on the carpet in the family room that
19 we removed that day. There was also a stain on the--

20 Q Just one second, Mr. Williams. Mr. Williams, I want to
21 go back and ask you about this particular item. You said that
22 you took a swab from the area between the front of where her car
23 would be parked and the garage door?

24 A That's correct.

25 Q And you submitted that to the lab? Did you take any
26 other stains on the outside of the house that day before you left?

1 A There was another stain at the back of the house also
2 on a walkway.

3 Q All right, where was that?

4 A Or, uh, it was almost directly in front of the sliding
5 glass doors.

6 Q What I did quite frankly, is I made a mistake in showing
7 you this and I pulled out the wrong item and I would like you
8 to re-examine that and if you can tell me where this particular
9 swab was taken.

10 A I didn't read it when you handed it to me. I just
11 noticed that it was my writing. This one was taken from the front
12 of the sliding glass doors at the rear of the King cabin.

13 Q Is that your writing in there?

14 A Yes, sir, it is.

15 Q Did you write that down at that particular time when you
16 took the swab?

17 A Yes, sir.

18 Q And put it with the results of the swab, did you do that?

19 A That's correct.

20 MR. WARBURTON: Mr. Shockley, you referred to that as this
21 piece of evidence. What laboratory number is that, please.

22 MR. SHOCKLEY: This is Item 13 that I referred to and I
23 pulled the wrong one when I--

24 MR. WARBURTON: Thank you. That's o.k.--

25 MR. SHOCKLEY: It was my fault.

26 Q O.k., Mr. Williams, as to again, were there anymore

1 swabs taken outside?

2 A Since that one was the one taken from the rear, there
3 was the one that was taken from the walk or driveway whichever you
4 consider it in front of the house or cabin.

5 Q All right, anything else taken outside? You've mentioned
6 two, you've mentioned one near the garage door and one near the
7 sliding glass door. Is there anything else taken outside that you
8 recall?

9 A I believe there was another one that was taken nearer
10 to the front door.

11 Q Well, let's come back to that in just a minute. Let
12 me ask you, after you took these swabs from the outside, did you
13 have means of access to the inside at that time?

14 A Yes, sir, we did.

15 Q O.k., and how was that?

16 A Bill King was with me.

17 Q Did you ever have occasion to go on the inside of the
18 house and examine it?

19 A Yes, sir.

20 Q And would you tell me when please?

21 A I was inside the house that afternoon and again then
22 later on that night.

23 Q All right, let's turn to the night. Did you--well, first
24 of all, let's go to the first point in time. That makes the most
25 sense. Did you take any particular swabs when you went inside the
26 house during the daytime?

1 A We tried to get a swab of the carpet at that time.

2 Q Did you do so?

3 A Yes, sir.

4 Q Do you have a photograph with you of the carpet?

5 A Yes, sir.

6 Q Mr. Williams, if I could get you to come on down here
7 just a second, please. Well, let me start a little bit out of
8 order here, Commonwealth's Exhibit No. 40, if you will tell me
9 when that photograph was taken and first of all, I assume you
10 took it. Is that right or wrong?

11 A That's correct.

12 Q Just tell me when it was taken, please.

13 A O.k., this was taken on Tuesday night and it is a
14 picture of the sliding glass doors at the rear of the King house.

15 Q Of course, the jury should be familiar with that. Now
16 if you would tell me about Item No. 30, please.

17 A This is an area of the carpet in the den or family room
18 of the King residence just inside the sliding glass doors.

19 Q The sliding glass doors as shown in the previous exhibit,
20 Exhibit No. 40?

21 A Yes, sir.

22 Q Can you give me the approximate dimensions. I realize
23 there are some outer fringes of the stain, but can you give me the
24 approximate dimension of the stain?

25 A Approximately 18 inches _____ (inaudible, noise).

26 Q And how about Commonwealth's Exhibit No. 39.

1 A This again is a area of the carpet, showing the stain
2 on the carpet just taken from a slightly different angle from the
3 previous picture.

4 Q As you would walk into the right-hand set of the sliding
5 glass doors, can you tell me how far in you would have walked
6 before you came to the stain?

7 A I would have to guess at it. I didn't make any kind of
8 a measurement.

9 Q All right. Do you know in steps?

10 A I would guess about three or four feet.

11 Q And as to right or left when you walk into the sliding
12 glass doors, we're straight ahead--

13 A Slightly to the left.

14 Q Slightly to the left, all right. Did you take a swab
15 from that carpet?

16 A Yes, sir.

17 Q O.k., I'd like you to look at this and see if you can
18 identify that for me, please. Your Honor, again I'm referring to
19 Laboratory Item No. 11.

20 A Yes, sir, these are the swabs that I made at that time.

21 Q Of What?

22 A Of the stain on the carpet.

23 Q And what did you do with that particular or those parti-
24 cular swabs?

25 A They were sealed in a plastic container and taken to the
26 lab.

1 Q Is this your writing inside of the bag?

2 A Yes, sir, it is.

3 Q And how many swabs did you make of the carpet, this
4 stain on the carpet?

5 A As I recall there was about three of them.

6 Q Three?

7 A Three.

8 Q All right. Mr. Williams, did you take some carpet
9 fibers?

10 A Yes, sir, I did.

11 Q And I'd like you to look at this. It's marked as Laboratory
12 Item No. 12 and see if you have any type of designation so that
13 you can identify that?

14 A Yes, sir, I have. This is my writing and it is fibers
15 from the carpet in the stained area.

16 Q And were these taken to the laboratory?

17 A Yes, sir, they were.

18 Q By whom?

19 A Trooper Hall and myself.

20 Q Now as to the swabs of the carpet taken or the stain
21 and as to the carpet fibers that were--first of all how did you
22 remove these. Did you just cut them?

23 A Just kinda reached down into the carpet and clipped them.

24 Q All right, sir. When were these taken. Do you recall
25 whether it was the Tuesday or Wednesday or, excuse me, Tuesday
26 afternoon or Tuesday night, I guess what you described, or some

1 other time?

2 A Those I think were taken Tuesday afternoon, and then
3 later we went back and redid some other things.

4 Q All right, sir. While you were inside the Davis home
5 on Tuesday afternoon, did you take any other type of physical
6 evidence?

7 A No, sir.

8 Q When did you next return to the Davis home?

9 A It was Tuesday night. I don't recall the exact time.
10 It was late at night.

11 Q O.k., was it after midnight?

12 A No, sir, it was still Tuesday. It wasn't Wednesday
13 morning yet.

14 Q And did Austin Hall accompany you there or--

15 A Yes, sir.

16 Q --Was he there with you and any other investigators?

17 A We did have several other officers with us. I again
18 don't recall just who all it was.

19 Q Was Mr. Roop there, you assistant in Radford?

20 A Yes, sir.

21 Q Let's, it might be easiest if we take it room by room.

22 Did you have occasion to go upstairs? When I say "upstairs" I
23 mean on the middle level. Are you familiar with the house and its
24 layout?

25 A Yes, sir.

26 Q Did you have occasion to go into the bathroom on the

1 middle level?

2 A Yes, sir.

3 Q And did you take anything in there, sir?

4 A Yes, sir, I did.

5 Q And what would that have been?

6 A Had a light switch plate that we took, had a red stain
7 on it.

8 Q All right, now may I ask you to look at this. I refer
9 to Laboratory Item No. 15. I would like for you to look at this
10 and tell me if you can identify that?

11 A Yes, sir, this is the light switch plate that we took
12 that night.

13 Q Did you remove it yourself?

14 A Yes, sir.

15 Q And did you also submit this to the Consolidated Labora-
16 tories for analysis?

17 A Yes, sir, I did.

18 Q Did you take any swabs from that light switch plate before
19 you removed it from the wall?

20 A No, sir, not from the plate itself.

21 Q Did you take any swabs in the bathroom?

22 A Yes, sir, on the switch itself, the little button that--

23 Q The switch, o.k.

24 A We did take a swab from it.

25 Q All right, let me, let me get you to look at this and
26 see if you can identify that, please.

1 A This is the swab that we took from the light switch.

2 Q Did you take this swab yourself?

3 A Yes, I did.

4 Q Did you submit it to the Consolidated Laboratory for
5 analysis?

6 A Yes, sir.

7 Q And after you took, maybe we'd better move back here
8 just a second referring to all these other items. Were they secured
9 and somehow designated or marked when you took them?

10 A Yes, sir, they were.

11 MR. WARBURTON: MR. Shockley, what number is that from the
12 lab report.

13 MR. SHOCKLEY: I'm sorry. This is Laboratory Item No. 4.

14 MR. WARBURTON: Thank you.

15 Q Did you take any other swabs while in that bathroom?

16 A Yes, sir, we did make another one.

17 Q And where was that from, please.

18 A From the handle on the faucet.

19 Q Let me get you to look at this please and this is Item
20 No. 29 on the Laboratory Sheet.

21 A Yes, sir, this is the swab that we made from the handle
22 on the faucet.

23 Q And did you again secure this and submit it to the Con-
24 solidated Lab for analysis?

25 A Yes, sir, we did.

26 Q Was anything else of a physical nature taken in that

1 bathroom to your recollection?

2 A I don't recall anything else from that particular bath-
3 room, no, sir.

4 Q Well, let me ask you this. To jog your memory a second,
5 let me ask you to look at this particular item. This is Item
6 No. 8 on the Laboratory Sheet that I have not shown to you yet.
7 I'd like to see if you can identify that and if so, tell me what
8 it is, please.

9 A This particular one, I believe, was from the downstairs
10 bathroom rather than the middle floor.

11 Q O.k. I guess the confusion on my part, maybe, is that
12 the Lab Sheet refers to them as the first floor bathroom I believe
13 on both of them.

14 A Yes, sir, I think so.

15 Q Are you saying that it's your recollection that this
16 came from the den bathroom?

17 A That's the way that I recall, it, yes, sir.

18 Q And where in the den bathroom did you take this parti-
19 cular swab?

20 A This, too, was on a light switch.

21 Q You mean like a plate like this?

22 A More on the switch itself.

23 Q On the thing that moves up and down?

24 A Yes, sir.

25 Q And again did you secure this and submit it to the Con-
26 solidated Laboratory for analysis?

1 A Yes, sir, we did.

2 Q All right, going into the den, and, of course, you talked
3 about the stain on the carpet and its size. Approximately how
4 was the color of that stain?

5 A Well, it had been or appeared to have been bleached out
6 to a point where that it was not so much a red as it was pink,
7 kind of a pinkish color.

8 Q All right, sir. Did you take any swabs from any items
9 of furniture in the den area?

10 A There was a chair just to the left of the sliding glass
11 door.

12 Q All right, left, coming from which direction?

13 A As you enter the building.

14 Q Chair to the left as you would come in the sliding glass
15 door?

16 A Yes, sir.

17 Q Did you take a swab from that?

18 A Yes, sir, we did.

19 Q What part of the chair please.

20 A From the leg of the chair.

21 Q And what was the composition of that leg?

22 A Wood.

23 Q I'd like for you to look at this please and see if you
24 can identify that for me. I refer to Laboratory Item--

25 A 7.

26 Q 7.

1 A Yes, sir, this is the swab that we made from the chair.

2 Q And again did you secure this and submit it to the labora-
3 tory for analysis?

4 A Yes, sir, we did.

5 Q Was there anything else that was physically taken or
6 chemically taken, whatever, from the den itself, do you recall?

7 A I don't recall anything else.

8 Q All right, sir. Let me retire here a second. I'll be
9 back.

10 Mr. Williams, let's go from the den into the, what I call the
11 utility room. Do you know what I'm referring to?

12 A Yes, sir, it's to the right of the den as you--

13 Q All right.

14 A --enter.

15 Q Before we get into these items, if you would, do you have
16 some photographs that were taken at that time of the den, I mean
17 of the utility room, excuse me.

18 First of all, let's back up here a second. I see you have
19 some photographs that I had forgotten about.

20 Mr. Williams, if I could get you to step down here just a
21 second, please.

22 What happened to your camera here. I won't blame you for it.

23 A It was getting kinda late at night.

24 Q Is that what it was. All right, I would like for you
25 to look at Item No. 41 or Exhibit No. 41 and describe where it was
26 taken and what it shows, please.

1 A This is the light switch in the middle bathroom, the
2 cover from that we showed earlier. This is a picture _____
3 (inaudible, cough) before it was removed from the wall showing the
4 red stains that was on it.

5 Q All right, now what about the switch itself?

6 A Well, as we look at this switch, it would be to your
7 left, as you look at the photograph you will see that there is
8 a spot on it.

9 Q And the color?

10 A Red.

11 Q And this photograph, No. 2.

12 A This particular one, this was in a close area and I was
13 having a difficult time trying to get into it to even make a pic-
14 ture of it, is the picture of the faucet where there was a red
15 stain on the handle of the faucet.

16 Q Is the light switch plate shown in that photograph?

17 A No, sir, it isn't.

18 Q Where is this faucet and sink in relation to that?

19 A Well, as you go into the bathroom itself the light switch
20 would have been on the left and then the sink.

21 Q Well, I'm saying how close together is the sink and the
22 light switch?

23 A Well, there is a cabinet type thing that the sink is
24 enclosed in and the light switch was just above there.

25 Q It was just above it?

26 A Yes, sir.

1 THE COURT: Which bath are you talking about?

2 MR. SHOCKLEY: This is the middle--

3 A The middle bathroom.

4 Q All right, now I'd like you to let me have the photo-
5 graphs of the utility room.

6 MR. WARBURTON: The only objection we have, Mr. Shockley, is
7 these appear to be the same photographs.

8 Mr. Williams, if I can impose upon you again.

9 If you would, I'd like you to tell us what this is, please.

10 A O.k., this is just a general, more or less, overall
11 shot of what I could get through the door coming into the utility
12 room, shows the table, the area in behind it and to the side of
13 it.

14 Q Did you take any of those items shown in that photograph
15 into your custody?

16 A Yes, sir, we did.

17 Q Would you tell, point out those that you took, please.

18 A The water pitcher here was taken. The dustpan here on
19 this chair was taken.

20 THE COURT: That's No. 43?

21 THE CLERK: Yes, sir.

22 Q And would you tell me what No. 44 is?

23 A This is a close-up of the dustpan that was shown in the
24 chair _____ (unintelligible) showing a red stain down inside
25 the dustpan.

26 Q Now Mr. Williams, I don't want to mislead the jury and

1 all but there appears to be some red stain on the concret off to
2 the right. Is that blood?

3 A No, sir, that's paint.

4 Q And I'll ask you about Commonwealth's Exhibit No. 45.

5 A This is a shot of the refrigerator door. The refrigera-
6 tor is located there in the utility room and it's almost bleached
7 out on it, but if you look you can see that there is a red stain
8 along the seal of the interior of the door.

9 Q To get to it, from this last photograph, to get to that,
10 to get to see that particular stain would it be necessary to
11 open the door?

12 A Yes, sir.

13 Q Commonwealth's Exhibit No. 46.

14 A This is a closer shot of the table showing a red stain
15 here about the center.

16 Q And finally No. 47.

17 A This is another shot of the table and almost midcenter
18 on that you will see another red spot on the table itself.

19 Q Now we've mentioned the water pitcher and the dustpan.
20 Is this the water pitcher shown in that photograph?

21 A Yes, sir, it is.

22 Q Did you take this into your custody and secure it?

23 A Yes, sir, we did.

24 Q And did you take it to the laboratory?

25 A Yes, sir.

26 THE COURT: That's number--

1 MR. SHOCKLEY: Oh, I'm sorry. This is Laboratory Item No.
2 17. I'll introduce it at a later point, Your Honor.

3 Q And the dustpan, is this the dustpan that is shown in
4 the photograph?

5 A Yes, sir, it is.

6 Q Did you take this in your possession?

7 A Yes.

8 Q Secure it?

9 A Yes, sir.

10 Q And did you submit it to the Consolidated Laboratories?

11 A Yes, sir.

12 MR. WARBURTON: _____ (Unintelligible).

13 MR. SHOCKLEY: I'm sorry, again, Item No. 18.

14 Q Now Item No. 14, is this the molding from the refrigerator
15 door?

16 A Yes, sir, it is.

17 Q It's obviously not the entire molding of the refrigera-
18 tor?

19 A No, sir, I just cut a piece of it out, the piece that
20 was stained.

21 Q Did you ask permission of the Davises to do that?

22 A Bill was there at the time, and--

23 Q You did it anyway.

24 A He did say that it was o.k. but it wouldn't make his
25 father any too happy.

26 Q O.k. Would you point out on here the stain that you

1 referred to in the photograph?

2 A It's along the edge of the seal here. You can see that
3 there is a red stain on--

4 Q Now did you get looking around the refrigerator. Did
5 you look around--

6 A You mean the area of--

7 Q Yes, uh huh.

8 A Yes, sir.

9 Q Now first of all let me back up just a second. This
10 particular table in case the jury doesn't recall from yesterday,
11 how was it situated in the room with reference to the refrigera-
12 tor?

13 A As you go through the door into the utility room, the
14 table sits almost directly of you.

15 Q Would it be running with you or running across you?

16 A It runs across.

17 Q All right and how, where is the refrigerator door?

18 A The refrigerator then is to the right as you go through
19 the door.

20 Q Did you find any items that you took in your possession
21 near the refrigerator?

22 A Yes, sir.

23 Q All right. May I ask you to look at this particular
24 shoe and tell me whether or not you took that in your possession?

25 A Yes, sir, this is a golf shoe that is one of a pair of
26 golf shoes that was sitting there next to the refrigerator.

1 Q Did it have any stain on it that came to your attention?

2 A Yes, sir, on the front cleat on the bottom side is a
3 red stain.

4 Q All right, I'd like you to get down and just show that
5 to the jury if you would please, what you are talking about.
6 What Item number is this, I'm sorry.

7 A 20.

8 Q Mr. Williams was there anything else that caught your
9 eye about that particular cleat?

10 A It appeared to have a hair that was caught in and around
11 the cleat itself.

12 Q Did you again submit that shoe to the Consolidated Lab-
13 oratory?

14 A Yes, sir, I did.

15 Q Now I've asked you about several items here and the sub-
16 mission to the laboratory. Were they all taken at one time?

17 A Yes, sir.

18 Q And who went with you if anyone?

19 A Trooper Hall.

20 Q So when you say you submitted them to the lab, do you
21 necessarily mean that you did so to the exclusion of everyone else?

22 A No, sir, Trooper Hall and myself took these items down
23 there and I think probably both our names will be on the lab sheet.

24 Q All right, sir. Did you also take into your possession
25 another or other shoes?

26 A There was another pair of, I believe they were brown

1 shoes that was there near the refrigerator.

2 Q Gentlemen, this is Laboratory Item No. 19. It's sealed
3 and I don't intend to introduce it at this point but--I guess I
4 can maybe. I don't know, let's see. Maybe without me opening it
5 further can you look at these particular shoes and tell whether
6 that's the pair you took in your possession.

7 A Yes, sir, it is.

8 Q Was there any stain on these shoes?

9 A Yes, sir, there was also a red stain on those.

10 Q Well, I guess we may as well just open them up and be
11 done with it. Now I'd like for you to again come to the jury,
12 please.

13 A On these it's kinda difficult to tell since they are
14 pretty near the same color but the stain would have been, the area
15 of the stain was around the toe of the shoes.

16 Q Is there any stain left on them now that you can observe?

17 A None that I can see _____ (inaudible, noise).

18 Q _____ (Inaudible, noise).

19 A _____ (Inaudible, noise).

20 MR. SHOCKLEY: Your Honor, we might ought to go ahead and
21 introduce these into evidence at this time. We'll introduce both
22 shoes as one exhibit, please.

23 THE COURT: All right, sir, a pair of brown shoes Exhibit 48.

24 Q Mr. Williams, before we talk about the refrigerator
25 door, you not only got the building strip but you got the whole
26 door. I'd like you to look at this particular item, please, and

1 tell me what it is.

2 A This is a control swab. It's a swab that we just dipped
3 into the saline to send along with the other swabs so that they
4 could check and--

5 Q Can you explain the purpose of that?

6 A Well, it's just so that if there's any substance in the
7 saline itself that would have any bearing on the test, they can
8 use this to eliminate that from--

9 Q I see. Now if I can get you out of your chair one more
10 time--

11 MR. RUSSELL: What's the item number on that?

12 MR. SHOCKLEY: I'm sorry, Item No. 16.

13 Q Mr. Williams, tell me when you first looked at this
14 door?

15 A Tuesday, the 2nd, I believe it was.

16 Q All right, sir. And where did this door come from?

17 A From the refrigerator in the utility room of the Davis
18 cabin.

19 Q I know you are not a lab expert or anything but from a
20 vision standpoint, what you can observe as a layman, would you
21 first of all tell me any observations that you may have made about
22 the front of the door.

23 A You mean the front section here?

24 Q Yes. First of all, let's so the jury understands--there
25 is a lot of black on it. Can you tell me what that is?

26 A It's fingerprint powder.

1 Q Was the door black like that when you first observed it?

2 A No, sir, it wasn't. It was white except for to an angle
3 on it, you could see kind of smears down across the door, appeared
4 to be a bit red in color.

5 Q Did you notice any foreign material attached to the front
6 of the door?

7 A There were some, what appeared to be hairs sticking to
8 the front of the door.

9 Q Anything else?

10 A Possibly some carpet fibers and--

11 Q I understand you are not an expert on that and we'll tie
12 that in later. Is this where you took the--

13 A This is where we took the seal from, yes, sir.

14 Q Right over on this side?

15 A Yes, sir.

16 MR. SHOCKLEY: Your Honor, if I could take a little load off
17 of Mr. Wilmore back there, I'd like to go ahead and introduce that
18 as an exhibit and we will, you know, tie it in later and keep
19 it here in the courtroom and Mr. Wilmore won't have to worry about it.

20 THE COURT: That will be fine. I'm going to adjourn in 5
21 or 10 minutes so you can govern yourself accordingly.

22 MR. SHOCKLEY: All right.

23 THE COURT: Do you want to bring Mr. Wilmore in now?

24 MR. SHOCKLEY: Sir?

25 THE COURT: Would you like this witness to stand aside a
26 minute and let Mr. Wilmore come in now?

1 MR. SHOCKLEY: No, Mr. Wilmore's not involved I don't believe
2 with the chain.

3 THE COURT: I thought you said you wanted--

4 MR. SHOCKLEY: No, he's taking care of those items that we
5 have not introduced and rather than--

6 THE COURT: All right, you want to introduce this--

7 MR. SHOCKLEY: Yes, sir.

8 THE COURT: --By this witness. All right.

9 Q This is Item No. 31. Your Honor attached to the door
10 of the refrigerator is something from the laboratory also sealed
11 and initialed and marked by item number. I'll remove that and
12 introduce that at a later point.

13 A One more item, Judge.

14 THE COURT: All right, sir.

15 Q Mr. Williams, I'd like for you to look at this particu-
16 lar tool and tell me if you can identify it for me, please.

17 A Do you want me to go ahead and tear the bag off?

18 Q I supposed we can do that, yes. All the initials are
19 on the handle and everything.

20 A I'm dangerous when I got something in my hand.

21 Q That's all right.

22 A Yes, sir, this is a mattock that we removed from the
23 utility room of the Davis residence.

24 Q Let me back up just a second. I don't know if I ever
25 asked you where exactly this shoe and these other shoes were po-
26 sitioned.

1 A Just to the left of the refrigerator.

2 Q And was there a stain on here, is that--

3 A Yes, sir, on the blade here.

4 Q Is it visible now?

5 A I think that's probably just where they have tried to
6 remove the stain from the blade but you can still see where it
7 was.

8 Q It was on the flat type blade?

9 A Yes, sir.

10 Q This is Item No. 12.

11 A 21.

12 Q 21, excuse me. I'm reading upside down.

13 Mr. Williams, did you take this to the lab with the other
14 items?

15 A Yes, sir, we did.

16 Q I'll offer that into evidence at this time, Your Honor.

17 THE COURT: All right, sir.

18 I'm sorry, one more. We'll just go ahead and conclude for
19 the day, if that's all right. The members of the jury are tired
20 and we are all tired.

21 THE COURT: Members of the jury please recall my instructions.
22 You will continue your practice of not reading any newspaper or
23 listen to anything about this case on the radiator or television
24 until it's all over. I thank you so much for your attention to
25 that instruction. Of course, do not discuss the case nor permit
26 anyone to talk to you about it nor in your presence. Sheriff you

1 may adjourn to tomorrow morning at 9:30.

2 (Thereupon Court was adjourned to 12-12-80 at 9:30 a.m.)

3 (End of proceedings 12-11-80.)

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December 12, 1980

(Reporter sworn)

1
2
3 THE COURT: Good morning, ladies and gentlemen. Before we
4 commence this morning I want to--suppose you turn around and face
5 me. I hate to talk to backs of peoples' heads.

6 I want to talk to you about whether or not you'd like to
7 have a session tomorrow. It's going to take two or three more
8 days at best to conclude this case. If we have a session to-
9 morrow, of course, that's one day less that we'll have to work
10 next week, but tomorrow is Saturday and if you people have any feeling
11 one way or the other, if you do not want to have a session, to-
12 morrow, I will accede to your request.

13 (Thereupon it was decided that after the conclusion of the
14 proceedings on this day the further hearing of this case would
15 be continued to Monday, December 15, 1980.)

16 (Continuation of testimony of Mr. Gerald Williams:)

17 DIRECT EXAMINATION

18 BY MR. SHOCKLEY:

19 Q Mr. Williams, I want to show you another exhibit here.
20 This is Laboratory Item No. 50 and ask you about that, please.

21 A Yes, sir, this is a sample of the carpet out of the King
22 house.

23 Q You mean the Davis home?

24 A Or the Davis, yes, sir.

25 Q And how was that removed?

26 A I took a knife and just cut a piece of the carpet out.

1 of the corner.

2 Q Is that in the stained area or not?

3 A No, sir, this is an area back away from the stain.

4 Q And what did you do with that particular piece of carpet
5 after you removed it?

6 A It was sealed in a plastic bag and it was sent to the
7 State Lab.

8 Q Mr. Williams, did you obtain hair samples from the
9 defendant?

10 A Yes, sir, I did.

11 Q And would you tell the Court and the jury how many
12 samples and from which parts of his body?

13 A Well, we had three different areas of the body that we
14 received the samples from and the way that we went about doing
15 that is I had Steve actually pull the hair himself and drop it
16 into a plastic bag.

17 Q Gentlemen, I refer to Laboratory Items Nos. 44, 45 and
18 47. First of all Item 44, is that your handwriting on that, sir.

19 A Yes, sir, it is.

20 Q And what is contained--first of all, did you press it in
21 these boards or was that done at the lab?

22 A That was done at the lab.

23 Q What, the taking of hair in this sample?

24 A This is the body hair of Stephen Epperly.

25 Q Item, Laboratory Item No. 45.

26 A This particular item is head hair from Stephen Epperly.

1 Q Do you recall how many particular samples you took?

2 A I don't recall how many hairs there was from each area.
3 There was several from each area though.

4 Q All right and what is Laboratory Item No. 47?

5 A This is pubic hair from Stephen Epperly.

6 Q So again to summarize, you have hair from which parts
7 of the body?

8 A I have hair from the head, body and the pubic area.

9 Q When you say, "body", what do you mean by "body"?

10 A The chest, across the body.

11 Q Did you also go with him to the Radford Community Hospi-
12 tal?

13 A Yes, sir, I did.

14 Q And what was the purpose of doing that, please.

15 A To have some blood samples drawn.

16 Q I refer to Laboratory Item No. 46 and I'll ask you if
17 you are familiar with those particular vials, Mr. Williams?

18 A Yes, sir, these are the vials that the lab technician
19 drew at the hospital that night.

20 Q And were these, first of all backing up to the hairs,
21 did you submit those to the laboratory for analysis?

22 A Yes, sir, I did.

23 Q Did you submit these vials with his blood to the labora-
24 tory for analysis?

25 A Yes, sir, I did.

26 Q Did you also take from the defendant or have taken from

1 the defendant, some saliva?

2 A Yes, sir.

3 Q And gentlemen. I refer to Laboratory Item No. 48. And
4 can you identify this vial for me, please.

5 A Yes, sir, this is the vial that the saliva swabs were
6 placed in and sent to the lab.

7 Q Did you take this into your possession after getting it
8 at the hospital?

9 A Yes, sir, I did.

10 Q Did you take it to the lab?

11 A Yes, sir.

12 Q Again, were all of these items as the items we discussed
13 yesterday taken to the lab with Austin Hall?

14 A Yes, sir.

15 Q Mr. Williams, answer these gentlemen's questions, please.

16 CROSS EXAMINATION

17 BY MR. LOOKABILL:

18 Q Mr. Williams, your function is just with the Radford
19 Police Department, is that correct?

20 A That's correct.

21 Q I believe that the Radford Police Department is located
22 in this area right here of the City of Radford correct?

23 A I can't tell what the streets are that you've got marked
24 off there but that looks like it would be the right general area.

25 Q This is 2nd Street?

26 A Yes, sir.

1 Q The cabin where all this evidence was seized and taken
2 is down here on the lake, is that correct?

3 A That's correct, well where most of it was taken anyway.

4 Q Which is approximately how far from the police depart-
5 ment in Radford?

6 A Um, 10, 15 miles.

7 Q Sir, could you tell the jury why the Radford Police De-
8 partment was, you know, outside their jurisdiction by about 8
9 miles, 8 to 15 miles.

10 A Well, we had received the initial report that the girl
11 was missing and until we actually ran into anything that would in-
12 dicate that something had happened outside our jurisdiction, then,
13 of course, we were interested in the case in the fact that we might
14 be the ones to prosecute it.

15 Q By the time you were taking these bits of evidence that
16 were sent to the laboratory, pieces of evidence, wasn't it pretty
17 clear that any investigation would have been in Pulaski County at
18 that point?

19 A Yes, sir, it was.

20 Q Why then did you continue to investigate it in Pulaski
21 County?

22 A Since we had already begun with the investigation on it,
23 Trooper Hall asked if we would go ahead and assist him in the in-
24 vestigation that he was conducting.

25 Q Did he contact the Pulaski County Sheriff's Department
26 for their aid at that time?

1 A I have no idea, sir.

2 Q Did you have any question in your mind whether you
3 should be involved in this investigation at that point?

4 A No, sir.

5 Q Is it common for you to go into another county and do
6 investigations?

7 MR. SHOCKLEY: Your Honor, objection; I don't see any rele-
8 vance of this questioning at all.

9 MR. LOOKABILL: Your Honor, I think it lays the background
10 for the investigation and there is so much question about where
11 it, you know, where a crime, if one was committed, was committed
12 I think it's relevant.

13 THE COURT: Oh, I doubt the relevancy of it, but he's already
14 answered the question, how he got into it and why he was still in
15 it at this stage. I think he's answered your inquiry anyway.
16 You may proceed.

17 Q What was the date that you took this evidence that you
18 were at the Davis home?

19 A As I recall it would have been on the Second and Third
20 of July.

21 Q In all the testimony yesterday it was that this occurred
22 on Tuesday. Now if I recall correctly, one of the witnesses, Mr.
23 King, has already testified that he didn't even contact the police
24 until Tuesday, Tuesday night about 10:30. I'm really curious as
25 to when this actually occurred, when you went over there and when
26 this investigation took place.

1 A To the best of my knowledge it was on the 2nd and 3rd.

2 Q O.k. now the 2nd is on Wednesday. Was Tuesday incorrect?
3 For about an hour yesterday, I believe the testimony was it was
4 on Tuesday. Is that incorrect?

5 A It would have been on Tuesday and Wednesday.

6 Q Let me show you just a calendar, _____ (inaudible,
7 cough) type calendar here of the first week in July and the last
8 week in June. Now can you tell me what day that was that you in-
9 vestigated or days?

10 A The vehicle was located as I recall on the 30th. We be-
11 gan our investigation at that point, continued over then through-
12 out the next week.

13 Q Now the day that the items were seized, I'll say, use
14 the word "seized", taken from the house and sent to the laboratory,
15 was that on Tuesday or Wednesday?

16 A Again as I recall it was on Tuesday night and Wednesday
17 morning.

18 Q You were over there on Tuesday night?

19 A I believe that's correct, sir. I'm certain not positive.
20 I didn't make any notes as to the date on it but as I recall it was
21 on a Tuesday.

22 Q Do you recall when you talked to Mr. King first?

23 A No, sir, I don't.

24 Q Did he go with you that first time to the house, Bill
25 King?

26 A I believe he did, sir; I m not sure.

1 Q You don't recall if he was there with you or not?

2 A The first trip there, I'm not sure, no.

3 Q During the, when you first, were you the first officer
4 there at the house?

5 A Yes, sir, I believe I was.

6 Q You and Trooper Hall together?

7 A I don't believe Trooper Hall was with me on the first
8 trip there.

9 Q And you think that these things were taken on the 2nd and
10 3rd, Tuesday and Wednesday?

11 A I believe it was the--

12 Q Wednesday and Thursday, excuse me.

13 A I think it was Tuesday and Wednesday. Again, I'm not
14 sure. I didn't make any notes of the dates so, therefore, I can't
15 be positive of it.

16 Q Did you mark those exhibits on the same day that you took
17 them from the house?

18 A Yes, sir.

19 Q If Mr. Shockley could vouch for that time, perhaps, if
20 you could tell me what date is on there. What day it was marked.

21 MR. SHOCKLEY: Well, now the carpet sample I think was taken
22 at a later time. I don't--

23 A Yes, sir, there is varying dates on those things.

24 Q Could you tell me for example a couple of items that
25 were taken the first day you were there?

26 A The swabs from the blood stains outside the building.

1 Q They would have been marked that same day and sealed?

2 A Yes, sir.

3 Q Mr. Shockley, would you--

4 MR. SHOCKLEY: I've got them. I'd be glad to let you look
5 at them, sure.

6 MR. LOOKABILL: I'd appreciate that very much.

7 Q The swab from the front of the sliding door, was that
8 taken the first day?

9 A Yes, sir.

10 Q Would you look at this please and tell me what day that
11 was taken?

12 A It was on the 2nd.

13 Q On the 2nd so the first day you were there was Wednesday,
14 is that correct?

15 A Yes, sir.

16 Q That was Wednesday of the week following the reported
17 disappearance of Gina Hall, is that correct?

18 A That's correct, sir.

19 Q When you arrived at the house, were there police officers
20 already there?

21 A No, sir.

22 Q There were not. There was no one there. Who was at the
23 house when you arrived?

24 A No, one.

25 Q No, one at all?

26 A No, sir.

1 Q Did Bill King let you in the house that day?

2 A Yes, sir, he did.

3 Q There was no police security there. Was the area
4 corded off in any way to protect the evidence?

5 A You mean when we arrived at the scene?

6 Q Yes, sir.

7 A No, sir.

8 Q Were you aware that Mr. Hall had been there on Monday,
9 Trooper Hall, that is?

10 A No, sir, I was not.

11 Q He hadn't talked to you about being there at that point?

12 A Not that I recall, no, sir.

13 Q Were there any signs or admonitions around the house
14 about people not interfering with the evidence or any part of the
15 house?

16 A No, sir, they wasn't.

17 Q So you arrived on Wednesday with Trooper Hall and Bill
18 King. Did you ride out there together?

19 A Again as I recall Trooper Hall wasn't with me on the
20 initial visit to the house. Bill King was with me.

21 Q Did you take any notes at all that day about times and
22 places?

23 A Nothing other than the notations that were made on the--

24 Q Exhibits?

25 A Yes, sir.

26 Q But you didn't take any personal notes, investigative

1 notes?

2 A No, sir, I didn't.

3 Q When was, you arrived where the car was located under-
4 neath the trestle what day?

5 A That would have been on the 30th.

6 Q The 30th?

7 A Yes, sir.

8 Q Which was what day of the week, do you recall?

9 A Monday.

10 Q Monday. What did you notice about the car; was it clean
11 or dirty or what kind of condition was the outside of the vehicle
12 in?

13 A The vehicle was fairly clean except for some little bit
14 of mud on the edge of the tires on the left side of the vehicle.

15 Q Left side?

16 A Yes, sir.

17 Q Rear tire or front and rear?

18 A Both.

19 Q You say fairly clean. The pictures were taken that day?

20 A Yes, sir, they were.

21 Q Did you notice anything missing from the car that you
22 would normally expect to find on a vehicle if it was registered to
23 be driven in the State of Virginia?

24 A Not that I recall. One of the interior door handles
25 was loose, but other than that as far as anything missing, no, sir,
26 I don't recall anything.

1 Q Do you recall whether there was one or two license plates
2 on the vehicle?

3 A I didn't pay particular attention to it. As far as I
4 know there was two on there.

5 Q There were two?

6 A As far as I know. Again I didn't pay particular
7 attention to it.

8 Q So on Wednesday what time a day did you go to the house,
9 the Davis cabin?

10 A It was late in the afternoon, somewhere around 3:00 or
11 3:30.

12 Q Prior to going over there, had you, you hadn't been to
13 the, did you come up Hazel Hollow Road, then by the scene of the
14 testle again going to the cabin?

15 A Yes, sir.

16 Q All right, of course, the car had been moved at that time?

17 A Yes, sir.

18 Q That was moved, I believe, Sunday evening, I mean Monday
19 evening?

20 A Moved Monday evening, yes, sir.

21 Q Were you present when it was moved?

22 A No, sir, I don't believe I was.

23 Q So you traveled with Mr. King. You don't remember whether
24 Trooper Hall was with you or not that day?

25 A I don't recall Trooper Hall being with me. Bill King
26 was with me, yes, sir.

1 Q Did he come down and ask to go with you or did you ask
2 him to go up there with you?

3 A We asked him to go with us.

4 Q Did you contact him at work?

5 A I don't recall right off where contact was made.

6 Q Did you contact him personally?

7 A On this particular evening, yes, I believe I did.

8 Q So you went over there around 3:00, is that the time you
9 arrived at the cabin, about 3:30?

10 A Yes, sir.

11 Q O.k., so when you arrived what was the first thing you
12 did, did you look over the house or did you immediately go and
13 start taking evidence or what did you do?

14 A Just went inside and looked around and just checked
15 the area outside.

16 Q Did Mr. King show you around?

17 A Yes, sir.

18 Q Did you ask to see specific things or did he just generally
19 show you the house?

20 A Just generally showed me the house.

21 Q Let me ask you one other question about that car. You
22 indicated in prior testimony that there was a key which was later
23 shown to belong to that car lying in the grass down next to, I
24 believe, the left side of the car, is that correct?

25 A No, sir, it was at the rear of the vehicle.

26 Q At the rear of the vehicle?

1 A Yes, sir.

2 Q It's kinda hard to tell from the picture, because it just
3 shows a down shot. Was it at the back of the trunk or was it on
4 the side?

5 A It was just about the center of the vehicle as though the
6 key maybe had been in the trunk and had been dropped when it was
7 pulled out.

8 Q Was it a trunk key or an ignition key?

9 A It was an ignition key.

10 Q O.k., now--

11 THE COURT: Somebody's coughing and I didn't hear that answer.
12 I'm not sure the jury did.

13 A An ignition key, Your Honor.

14 Q Who actually tested it find out that it was an ignition
15 key?

16 A As I recall Mr. Hall was the one that actually checked
17 it.

18 Q You mean Trooper Hall?

19 A Mr. Hall.

20 Q John Hall?

21 A Yes, sir.

22 Q When did he do that?

23 A That afternoon.

24 Q Were you present when he did so?

25 A Yes, sir, it was checked before I left the area.

26 Q Was this done after latent prints, fingerprints were

1 _____ (inaudible, cough) on the vehicle?

2 A Yes, sir, it was.

3 Q Do you recall when Mr. Hall tested the ignition key
4 whether or not he moved the seat back or forth or do you know?

5 A He didn't move it any at that time. He just checked
6 the key to see that it fit.

7 Q Were you standing right next to the door when he did
8 that, or were you in the vehicle?

9 A I wasn't in the vehicle but I was where I could see it.

10 Q And he, as best you could tell, of course, you don't know
11 whether he did or not for certain--

12 A He didn't move the seat at that time, no, sir. He
13 just checked the key to see that it fit.

14 Q Were you watching him to see if he moved it?

15 A No, I wasn't watching to see that he moved it, but he just
16 got in the car and put the key in the ignition.

17 Q Did you have your eyes on him the whole time?

18 A Well, as far as seeing what he was doing, yes, sir.

19 Q As far as seeing what he was doing. You mean you saw
20 him turn the ignition key and it worked?

21 A Yes, sir.

22 Q Turn the ignition key in it?

23 A Yes, sir.

24 Q But you weren't watching for anything else in particular?

25 A No, sir.

26 Q During the time that car, were officers there the whole

1 day with the car, somebody from the Radford Police Department
2 there from the time it was found until such time it was moved?

3 A Yes, sir.

4 Q But you weren't there yourself the whole time?

5 A No, sir, I wasn't.

6 Q O.k., so when you arrived at the cabin, how long did you
7 spend with Bill King, talking with him, going around the house be-
8 fore you actually started taking any evidence?

9 A Possibly as much as half an hour. I don't know. I
10 didn't really time it.

11 Q What time did Officer Hall arrive?

12 A That was later at the night when we went back the second
13 time.

14 Q O.k., so just you and Bill King were there when you took
15 off the evidence that was taken on Wednesday?

16 A Yes, sir.

17 Q No one else, no other officers or any--was Mr. Davis
18 there?

19 A Well, no, let me retract that for a little bit. You
20 say "when all the evidence was taken on Wednesday." We were working
21 in such a manner that day that it becomes difficult to tell which
22 was Wednesday and which was Thursday or Tuesday and Wednesday, how-
23 ever it was, because of the fact that we started and went on
24 through into the, it was about 3:00 o'clock in the morning, I think
25 when we actually finished up, so---

26 Q Was that 3:00 o'clock in the morning?

1 A --It's difficult to say what time one thing happened as
2 far as the evidence being taken.

3 Q 3:00 o'clock in the morning, would that have been
4 Thursday morning or Friday morning when you finished up?

5 A Well, when we initially got there was on the 2nd so we
6 would have been back up there later on that night on the 2nd and
7 would have been early into the morning on the 3rd.

8 Q O.k., so would all the evidence that was seized inside
9 the house, was that taken on the afternoon of the 2nd, the night
10 of the 2nd or in the morning of the 3rd?

11 A No, sir. There was some that was taken later on.

12 Q From inside the house?

13 A Yes, sir.

14 Q And I assume that you, yourself, and Mr. King were there
15 when you took the evidence during the afternoon and then Austin
16 Hall was with you that evening through on, on through til the
17 morning, is that correct?

18 A That's correct, sir.

19 Q Were there any periods of time when you all left to go
20 get something to eat?

21 A No, sir.

22 Q Did you eat there at the house?

23 A No, sir.

24 Q You didn't eat?

25 A No, sir.

26 Q From the time you left the next morning and you say

1 later on, later dates you came back to seize more evidence?

2 A I was thinking in particular of the carpet sample.

3 Q How long was that taken after the Wednesday that you
4 were there?

5 A Uh--

6 MR. SHOCKLEY: Do you mind if he looks at his notes.

7 MR. LOOKABILL: No, I don't have any objection at all.

8 A Seems to me like it was on the 13th but I'm not sure.

9 MR. SHOCKLEY: You missed a day.

10 A 12th.

11 Q The 12th?

12 A Yes, sir.

13 Q Some 10 days later?

14 A That's correct, sir.

15 Q During that ten-day period were officers stationed at
16 the house, either State Troopers, State Investigators--

17 A No, sir, they were not.

18 Q Sheriff's Department people?

19 A No, sir.

20 Q Was there anything done to cordon off the area to pro-
21 tect the area from any type of contamination, any type of vandalism?

22 A No, sir, there was not.

23 Q No officer was left there by the State Police to--

24 A No, sir.

25 Q --Stay there to protect the scene, is that correct?

26 A No, sir, there was not.

1 Q So when you got there Wednesday some four days after the,
2 after it was reported that Gina Hall was not, had disappeared, was
3 not to be found, then you began your investigation that afternoon,
4 started taking samples of various things, some of the things that
5 have been entered tentatively into evidence today, swabs, stains?

6 A Well, we actually began the investigation on the day that
7 she was reported missing.

8 Q I'm talking about at the house itself.

9 A The house itself, of course, we began the investigation
10 of that area at the time that we got there.

11 Q When you arrived at the house do you recall whether the
12 sliding glass doors were locked or unlocked on the den lower area?

13 A From my recollection of it, of course, I didn't go around
14 and check all of the doors since Bill was with me and had the key,
15 but from my recollection, I don't recall any doors being open.

16 Q Do you remember checking any of them?

17 A No, sir, I didn't.

18 Q So from the time, Saturday night, Sunday, up through
19 Wednesday, you don't know of your own knowledge whether the doors
20 were open or closed, locked or unlocked, is that correct?

21 A Well, like I say, I didn't actually check the doors to
22 see that they were open but I didn't notice any that were.

23 Q You don't have any personal knowledge one way or the
24 other?

25 A No, sir.

26 Q Do you know what the first date was that any law enforcement

1 officer went to the cabin?

2 A As far as I know it was on the 2nd as is indicated in
3 _____ (inaudible, cough).

4 Q To your knowledge there was no other officers there prior
5 to that?

6 A As far as I know, no, sir.

7 Q You indicated that one of the first tests you took or a
8 swab that you describe, I guess, a Q-tip swab, of a stain, you said
9 right in front of the garage area?

10 A Yes, sir.

11 Q Was this also sent to the laboratory?

12 A Yes, sir, it was.

13 Q The swab from downstairs, the family room, that was taken
14 from a spot which/^{was}located some how many feet from the window, from
15 the sliding glass doors?

16 A You are talking about the spot on the carpet?

17 Q Yes, sir.

18 A Again I would just have to guess as to the distance.
19 I would say it was about three to four feet inside the door.

20 Q Was this measured, the distance?

21 A No, sir, it wasn't.

22 Q How many feet from the front of the sliding glass door
23 in the den area outside on the concrete was the stain from which a
24 swab was taken and sent to the laboratory, do you know approximately
25 how far or exactly how far?

26 A I would have to approximate it. It wasn't measured.

1 Q What kind a stain was it, just a small, was it a large
2 stain?

3 A Just a small red stain, looked more like a liquid had dropped
4 and dried in that area.

5 Q What about the spot that was in front of the, or stain
6 that was in front of the garage door, was it small or large?

7 A Again it was just a small dot.

8 Q VErY small?

9 A Yes, sir.

10 Q In fact you had to really look to find it?

11 A Yes, sir.

12 Q You said also something about another stain near the
13 front door, was that also large or small?

14 A No, sir, just a small stain, just a drop.

15 Q How wide was that stain you saw on the carpet?

16 A Approximately 18 inches.

17 Q You showed us some carpet fibers, was that out of the,
18 did you cut out a piece of the carpet or did you just send this
19 to the lab this small amount?

20 A Which one are you talking about? There are two different--

21 Q Well, the one where the stain was.

22 A The one where the stain was we just clipped some of the
23 fibers and sent those.

24 Q Do you know whether since that time the carpet's been
25 replaced in the house in that area?

26 A Not to my knowledge, no, sir.

1 Q You then said you took a, you had the whole light switch
2 plate that you had admitted into evidence or tentatively into
3 evidence, is that correct, is that from the middle level or the
4 lower level?

5 A The middle level.

6 Q Was that also seized the first day you were there or
7 do you recall, that night?

8 A That night, yes, sir.

9 Q Did you take those photographs yourself Captain Williams
10 or did someone with--

11 A Are you referring--

12 Q --of the house?

13 A Yes, sir, I took them myself.

14 Q Took them yourself. The photographs from the car, did
15 you take them yourself also?

16 A Yes, sir, I did.

17 Q You testified as to some shoes that were located in the
18 utility room, some brown shoes which I think the jury seen and a
19 golf shoe. Where were these located in the utility room?

20 A The best way that I can describe it is just to say that
21 they were slightly to the left of the refrigerator.

22 Q Slightly to the left?

23 A Yes, sir.

24 Q Is the refrigerator in the same place as it was when the
25 jurors had a view of it the other day. Have you been up there in
26 the last few days?

1 A I haven't been up there for a month or so now so I don't
2 really know.

3 Q Could you tell us why, I notice that when you sent the
4 refrigerator door to the laboratory that first of all you took off
5 a strip and then later sent the whole door. Why wasn't that sent
6 all at one time? Is there any reason for that?

7 A Yes, sir, there was. As I said yesterday when you looked
8 at the refrigerator door you had to get on a particular angle to
9 see these items that were on it. They didn't show up from a
10 straight on look and the staining on the seal itself was so obvious
11 that we went ahead and got it before that we noticed the items on
12 the door.

13 Q So you didn't look at the whole thing thoroughly before
14 you took the strip off?

15 A No, sir.

16 Q You indicated, we've heard a lot of testimony about taking
17 it to the lab, Consolidated Laboratory, did you take it to the one
18 in Roanoke, Richmond or Norfolk?

19 A We go to the one in Roanoke.

20 Q I assume that each of the laboratories have separate
21 functions. Some of them have facilities to analyze certain things
22 that others don't, is that correct?

23 A That's true.

24 Q Was the Roanoke lab able to analyze, do they have the
25 facilities to analyze all of the items that you took or did they have
26 to send them off to Norfolk or Richmond?

1 A I'm not sure where all the work is done. We just sub-
2 mit it to the laboratory and they distribute it out then as to
3 the various places where it's done.

4 Q Among the items that were in the utility room that you
5 testified to as far as having stains on them, you indicated there
6 was a mattock in there. It was shown yesterday, I believe?

7 A Yes, sir.

8 Q Is that correct. Was there just a small stain on that
9 like there was a small stain on the carpet, I mean not the carpet,
10 but the front door, front patio and the back area, patio area?

11 A Possibly a little larger stain on it than there was in
12 those areas but it was still just a small amount.

13 Q Just a tiny--

14 A Yes, sir.

15 Q --very small, minute. You had to look very closely to
16 find any type of stain, is that correct?

17 A No, sir, you didn't have to look too closely at it to
18 find it. There was enough there that you could see it.

19 Q But it was a small amount. It wasn't a large stain?

20 A No, sir, it wasn't a large stain.

21 Q When you took the hair sample from Mr. Epperly, where
22 was that done?

23 A At the police department in Radford.

24 Q I notice there was some testimony earlier about some
25 hair samples that were taken from another witness that apparently
26 50 were taken and then they were retaken because they weren't

1 pulled from the body. You don't know how many hairs were taken
2 from Mr. Epperly for comparison say?

3 A No, sir, I didn't count them.

4 Q But he took them in your presence, is that correct?

5 A Yes, sir.

6 Q Did he do them himself, did he--

7 A Yes, sir, I asked him to do it himself and told him
8 where to pull the hair from.

9 Q Was the saliva sample also taken at the police department?

10 A That was taken at the hospital.

11 Q Along with the blood sample?

12 A Yes, sir.

13 Q When you arrived at the Davis home was everything neat
14 and orderly, was it a very neatly kept house?

15 A Yes, sir, it is.

16 Q Prior to that Wednesday had you ever had occasion to be
17 in that home at anytime?

18 A No, sir, I had not.

19 Q Captain Williams, when did you first have contact with
20 Mr. Epperly?

21 A As I recall it was on the same day that we went up to
22 the house which would have been on the 2nd.

23 Q All right, what was your contact at that time, did you
24 call him, did he call you or how did you get in contact with him?

25 A The initial contact with him was sometime just before
26 noon, I believe, when I went down on the job and talked with him.

1 Q On Wednesday?

2 A It would have been on the 2nd. I don't recall what day it
3 was.

4 Q You went down there and talked to him before you went
5 out to the cabin?

6 A Yes, sir.

7 Q O.k., where was he at that time?

8 A He was on the job.

9 Q Sir?

10 A He was on his job at--

11 Q At Radford University?

12 A Yes, sir.

13 Q And what discussions did you have at that time?

14 A In reference to taking a polygraph.

15 Q What happened after that, did you see him anymore that
16 day?

17 A I don't recall seeing him anymore until later that
18 night.

19 Q Later that night, on Wednesday?

20 A On the 2nd if that was Wednesday, yes, sir.

21 Q O.k., did you call him to the police de--police station?

22 A I don't recall making a phone call to him.

23 Q Do you recall his calling you insisting that he wanted
24 to talk with you?

25 A On Wednesday, the 2nd?

26 Q I don't know. It could have been a day or two later

1 after that.

2 A I've talked with him several times and I didn't make any
3 kind of a note or anything on it. Usually when he would call or
4 we needed to talk with him, we would contact him and Trooper Hall
5 was the one that usually talked with him.

6 Q Did you talk with him along with Trooper Hall?

7 A There was a time or two I think when I was present when
8 they talked with him, yes.

9 Q To the best of your knowledge each time you contacted
10 him or he wanted to talk with you, he was very, very, cooperative
11 was he not?

12 A Yes, sir.

13 Q Very cooperative?

14 A Yes, sir.

15 Q In fact he was very insistent on helping in any way he
16 could was he not?

17 A He had said that he would, yes, sir.

18 Q Thank you,,sir.

19 REDIRECT EXAMINATION

20 BY MR. SHOCKLEY:

21 Q Mr. Williams, just a few last questions, please.
22 With reference to this carpet sample, Laboratory Item No. 50,
23 you testified previously that you did not take this from the
24 stained area. What was your purpose of taking this sample?

25 A For a comparison of fibers without a stain.

26 Q Are you familiar with a certain blue towel. I know it's

1 not been mentioned yet, but are you familiar with a certain blue
2 towel that was found during the investigation?

3 A Yes, sir, I do know about it.

4 Q Did you ever see that blue towel yourself?

5 A Yes, sir, I have.

6 Q Did you observe anything in the towel unusual?

7 A There was a red stain on the towel and as I recall there
8 was also some small particles that looked like they had come
9 from that particular carpet.

10 Q Well, my question is was there something on the blue
11 towel that caused you to take this sample?

12 A I'm not sure I understand what you are getting at.

13 Q All right, after you saw the blue towel--

14 A The stain--

15 Q O.k., let me ask the question, after you saw the blue
16 towel, was there anything that you saw on the blue towel that made
17 you feel that you had to go take this carpet sample?

18 A Well, the carpet sample was taken for two different
19 reasons, for comparison with the fibers that we had already sent
20 in as well as comparison with some fibers that was on the towel.

21 Q All right, sir. The swab that was taken of the stained
22 area or the three swabs, I believe you said, and also the fibers
23 that were pulled from the carpet in the stained area, when was that
24 done, please.

25 A That was done the first evening that we were there.

26 Q Is that Wednesday or the 2nd, how is it better for you

1 to--

2 A It's difficult, really.

3 Q Let me ask you this, Mr. Williams, during that period of
4 time, what type of hours were you maintaining on the job?

5 A Twenty to twenty-four.

6 Q Was it uncommon for you to not maybe know which day it
7 was?

8 A Very much so.

9 Q When you were working these type of hours, were you
10 exerting your efforts primarily in the investigation of this case
11 or did you have other cases that you were also working on?

12 A Well, we had some other cases, of course, that we had
13 to look into and maybe assign out to other officers in our juris-
14 diction, primarily our function was this case.

15 Q Mr. Williams, when you walked into the Davis home the
16 first time and the second time for that matter, we're talking about
17 the Wednesday, I take it to be?

18 A Yes, sir.

19 Q Was the refrigerator door, the stain on the pitcher, the
20 dustpan, the shoe, even the stain on the carpet, were these stains,
21 did they stand out like a sore thumb? Were they apparent to you?

22 A Yes, sir, they were very obvious once you got inside the
23 cabin and looked around.

24 Q But what I'm saying is to just walk in quickly and just,
25 you know, look around the room, would they be the type of things
26 to say, "Oh, look at that, or--

1 A It wouldn't be something you would notice probably unless
2 you were looking for it.

3 Q And again how long have you been in police work?

4 A Seventeen years.

5 Q Were you there to, what was your purpose in going to the
6 house?

7 A To look for any items that would indicate that Gina Hall
8 had been there or anything that would indicate where she might be.

9 Q Now going to the refrigerator door, that particular
10 night, the Wednesday night, was your assistant, Jackie Roop, there
11 with you?

12 A Yes, sir, he was.

13 Q Was Austin Hall there?

14 A Yes, sir.

15 Q Was Mr. Cravens there from the Radford University
16 Security Force?

17 A Yes, sir, he was.

18 Q Do you recall whether or not any attempts were made to
19 remove the door at that time?

20 A They did attempt to remove the door at that time but
21 didn't have the tools to do it with.

22 Q Do you know who was involved in taking, trying to take
23 that door off?

24 A As I recall, Corporal Roop and Lt. Craven.

25 Q Was the door, the face of the door and the molding
26 strip and stain and everything, was that observed that Wednesday

1 night?

2 A Yes, sir, it was.

3 RECROSS EXAMINATION

4
5 BY MR. LOOKABILL:

6 Q Let me ask you one more question. Do you recall--I
7 know Mr. Shockley's indicated that you were working 24 hours a
8 day and that you were tired and I'm sure you were, but do you
9 recall around the 12th of July Mr. Epperly contacted you about
10 giving a blood sample. In fact he insisted on it.

11 A I don't recall a particular conversation like that. I
12 believe the 12th would have been after the blood samples had
13 already been taken at the hospital, wasn't it. I don't recall
14 that date either.

15 Q Well, if you don't recall, but do you remember him call-
16 ing maybe from Roanoke and telling you that, insisted on coming
17 that night. He wanted to give you a blood sample that night. Do
18 you recall that?

19 A No, sir, I don't recall anything like that.

20 Q When did you take a blood sample?

21 A Uh--

22 Q And the saliva I assume was taken at the same time?

23 A I would have to look at these things here to see. I
24 don't really recall. There were taken on the 13th?

25 A 13th?

26

1 A Yes, sir.

2 Q Don't you remember, do you remember Mr. Epperly calling
3 and insisting on giving you these samples and you said you were
4 too tired and you wanted to wait until the next day because you
5 had, had a long, long day. Do you recall that?

6 A No, sir, I do not.

7 Q You're not saying it didn't happen. You just don't
8 recall?

9 A I just don't know.

10 Q I assume you were very tired?

11 A Very much so.

12 (The witness stands aside and leaves
13 the courtroom.)

14 LAURA B. COMERE,
15 a witness called on behalf of the Commonwealth, after being first
16 duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. SHOCKLEY:

19 Q State your name, please.

20 A Laura B. Comere.

21 Q And Miss Comere where are you employed?

22 A Radford Community Hospital.

23 Q And what is your occupation there please?

24 A I'm a medical technologist.

25 Q And what do you do as a medical technologist?

26 A We have been trained to handle the aspects of laboratory

1 work like drawing blood processing samples, running the tests on
2 the samples and reporting the values to the doctors.

3 Q I want to ask you if on the 13th day of July Mr. Williams
4 the gentleman who was just in here came into the hospital to see
5 you?

6 A Yes, sir.

7 Q You'll have to speak up, yes or no.

8 A Yes, sir.

9 Q Do you recall seeing the defendant, Mr. Epperly, on that
10 date?

11 A Yes, sir.

12 Q I want to ask you if you withdrew any blood from Mr.
13 Epperly?

14 A Yes, sir, I did.

15 Q I'd like you to look at the vials here please and tell
16 me if those are the vials you used to place the blood in?

17 A Yes, sir, they are.

18 Q How many vials of blood were actually taken?

19 A I cannot not actually remember how many I drew. It was
20 a good size number because, you know, I wanted to make sure the
21 state had plenty to work with. It was probably about four or so.

22 Q Did you give these vials back over to Mr. Williams?

23 A Yes, sir.

24 Q And did you also take the saliva swabs?

25 A I don't recall if I did or if the officer that was there
26 did.

1 Q Would you look at that and tell me whether or not--

2 A ~~That~~ is my writing.

3 Q That is?

4 A Yes, sir, but I believe the officer might have collected
5 the saliva samples.

6 Q In any event, to your knowledge, did Mr. Williams leave
7 with all of these?

8 A Yes, sir, he did.

9 Q And were you procedures in removing the blood such that
10 there wasn't any type of contamination of the substance removed?

11 A No, sir, these tubes draw the blood right into it so
12 there is really no contamination.

13 CROSS EXAMINATION

14 BY MR. LOOKABILL:

15 Q Who came with Mr. Epperly when he came to give the blood
16 samples?

17 A It was an officer but I cannot remember who he was
18 exactly.

19 Q A Radford town police officer to the best of your know-
20 ledge?

21 A I'm not sure. He was in street clothes so I couldn't
22 tell without a uniform.

23 Q How long did this process take altogether?

24 A Probably only about 15 minutes. It wasn't very long
25 using the laboratory.

26 Q Was Mr. Epperly cooperative?

1 A Oh, very nice, yes, sir.

2 (The witness stands aside and leaves
3 the courtroom.)

4 JEFFREY G. KISER,

5 a witness called on behalf of the Commonwealth, after being first
6 duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. SHOCKLEY:

9 Q State your name, please.

10 A My name is Jeffrey G. Kiser.

11 Q Mr. Kiser where do you reside?

12 A I live in Norton, Virginia.

13 Q And what is your occupation there?

14 A Owner and manager of Coeburn Cinema.

15 Q Now I want to ask you if you knew Gina Hall?

16 A Yes, I did.

17 Q Are you familiar with her family?

18 A Yes.

19 Q How long had you known Gina?

20 A I've known Gina probably since she was around oh, 2 or
21 3 years old.

22 Q Have you lived in the Coeburn area all of your life?

23 A Yes.

24 Q How did you come to know Gina?

25 A The Hall family previously resided beside of my grand-
26 parents in Coeburn. That was my first association with her.

1 After that she was employed by me at Coeburn Cinema.

2 Q How long did she work for you?

3 A Let's see, approximately a year and a half. She worked
4 for me throughout her senior year. The last time she worked for
5 me she worked for me over, let's see, Christmas break which was
6 last year and she worked for me one week during the Easter break.

7 Q Can you just tell the Court and the jury a little some-
8 thing about her reputation in the community, how she, how well,
9 what people thought of her.

10 A Most, you know, everyone that I know that knew Gina
11 thoroughly thought she was great. I know of no one that disliked
12 her at all. She got along fine with everyone. She was always, you
13 know, congenial with all my customers. She was the type of
14 person, you know, that I didn't have to tell her to do something.
15 She knew to do it before hand and just a great little worker.

16 Q Did you ever know of her to have any type of emotional
17 problems?

18 A Not that I know of, no.

19 Q Was she pretty close knit with her family?

20 A Very. If she was going to be, you know, late working
21 or something like that, she'd always call home and say, "Look,
22 Dad, I'm going to be late." She just didn't want anyone to worry.

23 Q Did she seem to love her father?

24 A Very much. I've hear her, you know, upon occasions,
25 saying, you know, "I can't do something because, you know, my dad
26 would not approve of it," and, you know, I think there's a very

1 close bond between the two.

2 Q Did she seem to, you know, respect him?

3 A Very much.

4 Q Mr. Kiser, did you come into the Radford area around
5 the first of July in attempts to look for Gina?

6 A Yes, I did.

7 Q Why?

8 A Dena called and asked that myself and two of my friends
9 come up. We boat quite a bit and they wanted someone to come up and
10 go through the section of the river from the dam into Radford,
11 which we did and from that point on we just, we got involved in
12 the search.

13 Q Why would you leave your employment to come from Coeburn
14 to look for someone?

15 A Gina was just, you know, very close. I mean she was,
16 she was an employee of mine. The Hall family has been friends of
17 mine for years and it was just something I didn't care to do.
18 It was just, you know, there was no problems with me getting away
19 so I had a free week and something I wanted to do.

20 Q Did you think that much of Gina to come and look and
21 beat through the bushes?

22 A Oh, definitely, no question.

23 Q Did you ever find anything in your searches?

24 A Yes, we searched probably two or three days and found
25 nothing and one day we were--there was five of us and we were
26 searching one section of the woods we had not searched before and

1 and we did come across a blue towel.

2 Q All right, I want you to come down here just a second,
3 Mr. Kiser. You may or may not be familiar with the layout of this
4 area, but maybe if I orient you a little bit, I'd like you to on
5 this map show where you found the blue towel. Here is Route 11.
6 This is the Memorial Bridge that you come across in Radford--

7 THE COURT: Now Mr. Shockley, let's have the witness stand
8 to the side and do you have a pointer or ruler or something he
9 can use because they can't see the map if he stands right in front
10 of it. Just a minute, maybe the Clerk has something. All right.

11 Q Can you get your bearings on this map now?

12 A Yes, sir, I believe so.

13 Q All right, if you would, just--I know that you can't
14 pinpoint it exactly maybe, but if you could on this as best you
15 can show the jury where you found the blue towel.

16 A O.k., we started our search somewhere through this area
17 here, started working our way back toward the railroad bridge
18 and probably found the towel somewhere around right here (indicates),
19 approximately, I would say 10 feet off of the railroad track
20 itself.

21 Q Now do you know where the Thrift Way Store is on here?

22 A Probably around here (indicates).

23 Q First of all before we get any further can you describe
24 this terrain where you found the towel?

25 A The place where we found it was extremely rough. As
26

1 I said there was several of us searching there. We kinda spread
2 out. We were probably 20 feet apart. It wasn't a terrain where
3 you could go straight through. It was all kinds of undergrowth,
4 trees all over the place, shrubs, you name it. The section
5 exactly where we found the towel, there was a clearing from the
6 railroad track and the towel was directly in that clearing, hanging
7 from a little small shrub.

8 Q Now I want you to be positive here as to the railroad
9 trestle. Do you recall--

10 A This is the railroad trestle here then?

11 Q Yes.

12 A It isn't the highway?

13 Q Yes.

14 A I'm sorry. This is the railroad trestle then. Thrift
15 Way is here approximately and the towel would have been plocated
16 somewhere through this way. I'm sorry I misunderstood the trestle.

17 Q I was thinking you were wrong and I didn't want to tell
18 you where it was. If this is the trestle as you would stand at
19 the railroad tracks, maybe here--

20 A We were starting to search through here on this island
21 headed this way.

22 Q O.k., so again can you repoint to the jury where you--

23 A O.k. Thrift Way here, the railroad bridge being here
24 the towel would have been somewhere through this point here.

25 Q So as you would stand at this intersection here where
26 the track runs parallel with the river and where it intersects

1 with where it crosses the river, if you were standing facing the
2 trestle, would it be to your left?

3 A Yes, sir, it would.

4 Q I don't know if this will help you or not. This is
5 Memorial Bridge. This is the railroad trestle.

6 A O.k. where is Thrift Way.

7 Q Thrift Way. I don't want to be telling you.

8 A I'm really not sure. This is the parking lot.

9 Q _____ (Inaudible, cough).

10 A This is the shopping center. Thrift Way would be here.
11 There is one small house here. The towel would have been some-
12 where through this general area right through here (indicates).

13 THE COURT: Suppose you put a mark, an x-mark there, please,
14 sir.

15 MR. SHOCKLEY: Your Honor, I'd like to note for the record
16 that he put an X with a circle around it to indicate where the
17 towel was found.

18 THE COURT: Let him put his initials by it.

19 MR. SHOCKLEY: Gentlemen, I refer to Laboratory Item No. 39.

20 Q Mr. Kiser I want you to look at this towel and tell me
21 if that's the one that you found.

22 A Yes, sir.

23 Q Did it have stains on it as it appears to have now when
24 you found it?

25 A Yes, it did.

26 Q Is there anything else that struck your eye about the

1 towel when you found it?

2 A Other than the stains was, you know, what I would con-
3 sider a very good quality towel. It's not something that you would
4 go out and pick up at a dime store, or something like that.

5 Q What did you do with the towel?

6 A The, well, our immediate reaction was to, you know,
7 verify our location as to the railroad track which we did. From
8 that point on, we went up to the Thrift Way shopping center. We
9 notified the State Police and this was turned over to Sgt. Duffy.

10 MR. SHOCKLEY: (To defense counsel) Would you gentlemen care
11 to look at this towel.

12 MR. WARBURTON: At a later time Mr. Shockley.

13 MR. SHOCKLEY: Your Honor, we'd like to go ahead and offer
14 this into evidence at this point, please.

15 THE COURT: All right, according to my notes it will be exhibit
16 51.

17 Q Answer these gentlemen's questions, please.

18 CROSS EXAMINATION

19 BY MR. WARBURTON:

20 Q Not a dime store towel, right?

21 A Doesn't appear to be.

22 Q Any name on it?

23 A I would assume so.

24 Q Hum?

25 A I would assume so, yes.

26 Q Well, did you look at it?

1 A NO, I did not.

2 Q Do you know anything about Spring Maid towels?

3 A No.

4 Q Just what you see?

5 A Yes.

6 Q Is it fair to say that it's a rather vivid blue?

7 A Would appear to be, yes.

8 Q It was hanging on a bush is that what you said?

9 A Not in that manner, no.

10 Q Well, can you show me.

11 A It was hanging approximately over something of that
12 nature (indicates).

13 Q About that high off the ground (indicates)?

14 A Maybe a foot higher.

15 Q If I can estimate, that'd be about three and a half
16 feet so you are saying it would be four and a half feet off the
17 ground?

18 A Roughly.

19 Q Was there anything else blue in the neighborhood of this
20 towel?

21 A No.

22 Q How far off, how far were you from the towel when you
23 first caught it in your eye?

24 A When I saw it?

25 Q Yes, sir.

26 A Probably five or six feet.

1 Q A lot of bushes in this area?

2 A Several.

3 Q It's all bushes isn't it?

4 A Several, yes.

5 Q Were you walking on a bpath?

6 A No, we were not.

7 Q I'm talking about you, sir. Were you walking on a path?

8 A No.

9 Q And five or six feet away you saw that and you walked
10 over and the first thing you did was pull it off the bush?

11 A No. There first thing we did was verify the location
12 of the towel still on the bush. When I say, "we" there was an-
13 other individual that I called up to that point and she came up,
14 she stayed with the towel and I went up on the railroad track.

15 Q Who was that?

16 A The young lady's name, I don't remember her last name
17 but her first name was Becky.

18 Q And while you went up to the railroad track, what, counting
19 the number of times down to the--

20 A Clearing approximately where the towel was, yes,

21 Q Then you went back down and you plucked it off the bush?

22 A Yes.

23 Q What day is this?

24 A The day I have no idea. I'm sure the police records will
25 show the date. After you've been beatin' the bushes like we've
26 been beating for several days, you don't know what day it is.

1 Q You don't know what day of the week it was?

2 A I'm really not sure, no. As I said the police records
3 should.

4 Q --Do you know which week it was, Mr. Kiser?

5 A It was the week in which we were searching.

6 Q Time of day?

7 A Approximately 2:00 o'clock.

8 Q It was light enough?

9 A Definitely.

10 Q Was it warm?

11 A Yes.

12 Q You had been beating the bushes to use your words for
13 three or four days?

14 A Yes.

15 Q Did you go most hours of the day?

16 A We usually started around 9:30 in the morning and we'd
17 quit around dusky dark.

18 Q Any dew when you started on those early mornings?

19 A A couple of mornings there might have been.

20 Q I wasn't there and I'm not asking you for any certainty
21 just to the best of your recollection, was there, or wasn't there?

22 A Are you talking about at the spot where the towel was
23 or any place that we were searching?

24 Q Anywhere that you were searching, beating the bushes,
25 when you were beating the bushes.

26 A Some places we were looking, I would assume there was

1 dew, yes, at other places, no, in the woods, no, in the open
2 fields, yes.

3 Q --shoes being wet?

4 A Shoes were constantly wet.

5 Q Not from the dew?

6 A From water, from the river, from going through springs,
7 going through springs, whatever.

8 Q You picked the towel off the bush, walked with it to
9 the Thrift Way?

10 A Yes.

11 Q You used the pay phone there?

12 A Yes.

13 Q Called whom?

14 A We called the Virginia State Police in Wytheville.

15 Q In Wytheville. To whom did you talk?

16 A The dispatcher.

17 Q And?

18 A He relayed the message on to Trooper or State Sergeant
19 Duffy.

20 Q Did the dispatcher give you any instructions as to what
21 to do with that towel?

22 A He asked us to remain where we were and--

23 Q --the Thrift Way.

24 A --to turn it over to the State Police.

25 Q Did Sergeant Duffy come to the Thrift Way?

26 A Yes, he did.

1 Q Pick it up and what did you see him do with it?

2 A He immediately looked at it and from that point on it
3 was put into the car.

4 Q He just put it in his car, that's the last time you seen
5 it until today?

6 A That's the last time I've seen the towel, yes.

7 Q Who all touched that towel in your presence besides
8 yourself and Sergeant Duffy?

9 A Sergeant Duffy is the only person to put a hand on the
10 towel.

11 Q Becky didn't touch it?

12 A No, she did not. When it was removed from the bush
13 we removed it with a stick.

14 Q So you didn't touch it?

15 A No, I did not.

16 Q But when you handed it to the State Police Sergeant he
17 just took it with his hands?

18 A With the stick.

19 Q Is that right?

20 A He took hold of the towel by the upper corners.

21 Q Sir, did you make a mark on this map which is Commonwealth's
22 Exhibit No. 11 as to where you found that towel?

23 A I did not on that map make a mark.

24 Q You put it on the aerial photograph, is that right?

25 A Yes, I did.

26 Q If you could come on over here for a second, this is

1 primarily just so the record will show. On this, at first, I
2 believe you were confused as to which bridge but then you established
3 you were down in this area from the railroad trestle in a down-
4 ward direction on the map, southwesterly direction. There is a
5 letter "M" there. With relation to the letter M are we in the
6 right area?

7 A The yardage I have no idea. The area through here was where
8 the towel was found, yes.

9 Q This, I know that Mr. Matthews made this map and you
10 may not be familiar with what's on here but you were beating the
11 bushes for three or four days. Can you tell me what that little
12 black box might be.

13 A I would assume that black box there would be the small
14 house located there.

15 Q What color was that house?

16 A My recollection of the house being a older house in need
17 of bad repair, several dogs around it, the color probably dark.

18 Q O.k., for the record we are talking about a box a little
19 up the railroad tracks from the letter "M" on the same side of
20 the _____ (inaudible, cough).

21 Q How many dogs?

22 A Probably three or four.

23 Q And what kind of dogs, not necessarily the breed, big
24 small?

25 A What I call a "sooner".

26 Q Pardon me.

1 A A "sooner", a mixed dog.

2 Q A mutt?

3 A Yes.

4 Q How many _____ (unintelligible), small, medium, large,
5 give me some idea. Were they all about the same size?

6 A There was probably different size dogs.

7 Q I'm going to have to ask you I guess, something about
8 each dog. Are we talking about dogs that are two feet long, dogs
9 that you can ride on?

10 A There are no Great Danes.

11 Q Hum?

12 A There was no Great Danes.

13 Q O.k., were there any little, you know, Poodles or Chi-
14 huahuas or that kind of thing.

15 A Not that I saw.

16 Q All right, can you give us an estimation of the approxi-
17 mate size of these dogs?

18 A Anywhere from probably a foot off the ground to maybe
19 two.

20 Q O.k. and were these dogs running loose?

21 A The ones we saw were chained.

22 Q O.k. chained--

23 A Meaning on a dog house with a chain from that point to
24 the dog house. I believe there was a dog or two in the house.

25 Q O.k., they were not penned in or fenced in. They were
26 chained at the neck to something holding the other end of the

1 chain which was pushed into the ground, is that correct?

2 A Yes.

3 Q And what did these dogs do when you got close to them?

4 A The first time we went by them they barked, of course,
5 but as we went by the dogs more and more, they barked less and
6 less.

7 Q They make a heck of a racket when you get close to them
8 do they not?

9 A The first time they did, yes.

10 Q And we're not talking about one of the dogs barking,
11 we are talking about one dog barked and the rest of them chiming
12 in.

13 A Probably two or three would bark.

14 Q Would it be safe to say that that's about all the noise
15 you could hear when they are barking?

16 A I don't believe, you know, a dog barks fairly loud; yes,
17 you can hear them.

18 Q What I'm saying is when they are barking you couldn't
19 hear traffic on the other side of the river or traffic on First
20 Street in Radford or traffic in Memorial Bridge?

21 A It's something that I never tried to, you know, see.

22 Q Well, I want you to think back and please say for me,
23 sir.

24 A It's, really I don't know.

25 Q That's a perfectly sensible answer. I wanted to know
26 whether you knew. Now I also want you to please think back and

1 give us some idea when it was that you were out there searching.

2 I assume we are talking about the month of July.

3 A We are talking about the end of June and the first part
4 of July.

5 Q The end of June. Were you in Radford, Virginia, in June
6 of this year, sir?

7 A Sir, I'll be very honest with you. I do not know the
8 dates in which I was up here.

9 Q You stated that. I'm asking for an approximation. Can
10 you tell us what month you were here?

11 A We were here probably the end of June and the first of
12 July.

13 Q Of 1980?

14 A Yes.

15 Q Do you know how many days you were out searching?

16 A The initial time that we were up here, we were up here
17 for seven days. I spent one more day up here approximately three
18 weeks later.

19 Q This would have been the fourth day of your individual
20 search that you found this towel. Did you participate in searches
21 after that?

22 A Yes, I did.

23 Q Do you have any police training?

24 A No, I do not.

25 Q Would it be safe to say or to characterize your abilities
26 or interests in searching to be that of a TV watcher?

1 A No, sir, I do not receive TV. My interest--

2 Q --about your background that would--

3 A No, sir, my interest--

4 Q --skills of this?

5 A My interest in searching was for Gina only. I have no
6 specific skills in searching, no.

7 Q The people, you were with, did they have any specific
8 skills in searching--

9 A They're not trained either, no. Two of the individuals
10 with us are going to the Community College at New River and I
11 believe they are in the justice training or whatever their program
12 is there.

13 Q Do you know when they started this?

14 A I have no idea. I had never met the individuals before
15 the search.

16 Q Let me ask you just one more thing, when you were up
17 here in the City of Radford for that seven days or whatever, did
18 you spend the night or whatever time you got to sleep at Diana's
19 apartment?

20 A We spent the night with the Hall family.

21 Q At Diana's apartment?

22 A Yes.

23 Q Thank you sir.

24 REDIRECT EXAMINATION

25 BY MR. SHOCKLEY;

26 Q Mr. Kiser, just one second please. How many times were

1 you by the house with the dogs?

2 A Probably at least 15 or 16 times.

3 Q Did you ever see the dogs unchained?

4 A No.

5 Q That's all, thank you.

6 (The witness stands aside and leaves
7 the courtroom.)

8 THE COURT: Members of the jury, we'll take a brief recess
9 at this point. You may retire.

10 (Thereupon the following proceedings were had in Chambers:)

11 (MR. WARBURTON: _____ (Inaudible, malfunction of recording
12 equipment).)

13 THE COURT: All right, we'll start over with Mr. Warburton.

14 MR. WARBURTON: Your Honor, I wanted to make the objection
15 in Chambers at the first possible moment regarding Captain Williams'
16 statement on cross examination that the issue of a lie detector
17 or polygraph--and he used the word "polygraph" was taken up with
18 the defendant. The Court has already entered an order in limine
19 in response to a defense motion in limine that the issue in any-
20 thing pertaining to lie detector, polygraph or anything not be
21 in issue in this proceeding. Mr. Shockley will agree/^{with me}that we have
22 participated each morning and he has cooperated in my request
23 that he ask each individual witness to be sure not to mention
24 that word. Captain Williams did exactly what he was asked not
25 to do and stated the word "polygraph" in Court and we respectfully
26 ask for a mistrial at this point because of that issue.

1 MR. SHOCKLEY: Let me respond just a second. Judge, first
2 of all, I don't recall ever specifically requesting Mr. Williams
3 not to mention the word, "polygraph." If I recall from yesterday
4 Mr. Warburton asked me to be sure to mention to Bill King not to
5 mention the word "polygraph" and, of course, at that time I went
6 to Bill King and told him and that's why he was so emphatic in
7 not answering one of the questions yesterday pertaining to what
8 was written in his hand. As to the question that defense counsel
9 asked, I think Mr. Russell made a note of that. Do you have that,
10 Mr. Russell?

11 MR. RUSSELL: Yes, as I wrote it down, the wording of the
12 question was "What discussion did you have?"

13 THE COURT: And that question was asked by whom?

14 MR. RUSSELL: Asked by Mr. Lookabill.

15 MR. SHOCKLEY: And I believe the context of the conversation
16 is Mr. Lookabill stated he was trying to get out in evidence the
17 fact that Mr. Epperly had been cooperative and he was asking a
18 series of questions relating to Mr. Williams going to talk to him
19 and so on and so forth and, of course, Mr. Lookabill asked, "What
20 did you go talk to him about this day," or something to that effect
21 and then that's when Mr. Williams matter of factly stated as would
22 be the truth, that he asked him about taking a polygraph test.
23 I don't recall any specific type of reaction on anybody's part in
24 the courtroom, by counsel, by the audience, by the members of the
25 jury and I don't think that there was anything prejudicial at all
26 other than that word coming out and I think it was camouflaged very

1 well.

2 THE COURT: Gentlemen, I'm of the opinion that the answer of
3 Witness Williams was inadvertently elicited by defense counsel,
4 but beyond that I don't believe any harm was done. The one word
5 "polygraph" was used and then the witness and the attorney went
6 right on to something else. I looked very carefully at the jury
7 and at the--of course I couldn't see the faces of all the jurors,
8 but I looked--and I looked at the attorneys and the audience and
9 everybody to see if there was any reaction when the word "poly-
10 graph" was used and I saw none. I see no prejudice here at all.
11 The jury doesn't, most of them probably don't know what a polygraph is
12 but if they do know that it's a lie detector test, they don't know
13 whether one was administered or not or to whom or what the result
14 was or anything about it so for this reason I shall deny the motion
15 for mistrial.

16 MR. WARBURTON: Your Honor, I'd like to note our exception
17 for the record and I'd also move at this time to have the Court
18 instruct the Commonwealth Attorney to request of each individual
19 witness to not mention that word, "polygraph" or the words "lie
20 detector" in anyway, in any fashion whatsoever consonant with
21 your ruling on the motion in limine.

22 THE COURT: All right, I'll request the Commonwealth's
23 Attorney to do that.

24 Now, one other thing, gentlemen, while we're on the record,
25 we all know that one of the gentlemen from a television station
26 had requested that the Court permit him to photograph for publica-

1 tion on his television station the exhibits in this case. I de-
2 nied that permission. I did indicate, however, that I would let
3 him take a picture of the map of the general area involved in this
4 case. That was this morning before we convened. Since then I've
5 thought about it and evidence has come into the case that makes
6 the map more significant now in my judgment so we have again
7 considered the matter. The defendant, by counsel, has expressly
8 objected to the photographing of the map and in this objection
9 the Commonwealth's Attorney has joined so I have decided that I
10 will not permit the photographing of the map or any of the other
11 exhibits and I have so notified the gentleman from the television
12 stations. At this stage there are two stations. There was just
13 one when we started out. I have advised each of them that this
14 will not be permitted.

15 All right, Elinor, we'll go off the record now.

16 (Thereupon proceedings were resumed in the courtroom with
17 all parties in interest being present, including the Court, counsel,
18 jury and the defendant.)

19 DAVID MAURICE AKERS,

20 a witness called on behalf of the Commonwealth, after being first
21 duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. SHOCKLEY:

24 Q State your name, please.

25 A David--

26 Q Are you out of breath?

1 A I ran up the steps. David Maurice Akers.

2 Q Just catch your breath a second. David, where are you
3 from?

4 A Norton.

5 Q And how far is that from Coeburn?

6 A 10 miles.

7 Q Do you know Gina Hall?

8 A Yes, sir.

9 Q And do you know Greg Bass?

10 A Yes, sir.

11 Q I want to direct your attention to the night of June 29th
12 or the 28th and the 29th. Do you remember that night?

13 A Yes, sir.

14 Q Were you with Greg Bass?

15 A Yes, sir.

16 Q By the way where is Greg Bass now?

17 A He's in Italy I presume in the Air Force.

18 Q In the Air Force. Was he in the military service at
19 that time, June 28th, 29th?

20 A Yes, sir.

21 Q Had you seen him that night?

22 A Uh, from about 2:00 o'clock to 4:00 o'clock we was at a
23 sort of like a going away party.

24 Q For whom?

25 A For Greg.

26 Q O.k.

1 A And that was in Wise, Virginia.

2 Q That was in Wise.

3 THE COURT: Gentlemen, hand Mr. Akers a piece of paper. I'm
4 going to ask you to remove the chewing gum from your mouth. I
5 think we can understand you a little better if you do that.

6 Thank you.

7 Q Did you expect to be called right at this time?

8 A No, sir.

9 Q Mr. Akers when you say, "2:00 to 4:00", a.m. or p.m.?

10 A Would it be p.m.? It was Sunday morning.

11 Q Ok. Was it after midnight?

12 A After midnight Saturday night.

13 Q Saturday night was the 28th?

14 A Right.

15 Q Or Saturday was the 28th. Now I want to know if you
16 were with him at anytime during Saturday night?

17 A Saturday night, no, sir.

18 Q O.k., were you with him at anytime Sunday morning?

19 A Yes, sir.

20 Q And when did you first run into him Sunday morning?

21 A Well, I met him at the party.

22 Q All right, where was the party being held?

23 A In Wise, Virginia.

24 Q At a house or a hotel or--

25 A A trailer.

26 Q A trailer and whose trailer was that?

1 A Rita Mullins.

2 Q And did you go there by yourself?

3 A Yes, sir.

4 Q Were you driving?

5 A Yes, sir.

6 Q And was Greg Bass there when you arrived?

7 A Yes, sir.

8 Q How many other people were there?

9 A Twenty, approximately. I'm not sure.

10 MR. WARBURTON: If it please the Court. I assume Mr. Shockley
11 is going to attest for the relevancy of this. I object to it on
12 the fact it's irrelevant at the moment unless Mr. Shockley can
13 guarantee there is some connection.

14 MR. SHOCKLEY: I think so in just a second.

15 THE COURT: I assume it will be tied in. We'll see if it
16 is.

17 Q When you left there, left the trailer, left the party,
18 approximately what time was it?

19 A Approximately 4:00 o'clock.

20 Q Now would that be in the morning?

21 A Yeah, 4:00 o'clock Sunday morning.

22 Q Did anyone leave with you?

23 A Greg did.

24 Q Greg Bass?

25 A Greg Bass.

26 Q Was anybody else with you?

1 A No, sir.

2 Q And what did you do with Greg Bass?

3 A I took him home.

4 Q And where does Greg Bass live?

5 A In Norton, Virginia.

6 Q Now you say the party was in Wise. How far would Wise
7 be from Norton?

8 A Well, we was sorta of, you know, in the outskirts of
9 Wise and from the trailer, you know, where the gathering was at,
10 let's see, to his house it would be about I'd say 10 miles.

11 Q Do you know what time you arrived at Greg's house?

12 A Approximately 4:30.

13 Q In the morning? You are going to have to say "yes" or
14 "no." in the microphone.

15 A Yes, sir.

16 Q What did you do at that point?

17 A Well, I shook his hand and said, "We'll see you next time
18 you are in."

19 Q Were you under the impression that he was going abroad
20 at that time?

21 A Oh yes. He said, he was, you know, ^{he said} /as soon as I let
22 him out that he was, you know, heading this way.

23 Q How far does it take or how long does it take to drive
24 from Coeburn here, assuming you stay within speed limits?

25 A I'd say 3 and a half hours or something round there.

26 Q Is that the last time you saw Greg Bass? Have you

1 seen him since then?

2 A No, sir.

3 Q When was it that you learned of Gina's disappearance
4 in relation to this party?

5 A It might have been the next day. I'm not sure about
6 that. I just remember I was talking to a ex-girlfriend of mine
7 and she said tht Gina was missing and, you know, they couldn't
8 find her, but I'm not sure exactly when I heard that she was
9 missing.

10 Q I may have asked you this. Do you recall what time it
11 was you got at Greg's house?

12 A Well, I could say approximately 4:30 because we left
13 Wise at 4:00 o'clock, approximately.

14 Q Answer these gentlemen's questions, please.

15 CROSS EXAMINATION

16 BY MR. WARBURTON:

17 Q Mr. Akers, is it?

18 A Yes, sir.

19 Q Describe this going away party for Greg please.

20 A Well, he was leaving and I work at a local disco and
21 I just heard that, you know, they was giving him, you know, sort
22 of a little going away party.

23 Q When you arrived at 2:00 a.m. the party was in full
24 swing?

25 A Not in full swing.

26 Q Did the party begin at 2:00 a.m.?

1 A I'm not sure. I wasn't there at the beginning of the
2 party.

3 Q So when you got there the party had already started?

4 A Oh, yes, there was people.

5 Q Mr. Bass was already there?

6 A Yes, sir.

7 Q Any alcoholic beverages served at this going away party
8 for a man that's going to Italy?

9 A Yes.

10 Q What type?

11 A Beer.

12 Q Just beer?

13 A As I know of.

14 Q O.k., cans, keg?

15 A I have no idea. I drank cans myself.

16 Q That night you drank cans of beer?

17 A Yes.

18 Q How about the other people, were they drinking cans of
19 beer or was it a keg?

20 A I have no idea.

21 Q 20 to 25 people there?

22 A Yes, sir.

23 Q In the trailer?

24 A In the trailer and on the porch.

25 Q O.k., had you had anything to drink before you arrived
26 at 2:00 a.m., sir?

1 A Yes, sir.

2 Q How much?

3 A Maybe a beer.

4 Q Maybe?

5 A Maybe.

6 Q Well, did you or didn't you have a beer?

7 A Yes, I had some beer.

8 Q Some beer, more than one?

9 A A beer.

10 Q You had one beer before you arrived at 2:00 a.m. When
11 you arrived, did you see Greg Bass at 2:00 a.m.?

12 A As soon as I arrived I didn't see him but as I mingled
13 and talked to everybody I eventually ran into Greg at the party.

14 Q Was he in any state of intoxication?

15 A No, sir, not that I could observe. He--

16 Q Did you ever observe him drinking any can of beer, sir?

17 A Not that I can recall.

18 Q Are you saying that he wasn't drinking at all that night?

19 A No, I'm not saying that.

20 Q Was everyone there pretty much drinking beer?

21 A Yes.

22 Q In the next two and half hours did you consume several
23 beers?

24 A I would say around four.

25 Q Why do you remember that it was 2:00 a.m. when you got
26 there?

1 A Well, because where I work it closes at 1:00 o'clock
2 in the morning.

3 Q O.k. and that's where, sir, is that the disco--

4 A In Norton, Virginia.

5 Q Is in Norton?

6 A Yes, sir.

7 Q O.k.

8 A Then I had to drive to Wise.

9 Q Which is 10 miles?

10 A Yes., but, all right, see, we close at 1:00 o'clock in
11 the morning and usually, you know, we mingle around and talk and
12 I headed for Wise and I would say it was around 2:00 o'clock.

13 Q And it was around when when you left?

14 A 4:00.

15 Q And how are you sure of that?

16 A Well, the way I found that out is cause, all right, if
17 we left there at 4:00 and I got Greg home at 4:30, when I went
18 into the house I always look at the clock before I go to the bed
19 and it was around a quarter to 5:00.

20 Q A quarter to 5:00 when you got to your house?

21 A Yes, sir.

22 Q So just working backwards, you figured you got to Greg's
23 at 4:30 and you left the place at 4:00?

24 A Yes, sir.

25 Q You can honestly say that you aren't real sure about
26 the time?

1 A I can honestly say I'm pretty close.

2 Q Who drove?

3 A I did.

4 Q When you left the party?

5 A I did.

6 Q Have any trouble driving?

7 A No, sir.

8 Q Can you remember?

9 A Yes, sir.

10 Q And good ole Greg when you dropped him off, was he pretty
11 happy go lucky because he'd had several beers?

12 A No, sir. He wadn't really happy, you know, he kinda
13 hated to go and I hated to see him go. He was just acting like his
14 normal self.

15 Q Are you telling me that a man at his own going away party
16 to go to Italy didn't have a few beers and get a little loose?

17 A Well, he had to do some traveling so I'd say he, you know,
18 kept his drinking to a minimum, you know, considering he had to
19 drive.

20 Q Was the party still going on when you left?

21 A Yes, sir.

22 Q Greg state to you his reason for wanting to leave?

23 A Yes, sir.

24 Q What was that?

25 A Because he said he had to see Gina before he went on
26 to Baltimore.

1 Q Did he express to you that he was leaving a little early,
2 a little late or just at the right time, perhaps he stayed a few
3 minutes too late, perhaps a half an hour or an hour too late. He
4 didn't intend to stay at the party that long?

5 A Could you repeat that.

6 Q Did Mr. Bass ever state to you that perhaps he had left
7 early or perhaps he had left a little later than he intended to
8 or that he had left just when he wanted to leave?

9 A No, sir, he didn't say anything like that.

10 Q Did you see Mr. Bass make preparations to leave the
11 party, announce to people that he was leaving and now if you
12 want to shake my hand is the time to do it?

13 A Well, he didn't make an announcement. He just, you know,
14 we just started to go, and he said, "See you later, you know--"

15 Q Pretty much everybody that was there came up to him
16 and said, "Good ole Greg--"

17 A Yes.

18 Q --"We'll see you when you come back when you're on
19 leave from Italy?"

20 A Yes.

21 Q And it probably took a few minutes to get out the door
22 once he decided to leave?

23 A Yes.

24 Q And he had to see Gina?

25 A He said that he wanted to stop at Gina's sister's when
26 he got to Radford.

1 Q You knew that to be in Radford?

2 A Sir?

3 Q You knew that to be in Radford, Virginia, am I right?

4 A Yes, sir.

5 Q How many times have you drove from Coeburn to Radford,
6 sir?

7 A From Coeburn to Radford?

8 Q Yes, sir, how many times?

9 A I--

10 Q Have you ever done it?

11 A Oh, I've drove, I've bypassed Radford on my way, you
12 know, to some other place.

13 Q Your estimation of a 3 and a half hour drive from
14 Coeburn to Radford then is just based on some guess of previous
15 trips that you've never stopped in Radford, is that right?

16 A Yes, sir.

17 Q If Diana Hall testified it took two and a half hours
18 would you dispute that?

19 A Well, I think she would, that's pretty fast driving.

20 Q Can you do it in two and a half hours?

21 A I'd say you could.

22 Q Did Mr. Bass mention anytime he was to meet Gina?

23 A No, sir.

24 Q Any time schedule he had on getting to Baltimore?

25 A No, sir.

26 Q Did he mention to you that he intended to drive from

1 Coeburn to Baltimore?

2 A Can you repeat that.

3 Q Did he mention to you that he was driving from Coeburn
4 to Baltimore?

5 MR. SHOCKLEY: Your Honor, I'm going to object. We're
6 getting into hearsay evidence, things that Greg Bass may have
7 said to this young man and Mr. Warburton is trying to establish
8 the truth of those things.

9 MR. WARBURTON: If it please the Court--

10 THE COURT: Well, he testified on direct, I believe, that
11 Mr. Bass said he was going to see Gina and go on to Baltimore so
12 I think he--

13 MR. SHOCKLEY: He said that on cross examination.

14 THE COURT: Was that cross?

15 MR. WARBURTON: Yes, sir.

16 MR. SHOCKLEY: Yes, sir.

17 MR. WARBURTON: If it please the Court, I believe this would
18 go to the present state of mind exception to the hearsay rule
19 that's been invoked in this trial already.

20 THE COURT: All right restate your question now and let me
21 rule on it.

22 Q Did Mr. Bass indicate to you he had a meeting with
23 Gina or he intended to meet with Gina on Sunday the 29th of June?

24 A Yes, sr.

25 MR. SHOCKLEY: Now, just let's--you know I want a ruling on
26 all this testimony.

1 THE COURT: Well, you are going to get one, but I want to
2 know what I'm ruling on.

3 The question is did he indicate to him, he's not asking for
4 the content of the conversation at this point. I'll overrule the
5 objection as to that specific question.

6 Q Did Mr. Bass indicate to you that he had intended to
7 meet with Gina by some prearrangement on Sunday, the 29th of June
8 of this year?

9 A Yes, sir.

10 Q Did he indicate to you any specific time?

11 A No, sir.

12 Q Did he indicate to you any specific time he had to be
13 in Baltimore?

14 A No, sir.

15 Q Did he indicate to you how he intended to get to Balti-
16 more other than by way of Radford?

17 A Well, I just took it for granted that he would be driving.

18 Q All the way to Baltimore?

19 A Yes, sir.

20 Q Thank you sir.

21 (The witness stands aside and leaves
22 the courtroom.)

23 ESTHER EPPERLY,

24 a witness called on behalf of the Commonwealth, after being first
25 duly sworn, testified as follows:

26 DIRECT EXAMINATION

1 BY MR. SHOCKLEY:

2 Q State your name, please ma'am?

3 A Esther Epperly.

4 Q And Mrs. Epperly, I believe the defendant, Stephen
5 Epperly, is your son, is that correct?

6 A That's correct.

7 Q I know this is difficult for you.

8 A Yes.

9 Q And I even apologize that we have to call you as a
10 witness but I have to ask you a few questions about this matter
11 and I would like you just to look up and talk to the jury so they
12 can hear everything you have to say. Basically what I wanted to
13 ask you about is whether or not, Mr. Williams--you know Mr.
14 Williams of the Radford police. Did Mr. Williams during the first
15 part of July ever come to your house?

16 A Yes.

17 Q Did he ask for anything?

18 A Yes.

19 Q And what did he ask for?

20 A He asked for a piece of clothing that Stephen had worn.

21 Q And in response to that what did you do?

22 A Well, I looked around and found him some.

23 Q And what did you give Mr. Williams, if anything, please?

24 A I gave him some briefs, skivies or whatever.

25 Q Underwear?

26 A Underwear.

1 THE COURT: Gentlemen, let's interrupt here just a moment.
2 and I'll ask counsel to come back in chambers just a minute.

3 (Thereupon the following proceedings were had in chambers:)

4 THE COURT: Let the record show that we are convened in
5 chambers. All counsel are present with the Court and the defendant
6 is present. We are here because the Court of its own motion brought
7 the parties back and counsel to make inquiry about a question or
8 questions that the Commonwealth's Attorney was directing to this
9 witness, with reference to certain clothing of the defendant.
10 I wanted to check a Virginia case on the point and see whether or
11 not this evidence is admissible. Apparently my fears were un-
12 founded because we now have a stipulation as to this evidence and
13 I'll ask Mr. Warburton to state the stipulation.

14 MR. WARBURTON: If it please the Court in the interest of
15 saving time and also saving this particular witness the trauma
16 of being on the witness stand the defense will agree to stipulate
17 that Mrs. Epperly handed to Captain Williams of the Radford Police
18 Department an article of clothing worn by and owned by Stephen
19 Epperly, the defendant.

20 MR. EPPERLY: All right and the only other thing is I think
21 she--

22 THE COURT: Now before you leave that, excuse me, there is
23 no stipulation as to when it was worn, just an article of clothing
24 that he was accustomed to wear from time to time, right?

25 MR. SHOCKLEY: Well, I would say that she, I think told me
26 and Mr. Williams that she got it out of the laundry or something

1 like that or out of his room. I don't recall.

2 MR. EPPERLY: I didn't know anything about it til just now
3 because she never--

4 MR. WARBURTON: If it please the Court I would stipulate
5 that it was a piece of clothing owned by and usually worn by the
6 defendant and that's about as far as I think I can go from my
7 knowledge to what I can stipulate there. As to when it was most
8 recently laundered or--

9 MR. RUSSELL: She indicated it was recent. She couldn't say
10 if it was the day before or exactly for sure but she said it was
11 recently worn.

12 MR. SHOCKLEY: It had not been laundered. It was not
13 freshly laundered.

14 THE COURT: Well, these gentlemen can't stipulate that.
15 Maybe you need to ask her that.

16 MR. WARBURTON: If Mr. Shockley will allow me just a con-
17 ference with Mrs. Epperly for a moment or two, I'm sure we can
18 clear this up and stipulate it.

19 MR. SHOCKLEY: Sure, go ahead.

20 (Conference off record.)

21 MR. WARBURTON: If it please the Court, we have made part of
22 a stipulation regarding this article of clothing. The stipula-
23 tion in toto if I'm correct is that this article of clothing which
24 Mr. Shockley will present at a later time is indeed an article of
25 clothing which is normally worn by the defendant, Stephen Epperly,
26 that it most likely had been recently worn by Mr. Epperly, that

1 it was in, came from a pile of clothes which was on its way to be
2 laundered, that it had not gotten to the washing machine at that
3 point and that Mrs. Epperly handed it to Captain G. S. Williams
4 of the Radford Police Department on a date to be ascertained by
5 direct evidence to be put on by the Commonwealth at a later time.

6 THE COURT: All right, gentlemen, are we agreed that this is
7 the stipulation?

8 MR. SHOCKLEY: I'd like you, maybe if you would to, you know,
9 tell that to the jury. I'd like for you to tell--

10 THE COURT: Well, you better write it down if you want me to
11 tell it. I want it exactly right.

12 MR. SHOCKLEY: Well, I think it would be better coming from
13 you than either of us.

14 THE COURT: All right, we'll go off the record, Elinor.

15 (Thereupon proceedings were resumed in the courtroom.)

16 THE COURT: All right, Mrs. Epperly, you may step down
17 please. We are going to handle this in another way.

18 (The witness stands aside and leaves the
19 courtroom.)

20 THE COURT: Members of the jury, the attorneys and the parties
21 have stipulated, that is they have agreed that the following would
22 be the testimony of Mrs. Epperly whom I just excused from the
23 witness stand, that she is the mother of the defendant, Mr. Epperly,
24 that Mrs. Epperly gave an article of clothing, namely, underwear,
25 to Captain Williams at his request, that the underwear belonged to
26 the defendant, that the underwear was taken from a pile of soiled

1 laundry that had not yet been washed, and that this was the only
2 garment that she ever gave to the police at anytime, so you will
3 consider this stipulation, give it the same weight that you would
4 have given it had she testified to it herself.

5 MR. SHOCKLEY: Judge, I think there is one thing that may have
6 been left out.

7 THE COURT: Well, this is what was agreed upon. I don't
8 know what--maybe you all will want to step back and take a look
9 at this and see if anything needs to be added.

10 (Counsel, conference off record.)

11 THE COURT: All right, members of the jury there is one
12 addendum to this stipulation and you will consider this along with
13 what I have already read to you, that the underwear to which
14 I referred was in a pile of laundry and that Mrs. Epperly laundered
15 all previously accumulated laundry three to four days previously.
16 All right, you will give this entire stipulation such weight as
17 you think it's entitled to and consider it just as if Mrs. Epperly
18 had testified to this herself. You may--let's see, gentlemen, the--

19 MR. SHOCKLEY: I have just one witness to testify about one
20 short thing.

21 THE COURT: All right.

22 MR. SHOCKLEY: If it's all right.

23 THE COURT: All right.

24 GERALD WILLIAMS,
25 a witness called on behalf of the Commonwealth, having been pre-
26 viously sworn, testified as follows:

1 DIRECT EXAMINATION

2 BY MR. SHOCKLEY:

3 Q Mr. Williams, you've been here before and you are still
4 under oath. I'd like to ask you if you recall going to Mrs.--or
5 to the Epperly home in Radford and asking for some of Stephen
6 Epperly's clothing.

7 A Yes, sir, I did.

8 Q And did you receive some clothing from her?

9 A Yes, sir, I did.

10 Q And what was that clothing?

11 A Was a pair of underwear, shorts.

12 Q When did you go to her house and receive this?

13 A This was on the 10th.

14 Q Of what month?

15 A Of July.

16 Q You have a bag in your hand, would you remove its
17 contents, please. Is that what you received from Mrs. Epperly?

18 A Yes, sir, it is.

19 Q What did you do with that underwear?

20 A This was turned over to John Preston.

21 Q By you?

22 A Yes, sir.

23 Q Answer these gentlemen's questions, please.

24 CROSS EXAMINATION

25 BY MR. LOOKABILL:

26 Q How soon after that Captain Williams, was this turned

1 over to Mr. Preston?

2 A I received it, if I recall correctly somewhere around,
3 between 2:00 and 3:00 o'clock in the afternoon. It was turned
4 over to John Preston about midnight that night.

5 Q About midnight and during that period of time where was
6 it kept, please.

7 A ~~It was kept with me.~~

8 Q ~~In your vehicle or on your person?~~

9 A ~~Yes, sir.~~

10 Q ~~And no one else during that period of time had any con-~~
11 ~~tact in any way?~~

12 A ~~No, sir.~~

13 Q That's all, sir, thank, you.

14 MR. SHOCKLEY: Let me have the underwear, please.

15 Your Honor, I'd like to offer this underwear in evidence at
16 this point as the next Commonwealth's exhibit.

17 THE COURT: All right, let it be marked and received as
18 Commonwealth's Exhibit 52, I believe.

19 (The witness stands aside and leaves
20 the courtroom.)

21 THE COURT: Now members of the jury, we will take our luncheon
22 recess. You will recall the Court's prior admonition covering
23 recesses. You may adjourn, Sheriff until 20 minutes after 1:00.

24 (The remainder of the proceedings of this day have been
25 heretofore transcribed and filed separately.)

26 (End of proceedings 12-12-80.)

December 15, 1980
(Reporter sworn)

1
2
3 THE COURT: --jury, I hope you had a nice weekend. Now we
4 are ready to resume and you gentlemen may call your next witness.

5 RONALD DAVIS,
6 a witness called on behalf of the Commonwealth, after being first
7 duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. SHOCKLEY:

10 Q State your name, please.

11 A Ronald Davis.

12 Q Mr. Davis, where do you live?

13 A I live off Route 626 at Claytor Lake.

14 Q And is your home the home that the jury viewed on the
15 first day of the trial?

16 A Yes.

17 Q Mr. Davis, do you recall when you left to go on vacation,
18 the week sometime before Gina Hall disappeared?

19 A Yes.

20 Q Do you recall that date?

21 A Saturday, June the 28th.

22 Q The 28th, you had left that day. When you left that day,
23 do you recall any stain being on the carpet down in the den?

24 A No.

25 Q Do you recall any stains on the refrigerator door down
26 in the utility room?

1 MR. WARBURTON: If it please the Court, please cease the
2 leading questions at this point.

3 MR. SHOCKLEY: I don't see how I'm leading--I've got to
4 mention certain things and I'm not asking him--

5 THE COURT: All right. I don't think that was a leading
6 question. You may proceed.

7 Q Was there stains to your knowledge on anything in the
8 house?

9 A No, not anything.

10 MR. LOOKABILL: Your Honor, I don't think any foundation's
11 laid. Did he go around the house and check all the rooms. I
12 think there needs to be some foundation for that question.

13 THE COURT: That's probably a matter for cross examination.
14 You may proceed.

15 MR. SHOCKLEY: May it please the Court and gentlemen of
16 counsel, I refer to Commonwealth's Exhibits No. 38 and 39.

17 Q Just to lay these two photographs out in front of you,
18 Mr. Davis, are you familiar with where this stain was in your
19 house when you returned?

20 A Yes.

21 Q Did you see that stain when you returned?

22 A Yes.

23 Q Was it there when you left?

24 A No.

25 Q Can you describe the type of stain, the coloration, the
26 size?

1 A I'd say it was about the size of a basketball maybe.

2 Q Uh hum.

3 A A darker color, maybe brown.

4 Q Now is that stain on your carpet now?

5 A Not to that extent, no. We've cleaned it, had it
6 cleaned.

7 Q Mr. Davis, do you know whether Gina Hall had ever been
8 at your house before?

9 A Not to my knowledge.

10 Q Do you recall this pair of shoes?

11 A Yes, they're mine.

12 Q And do you recall any type of staining on these?

13 A No.

14 Q Is there anything in your knowledge or to your knowledge
15 that, or any reason why there possibly would be blood on these
16 shoes?

17 A No, none whatsoever.

18 Q I'll ask these same questions with reference to the golf
19 shoes.

20 A The same answer, no.

21 Q Do you know the defendant, Stephen Epperly?

22 A Yes, I do.

23 Q Has he ever been to your house?

24 A Yes, on several occasions.

25 Q Over what period of time?

26 A Well, over the last seven years at the house now on the

1 lake, but he had, I lived above there, a couple or three hundred
2 yards above there in a mobile home for several years. Steve would
3 visit me there.

4 Q Well, of course, I'm talking about the lake, the cabin
5 on the lake that you have.

6 A He's, Steve's always visited us ever since the construc-
7 tion started on the house, and a matter--he was there two weeks
8 prior to the weekend we left.

9 Q For what purpose?

10 A Just to come by to visit. He was with my stepson.

11 Q Your stepson is Bill King?

12 A Right.

13 Q Are he and Bill pretty good friends?

14 A Yes.

15 Q Do you know what rooms of the house Mr. Epperly has
16 been in?

17 A I suppose over--

18 MR. WARBURTON: I'll object, Your Honor, if he's supposing.

19 Q Can you tell me--

20 A I wouldn't--

21 Q --which rooms you've seen him in.

22 A I know for a fact that he's been in the rec room; he's
23 been in the livingroom upstairs, the dining room, the kitchen,
24 the bathroom and the bedroom and in Bill's room upstairs, that's
25 what, one of the bedrooms upstairs.

26 Q How many rooms did you leave off?

1 A I left off a bath and a bedroom upstairs.

2 Q All right.

3 A I'm not sure he's been there.

4 Q I'm waiting to show you something. Let me ask you this
5 while they're getting that. Anything missing from your house when
6 you returned?

7 A Yes.

8 Q Could you tell the Court and the jury what that may have
9 been.

10 A Well, of course, the golf shoe was gone, a mattock, a
11 yellow dustpan---

12 Q Well, I'm concerned--you've later seen those items I
13 suspect.

14 A No.

15 Q You have not?

16 A No.

17 Q O.k.

18 A Also an orange water pitcher, a roll of paper towels,
19 a hand quilted quilt.

20 Q Where was the hand quilted quilt kept in the house?

21 A It was in the master bedroom, in our bedroom on the
22 second floor.

23 Q Middle level?

24 A Middle level.

25 Q And--

26 A It was on a quilt rack. It was for display only, not

1 for use. My mother-in-law hand quilted it.

2 Q Without unwrapping this again can you, through the bag
3 can you identify this shoe?

4 A Oh, yes, yeah.

5 Q Looking at the--and I refer Your Honor to Laboratory
6 item No. 20. This has not yet been introduced into evidence.
7 This stain or whatever colored area on the front cleat, do you
8 recall ever seeing that before?

9 A No, I would have no reason for it.

10 Q Would there be anything that you've done with these
11 shoes to cause there to be blood anywhere on them?

12 A No.

13 Q Mr. Davis, you say you've never seen them before. I'd
14 like to ask you if this was what was missing from your house.
15 How about the dustpan? Excuse me, Mr. Wilmore's bringing a couple
16 of more things in.

17 A Yes.

18 Q The dustpan, can you identify that?

19 A Sure.

20 Q And where were these two items kept in your house or
21 where were they when you left anyway?

22 A I know the dustpan was in the room with the refrigerator
23 and if I'm not mistaken I think this may have been setting on the
24 table.

25 Q O.k. Can you think of any reason why there would be
26 blood on these, these items?

1 A No.

2 Q I'd like you to look over here so I don't have to drag
3 it to you, the refrigerator door, do you recognize that?

4 A Yes, that's off the refrigerator we have in the basement.

5 Q O.k., do you know of any reason why there'd be anything
6 of any kind, any blood or anything else on the front of that
7 surface of that refrigerator?

8 A No.

9 Q How about the mattock, can you identify the mattock?

10 A I, yes, it's mine.

11 Q Do you know of any reason why there would be any type
12 of blood on that mattock?

13 A No, I just used that mattock a couple of weeks prior
14 to that to dig a couple of horse shoe pits and it should have
15 been clean. There shouldn't have been any stains on it, some
16 dirt maybe.

17 Q All right, answer these gentlemen's questions, please.

18 CROSS EXAMINATION

19 BY MR. LOOKABILL:

20 Q Mr. Davis, when did you leave for vacation, what time
21 of day?

22 A Well, we left the house about 7:30 quarter to 8:00.

23 Q In the morning?

24 A In the morning and went to Radford. We went with a
25 couple of friends to the beach.

26 Q And that was on Saturday, on the 28th?

1 A Yes.

2 Q Just prior to your leaving on vacation what did you do
3 around the house?

4 A I looked the house up.

5 Q O.k., what else did you do. What rooms were you in in
6 preparation for leaving?

7 A Of course, I was in the bathroom, our bedroom, down-
8 stairs in the rec room, kitchen and the garage.

9 Q What were you doing in preparation to go on vacation,
10 gathering things, packing things from downstairs?

11 A Sure.

12 Q Sir?

13 A Yes.

14 Q When was the last time that you had spent the evening
15 in the den?

16 A The previous night.

17 Q The previous night?

18 A Yes.

19 Q That was on Friday night?

20 A Right.

21 Q What did you do at that time?

22 A Well, we watched TV.

23 Q All right, where do you normally sit when you watch
24 TV?

25 A I have a recliner that sets next to the bar.

26 Q The bar, I believe, is on the back wall?

1 A Right.

2 Q Is that correct?

3 A Right.

4 Q All right, were you with your family and friends or
5 other friends or just--

6 A Just the wife and myself.

7 Q Was Bill King there that evening?

8 A No, sir.

9 Q Did you all sit watching TV?

10 A Right.

11 Q Where is the TV located? Is that--

12 A It's located, I would suppose--it's on the front wall
13 where the glass sliding doors. It sets between two sliding doors.

14 Q Between the two sliding glass doors?

15 A Right.

16 Q Did you have the occasion to be going in and out those
17 doors that evening--

18 A Of course, yes, we had them open for venilation.

19 Q Which door do you normally go in and out?

20 A On the left-hand side.

21 Q Facing--

22 A Yes.

23 Q Facing the lake?

24 A Facing the lake, right. We keep plants and wat have
25 you setting in the right-hand side and the door, the screen is
26 closed.

1 Q Were the plants there that evening?

2 A Oh, yes.

3 Q Do you set them out during good weather?

4 A No.

5 Q They stay inside?

6 A They stay inside.

7 Q How much time did you spend downstairs that evening?

8 A Oh, I don't know a couple of hours, maybe.

9 Q During most of that two-hour period were you just sitting
10 watching TV?

11 A Right.

12 Q Did you do any cleaning up of the basement, I mean the
13 den that day?

14 A No.

15 Q Was everything in pretty good order the best you could
16 tell?

17 A Right.

18 Q How many times would you say that you were running in
19 and out the left hand sliding doors there, if at all?

20 A Probably, probably not any after we started watching TV.
21 Of course, it doesn't get dark til about 9:00 o'clock, and we were
22 in and out up til then. I don't think I was outside any after
23 that.

24 Q You weren't outside after dark then?

25 A No.

26 Q Do you recall whether or not you were in the utility

1 room that evening?

2 A Yes.

3 Q What did, for what reason?

4 A To visit the refrigerator.

5 Q Pardon?

6 A To visit the refrigerator.

7 Q To get a couple of cans of beer out?

8 A Or soft drinks, yes.

9 Q And you didn't notice anything out of the way at that
10 time. Did you specifically look for anything or had no reason
11 to?

12 A Of course not. I had no reason to.

13 Q Did you say how many times you thought you had been in
14 and out that door, sliding glass door?

15 A That evening, no, why should I count. I had no reason
16 to count how many times I went out.

17 Q Are you sure that night that you did in fact travel
18 from where you were sitting--

19 A Oh, absolutely.

20 Q --glass doors?

21 A Yes.

22 Q Where are the seats that you were sitting on? Are
23 they toward the back of the room.

24 A Toward the back of the room.

25 Q You watch TV almost the full distance of--

26 A Right, just almost, maybe about 12 foot. That room,

1 that room's about 30 foot deep.

2 Q Had your wife been house cleaning any that day?

3 A I suppose she had. I, I you know--

4 Q You didn't discuss anything about the appearance of
5 the house.

6 A Oh no, no.

7 Q I assume everything was normal?

8 A Yes, sir. She does it, usually on Fridays and Saturdays
9 is her house cleaning days.

10 Q And this was a Friday?

11 AA Yeah, I think I may have mowed the grass Friday evening
12 before that, before we left in preparation to go, you know.

13 Q The golf shoes that Mr. Shockley presented to you, had
14 you played golf recently?

15 A No, no I haven't.

16 Q Do you ever wear your golf shoes to mow the yard?

17 A Right.

18 Q Had you done that that day?

19 A No, the only time I use the golf shoes is when I trim
20 and I hadn't--really about twice is all I had those on this year,
21 but that's, that was one of the--I haven't played golf for a couple
22 of years, couple of three years.

23 Q DSo you had no reason to notice them when you went in
24 the--

25 A I know where they are setting, yes.

26 Q But that was about it--

1 A Yes.

2 Q You said Mr. Epperly had been to the cabin. When was
3 that prior to your leaving?

4 A It would have been two weeks that following Sunday that
5 we left on Saturday.

6 Q He had come by with Bill King?

7 A Right.

8 Q Just to visit?

9 A Right, yeah.

10 Q You indicated that a roll of paper towels and some cleaner
11 and a hand quilted quilt were missing. When was the last time that
12 you had seen any of those items?

13 A Well, I used the roll of paper towels that Friday
14 night before we left Saturday.

15 Q What did you use that for?

16 A To wipe up some water off the bar.

17 Q And where, were they located in the utility room?

18 A No, the towels were over at the bar, in the bar area.

19 Q And the whole roll was gone?

20 A Yes, it was a new roll. I had just brought it down.

21 Q It wadn't used up, it was gone?

22 A No, it was gone.

23 Q What about the quilt, when was the last time you had any
24 contact with the quilt?

25 A Well, I see the quilt every night. It was in our bed-
26 room.

1 Q It was in the bedroom?

2 A Yeah.

3 Q Was this something that was handmade?

4 A Absolutely.

5 Q Who, your wife or somebody you knew?

6 A Yes, by her mother.

7 Q You specifically recall seeing that that night?

8 A (Nods head).

9 Q Did that stay on the bed?

10 A No, it stays on a quilt rack. We have a quilt rack.

11 It hangs over that.

12 Q When was, you had observed it that night?

13 A Yes, I had a pair of slacks, I think laying over the
14 quilt on the quilt rack in preparation to packing.

15 Q On top of the quilt?

16 A Yes.

17 Q When did you return from the trip, sir?

18 A Sunday a week from the day we left. What would that be,
19 4th, 5th, say about the 7th, I think.

20 Q So you were gone about--

21 A Let's see, we were gone--

22 Q Nine or ten days?

23 A I guess _____ (unintelligible).

24 Q During the period when you were gone, who had keys to
25 your house?

26 A Bill has a key.

1 Q During the period when you were gone, who had keys to
2 your house?

3 A Bill has a key.

4 Q Does anyone else have a key?

5 A No.

6 Q That you are aware of?

7 A No. My wife and myself do and Bill.

8 Q When you got the soft drinks or whatever out of the
9 refrigerator, did you notice anything unusual about it at that
10 time or did you examine it at all other than to open the door and
11 look inside?

12 A No.

13 Q The key that your stepson Bill has, does that go to the
14 back door or to the front door or are there keys that go to various
15 doors to the house?

16 A That's the only key he has is to the door at the garage
17 and that's the door we use mainly.

18 Q You checked the door you say that evening before you
19 left the following morning. Did you check the doors again before
20 you left?

21 A ^{Oh yeah,} I always check the door after I step out to make sure
22 it locks.

23 Q You check all the doors?

24 A Oh yes.

25 Q The sliding glass doors?

26 A Oh, yes, I have inserts in those doors, in the glass

1 sliding doors.

2 Q Was anyone asked to look after the house or check it other
3 then Bill while you were gone?

4 A (SHakes head).

5 Q As you left the house what vehicles remained at the
6 house?

7 A My pick-up truck and my Thunder Bird.

8 Q How were they parked?

9 A Well, let's see the truck was hooked to the boat back
10 down on the drive, a little concrete part. If I'm not mistaken I'
11 think the Thunder Bird was pulled over on the grass. I believe
12 that's the way it might have been.

13 Q The pick-up, the trailer, the boat was on the--

14 A The boat, the truck was hooked to the trailer and the
15 boat, yes.

16 Q Was it backed?

17 A Yes, it was backed.

18 Q Backed in, so the boat, the back of the boat would have
19 been--

20 A There.

21 Q How far would it have been from the garage door. Do
22 you hve any idea?

23 A I don't know I never measured it.

24 Q Sir?

25 A I don't have any idea.

26 Q Was it three or four feet perhaps?

1 A No, it was farther than that, probably 8 or 10 feet,
2 maybe, maybe farther than that. I don't know.

3 Q Was it at all unusual for Bill to come and use the cabin
4 while you were out of town?

5 A No, absolutely not.

6 Q That was perfectly acceptable?

7 A Absolutely.

8 Q You had no problems?

9 A No problems at all.

10 Q Did he mention anytime before you left that he'd be
11 going to the cabin that weekend?

12 A He said he would, he would be there to check on it,
13 yes, but no specific date that he give me or day that he give me
14 that he would be there.

15 Q How close, of course, the jury's seen the house, but
16 there are quite a few small houses and other houses in the area,
17 is that correct?

18 A That's right.

19 Q Have you, during the past few months have you had any
20 troubles with the neighbors out there, any difficulties with any-
21 body?

22 A No, I don't, I don't know what you're saying, but--

23 Q Have any harrassing, calls or anything like that?

24 A From the neighbors?

25 Q From neighbors or from anyone?

26 A Yeah, from the publicity that this thing has gotten, sure,

1 but not--

2 Q Not as far--

3 A Not from my neighbors, no, they've been very under-
4 standing.

5 Q And you haven't had any difficulties or vandalism or
6 anything like that with the house, is that correct?

7 A (Shakes head).

8 Q Never had anything broken, any lights or windows?

9 A N.

10 Q How long has that house been there?

11 A Since '74.

12 Q I believe that's all, thank you.

13 REDIRECT EXAMINATION

14 BY MR. SHOCKLEY:

15 Q Mr. Davis, can you think of any reason, any accidents
16 or anything that would cause blood--

17 MR. WARBURTON: Your Honor, first of all there's no blood
18 in evidence and second of all this question's been asked and
19 answered.

20 THE COURT: I sustain the objection. I think you've already
21 gone into that.

22 (The witness stands aside and leaves
23 the courtroom.)

24 BETTY DAVIS,

25 a witness called on behalf of the Commonwealth, after being first
26 duly sworn, testified as follows:

1 DIRECT EXAMINATION

2 BY MR. SHOCKLEY:

3 Q Would you state your name, please.

4 A Betty Davis.

5 Q And Mrs. Davis, I believe you own the home over on the
6 lake, you and your husband, where the jury took a view?

7 A Right.

8 Q When is the last time that you cleaned house before
9 you and your husband went on vacation down to Myrtle Beach?

10 A One week before.

11 Q From that time until the time you left, did you have
12 occasion to walk through the house and be in various rooms?

13 A Yes.

14 Q Did you ever observe anything out of the way?

15 A No.

16 Q Any stains anywhere?

17 A No.

18 Q I want to ask you to look at a certain towel here. I'd
19 like you to look at a certain towel, please. I refer to Common-
20 wealth's Exhibit No. 51, a blue towel and ask you to look at that
21 for me, please and examine it and see if you are able to identify
22 it?23 A It's got a tag on it. Yeah, uh hum, I had one like
24 that.25 Q Let me ask you when you came back from the trip to
26 Myrtle Beach, would you tell us what, if anything, may have been
missing from the house.

1 A I had a towel like this one, a blue and a white striped
2 towel and a handmade bed quilt, an orange water pitcher.

3 Q May I ask you to look at this water pitcher, and tell me
4 if you are able to identify it.

5 A Well, it did not have a lid to it and I have one like that.

6 Q And anything else?

7 A That, the two, I had, and a bath mat. Let's see I had
8 five articles. I had a towel, a blue and a white towel, a solid
9 blue towel, a bath mat and a water pitcher and I think that was
10 all.

11 Q I believe you already mentioned a quilt, did you
12 mention that as you were counting down?

13 A No, that, and my bed quilt.

14 Q Now, I'd like you to, if you would. I know you have a
15 bag there with you. Do you have anything else in your house like
16 this towel, that would match it.

17 A It was a set.

18 Q O.k., a set?

19 A Yes.

20 Q May I see what you have in your bag, please. What
21 was the brand name on this towel?

22 A Spring Maid.

23 Q And what is the brand name on this towel that you
24 brought with you?

25 A Spring Maid.

26 Q Both Spring Maid?

1 A Uh hum.

2 Q Now what towels or other bathroom items did you have
3 that fit in this set?

4 A I had a wash cloth.

5 Q I hate to ask you this, but I want to keep this at least
6 for awhile.

7 MR. SHOCKLEY: Your Honor, I'd like to offer Mrs. Davis'
8 hand towel, Spring Mid, blue in color, into evidence as the next
9 Commonwealth's Exhibit and I'd like to then pass both of them, com-
10 pare those, please.

11 THE COURT: All right, let it be marked.

12 Q Mrs. Davis, I'd like you to look at this blue and white
13 towel and tell me, if you can, whether or not that's the one or
14 like the one that you had missing from the house.

15 A I had a towel exactly like this and it had little places
16 like this in it but nothing like that.

17 Q O.k., little places like what?

18 A Well, maybe, like right there (indicates).

19 Q It was a real old towel. The other one was a new towel.
20 It had never been used.

21 MR. WARBURTON: Mr. Shockley, is there any number or anything
22 on that towel you just produced.

23 MR. SHOCKLEY: Pardon?

24 MR. WARBURTON: Is there any number or anything on that towel
25 you just produced, sir?

26 MR. SHOCKLEY: This is Laboratory Item No. 64.

1 MR. WARBURTON: Thank you.

2 MR. SHOCKLEY: I believe that's right. It'll be introduced
3 at a later point, 64.

4 MR. WARBURTON: Thank you.

5 Q Mrs. Davis, did the blue and white towel, the one that
6 was missing from your house, the blue towel, did any of things, or
7 the water pitcher, to your knowledge have any type of stains on
8 them?

9 A No.

10 Q Can you think of any reason whatsoever why any of these
11 would have blood on them?

12 A No, sir.

13 Q Have you ever found or seen the quilt since you've come
14 back?

15 A No, sir.

16 Q Can you tell me about the size of the quilt and describe
17 it in a little more detail, please.

18 A It would fit a regular size bed.

19 Q What do you mean by "regular", single, double?

20 A A double.

21 Q A double, o.k.

22 A And it had a slate blue back to it, solid slate blue.

23 It was all handmade, no machine stitching and it was called "a
24 grandmother's flower garden."

25 Q Now as to the dimensions of this quilt, is it the type
26 of quilt that you would use to cover the bed--

1 A Yes.

2 Q Or is it something that you would put under the spread?

3 A No, sir, it would cover my bed.

4 Q O.k., if you laid it across your bed, you know to put
5 on your bed as you would, would the edges or the perimeter go all
6 the way to the floor or would they be up just to the top of the
7 bed. How far would they drape over the side?

8 A They drape over the side, I'd say two inches, one to
9 two inches, and it was scalloped.

10 Q Uh hum.

11 A Around the edges.

12 Q Do you hve any idea as to the width and length of this
13 particular thing or would you just have to guess?

14 A I'm sorry, I don't.

15 Q I believe that's all. You can answer their questions
16 please.

17 CROSS EXAMINATION

18 BY MR. WARBURTON:

19 Q Mrs. Davis, what day did you leave for vacation?

20 A Early the 28th, I think it was.

21 Q About what time?

22 A 8:30, 9:00 o'clock, somewhere like that.

23 Q When did you return?

24 A We returned on a Sunday after 4th of July, the 6th.

25 Q Be about the 6th of July?

26 A Right.

1 Q What time of day?

2 A We got into Radford I would say 2:30, 3:00 o'clock. I
3 think that's right.

4 Q Anybody at your house on the lake when you got there?

5 A Yes.

6 Q Who?

7 A I have no idea who they were.

8 Q How many people?

9 A A 100, maybe.

10 Q A 100 people were at your home when you returned?

11 A In my yard, not inside my house, no.

12 Q And you didn't know any of them?

13 A I knew a few of the police officers and a few of my
14 friends.

15 Q And you were out of the state then from the 28th of
16 June until the 6th of July so anything that might have happened,
17 anything that might have happened in your house, you are not aware
18 of?

19 A No.

20 Q When you got up on Saturday morning, June the 28th, in
21 preparation to leave, I am sure you put the suit cases in the
22 trunk of the car and things like that. What did you do inside the
23 home in preparation for leaving?

24 A I just got ready and left.

25 Q Did you wash the last dishes that you used for breakfast,
26 or anything like that?

1 A We didn't have breakfast.

2 Q So there wouldn't have been any dishes in the sink?

3 A There might have been a glass or two.

4 Q What else did you do?

5 A We got up and bathed and dressed and left.

6 Q You walked out. How about checking the doors and windows?

7 A My husband does that.

8 Q So you didn't check and you probably didn't see him
9 check?

10 A I saw him check it, yes.

11 Q Where was he checking?

12 A He always goes down--

13 Q No, I want to know where you saw him checking, ma'am,
14 not what his usual--

15 A O.k., I saw him check the--

16 Q --routine is.

17 A --the door in the rec room. That's down on the bottom
18 floor.

19 Q It's the one with the sliding glass doors?

20 A Right.

21 Q That's the one you always use?

22 A If we go out through the rec room.

23 Q Right. The other sliding glass door that's in the rec
24 room is unuseful because you have plants in front of it, is that
25 correct?

26 A Yes, sir.

1 Q Is the plants on stands?

2 A Yes.

3 Q A little stand, flower pot, dirt, and a plant, right?

4 A Yes.

5 Q How many plants were there, would you say?

6 A There's about four.

7 Q Did you check that door?

8 A Did I check it?

9 Q Yes, ma'am.

10 A No.

11 Q Did you see your husband check that particular door?

12 A Where I was, no, I don't know if he checked that one or
13 not.

14 Q What door did you go out right before you got in the car
15 to go down to Myrtle Beach?

16 A The kitchen door, facing the road.

17 Q And do you know whether that door was checked?

18 A Do I know if it was checked?

19 Q Yes, ma'am.

20 A Yes, it was.

21 Q And then you took off to Myrtle Beach?

22 A Right.

23 Q It's 8:30 to 9:00 o'clock Saturday morning?

24 A Approximately.

25 Q Who had a key after you and your husband left for Myrtle
26 Beach?

1 A My son.

2 Q The only person as far as you know that had a key to
3 that place?

4 A Yes, sir.

5 Q And you expected him to be there?

6 A He had permission to be there.

7 Q He not only had permission, he was asked to wasn't he?

8 A Yes.

9 Q To check for what?

10 A To stay at my house while I was gone.

11 Q For what reason?

12 A Because I wanted him to.

13 Q Well, all right, why did you want him to?

14 A To keep an eye on my house.

15 Q You'd had problems with vandalism?

16 A No.

17 Q Problems with your neighbors?

18 A No.

19 Q What were you worried about?

20 A I just wanted him to stay there.

21 Q Now in the houses surrounding your house there, there
22 is several within a couple of hundred yards?

23 A Right.

24 Q Have you ever had any problems with your neighbors at
25 all?

26 A I haven't.

1 Q No complaints from them?

2 A No, sir.

3 Q Nobody ever called you on the telephone and complained?

4 A Not to me.

5 Q Nobody ever came to you and spoke to you about it?

6 A Not to me.

7 Q Are you aware of it happening?

8 A Uh, no, about my house, complaints about my house?

9 Q Yes, ma'am.

10 A No, there have been complaints about the property.

11 Q O.k., what are those complaints?

12 A I really don't know all the legal action about that.

13 Q Legal action? Are you being sued about it?

14 A There is something, that we bought it from, there was
15 some sort of action about that, whether she should have sold it
16 or not.

17 Q So you are a party to a lawsuit about that property
18 then right now?

19 A It's already been settled.

20 Q Since you've lived there since 1974 certainly you can
21 tell us how much boat traffic there is in that particular area of
22 the lake?

23 A On holidays there's right much.

24 Q How about weekends?

25 A Weekends, more than during the week.

26 Q Would June be a particularly heavy month for boat

1 traffic as opposed to May or April?

2 A Well, this year there has been less than before.in all
3 the months.

4 Q Including June of this year?

5 A Yes.

6 Q There's still a considerable amount of boating activity
7 up there, am I right?

8 A It's a lot less than it was the year before.

9 Q There would be boats up there anytime of the day, am I
10 right?

11 A I have no idea. I work during the day.

12 Q How about at night then?

13 A No, there's not much traffic there at night.

14 Q There are boats that go up there occasionally, all hours
15 of the day and all hours of the night, am I right?

16 A Uh hum. A lot of fishermen I guess fish at night but
17 not a whole lot down where we are.

18 Q Do you hear boats?

19 A Occasionally.

20 Q This Spring Maid towel, actually both of them, do you
21 know when you got those, where you purchased them?

22 A About--where I got them?

23 Q Uh hum.

24 A No, I did not purchase them. They were given to me.

25 Q And do you have, apparently, at least Mr. Commonwealth's
26 Attorney wants everyone to believe you have a set of them. How many

1 of those do you have?

2 A Of that particular one, that's all.

3 Q Those blue ones, you just have two?

4 A The hand towel and the bath towel.

5 Q And that blue striped towel, is that part of the set?

6 A No, indeed.

7 Q Or is it just an old towel?

8 A That was bought singly.

9 Q And where were those towels kept?

10 A In my bathroom.

11 Q That's on the midlevel?

12 A Yes.

13 Q And access to that is just off the master bedroom?

14 A Right.

15 Q And all those towels would have been kept there?

16 A Yes.

17 Q Keep a lot of towels in the den bathroom, the bathroom
18 that's on the same level as the den?

19 A No.

20 Q You don't keep any towels down there?

21 A I have two. I don't have any that I use. I keep two
22 hanging there and a black hand towel.

23 Q To match the decor?

24 A But we just don't use that bathroom.

25 Q I take it you and your husband swim?

26 A Yes.

1 Q And you are aware that Mr. King swims. Where do you
2 all get towels when you go swimming?

3 A Out of my bathroom.

4 Q On the midlevel, isn't that kind of inconvenient?

5 A I don't have that many towels to have them in every room
6 in my house.

7 Q But you don't keep any towels in the utility room at
8 all?

9 A In the utility room?

10 Q Or the den or the bathroom off the den?

11 A No, I don't.

12 Q Except for those two that are on display.

13 A I don't keep any in the utility room.

14 Q So really, there's none on that whole floor usually?

15 A Well, like I say I have those hanging in that bottom
16 bathroom.

17 Q Going through the den there, where are those cushions
18 kept or are there any cushions kept on that floor?

19 A What type of cushions?

20 Q Any cushion of any kind other than one that belongs to
21 a chair.

22 A I have, during the weekends or at night I bring in a
23 lounge cushion that is on a lounge chair on the deck and I don't
24 want it to get rained on so I bring it in and lay it in the floor
25 of the rec room.

26 Q Is that one or two?

1 A I have a long one for a lounge chair and for the chaise
2 lounge and then one for a chair. There's two.

3 Q You say you left Bill King in charge of the house?

4 A Yes.

5 Q And that's your son?

6 A Right.

7 Q And you fully expected him to be there?

8 A Yes.

9 Q Am I right?

10 A Uh hum.

11 Q Did you expect anyone else to be there?

12 A I told him he could bring whomever he pleased.

13 Q So it didn't matter to you or at least he had your
14 permission and encouragement to have as many people there as he
15 wanted within reason?

16 A He sure could.

17 Q And when you left, you left the key--when did he pick
18 up the key or does he always--

19 A He has a key.

20 Q He always has one?

21 A Yes.

22 Q Can you tell the ladies and gentlemen of the jury what
23 was at your driveway when you left?

24 A What was at my driveway?

25 Q Uh hum.

26 A We have a green pick-up truck and the boat was attached

1 there. I really don't know where--I can't remember, where it was
2 parked.

3 Q But she would have had a set of keys though if it may
4 have been?

5 A Yes.

6 Q If it was parked at the cabin, who would have had the
7 keys?

8 A Yes.

9 Q Hum, who would have had the keys, ma'am?

10 A The keys would have been in the kitchen. I have a board
11 right beside of my telephone with the keys would have been hanging
12 there.

13 Q Along with your permission and encouragement of your
14 son to use the house, is he permitted and encouraged to use your
15 Thunder Bird car?

16 A He can use that anytime.

17 Q You fully expected him to use it?

18 A I didn't even think about it, but he could have if he
19 wanted.

20 Q Well, he has his own car or did at one time?

21 A Yes, he still has his own car.

22 Q The brown LTD?

23 A No.

24 Q Well, the car that he had at the time, he doesn't have
25 that anymore, but he had a car of his own at that time, right?

26 A Yes, right.

1 to it.

2 Q Was that backed in the driveway?

3 A Was it backed in the driveway?

4 Q Yes, ma'am.

5 A Yes.

6 Q And the trailer was still attached to the pick-up truck
7 when you left?

8 A Right.

9 Q O.k., what else.

10 A That's all that was on my driveway.

11 Q O.k., anything else around the house?

12 A Not that I can remember.

13 Q In the nature of vehicles?

14 A Pardon me.

15 Q Motor vehicles, anything else there?

16 A I have another car, but a lot of times I leave it parked
17 at my mother's house in Radford.

18 Q Is that where it was when you left?

19 A I think so. I couldn't honestly tell you.

20 Q What kind of car is that ma'am?

21 A It's a green '77 Thunder Bird.

22 Q And to the best of your knowledge that was parked at
23 your grandmother's house in Radford when you left?

24 A I think so. I don't really know.

25 Q Who had keys to that car?

26 A My mother probably had those at her house if it was down

1 Q As far as identifying any of these things that Mr.
2 Shockley has put in front of you, the best you can say is you have
3 one like it or had one like it, right?

4 A And mine is missing.

5 Q All right, as far as identification, ma'am, all you can
6 say is that you have one like it as far as the towel goes?

7 A I sure do.

8 Q The pitcher, anything else?

9 A Yes.

10 Q Are you aware of anything else being missing from your
11 home?

12 A Well, I told you about my handmade quilt.

13 Q Yes, you just said five things to the best of your know-
14 ledge? were missing?

15 A Right, that's it.

16 Q As far as anything else, you don't--

17 A I don't know anything about, I don't keep up with the
18 tools or anything like that.

19 Q When was the last time you had been in the utility room?

20 A Well, I had a refrigerator there that I keep soft drinks
21 and stuff in.

22 Q When was the last time you had been in that room, ma'am?

23 A Well, I would say probably on Thursday.

24 Q Thursday?

25 A Thursday or Friday. I don't remember.

26 Q Do you remember what you did Friday night?

1 A Friday night?

2 Q Uh hum.

3 A We were getting ready to go to the beach so--no, I don't
4 remember what I did.

5 Q Well, were you even home Friday night?

6 A Yes.

7 Q Most of the evening?

8 A I know we stayed there Friday night. I can't remember
9 what I did.

10 Q Do you remember going in or out of the house Friday
11 night?

12 A Well, I'm sure I did.

13 Q If you are sure you did, can you tell us which door
14 you went in or out?

15 A The kitchen door.

16 Q That would have been the door you used if you went in or
17 out of the house?

18 A Yes.

19 Q And no other door?

20 A No.

21 Q Still, the last time that you or Mr. Davis or Bill King--
22 was Bill there Friday night?

23 A No, I don't think so.

24 Q Do you remember the last time anybody went swimming
25 before you left on your vacation?

26 A I honestly don't remember.

1 Q Did you have a washing machine and a dryer at that time?

2 A Yes.

3 Q Where is it?

4 A It's on the middle level. It's right off the garage.

5 Q Do you know the last time you used that ma'am.

6 A The washing machine?

7 Q Uh hum.

8 A I believe I washed some Thursday night, maybe Friday.

9 I don't remember.

10 Q Do you have a dryer?

11 A Yes.

12 Q O.k., what's your regular cleaning day, days during the
13 week, do you have any regular time or do you just do a little bit
14 everyday? I know the house is immaculate.

15 A No, it isn't, but I don't, I don't--

16 Q You wouldn't say your house is immaculately clean?

17 A No. I don't clean everyday. I don't clean every week,
18 but, you know, like if you clean and move everything I don't do
19 that.

20 Q I'm not suggesting that you do that. I'm just wondering
21 if you had any regular days or anytime, the weekend, during the
22 week or whatever that you perform those things?

23 A Yeah, if I, you know, decide to vacuum, it would have to
24 be on a Saturday morning.

25 Q And you dispute for me that your house is immaculately
26 clean? It's very neat.

1 A It's clean but I wouldn't call it immaculate, no.

2 Q It's very neat, is it not, you and your husband pay
3 particular attention to make sure everything is very neat, am I
4 right?

5 A Yes, we do.

6 Q And when you left the house, was everything immaculately
7 neat?

8 A Yes, it was neat.

9 Q Was it not pretty much the same when you got back?

10 A It was what?

11 Q Was it neat when you got back?

12 A No.

13 Q Other than having a 100 people hanging around?

14 A No, it was not very neat.

15 Q When you got back and there were a 100 people there,
16 I assume some of them were law enforcement officers and some of
17 them were not. Was there anybody home, anybody _____ (unintelli-
18 gible) from going inside the house?

19 A Pardon me. I didn't hear.

20 Q Was there any, when you arrived back and you said
21 there was maybe a 100 people out there, was there anybody home,
22 anybody back from going inside the house?

23 A There was police officers inside.

24 Q Was everybody stopped from going in and out of the
25 house?

26 Q Were they stopped?

1 Q Yes, ma'am.

2 A Well, they told me nobody but the police officers had
3 been inside.

4 Q Well, I'mnot asking you that, I'm asking you--

5 A Well, I don't know.

6 Q --when you got there whether--well, you went in the
7 house, I'm sure?

8 A I sure did.

9 Q Anybody besides the police officers in the house at
10 that time, to your knowledge, any of your neighbors or friends?

11 A No, indeed, huh um.

12 Q Just police officers, how many police officæ inside
13 the house?

14 A Sgt. Church was there. I remember him and--

15 Q I want to know how many, ma'am. I really--

16 A Well, I can't tell you that because I don't remember.

17 Q Well, two or three or ten or twenty?

18 A There was less than twenty.

19 Q And more than two?

20 A And more than two.

21 Q Thank you, ma'am.

22 REDIRECT EXAMINATION

23 BY MR. SHOCKLEY:

24 Q Mrs. Davis, Mr. Warburton asked you several questions
25 with reference to your son coming over and staying there while you
26 were on vacation and he kept asking you, you know, why you wanted

1 him there and so on. I'd like you to expound upon that if there's
2 any reason that you wanted your son to be present while you were
3 gone.

4 A If there was any reason, well, everytime, well, I mean
5 I want him there anytime. That's his home, too.

6 Q Well, I understand, but was there a particular reason
7 during your vacation why you wanted him there?

8 A Well, we like for him, you know, somebody to be around.

9 Q Why is the question.

10 A Well, he protects our stuff, you know, if we're gone
11 in case of a break-in or something, somebody would be there be-
12 cause we had planned to be gone for a week.

13 Q The towels, the blue towel, the blue and the white towel,
14 where were they kept in the house, please, more specifically
15 than the second level bathroom?

16 A O.k., they were kept in the bathroom right off of my
17 bedroom and the newest blue towel was hung right beside of the
18 shower stall on a ring. It had never been used. I just had it
19 there for the color.

20 Q For the color?

21 A Yes.

22 Q Now, I'd like to ask you if you in reference to the hairs
23 on your head, do you recall ever giving any samples of those to
24 anyone?

25 A Yes, I did.

26 Q O.k., can you tell me to whom you gave those samples,

1 please?

2 A I believe it was Mr. Wilburn.

3 Q Wilburn, Wilmore, would that--I don't think there's a
4 Wilburn involved, would Wilmore--

5 A It's Mr. Wilmore.

6 Q Wilmore, ok. And I'd like you to look at Common-
7 wealths Exhibit No. 10, please. This appears to be at least a
8 yellow gold ankle bracelet and ask you if that's yours?

9 A No.

10 Q Do you wear ankle bracelets?

11 A No, I don't.

12 Q And one last thing, Mrs. Davis. Gentlemen, I refer to
13 Laboratory Item No. 66. Let me ask you this, was there anything
14 else missing out of the bathroom or anywhere else in the house?

15 A Well, I told you about the bath mat, and--no, that's
16 all I can think of.

17 Q I'll ask you about that if I might, please, and see if
18 you, tell me if you can identify that?

19 A I had a can of Dow bathroom cleaner and--

20 Q Where?

21 A I always keep it in my bathroom.

22 Q And what is your bathroom, is that the one on midlevel
23 again?

24 A Right, right off of my bedroom, and the day I came back
25 I was looking around in the basement and all and I was in the
26 furnace room.

1 Q Where is the furnace room?

2 A It's right off the rec room.

3 Q What other items are kept in the furnace room?

4 A I had a, I have a refrigerator, a stove and just trash
5 cans.

6 Q Let me ask you this. I don't want to try to lead you.
7 I know these gentlemen are sitting over there and they don't want
8 me to put words in your mouth, but as you would walk into your den
9 from the outside, the sliding glass doors--

10 A Right.

11 Q Which direct would you turn to go into that room?

12 A Right.

13 Q To the right and when you spotted that, does that ring
14 a bell with you so to speak?

15 A Yes, it did because I didn't have, I didn't know why it
16 was in there, and it was laying in the floor beside of the trash
17 can.

18 Q The Dow cleanser, how was it packaged or contained?

19 A It's in a can. It has--

20 Q What type of can?

21 A It's white, looks like bubbles or something on it.

22 Q What type of lid does the can have?

23 A A green one.

24 Q Knowing, you Dow bathroom cleanser or whatever and the
25 cap that it has, can you contrast or compare that cap with this
26 cap?

1 A Yes, it had something in it.

2 Q O.k. Do you know relatively whether it was three-quarters
3 full or half full or a quarter full or nearly empty, do you know--

4 A It probably had more than half full in it.

5 Q What size can was this. Can you show me the length of
6 the can or something?

7 A It's about like that, I think (indicates). I don't
8 know how many ounces is in it.

9 Q They may have some more questions for you.

10 RE-CROSS EXAMINATION

11 BY MR. WARBURTON:

12 Q Mr. Shockley brought up a few more things now Mrs. Davis
13 I'd like to ask you about. As far as this green lid goes, this
14 could go to anything as far as you know?

15 A Yes.

16 Q I mean it could be whipped cream?

17 A Right.

18 Q As far as you know. Mr. Shockley brought out that ankle
19 bracelet and apparently you don't wear ankle bracelets?

20 A No, I don't.

21 Q Have you ever seen one like it?

22 A No, I haven't.

23 Q You don't know where that came from or where it was
24 found or anything else?

25 A No, I don't.

26 Q Mr. Shockley also brought up hair. Do you have any

1 A Could I tell if that's the cap?

2 Q Or one like it or one different from it or whatever?

3 A It looks like one that would fit on a Dow bathroom
4 cleaner can.

5 Q O.k., what did you do with that, please?

6 A I gave it to Sgt. Church. I asked him what it was doing
7 in there and he took it.

8 MR. WARBURTON: I'll object to anything he might have said,
9 Your Honor.

10 THE COURT: All right, objection, sustained.

11 Q Do you know when you had purchased that can of cleanser?

12 A They usually last me--

13 Q No, when you purchased it.

14 A When I purchased it.

15 Q If you know.

16 A No, I can't tell you.

17 Q Do you know, despite when you purchased it whether any-
18 thing had been used out of it?

19 A Oh, yes, I'm sure something had been used out of it.

20 Q Do you know whether or not anything was left in it?

21 A No, I don't.

22 Q I'm talking about--excuse me, maybe, I think you're
23 confused and maybe I'm confusing you. I don't know. When you
24 left South Carolina, or to go to South Carolina, and your can of
25 cleanser that you say was missing when you got back, can you tell
26 me about it, whether it had anything in it or not?

1 animals in the house?

2 A At that time we did not have any.

3 Q And at what time did you and if so what kind?

4 A If at what time what?

5 Q Did you ever have an animal live in the house with you,
6 dog, cat--

7 A I have a dog, dog now, but did not have it then, and we
8 got the dog, I can't tell you what day we got it.

9 Q Was it this summer?

10 A Yes, it was.

11 Q It was after you got back--

12 A Yes.

13 Q --From South Carolina?

14 A Uh hum.

15 Q So at least before you got back from South Carolina
16 there was no animal living in that house?

17 A No, our dog was born July the 4th so--

18 Q O.k. and would that, would it be fair to say that since
19 you moved into that house, since your husband finished the basic
20 house in 1974 have you ever had a dog or a cat in that house?

21 A I think, not if I could have gotten to them first they
22 wouldn't have gotten in, but I don't recall an animal being in
23 there.

24 Q You ever had a pet animal live in that house with you
25 until this dog arrived on the 4th of July?

26 A No.

1 Q How about neighborhood animals, any, I mean did your
2 friends bring their, you know, poodles with them, or anything
3 like that?

4 A They make them stay--we have a neighbor dog and he always
5 stays right outside the door. I can't tell you for sure if that
6 dog's ever been in the rec--he has never been upstairs but if he's
7 ever been in the rec room I don't know about it.

8 Q To the best of your knowledge though there's never really
9 been any animals there--

10 A No.

11 Q Until this dog that you just--

12 A No.

13 Q Thank you, ma'am.

14 (The witness stands aside and leaves
15 the courtroom.)

16 CAPTAIN THOMAS N. LOVEL,
17 a witness called on behalf of the Commonwealth, after being first
18 duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. SHOCKLEY:

21 Q State your name, please.

22 A Captain Thomas N. Lovel, Radford City Sheriff's Depart-
23 ment.

24 Q And how long have you been working for the Radford City
25 Sheriff's Department, Mr. Lovel?

26 A Twelve years.

1 Q Mr. Lovel, I want to ask you after Gina Hall disappeared
2 if you took any part in the investigation or search for her?

3 A Yes, sir, I did.

4 Q And would you tell me what you did, where you looked
5 and so on and so forth?

6 A I was looking in the area below, back of the police
7 department on the Raford side at the end of the railroad bridge,
8 all that area.

9 Q Mr. Lovel, I want to ask you if you ever found anything
10 which you turned over to other law enforcement authorities?

11 A Yes, sir, I did.

12 Q And what was that?

13 A It was a shoe.

14 Q I'd like you to look at this, Commonwealth's Exhibit No.
15 2 if you would please, and see if you can identify that, please.

16 A Yes, sir, that's the shoe.

17 Q And what did you do with that shoe?

18 A I secured it in a brown paper bag and taken it to the
19 police department.

20 Q And to whom did you give it?

21 A I signed it over to Trooper Hall, Austin Hall of the
22 State Police.

23 Q Mr. Lovel, I'm going to give you a pointer to use if
24 you would. If you will just come over here. Are you familiar first
25 of all with this photograph?

26 A Yes.

1 Q Just so you are not confused, this is the trestle and
2 this is Memorial Bridge. This here is Memorial Bridge that's cut
3 out. If you will look on there and tell the Court and the jury
4 approximately where you found the shoe.

5 A I'd say approximately a 100 feet from the end of that
6 railroad track (indicates), 15 feet to the right and--

7 Q Just a second please.

8 A Approximately a 100 feet from the end of the railroad
9 abutement, 15 feet over a bank down in a gorge or a gully, in a
10 clump of bushes, and one tree about, I'd say about 2 inches in
11 diameter about as high as your head.

12 Q Mr. Russell has a pen and as best you can on this map
13 I'd like you to mark let's say with an "S", a little tiny "S" and
14 then put a circle around it where you proximate that you found
15 it.

16 A All right.

17 Q O.k., the if you'd put your initials by that, please.
18 O.k., you can be seated again, please.

19 Mr. Level, do you recall the day on which you found this
20 shoe?

21 A Yes, sir, it was July, the 8th, 1980.

22 Q July the 8th?

23 A Yes, sir.

24 Q Answer their questions, please.

25 CROSS EXAMINATION

26 BY MR. LOOKABILL:

1 Q All right, Captain Lovel, what's your main function with
2 the Raiford Police Department or Sheriff's Department?

3 A Chief Deputy, mostly jail division.

4 Q I believe you and your wife run the jail?

5 A Yes, sir, we do.

6 Q How long have you been doing that, sir?

7 A Twelve years.

8 Q I believe that Mr. Warburton and I were up there recently
9 and talked with you. Did you discuss this case with us at all?

10 A No, sir.

11 Q Refused to say anything until court date, I believe?

12 A Yes, sir.

13 Q Is that correct?

14 A Yes, sir. I did.

15 Q When you found this shoe, did you have a shoe dog or any-
16 thing like that to help you find the shoe?

17 A No, sir, I didn't.

18 Q How did you happen to find it. Had you been looking for
19 sometime?

20 A Yes, sir, I had been looking.

21 Q Did the shoe in any way appear to be hidden or was it open
22 to view. You just had to be in the right place to see it?

23 A You had to be in the right place, the sunlight had to be
24 in the right place.

25 Q You say it was over an embankment?

26 A Yes, sir, it was.

1 Q How many feet from the end of the trestle?

2 A About a 100 feet, approximately.

3 Q Past the, do you go across the trestle and then another
4 100 feet?

5 A Yes, sir, like this was the trestle (indicates), the
6 end of the trestle, 100 feet to your right down about 15 feet,
7 10 or 15 feet over an embankment.

8 Q This is pretty steep?

9 A Yes, sir, it is, right straight up and down.

10 Q Did you see it from the railroad?

11 A No, sir, I didn't. I was down in the gorge.

12 Q It wasn't buried or secreted in any way was it?

13 A No, sir, it wasn't.

14 Q It was in open view?

15 A Yes, sir.

16 Q How far away from the shoe were you when you first saw
17 it?

18 A I'd say about, about 5 feet, approximately.

19 Q You mentioned it was near a small, two or three inch
20 diameter tree?

21 A Yes, sir.

22 Q Was it behind that tree?

23 A No, sir, it was in front.

24 Q In front of it?

25 A Beside or--

26 Q It was between you and the tree?

1 A Yes, sir.

2 Q Did someone ask you to search for it or had, was your
3 department still doing some investigation?

4 A We was, we was just doing it on our own when the thing
5 started, we was called on. We was helping the Radford City
6 Police Department on the city side.

7 Q Is that normal for you to do? Are you involved in in-
8 vestigations often?

9 A In a, you know, in an unusual case--no, I wadn't investi-
10 gating, no, sir. We was searching.

11 Q Who was it that asked you to do so, Captain Lovel?

12 A At the time I don't really know. I started out on my own.
13 At a later date I was asked.

14 Q So you just voluntarily went out. Nobody--

15 A Yes, sir.

16 Q Your department or your function wasn't involved? You
17 jst did it on your own?

18 A At the time.

19 Q Is that because you had a special interest in the matter
20 yourself?

21 A Yes, sir.

22 Q Just a personal interest?

23 A No, sir, law enforcement officer.

24 Q What I'm saying, you weren't assigned to do so, you just
25 went over there voluntarily?

26 A Right, sir, on my days off I started.

1 Q And when you obtained this shoe, you said that you called
2 Trooper Hall?

3 A Yes, sir, he was notified, yes, sir.

4 Q Did you take the shoe back to the jail?

5 A Yes, sir.

6 Q Did he come there and pick it up?

7 A Yes, sir.

8 Q You still had it in a brown paper bag, is that correct?

9 A Yes, sir, yes, sir.

10 Q Did you mark your initials on it and give it to him?

11 A Yes, sir, I had my name on it, but I don't know, now,
12 I'll back up. I don't know now whether I had taken it out of the
13 bag at the time I give it to Trooper Hall. I think I taken it out
14 of the bag with an ink pen.

15 Q Where was it kept at the jail between the time you ob-
16 tained and carried it there and the time that Trooper Hall came to ge
17 it?

18 A Right beside of me on a desk.

19 Q Was it there with you--

20 A Yes, sir.

21 Q --in your sight the entire time?

22 A Yes, sir, it was.

23 Q How much time had elapsed between the time you called
24 Trooper Hall and he arrived?

25 A I'd say 15 to 20 minutes.at the most.

26 Q Was it marked with this tag at that time?

1 A No, sir, it ewadn't.

2 Q What did you do with it precisely when Trooper Hall
3 arrived?

4 A I turned it over to Trooper Hall and he wrote, he wrote
5 it down, the date and time he received it.

6 Q Did you put it back in the bag or just hand it to him?

7 A He put it in the evidence bag as I remember.

8 Q At that time he carried it and you haven't seen it
9 since?

10 A No, sir.

11 Q That's all, thank you.

12 (The witness stands aside and leaves
13 the courtroom.)

14 THE COURT: All right, members of the jury, we'll take a
15 ten minute recess at this point. You may retire.

16 (Thereupon a recess was had and after a time all interested
17 parties returned into the courtroom, including the Court, jury,
18 counsel and the defendant.)

19 SGT. M. E. CHURCH,
20 a witness called on behalf of the Commonwealth, after being first
21 duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. SHOCKLEY:

24 --Sgt. M. E. Church.

25 Q And Mr. Church, how are you employed?

26 A I'm a supervisor with the Department of State Police.

1 Q And your place of employment with the State Police?

2 A Dublin.

3 Q Mr. Church, I want to ask you about this particular cap
4 and ask you if you've seen it before please.

5 A Yes, I have.

6 Q And when and how did you come to see it, please.

7 A This cap was found in a room at the Davis's cabin next
8 to a trash can in the basement of the house next to a refrigerator
9 and it was found next to a trash can in that little utility room.

10 Q Who gave it to you?

11 A Mrs. Davis gave it to me and Mr. Davis was there also
12 so both of them actually were there when I picked it up.

13 Q And what did you do with it please?

14 A I identified it. I put my initials on it and I held
15 it and gave it to Investigator Wilmore, Mr. Wilmore for examina-
16 tion.

17 Q Are you initials on it?

18 A Yes.

19 Q What are your initials?

20 A M.E.C.

21 Q O.k., sir. Answer their questions, Mr. Church, please.

22 CROSS EXAMINATION

23 BY MR. LOOKABILL:

24 Q Sgt. Church, were you called to the house?

25 A No, I wasn't called. I was there at that particular
26 time. I don't know why I was there, just there.

1 Q And were you already down in the den area?

2 A Yes.

3 Q Did someone just bring this to you and say, "Here, take
4 this."? or how did that come in your possession?

5 A Well, Mr. Ronnie Davis and Mrs. Davis were there down-
6 stairs and it was pointed out to me. We had discussed cleanser
7 agents prior to this and they said, "This, or it was pointed out
8 to me as being a top off a cleanser can.

9 Q Who was it that pointed that out to you?

10 A It was Mrs. Davis, I believe.

11 Q Did you ask her if it could come from a cleansing agent?

12 A Yes.

13 Q And what was her response?

14 A She said, "Yes."

15 Q She said she thought it could have or she said definite-
16 ly--

17 A Well, she said it definitely did and so did Mr. Davis.

18 In fact they gave me the brand name which I don't recall.

19 Q But there was no question in her mind whatsoever that it
20 came from there?

21 A No, sir.

22 Q She didn't say, "Yes," it possibly did?

23 A No.

24 Q and you wrote your initials--are your initials still on
25 the cap, sir?

26 A Yes.

1 Q Is that in this middle here?

2 A Yes.

3 Q M.E.C., big letters?

4 A Yes, sir.

5 Q You write big?

6 A Yes, sir.

7 Q Was this put in the evidence bag at that time or was it
8 just handed to Trooper Wilmore?

9 A I put it into a bag immediately after that without touching
10 it. I picked it up with a fork or some item and put it in a bag
11 without touching it and it was not touched by anybody else while
12 I was there.

13 Q Did you pick it up off the floor with a fork?

14 A With some article, yes, I picked it up and put it in a
15 paper bag.

16 Q You gave the bag to Investigator Wilmore?

17 A Yes.

18 Q Was he also downstairs?

19 A No, this was sometime later when I gave it to him.

20 Q Do you recall when you gave it to him?

21 A On the 29th of September.

22 Q September 29th?

23 A Yes.

24 Q When were you at the house?

25 A On the 12th.

26 Q Of September?

1 A Yes, no, of July. This was on July 12th and I gave it
2 to him on the 29th of July.

3 Q Was there any particular reason for the delay in getting
4 this to him?

5 A He and I were not in contact with one another during that
6 period of time.

7 Q Where did you keep it during that period of time?

8 A I kept it at my house.

9 Q Where in your house, sir?

10 A I kept it, it was in my bedroom.

11 Q It wasn't in a safe or anything it was just in--

12 A No.

13 Q Was it in a drawer?

14 A Yes, it was in my drawer.

15 Q And when you gave it to Trooper Wilmore, Investigator
16 Wilmore, did he come to your home or did you deliver it to him
17 sometime?

18 A I delivered it to him.

19 Q Do you recall where that was?

20 A I believe it was at the Dublin office, State Police office.

21 Q Were you in contact with Trooper Hall during this in-
22 vestigation?

23 A Which--

24 Q Austin Hall?

25 A Yes.

26 Q Had he gotten involved at your request?

1 A Yes, that's correct. He became involved on his own
2 initiative originally receiving a call.

3 Q But then you asked him--

4 A Yes.

5 Q I assume you are in a position where you could give him
6 the orders to do so?

7 A That's correct.

8 Q --as you are superior to him, is that correct? Is
9 there any particular reason that Trooper Hall was chosen to in-
10 vestigate this case?

11 A He was the individual who found the car to begin with,
12 found the Hall girl's car.

13 Q Was he asked by you to be the main investigator for the
14 State Police?

15 A At that time, yes.

16 Q Is he normally an investigator?

17 A That's one of his duties.

18 Q Has he been involved in this type of investigation before?

19 A He has done many investigations. This type, no, I don't
20 think so.

21 Q What's his primary function with the State Police?

22 A The primary function is promotion of highway safety and
23 investigation of criminal acts and so forth.

24 Q His main function is a road officer in other words?

25 A That's correct.

26 Q Gives speeding tickets and do whatever else that troopers

1 do to protect the highways of the state, is that correct?

2 A Yes, sir.

3 Q That's all, thank you.

4 MR. SHOCKLEY: Your Honor, that's all we have of this wit-
5 ness. I would go ahead at this time and offer this green cap
6 into evidence as the next Commonwealth's exhibit. It's importance
7 will become apparent later.

8 THE COURT: All right, let it be marked and received.

9 (The witness stands aside and leaves
10 the courtroom.)

11 MR. LOOKABILL: Your Honor, I would like to make a motion
12 outside of the hearing of the jury, please, sir.

13 THE COURT: All right, members of the jury, will you retire
14 for a moment, please.

15 (The jury retires from the courtroom.)

16 MR. LOOKABILL: Your Honor, I would object on behalf of Mr.
17 Epperly of the entrance of that cap into evidence. The chain of
18 custody has not been established. The law requires that at least
19 a preponderance of the evidence be established in order to show
20 the proper chain of custody. He has testified that it was kept
21 in a drawer in his bedroom which I don't think satisfies the
22 legal requirements of protecting the evidence and keeping it in a
23 proper chain of custody until, from the time, it's secured, until
24 such time as it arrives in the courtroom, and, therefore, I object,
25 would state that it should be excluded from the evidence.

26 MR. SHOCKLEY: Your Honor, I think it's the type of thing

1 that goes to the weight of the evidence rather than to its admis-
2 sibility.

3 THE COURT: We are not concerned with fingerprints here on
4 this cap are we?

5 MR. SHOCKLEY: No, sir.

6 THE COURT: Just a question of the identification of the
7 cap itself--

8 MR. SHOCKLEY: (Inaudible).

9 THE COURT: --to this officer and he testified he gave it
10 to Mr. Wilber?

11 MR. LOOKABILL: Trooper Wilmore, Investigator Wilmore.

12 THE COURT: Wilmore and then I guess Mr. Wilmore will testify
13 it went on to the lab?

14 MR. SHOCKLEY: Yes, sir.

15 THE COURT: In the bag?

16 MR. SHOCKLEY: Yes, sir.

17 THE COURT: Well, on the strength of that avowal, I'll adhere
18 to my ruling to admit the cap.

19 MR. LOOKABILL: Your Honor, note our exception for the record
20 please.

21 THE COURT: All right, thank you, sir.

22 (The jury returns into the courtroom.)

23 DAVID LEE MATHERLY,
24 a witness called on behalf of the Commonwealth, after being first
25 duly sworn, testified as follows:

26 DIRECT EXAMINATION

1 BY MR. SHOCKLEY:

2 Q Would you state your name, please, sir.

3 A David Lee Matherly.

4 THE COURT: David Lee what?

5 A Matherly.

6 THE COURT: How do you spell that?

7 A M-a-t-h-e-r-l-y.

8 THE COURT: M-a-t-h-e-r-l-y, thank you.

9 Q Mr. Matherly, where do you reside, please.

10 A I live at 403 2nd Street in Christiansburg.

11 Q Mr. Matherly, do you recall the date that Gina Hall
12 disappeared?

13 A No, I don't.

14 Q Do you recall sometime during July being involved in
15 the search for Gina Hall?

16 A Not the exact date. I believe it was, I think it might
17 have been the 21st.

18 Q Well, you just tell me to the best of your knowledge what
19 you recall, but my question, really what I'm getting at, did you
20 participate in anyway in the search for her?

21 A Yes, I did.

22 Q And may I ask how you came to get involved in this parti-
23 cular search?

24 A Well, I was just interested in the case from the start
25 when I did hear about it.

26 Q Uh hum.

1 A And I just heard that they was, they were forming search
2 parties to look and that's the only way I became involved. I
3 was just interested in it.

4 Q All right, sir. May I ask where you conducted your searching
5 efforts?

6 A Yes, behind the Thrift Way super market. I think it's
7 called, it's called the New River Valley Shopping Plaza in west
8 end Radford, behind there between the railroad tracks, directly
9 behind the shopping plaza and the river, that area between there.

10 Q I'd like to ask you if at anytime during your search
11 you found anything which you gave to law enforcement authorities?

12 A Yes, I found, I found a towel, a blue and white striped
13 towel.

14 Q Uh um.

15 A And I was with a friend of mine that found some clothes,
16 and I also found a mattock, but I didn't pick, touch the mattock,
17 but I picked up the towel.

18 Q Did you take anything into your possession and turn it
19 over to any law enforcement officer?

20 A Yes, I took the towel, blue and white towel.

21 Q Anything else?

22 A That was all.

23 Q O.k.

24 A Was anyone with you when you were doing your search?

25 Yes, they were--

26 Q Well, o.k., go ahead.

1 A Do you want me to tell who--

2 Q Yeah, who, you know, was with you?

3 A There was one, two, my girlfriend and a guy named Chris
4 Royal and Kitty Price and a guy named Ralph Thompson.

5 Q You mentioned that someone else found the clothing.
6 Who was that?

7 A That was Chris Royal.

8 Q Mr. Matherly, I'd like you to look at this particular
9 towel and tell me if you can identify it, please.

10 A Yes, that's the one I found.

11 Q O.k., that is the one you found?

12 A Uh hum.

13 Q And do you recall to whom you gave that towel?

14 A O.k., I gave it to the girl that was with us, Kitty
15 Price, and then we found the clothes. Well, Chris found the
16 clothes about, I'd say between 15 minutes and a half an hour
17 later and he gave her the clothes and we went directly to the police
18 station.

19 Q Did you all go as a group?

20 A To the police station?

21 Q Yes.

22 A Yes, uh hum.

23 Q Were you present when they were turned over to the police?

24 A Yes, I was.

25 Q And do you recall to whom you gave them?

26 A No, I don't. I forgot the officer's name. He was in

1 somebody's office right there.

2 Q Pardon?

3 A He was in somebody's office. I forgot whose it was.

4 Q Do you recall where you took the clothing though?

5 A Oh, yeah.

6 Q Where was that?

7 A That was to the police station in the--

8 Q Which police station?

9 A The Radford police station.

10 Q Were you in the presence of these items all the time?

11 A Yes, I was.

12 Q Are you able to identify the clothing? Did you have
13 any personal contact with the clothing after it was found by Mr.
14 Royal?

15 A Yes, I was present with it the whole time.

16 Q All right. I'd like you to look these over if you
17 could and see if you are able to identify those.

18 Your Honor, I'd like to offer the towel into evidence at
19 this time, again subject to establishing it with other witnesses.

20 THE COURT: All right, let the blue and white towel be
21 received and marked.

22 A I can identify these as the ones.

23 Q Were you present when Mr. Royal found these or did he
24 just holler and say, "I've found some clothes," or what was it?

25 A I'd say he was about 10 yards, 15 yards, in front of
26 me when he found them. Really I was behind him and then he

1 yelled when he found them.

2 MR. SHOCKLEY: Your Honor, I've had him look at Commonwealth's
3 Exhibit No. 7, Commonwealth's Exhibit No. 4, Commonwealth's Exhibit
4 No. 6 and Commonwealth's Exhibit No. 5, and we've introduced the
5 blue and white towel as Commonwealth Exhibit No. 60.

6 Q Answer these gentlemen's questions, please.

7 CROSS EXAMINATION

8 BY MR. WARBURTON:

9 Q David, when you got to the Radford Police Department,
10 you witnessed all this stuff being handed to a police officer,
11 to one officer?

12 A Yes, it was a man sitting at the desk. It was other
13 people around him, but he's the one that we gave it to.

14 Q You can't tell us who he even worked for, you don't know
15 whether he's a Radford City Policeman, a Radford Sheriff, a State
16 Policeman, Pulaski County Officer?

17 A Huh uh. I assumed it was a Radford policeman since we
18 took it to the Radford Police Station.

19 Q But you can't tell us who it was?

20 A No.

21 Q Did he have a uniform on?

22 A No, he didn't.

23 Q He did not?

24 A Let's see, I don't believe one of them did. I don't believe
25 the man at the desk had one on, but there was--I can't remember.
26 There was other policemen inside though.

1 Q What did he do with the stuff when you gave it to him?
2 I take you just dumped it on the desk?

3 A Well, I didn't.

4 Q Well, you saw it being dumped on the desk.

5 A Yeah, right.

6 Q Pardon me. What did they do with it?

7 A I don't know. They just looked at it and then he called--

8 Q I don't care who he called. I'm talking about these
9 particular pieces of clothing and the towel. The last you saw
10 he just--

11 A He just looked at them.

12 Q --up on the desk?

13 A He just looked at them.

14 Q You didn't see him put them in bags or anything like
15 that?

16 A Did I see him?

17 Q Uh hum.

18 A No, I didn't see him. We left shortly after--well,
19 stayed there for a while and then we left, so I don't know what
20 they did with them after we brought them there.

21 Q So we got you and we got Chris Royal and Kitty Price.
22 How many other people?

23 A Ralph Thompson and Lisa Kitts.

24 Q O.k., there's five of you. Did you guys, you said that
25 you got involved because you heard about search parties and you
26 were interested in the case. Did you guys, the five of you decide

1 that you were going to be a search team?

2 A Well, in a roundabout way I guess you'd say that's true.
3 To begin with it was me and Kitty Price and Lisa Kitts and then
4 we were going to Kitty's--I don't know what she is, she's related
5 to this lady somehow in Christiansburg. We were going there to
6 get something. Kitty had to get something and Chris Royal was
7 living with her relative at the time and we saw, well first of all
8 we saw Ralph Thompson, the other guy, at Hardy's and we picked
9 him up just by chance and then we went over there and got Chris.

10 Q At any rate you made a team amongst yourselves?

11 A That's correct.

12 Q Did you tell anybody you were going out searching as in
13 any police authorities?

14 A Did I tell any--

15 Q Anyone in your group to the best of your knowledge in-
16 form the police authorities that you were going to go out and
17 search?

18 A I don't know about other people in my group. I really
19 don't remember to tell you the truth.

20 Q And I think you said the best you could do was to say
21 the 21st of July, is that right?

22 A Well, I think now. Let's see I read it in the paper to
23 begin with. It was in July.

24 Q I don't want to hear what you might have read about. I
25 want to hear what you know about it.

26 MR. SHOCKLEY; Your Honor, he's trying to guage his answer by

1 other things that happened during his life and I think that's
2 perfectly proper. If he read the paper on a certain day and he
3 can relate--

4 THE COURT: All right, don't relate what you read in the
5 paper, but if you want to fix dates in your mind that way, that
6 will be all right.

7 A I don't know exactly when, what day.

8 Q It could have been the 21st. It might not have been.
9 Do you remember what day of the week it was?

10 A Yes.

11 Q O.k., what day of the week was it?

12 A It was on a Saturday.

13 Q Saturday?

14 A Yes.

15 Q And I take it you are a student?

16 A Yes, I am.

17 Q Do you go to Radford University?

18 A I go to New River Community College.

19 Q Were the other people in this group college students?

20 A Let's see, two of them are.

21 Q Uh hum, do either one of them go to Radford?

22 A No.

23 Q And you stated to Mr. Shockley that you were just in-
24 terested in the case and you'd heard about search parties and
25 that was your motivation to go down there?

26 A Yes, it, really, that's about all.

1 Q Not a reward?

2 A There was some reward but that wasn't the main influencing
3 factor in my deciding to go.

4 Q Did you know about the reward before you went down
5 there?

6 A I knew that there was a reward. I didn't know exactly
7 what the reward was at that time.

8 Q Did the five of you discuss reward on the way down
9 there?

10 A We may have. I don't remember.

11 Q You knew that the reward was cash?

12 A I didn't know that.

13 Q You might not have known how much but you knew it was
14 money didn't you?

15 A I suppose, I remember it was money, but that wasn't,
16 that wasn't what I was really concerned with.

17 Q Now so far as I know, you found a blue towel between
18 the tracks and the river. Where?

19 A Exactly?

20 Q Uh hum. If you like, Mr. Shockley has had prepared for
21 us a map and a photograph. Can--gentlemen if you will just wait
22 a second, please. Can you, if we got the map, out, show us exactly
23 where you found that?

24 A Exactly to what distance, how exact?

25 Q Well, I guess
26 just the best--

A I can show you--

1 Q How far were you from the trestle?

2 A How far from the trestle?

3 Q Uh hum.

4 A Approximately 15, 20, 25 yards. I have no idea.

5 Q Twenty-five yards from the testle?

6 A It could be, because the brush is so thick in there,
7 it's hard to estimate distances because you cannot make a straight
8 line down towards the river from there.

9 Q Can you estimate the distance you were from this towel
10 before you saw it?

11 A Let's see, it wasn't very far at all, let's see, approxi-
12 mately three yards, three or four yards, maybe. The brush is--

13 Q From where you are to that microphone at the jury box?

14 A No, a little closer than that. The brush is pretty heavy.
15 You can't see.

16 Q Was the towel hidden?

17 A Well, it was hanging on a branch.

18 Q Hanging on a branch?

19 A But it was, but there's other foliage and stuff around
20 it. It was in the brush.

21 Q But you didn't find this with a bunch of dead branches
22 pulled over top of it or anything like that?

23 A No, just hanging on a branch.

24 Q You went over and grabbed it with your hand and you yelled
25 to Chris?

26 A No, I didn't touch it at first.

1 Q What did you do?

2 A I just stared at it for awhile and looked what was on it.
3 I was inspecting it, was what I was really doing and then I picked
4 it up and walked--

5 Q With your hands, right?

6 A Yeah, and walked it on up, walked on up and we looked at
7 it for a minute and I gave it to Kitty Price.

8 Q What did she do with it, put it in a bag or just hold
9 it?

10 A No, she kept it the whole time.

11 Q Did she stay on the path instead of go through the brush,
12 is that what she was doing?

13 A No, we were all in the brush. Like, you'd have to see
14 how it is between there.

15 Q Well, I've been there.

16 A It's, you know there's a few, once in awhile, it'd look
17 like a path but it's not really.

18 Q And then anywhere from 15 minutes to half an hour later
19 you found some, or pardon me, Chris found some clothes?

20 A That's true.

21 Q What did he find?

22 A What did he find?

23 Q Uh hum.

24 A He found--you mean you want to know exactly the clothes
25 that he found?

26 Q Well, you don't have to go into any great detail, but

1 how many articles of clothing and what were they?

2 A Well, I think they were white pants, and a purple, I
3 think you call it like tights, Danskin top, and a pair of underwear
4 and a bra.

5 Q Was there a bra?

6 A I believe, that's what I thought.

7 Q Uh hum. Well, you were there.

8 A But I didn't see a bra just now.

9 Q But to the best of your knowledge Chris Royal found
10 a bra?

11 A All the clothes. I'm not sure. I'm not sure exactly
12 if a bra was there or not. It was in a bundle, is what it was
13 but I remember, the things I told you I remember seeing.

14 Q Yes, and in your list of things you told me, one of
15 them was a bra. Could you mistake a bra for any piece of clothing,
16 Mr. Matherly?

17 A I guess I could. I'm not sure.

18 Q What would you mistake it for, sir?

19 A Because it was--well, like, I couldn't because see I
20 couldn't identify it because it was in a bundle so I don't know.

21 Q That's all we have.

22 REDIRECT EXAMINATION

23 BY MR. SHOCKLEY:

24 Q Do you know whether or not Mr. Royal ever mentioned a
25 bra in your presence?

26 A No, I don't. I don't recall.

1 Q Where were you when those clothes were found? or do you
2 know?

3 A I was about 10 yards, approximately 10 yards behind him.

4 Q Did someone summon you to that scene where those clothes
5 were found?

6 A Yes, Chris, yeah.

7 QA When you got there, were the clothes on the ground, in
8 a tree, in his arms, where were they?

9 A I believe, if I can remember, I believe they were on
10 the ground. I'm not sure. I really can't remember where they were.

11 Q All right, I want to give you a pointer here.

12 A Uh hum.

13 Q And I want to show you an aerial photograph of Pulaski
14 County, New River, City of Radford and I want you as best you
15 can, to try to point on the map where you found the blue and
16 white towel and if you have any doubts about the landmarks and
17 so on the map, please don't hesitate to ask.

18 A O.k., because I'm not that familiar with the area that
19 much because I live in Christiansburg.

20 Q All right, well, if you can't, that's fine.

21 A All right, now where is the shopping center?

22 MR. WARBURTON: Let him find it please.

23 A I'll tell you I don't know the area well enough. O.k.
24 trestle.

25 A VOICE: The shopping plaza.

26 MR. WARBURTON: He either knows where it is or he doesn't.

1 If he doesn't, that's perfectly acceptable.

2 MR. SHOCKLEY: Your Honor, I ask that I be allowed to point
3 out the shopping center to him.

4 THE COURT: You may do that just for the purpose--

5 A I'm not familiar with the area.

6 THE COURT: --of helping him get his bearings.

7 Q And I could be wrong, but I think this is the Thrift
8 Way right here. This is the trestle, that's Memorial Bridge.

9 A O.k. All right, we came down to about here and we
10 were walking--

11 Q Now you are going to need to stand to one side so the
12 members of the jury can see what you are doing, please. Why don't
13 you stand on the right and point over with your right hand.

14 MR. LOOKABILL: Mr. Shockley, you might stand right here
15 too. I believe the jury may have a little trouble seeing it.

16 A O.k., when we went searching, we came right here from
17 this parking lot and right here's Thriftway. We came back behind
18 here like this and the railroad tracks are right here. O.k., I'd
19 say--all right, we walked down the tracks towards the trestle and
20 it was between here and here (indicates) where we found the clothes
21 and the towel. Now the towel was--

22 Q Now, of course, you were not present when the clothes
23 were found. I'll ask Mr. Royal about that. Do you have your
24 red marker--

25 A All right, the clothes--

26 Q I'd like you to just--

1 A The towel was to the right of where the clothes were,
2 I mean down farther towards the trestle.

3 Q Well, as best you can recall, take this red pen and put
4 a very small "T" on there for towel and then draw a little circle
5 around it and then beside that put your initials in rather small
6 size if you would please.

7 Now wait just a second do we have another "T" on there.
8 There's an "X" and an "S", I believe.

9 A It's hard to indicate distances.

10 Q Well, that's fine. Just do the best you can. I realize
11 you are not a surveyor or anything.

12 A Do you want me to put "towel" on here?

13 Q Just "T", just a little "T" and put a small circle around
14 it, and then put your initials small please.

15 Again, what's your best recollection as to how much time
16 elapsed from these finds until you gave them to the law enforce-
17 ment officers?

18 A Just the towel or when I was present with the clothes,
19 too?

20 Q Yeah, both, the same time you said.

21 A All right, we found the clothes, well, Chris found the
22 clothes which was about I said 15 to, minutes to a half hour be-
23 tween times when we found the towel. All right, we went to the
24 police station directly after we found the clothes.

25 Q Did you walk there, drive there or--

26 A We rode there.

1 Q I don't have any further questions.

2 (The witness stands aside and leaves
3 the courtroom.)

4 WARD CHRISTOPHER ROYAL,
5 a witness called on behalf of the Commonwealth, after being first
6 duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. SHOCKLEY:

9 Q Would you state your name, please.

10 A Ward Christopher Royal.

11 Q And where do you live, Mr. Royal?

12 A Christiansburg, Virginia.

13 THE COURT: Speak up, please and talk to the jury.

14 A Christiansburg, Virginia.

15 Q Mr. Royal I want to ask you if you and any of your
16 friends got involved in searching for Gina Hall after she disap-
17 peared?

18 A Yes, sir, we did.

19 Q And may I ask where you searched, please.

20 A Behind Thrift Way, near the trestle.

21 Q Thrift Way where?

22 A Right on the railroad tracks, you know.

23 Q Well, I'm talking about what town, county.

24 A In Radford, Virginia.

25 Q Radford?

26 A Uh hum.

1 Q And I'd like you to tell me if you can the date that
2 you were there. Do you recall the date?

3 A No, sir, I do not.

4 Q Do you recall finding anything?

5 A Yes, sir, I do.

6 Q Would you tell the Court and the jury, please, what
7 you found.

8 A I found the girl's clothes that she was supposed to have
9 worn.

10 Q And I'd like to ask you if you at anytime gave those
11 clothes to a police officer?

12 A No, sir, I didn't give it to them. The girl that was
13 with us, I give them to her after we picked them up with a stick,
14 and she carried them to the Radford Police Department and we gave
15 it to the investigators there.

16 Q O.k. How many of you went to the police department?

17 A Five of us.

18 Q Were you one of the five?

19 A Yes, sir.

20 Q I'd like you to look at these clothes, please, and see
21 if you can identify them for me, look at them, you know, as much as
22 you need to.

23 A Yes, these is the ones I found. bunched up in a bundle.
24 They were sort of damp when I found them though.

25 Q And where exactly, can you in your own words describe
26 to the Court and the jury where you found them.

1 A They were approximately 25 feet or so, 30 feet off the
2 railroad tracks where we went down over the path, and it was
3 something like, under some trees and stuff like they had been put
4 there by someone or something.

5 MR. WARBURTON: I'll object to the conclusion, Your Honor.

6 Q How did you find them, I mean, geo--or with reference
7 to the trees and brush and railroad tracks and sonon, can you tell
8 me, be a little more specific as to where they were located with
9 reference to their immediate surroundings?

10 A There's a dumpster, you know, behind Thrift Way.

11 Q Uh hum.

12 A We went straight over to the dumpster to the tracks and
13 about 20 feet down the tracks to your left over in the bushes--you
14 couldn't get over in there from where the clothes was because you
15 couldn't walk through there so many briars and stuff so we went
16 up and went down and then went down through there, well to your
17 right as we went down in there.

18 Q O.k, but the clothes as far as with reference to the
19 trees, briars, weeds, whatever, you know, how were the clothes
20 positioned with reference to--

21 A All of these were just piled up and this top one was sort
22 of around the big one. You could just--

23 Q Can you just sort of demonstrate for the jury exactly how
24 they were laying before--

25 A Lay them up there?

26 Q Sure, gather them up and do whatever you have to do to

1 them.

2 A They were sort of like all bunched up like this with
3 this around them.

4 Q You are going to have to speak up now.

5 A They were all bunched up like this with this around
6 them and all you could see was a little purple like sticking out.
7 That's the reason I noticed them. I thought maybe it was old
8 clothes or something had been laying thre a long time because I
9 didn't even know what she had been wearing. They was sorta just
10 bunched up sorta like that right there.

11 Q But again with reference to the growth around it, I
12 want to know were they langing up in a tree, were they under a
13 bush, on a bush?

14 A No, they was down in some weeds like pushed around.

15 Q Now I want to give you a pointer and I want to show you
16 an aerial photograph in the City of Radford and Pulaski County and
17 New River and as best you can I want you to point out on the photo-
18 graph where you found the articles of clothing, please. If you
19 have any questions about the physical layout and the landmarks,
20 first of all so you're not confused, this is the railroad trestle,
21 this is Memorial Bridge. It's not shown in the picture all that
22 well.

23 A _____ (Inaudible).

24 THE COURT: Now speak up loud so--

25 MR. SHOCKLEY: He asked where the Thrift Way was.

26 Q This is the Thrift--now you are going to need to stand

1 over here and point back. This is the Thrift Way over in here.

2 A They were like--

3 Q Stand back just a little bit more so the jury can see
4 please.

5 A Along in here (indicates).

6 Q Now the clothing, which side of the railroad tracks
7 were they on?

8 A The other side of them, behind Thrift Way on the other
9 side.

10 Q O.k.

11 A This is--

12 Q Can you show me the railroad tracks on there.

13 A Well, this is where the, well this is Thrift Way and
14 this is--I don't know the area up here but I'd say this is the
15 railroad tracks.

16 Q Well, if you don't know, say so.

17 A I don't know.

18 MR. SHOCKLEY: Your Honor, I ask that I be allowed to show
19 him the railroad track.

20 THE COURT: All right, show him the railroad track.

21 Q This line here is your railroad tracks.

22 A _____ (Inaudible).

23 Q O.k., if you would give him--

24 MR. LOOKABILL: Mr. Shockley, I think you need to step back.
25 I don't think the jury ever saw him.

26 Q I'd like to put just, take the pen if you would please,

1 and put a little tiny "C" for clothing and put a little circle
2 around it and then in small letters if you would put your initials
3 by that.

4 MR. SHOCKLEY: Your Honor, for the record Mr. Royal has
5 examined Commonwealth's Exhibit No. 4, Commonwealth's Exhibit No.
6 5, Commonwealth's Exhibit No. 6 and Commonwealth's Exhibit No. 7.
7 I think with the previous witness I had the right number for the
8 pants. It looks like they were originally marked 4 or 6 and
9 scratched out but it is clearly No. 5, if I made a mistake earlier.

10 Q Answer these gentlemen's questions, please.

11 CROSS EXAMINATION

12 BY MR. WARBURTON:

13 Q Mr. Royal, how old are you?

14 A Seventeen.

15 Q Are you a student?

16 A Yes, sir.

17 Q Where?

18 A Christiansburg High School.

19 Q How many people in your group?

20 A Five.

21 Q Mr. Matherly, Miss Price and two other people and you
22 all got together to go searching?

23 A Yes, sir.

24 Q And what were you trying to do when you decided to get
25 together?

26 A Just to go look for the body.

1 Q The body. You had your mind made up then?

2 A Well, we, that's what we were looking for. We--

3 Q Reward money, right?

4 A Not really.

5 Q You were aware there was a reward, were you not?

6 A Sure.

7 Q Cash?

8 A No, I didn't really know.

9 Q What did you think the reward was?

10 A Sir?

11 Q If you didn't think it was cash, what did you think the
12 reward was?

13 A I wadn't really out for the reward so I wadn't worried
14 about it.

15 Q You were aware that there was one?

16 A Yes, sir.

17 Q Probably got together that day specifically to go
18 searching, am I right?

19 A Yes, sir.

20 Q What day of the week was it?

21 A Saturday.

22 Q Are you sure of that. Do you know what the date was?

23 A No, sir.

24 Q Do you know what the month was?

25 A August.

26 Q August? How sure are you that it was August?

1 A I think it was, I'm not sure.

2 Q If it wasn't August, when was it?

3 A I don't remember. I remember it was on a Saturday when
4 we went and it was in the summertime.

5 Q Can you tell us from the date you were first aware
6 that Miss Hall was missing how long it was after that, was it
7 the next weekend or was it a month later, two months later?

8 A I think it was something like two weeks, the second
9 Saturday, maybe.

10 Q You think?

11 A Yes, sir, because I wasn't real aware of it.

12 Q But it was a Saturday and that's about all you know.

13 A Yes, sir.

14 Q The time of day?

15 A Around 3:00 when we found the clothing.

16 Q When did you start?

17 A I think it was around 12:00.

18 Q Did you look anywhere besides this area between the rail-
19 road tracks and the river?

20 A Not that day.

21 Q You went back after that or had you already been there
22 searching?

23 A We went to a different place the next day.

24 Q Were you all bunched up or did you spread out?

25 A At first we spread out and then we all got together about
26 45 minutes later. We spread out.

1 Q So you all were pretty close together when you found
2 these clothes?

3 A Pretty close.

4 Q How far were you from David Matherly for example?

5 A When I found the clothes?

6 Q Uh huh.

7 A They were behind me.

8 Q No, I'm asking about Mr. Matherly not "they". How far
9 were you from Mr. Matherly when you found the clothes?

10 A He was behind me. I don't know how far exactly it was.

11 Q Could you see him, did you look for him?

12 A If I turned around and looked around for him I probably
13 could have, yes.

14 Q I did see Kitty and them when I turned around and told
15 them I found something.

16 Q Was Mr. Matherly 10 feet away, 10 yards away, a tenth of
17 a mile away?

18 A Ten feet.

19 Q Ten feet?

20 A Behind me.

21 Q Did you say anything?

22 A I just told him I'd found something, to come and look.

23 Q Did he ever say anything to you?

24 A Not him especially, no.

25 Q He didn't yell out that he'd found anything?

26 A He didn't, not then because he hadn't found anything yet.

1 Q At the time you found the clothes, he hadn't found any-
2 thing, is that right?

3 A Yeah, he had found the towel before I found the clothes.

4 Q Did he yell that up to you?

5 A Well, I was around when he found the towel.

6 Q Did you see what he did with that?

7 A He picked it up off the thing and gave it to Kitty.

8 Q Did he use his hands?

9 A He just barely picked it up with a stick.

10 Q Did Kitty use her hands?

11 A She carried it in her arms to the--

12 Q What items of clothing did you find in the pile?

13 A The ones that are right here.

14 Q Could you name them for me, please.

15 A A shirt.

16 Q A shirt?

17 A Purple shirt.

18 Q O.k.

19 A A thing, a coat that goes over--

20 Q A coat.

21 A And panties and her pants.

22 Q Uh huh, anything else?

23 A _____ (Inaudible)

24 Q Are you sure of that?

25 A (Nods head).

26 Q Just four things.

1 A (Inaudible).

2 THE COURT: Speak up please. Don't just shake your head.
3 you have to make an audible sound.

4 A I found the coat, the pants, the underwear she was wearing.

5 Q Some underwear, you don't know she was wearing.

6 A Well, whoever they was supposed to be, wherever I found
7 them, and the coat that goes over and the pants.

8 Q You had some description of what somebody might have
9 been wearing is that why you are convinced of this?

10 A Kitty, I think knew what she was supposed to have been
11 wearing, that's the reason I knew that.

12 Q If someone said they found a bra, they would be
13 mistaken, is that correct?

14 A I never seen one.

15 Q If someone else said there was a bra in that pile of
16 clothing the day you found it, they would be mistaken?

17 A Right.

18 Q Was this underneath some old logs?

19 A No, it was laying, just laying out, sort of like an opening
20 with trees and stuff up around it, in sort of a like bushy area.

21 Q Would it be fair to say, Mr. Royal, that anybody who
22 had been in the place that you had been would have been able to
23 see it?

24 A Should have, yes, sir.

25 Q You didn't have to pull anything off the top to find it.
26 It wasn't hidden?

1 A No, it wadn't hidden at all.

2 Q How far--you were there when they found the towel?

3 A Yes, sir.

4 Q How far from that point to the point you picked up
5 the clothes?

6 A It was about, I'd say 20 feet.

7 Q 20 feet?

8 A This way from where we found the towel.

9 Q Other than the towel and these clothes you say you found,
10 anything else found, do you know?

11 A No, sir.

12 Q Not a thing?

13 A No, sir.

14 Q You are sure of that?

15 A Yes, sir.

16 Q Thank you.

17 REDIRECT EXAMINATION

18 BY MR. SHOCKLEY:

19 Q Mr. Royal, the immediate area where you found these
20 clothes, would you describe the growth around there, what type
21 of foliage there may have been?

22 A It was briary, sort of, the leaves were sort of damp.
23 The clothes were sort of damp and the leaves were around it and
24 it was like four trees, five or six trees was around the clothes.

25 Q How difficult, if at all, was it to walk through this
26 area?

1 A In some areas it's real thick.

2 Q Well, I'm talking about--

3 A Where we found the clothes, it's not at all, if you
4 know, if you look where you are stepping, it's not in your face
5 or anything real bad.

6 Q Do you recall the approximate distance these clothes
7 were off from the railroad tracks?

8 A Twenty-five or, about twenty-five feet I'd say.

9 Q Is there any public roads in that area, to your knowledge.

10 A Just across the river is the only one I know.

11 Q Well, right where you found them--

12 A No.

13 Q Are there any roads around there?

14 A No, huh uh, except the main road in front of Thrift Way.
15 or the railroad track.

16 Q The main road, where is the main road?

17 A I'm talking about, it goes in front of Thrift Way.

18 Q In front of Thrift Way. Do you know the name of that
19 street or road?

20 A No, sir, I do not.

21 Q Do you recall the name of the person at the police
22 station to whom these clothes were given?

23 A No, sir, I do not.

24 Q I believe that's all.

25 RECROSS EXAMINATION

26 BY MR. WARBURTON:

1 Q I have a few more questions. Do you recall whether this
2 person was in uniform or not or for whom he worked, the Radford
3 police, State police,, county?

4 A Well, when we first went in it was just the dispatcher
5 was there.

6 Q Yeah.

7 A And we wadn't going to leave it. We left, he asked us
8 to leave them but we stayed there.

9 Q Uh huh.

10 A And we said we was going to give them to the investiga-
11 tor.

12 Q Let me ask you something else. Mr. Shockley just got
13 done asking you how far from the railroad tracks you found these
14 clothes. You said 25 feet from the tracks. Now we all know
15 the tracks are X number of feet wide and I don't know either. You
16 are talking about 25 feet from the shoulder of the track that's
17 closest to the water am I right?

18 A Yes, sir.

19 Q So it would be 25 feet from where the gravel is and
20 the brush starts next to the railroad tracks?

21 A Yes, sir--

22 Q About 25 feet on down?

23 A Straight across.

24 Q From the side of the tracks towards the water. Can you
25 estimate how wide the railroad tracks are?

26 A Just the tracks, the two tracks you mean?

1 Q Well, going from shoulder to shoulder.

2 A From, I'd say 20 feet.

3 Q Twenty feet across the tracks from shoulder to shoulder?

4 A From one side of the brush to the other side of the brush
5 is what I'm saying.

6 Q Twenty feet. So it would be about 45 feet from the side
7 of the tracks towards the Thrift Way where you were to where you
8 found those clothes?

9 A Beside of the brush where Thrift Way is?

10 Q If you go down from the Thrift Way through the brush and
11 then you come to the railroad tracks--

12 A Uh-hum.

13 Q You say on the Thrift Way side of the railroad tracks.
14 How far from there to where you found these clothing, these pieces
15 of clothing?

16 A About 40 feet.

17 Q Forty feet. Thank you, sir.

18 (The witness stands aside and leaves
19 the courtroom.)

20 F. W. DUFFY, JR.,

21 a witness called on behalf of the Commonwealth, after being first
22 duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. SHOCKLEY:

25 Q Would you state your name please.

26 A F.W. Duffy, Jr.

1 Q And Mr. Duffy, your employment?

2 A I am employed with the Virginia State Police.

3 Q And what is your occupation with the Virginia State
4 Police?

5 A I am a sergeant supervisor. I supervise three counties.
6 here.

7 Q And where do you maintain your office?

8 A In Dublin.

9 Q I want to ask you if you are familiar with the date that
10 Gina Hall disappeared?

11 A Yes, sir.

12 Q I'd like to ask you if you in anyway participated in
13 the search for her after her disappearance?

14 A Yes, sir, I did.

15 Q I want to ask you first of all in general what efforts
16 were made to find her?

17 A There was quite a big effort made to find this young
18 lady. I was taken off the road and put over in the vicinity
19 of where this, the victim's car was found and there were numerous
20 men brought in to help look for the young lady.

21 Q What types of search methods were utilized?

22 A Grand searches, helicopter searches, the scuba divers.
23 There were search and rescue dogs brought in.

24 Q All right, sir. I'd like to ask you if you recall finding
25 anything yourself on Hazel Hollow Road?

26 A Yes, sir, I did.

1 Q May I ask you when and where and what?

2 A On July the 3rd, 1980, I found the personal effects of
3 Diana Hall and her sister, Gina Hall.

4 Q All right, I refer to Commonwealth's Exhibit No. 9.
5 I'd like you to look in there if you would.

6 A These are the items that I found on the Hazel Hollow
7 Road.

8 Q And could you tell us where along Hazel Hollow Road you found
9 those items, please.

10 A This would be approximately one mile from the train
11 trestle on the river side of the Hazel Hollow Road in a brush
12 pile.

13 Q And how did you find them, please. Can you tell me
14 their location, the distance from the road, the distance from the
15 ground, you know things of that nature.

16 A O.k., these were found approximately 10 to 12 feet off
17 of the highway. They were all placed under a brush pile as if
18 they had been placed under there. They were not scattered out
19 over a large area.

20 Q Can you tell us in what diameter area these items would have
21 been found?

22 A The diameter was approximately, maybe a 12 to 18 inch
23 area.

24 Q To whom did you give these items?

25 A I gave these items to Trooper C.A. Hall.

26 Q Mr. Duffy, I want to show you a blue towel and I refer

1 to Commonwealth's Exhibit No. 51. I would ask you if you can identify
2 that towel, please, or if you have seen it before.

3 A Yes, sir, I have seen this towel before.

4 Q May I ask you when you saw it and where you saw it.

5 A On July the 10th at approximately 1:30 I received a
6 telephone call at my area office-- I was there getting gas.--to
7 meet a Mr. Jeffrey Kiser behind the Thrift Way Market which is
8 located in Radford, Virginia. I--

9 Q Go ahead, I'm sorry.

10 A I proceeded to Radford and went in behind the Thrift
11 Way Market where I contacted Mr. Jeffrey Kiser and he had this blue
12 towel here on a, supporting it with a stick.

13 Q Did you take it into your possession at that time?

14 A Yes, sir, I did.

15 Q And to whom did you give it, if anyone?

16 A I gave this item to Trooper C.A. Hall.

17 MR. SHOCKLEY: Your Honor, I need to step in the back just
18 a second, please.

19 THE COURT: All right, sir.

20 Q Mr. Duffy, I'd like to ask you if you took any hair
21 samples from Diana Hall?

22 A Did I take any?

23 Q Uh hum.

24 A No, sir, I did not take any hair samples?

25 Q You did not?

26 A No, sir.

1 Q Oh, I'm sorry, I've confused myself with so many different
2 things in this case. Did you receive any hair samples that were told
3 to you to be hers?

4 A Yes, sir.

5 Q And from whom did you receive those hair samples?

6 A Trooper C.A. Hall.

7 Q And what did you do with those hair samples?

8 A I took these hair samples to the lab in Roanoke, Virginia.

9 Q Now I refer to Laboratory Item No. 36 in a sealed bag
10 and it also has some card board press plates in there that the lab
11 analyst initialed. She'll testify to that. Have you seen those
12 cardboard press plates before?

13 A Yes, sir.

14 Q You have?

15 A Yes, sir.

16 Q All right, I know hairs, are hairs are hairs and every-
17 thing and it may be difficult for you to look at those but are
18 you able to identify that bag in anyway?

19 A This is the sample that was turned over to Mrs. Hamby
20 at the Division of Consolidated Laboratory Services in Roanoke.

21 Q And you say you did that?

22 A Yes, sir.

23 Q Or Officer Hall did that?

24 A I did this.

25 Q Answer these gentlemen's questions, please.

26 CROSS EXAMINATION

1 BY MR. LOOKABILL:

2 Q Trooper Duffy what was your, your first contact was on
3 July the 3rd in this case?

4 A Yes, sir.

5 Q What day of the week was that, sir?

6 A That would be a Thursday.

7 Q Was that the first time you knew anything about the
8 matter?

9 A No, sir.

10 Q That was the first time you had had any participation in
11 it?

12 A Yes, sir.

13 Q The investigation. Were you asked to participate in the
14 investigation or were you just an available officer or how did
15 you get into the matter?

16 A I was assigned by my division to help in this matter.

17 Q Who was it that specifically asked you to?

18 A My field lieutenant which would be Lieutenant Oliver.

19 Q And it was on July the 3rd that you found the items, did
20 you personally find these items, the effects from the car?

21 A Yes, sir.

22 Q Did you find a driver's license of Gina Hall?

23 A There were a couple of driver's licenses, I believe.

24 Q Do you specifically remember having one of her, finding
25 one?

26 THE COURT: You may look at the--

1 A I don't remember right off. Yes, sir.

2 Q Where was that found, sir?

3 A This was found in a brush pile on the river side of
4 Hazel Hollow Road.

5 Q On the river side?

6 A Yes, sir, in Pulaski County.

7 Q Were you present when any other items were found or were
8 these the only items that you found that day?

9 A These were the only items that I found on this particular
10 day.

11 Q Did you personally find them and pull them out or were
12 you with someone that did so?

13 A I personally found them.

14 Q You say these items were located in a 12 to 18 inch
15 diameter?

16 A Yes, sir.

17 Q Was it in a neat pile or was it just strawn--

18 A It was a very neat pile as if they had been stuffed
19 under the brush pile.

20 Q Was this a loose brush pile or a brush that grows
21 naturally on the ground?

22 A It's a loose brush pile where people have been throwing
23 brush and trash and whatever.

24 Q Is it right at a dempster dumpster?

25 A No, sir.

26 Q Is it near one?

1 A No, sir.

2 Q Do you know where a dumpster is in that area?

3 A To my best knowledge I don't believe there is one any-
4 area
where in the Hazel Hollow Road.

5 Q How far is this brush pile from the trestle?

6 A Approximately one mile.

7 Q Not toward 11 but back the other way, is that correct?

8 A Back toward Claytor Lake.

9 Q Now you had testified that Jeff Kiser had brought you
10 some, the blue towel that you identified, this towel?

11 A Yes, sir.

12 Q Where was that, from where he brought it?

13 A This was, I met them behind the Thrift Way Market which
14 is located in Radford.

15 Q And how did he present it to you?

16 A It was on a stick when I first arrived.

17 Q Did you then pick it up with this stick or another item?

18 A No, sir, this was handed to me and I placed it in my
19 automobile.

20 Q So you took it in your hands?

21 A Yes, sir.

22 Q Did you put it in some type of bag to protect it?

23 A No, sir.

24 Q Did you just lay it in the front seat of your car?

25 A No, sir, it was laid in the back seat.

26 Q The back seat?

1 A Yes, sir.

2 Q And then you indicated that sometime later you presented
3 this towel to Trooper C. Austin Hall. Where did that occur?

4 A This occurred at the Radford Police Department later on
5 that afternoon.

6 Q How long did you have the towel in your car?

7 A Approximately 2 hours.

8 Q And during that period of time were you in the car for
9 the two hours?

10 A Yes, sir.

11 Q Did you ever leave the presence of that towel?

12 A It's possible but if I left the car, the car was locked.

13 Q Do you always lock it?

14 A Yes, sir.

15 Q You are certain on this day it would have been locked?

16 A Yes, sir.

17 Q You met him at the Radford Police Department that evening?

18 A Yes, sir.

19 Q And did he come to the car to get the towel or did you
20 take it in or how did he come into possession of it the towel?

21 A I told him that I had a towel in my automobile and we,
22 he went with me out to my car and we got it out.

23 Q Did you go out there, do you recall unlocking the car
24 at that time?

25 A Yes, sir.

26 Q You got it out of the back seat and handed it to him?

1 A Yes, sir.

2 Q Did he place it in some type of evidence bag or plastic
3 bag of any kind?

4 A I don't remember exactly where he did place it.

5 Q Did you return it back to the police department inside
6 the building?

7 A Yes, sir, I went back in the building.

8 Q Did Mr. Hall take the towel with him?

9 A I do not remember.

10 Q Did he have a vehicle there?

11 A Yes, sir.

12 Q Where was his vehicle parked in relation to yours?

13 A Somewhere there in front of the police department.

14 Q Do you remember if you went by his car before you went
15 back to the police department?

16 A I do not remember.

17 Q Did you see the towel anytime later that evening?

18 A The, no, sir, not that evening.

19 Q How long did you stay at the police department?

20 A It's really hard to say. I was working anywhere from
21 16, 18 to 24 hours a day. One day I worked 26 hours.

22 Q You don't recall how long you stayed there that day.

23 A No, sir.

24 Q After you presented the, do you remember how long you
25 stayed there after you presented the towel to Mr. Hall, Trooper
26 Hall?

1 A No, sir, I do not remember.

2 Q Was it a good while, hour, two hours?

3 A It's possible I stayed there, it's possible I went out
4 somewhere else.

5 REDIRECT EXAMINATION

6 BY MR. SHOCKLEY:

7 Q Mr. Duffy, would you demonstrate how you took this towel
8 into your possession when Mr. Kiser presented it to you on a stick.

9 A (Indicates).

10 Q Mr. Lookabill asked if your car was always kept locked
11 and you answered, "Yes." Any reason for that?

12 A Yes, sir, there's quite valuable equipment in the car.
13 There's--

14 Q Such as?

15 A Radio equipment, my personal equipment. The radio
16 equipment in that car is valued at approximately six to seven
17 thousand dollars.

18 Q I believe, that's all.

19 (The witness stands aside and leaves
20 the courtroom.)

21 THE COURT: All right, now, ladies and gentlemen we will take
22 our luncheon recess at this time. Please recall the Court's admoni-
23 tion, ladies and gentlemen. You may recess to 1:20.

24 (Thereupon Court was recessed for lunch and after a time all
25 interested parties returned into the Courtroom, including the
26 Court, counsel, jury and the defendant.)

1 F. W. DUFFY,
2 a witness recalled on behalf of the Commonwealth, after being
3 first duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. SHOCKLEY:

6 Q Sgt. Duffy, you are still under oath. I failed to
7 ask you a couple of questions. When you got off the stand I
8 realized it and I wanted it--First of all I want to show you an
9 aerial photograph of the Radford area. I'm not sure the small one
10 will suffice, but I want you to, if you would--I have a pointer here.
11 I'd like for you to mark on the map that this particular photograph
12 shows where you found the pocketbook contents. Does that map have
13 it.

14 A It would be in this general vicinity right here.

15 Q All right, if you would mark on there, let's put a "P"
16 for pocketbook. Just put a little "P" and circle around it and
17 then your initials very small as best you can approximate where
18 you found it. Would you put a circle around the "P" please.
19 Thank you, if you would take your seat again please.

20 Sgt. Duffy I want you to look at this shoe which has been
21 introduced into evidence as Commonwealth's Exhibit No. 2. I'd
22 like to ask you if you've seen it before, please.

23 A Yes, sir, this is the shoe that I received from Trooper
24 C. A. Hall and took to the Division of Consolidated Laboratory
25 Services in Roanoke.

26 Q Now I've asked you about some certain hair samples of

1 Dlana Hall. I believe you testified earlier that--correct me if
2 I'm wrong--Ausitn Hall took those and gave them to you, is that
3 correct?

4 A Yes, sir.

5 Q All right. Do you know anything about any hair samples
6 of a Mr. Bodner or Bodmer, Bodner?

7 A Yes, sir.

8 MR. SHOCKLEY: And Your Honor, I refer to Laboratory, first
9 of all, with reference to Dlana's hair samples, Laboratory Item
10 No. 36 and with Mr. Bodner's--Is that m-e-r, Bodmer, oh well,
11 Laboratory Item No. 37. Have you had any association with his
12 hair samples, please?

13 A Yes, sir, I have.

14 Q Can you tell the Court what that was, please.

15 A This was also the evidence, with the evidence that I
16 took to the laboratory in Roanoke on the 10th, I believe it was.
17 Yes, sir, this was with the evidence. Mrs. Hamby, lab technician at
18 the Division of Consolidated Laboratory Services took possession
19 of this.

20 Q All right, you handed that over yourself?

21 A Yes, sir, I did.

22 Q Mr. Duffy, do you know Mr. John Preston?

23 A Yes, sir, I do.

24 Q Do you recall when he came to the City of Radford Police
25 Department with his dog?

26 A Yes, sir, I do.

1 Q Do you recall the first night that he was there and the
2 efforts that were made by him in trying to locate the defendant's
3 scent?

4 A Yes, sir, I was with Mr. Preston from the time he arrived
5 until the time he left the Radford area.

6 Q Do you recall the dog's final destination or final
7 stopping point on that particular night?

8 A On the morning of July 11th, yes, sir.

9 Q O.k. Do you recall where that was please?

10 A Yes, sir.

11 Q Would you tell the Court and jury.

12 A It was a residence located at the corner of 2nd and
13 Wirt, which is the Epperly residence.

14 Q Answer these gentlemen's questions, please.

15 CROSS EXAMINATION

16 BY MR. LOOKABILL:

17 Q Where did you say, sir, that you got the hair samples?

18 A I got these from Trooper C.A. Hall.

19 Q What date did you get them from him?

20 A That was on the morning of July the 9th, 1980.

21 Q Did you take them to the lab then yourself?

22 A Yes, sir, I did.

23 Q And that was on July the 10th, I believe you testified?

24 A July the 9th.

25 Q The same day--

26 A Yes, sir.

1 Q What period of time elapsed from the time you were given
2 these hair samples until such time as you took them to the lab in
3 Roanoke?

4 A Approximately 1 hour.

5 Q Were they in your possession that entire time?

6 A Yes, sir.

7 Q Where did you keep them, sir?

8 A They were in my possession in my automobile between
9 Radford and Roanoke.

10 Q I assume as you testified before, you always keep that
11 vehicle locked?

12 A Yes, sir.

13 Q Trooper Duffy, I believe you said you were with Mr. Preston
14 during the tracking done by the dog, is that correct?

15 A Yes, sir.

16 Q Were you with him that entire evening?

17 A Yes, sir.

18 Q What time did you all arrive at the trestle?

19 A It would be somewhere in the neighborhood of around
20 1:00 o'clock on the morning of July the 11th.

21 Q Did you meet the other people there or were you already
22 there at the trestle?

23 A We all left the Radford Police Department and went there
24 together.

25 Q How did you go together, in the same vehicle?

26 A Yes, sir.

1 Q Were you in the same vehicle as the dog?

2 A Yes, sir.

3 Q Who else was in the vehicle? I assume that's the van
4 we are talking about?

5 A Yeah, motor home.

6 Q A motor home?

7 A Yes, sir.

8 Q Is that what the dog was carried in?

9 A Yes, sir.

10 Q You say a motor home, is that a self-contained vehicle
11 with the driver. Is it a separate vehicle from what the driver
12 sits in. I mean is it a separate unit from where the dog is kept?

13 A No, sir, it's all one unit.

14 Q Who else was in the vehicle?

15 A Trooper C. A. Hall, Mr. Preston, Detective Roop from the
16 Radford P.D. and Detective--you'll have to excuse me. I can't think
17 of his name right now. It's Jerry, Captain Williams.

18 Q All of you went to that site in one vehicle?

19 A Yes, sir, also there were one more person in the car,
20 in the vehicle.

21 Q The four of you plus another one?

22 A Yes, sir.

23 Q You can't recall who that is right now?

24 A Yes, sir.

25 Q Who was that?

26 A Commonwealth Attorney, Mr. Everett Shockley.

1 Q So you and Mr. Hall and Mr. Preston and Mr. Roop and
2 Mr. Williams and Mr. Shockley all went up there about 1:00 o'clock
3 in the morning?

4 A Yes, sir.

5 Q Where was this vehicle parked?

6 A It was parked at what's called the boat landing.

7 Q And how far--excuse me.

8 A This is adjacent to Mr. Saul's small store there where
9 he sells bait.

10 Q How far is that from the base of the trestle?

11 A About a 150, 200 feet.

12 Q Is that toward the lake?

13 A Yes, sir.

14 Q O.k., now when you arrived, what did you do?

15 A We all got out of the vehicle. Mr. Preston scented his
16 dog and he asked which direction was the Hall vehicle found.

17 Q Did he ask which direction?

18 A Yes, sir.

19 Q Now was the dog just in with you all so you could
20 pet him while you were sitting in the vehicle?

21 A This is how Mr. Preston hauled the dog.

22 Q And you all were there together. The dog wasn't any-
23 way separated from any of you all?

24 A No, sir.

25 Q Where was the item that was scented, that was used for
26 scenting the underwear, where was that kept in the trip to the

1 trestle?

A

2 A This was in a brown large ~~type~~ grocery bag.

3 Q Where was it placed in the vehicle?

4 A I don't remember where Mr. Preston had it.

5 Q Do you remember seeing him get in the vehicle with the
6 bag?

7 A Yes, sir.

8 Q You don't know where--where were you sitting in the
9 vehicle?

10 A I was sitting in the right front of the vehicle.

11 Q Is this just a series of seats in the vehicle?

12 A This is a vehicle that has a refrigerator, a table,
13 sleeping area. You can live in the vehicle.

14 Q Where was the dog in the vehicle while you all were
15 traveling to the site?

16 A He had a couch that he laid on.

17 Q Oh, the dog had his own couch?

18 A Yes, sir.

19 Q I wonder what one could do to get a job with this out-
20 fit. Do you have any idea?

21 A I have no idea, sir.

22 Q So you all sat in seats I assume, and the dog laid on
23 the couch?

24 A Yes, sir.

25 Q Where is it, is it on the side?

26 A Sir?

1 Q Does it run along the side, the inside wall of the van?

2 A Yes, sir.

3 Q And I assume all of you were sitting around the dog?

4 A No, weren't sitting around it.

5 Q Do the seats all face forward?

6 A There is a table area. The seats face the table this
7 way (indicates) and they face backwards and the couch is on the
8 opposite side of the vehicle. There is a driver's seat in the vehicle
9 and a passenger seat in the vehicle.

10 Q So the five of you were sitting there with the dog when
11 you arrived at the store, this landing?

12 A Yes, sir.

13 Q Did all of you get out at that time?

14 A Yes, sir.

15 Q O.k., did Mr. Preston get out first with the dog?

16 A I don't remember exactly how we did get out of the
17 vehicle, what order.

18 Q There are other doors, I assume besides the two front?

19 A No, sir, one door.

20 Q There wasn't but two?

21 A One door.

22 Q One door?

23 A Yes, sir.

24 Q You mean there's only one door in the whole vehicle?

25 A Yes, sir.

26 Q And is that on the passenger or driver's side?

1 A That's on the passenger side about halfway back on the
2 right side of the vehicle.

3 Q The driver has to come back to get out that way, too?

4 A Yes, sir.

5 Q So when you got out what did you do then?

6 A Mr. Preston scented his dog and asked which way was the
7 Hall vehicle.

8 Q The dog was scented where the van was?

9 A Yes, sir.

10 Q O.k., then what happened after he scented the dog?

11 A Mr. Preston walked up the road which would be toward
12 the railroad trestle. The dog, Mr. Preston picked up a scent
13 there right close to being underneath the railroad trestle. The
14 dog proceeded out toward the front of the vehicle where the vehicle
15 was supposed to have been to a dirt area which is blocked off
16 access to people going in there in an area fishing.

17 Q It's on past the trestle?

18 A Yes, sir.

19 Q O.k., then what did you do?

20 A The dog came back across the road on the opposite side
21 of the Hazel Hollow Road going back toward the lake, it went back
22 under the trestle, it went up the side road there going toward
23 the, toward New River. The dog went just a little beyond the
24 railroad tracks going up the road to New River. The dog turned
25 and came back down the railroad tracks and across the trestle.

26 Q As he went up too far and then he came back, did he

1 go up there and pause?

2 A I seems, yes, sir, I believe he did.

3 Q Where were the rest of you while Mr. Preston was going
4 with the dog?

5 A Mr. Preston advised us to stay anywhere from 15 to 20
6 feet behind him.

7 Q O.k., now as you got to the top, the dog went that way
8 and then came back?

9 A Yes, sir.

10 Q Were you still behind him or as he came back were you in
11 front of the dog?

12 A We would have been in front of the dog then.

13 Q Prior to your going up there with the dog, were other
14 troopers or police officers sent up there to secure the area to
15 see that there weren't any other persons around or anything to
16 create any problems with the dog working?

17 A At this particular time of the morning there was nobody
18 else around.

19 Q Did you see anybody else at all, hobos walking across
20 the trestle or anyone else in the area?

21 A No, sir.

22 Q No one was sent prior to this to secure the area in any
23 way?

24 A No, sir.

25 Q O.k., now so the dog came up and turned around and started
26 back, made a loop, went out too far and came back?

1 A Yes, sir.

2 Q Then at that point the rest of you were in front of
3 the dog?

4 A Yes, sir.

5 Q Did he hesitate when he came back to the area where you
6 were?

7 A No, sir. He went right on down the railroad track to-
8 ward the trestle which crosses over the New River into Radford.

9 Q How much slack did Mr. Preston keep or did he keep--I
10 assume he had the dog on a leash at all times, I believe he
11 testified a twenty-foot leash, is that correct?

12 A Yes, sir.

13 Q How much slack did he leave.

14 A The dog was on approximately a fifteen to twenty foot
15 leash. The dog worked out from Mr. Preston on his own.

16 Q O.k., did he tend to, did he tend to pull Mr. Preston?

17 A No, sir.

18 Q He just kinda walked along with the leash fairly loose?

19 A Yes, sir.

20 Q Now where on that trestle, if any place, did the dog,
21 did the dog go straight across without hesitation?

22 A No, sir, Mr. Preston advised approximately a third of
23 the way across, in fact, it was the first joint there that you
24 cross the trestle where the joints are placed building the
25 trestle, that Mr. Preston stated, "He stopped here."

26 Q That's what Mr. Preston said?

1 A Yes, sir.

2 Q Are you certain that that was a third of the way across
3 the trestle, I mean, are you sure it's approximately in that area?

4 A Yes, sir.

5 Q It wasn't two-thirds of the way instead of a third?

6 A No, sir.

7 Q What happened then, what did the dog do then?

8 A The dog went on across the trestle. Seemed like to me
9 he stopped briefly on the Radford side of the river, crossed over
10 the railroad track, which would have put the dog back on the river
11 side of the track. The dog went on down to Memorial Bridge which
12 is Route 11.

13 Q Did he go all the way to the bridge?

14 A Went underneath the bridge, yes, sir.

15 Q What did he do after he got to the bridge?

16 A Mr. Preston stated that this subject that he, the dog
17 was tracking had stopped at this area and lingered for awhile.

18 Q Now did you follow him all the way down with the other group
19 of people?

20 A Yes, sir, I did.

21 Q When the dog back tracked, did that put you in front of
22 the dogs again?

23 A We were all there in a general area. We stopped there for
24 a few minutes.

25 Q In other words the dog would have had to have been coming
26 back toward you in order to proceed further?

1 A No, sir, when Mr. Preston stopped under the bridge, we
2 all was more or less--we sat down and rested.

3 Q So you were all there in a group?

4 A Yes, sir.

5 Q With the dog there?

6 A Yes, sir.

7 Q I assume that this dog was milling around among you?

8 A No, sir, the dog was laying off to one side by himself.

9 Q How far away?

10 A 10 or 15 feet.

11 Q How long did you stay there?

12 A Five, ten minutes.

13 Q Five or ten minute break there?

14 A Yes, sir.

15 Q O.k., then what happened then?

16 A Mr. Preston got his dog and he told him, "Shutz", which
17 I understand means, in German means search.

18 Q Did he have the underwear with him?

19 A At this time, I don't remember.

20 Q You don't remember if he carried it with him?

21 A No, sir.

22 Q _____ (inaudible)--the tracking.

23 A No, sir.

24 Q O.k., he said, "Shutz," whatever that means in German.
25 I guess that's the equivalent of sic?

26 A It was explained to me that it means search in German.

1 Q O.k., so what happened, what did you do then. You were
2 all sitting there?

3 A Mr. Preston and the dog started back down west toward
4 the west end of Radford. The dog traveled on down the track to
5 the side track that goes into the Lynchburg Foundry which is
6 located in Radford. He was headed in that direction, down to a
7 dirt road which comes in behind the old Colony Box Factory.

8 Q Which side of the tracks was the dog--

9 A All right, he was back on the Radford side of the tracks
10 this time.

11 Q On the Radford side?

12 A Yes, sir.

13 Q Did the dog go right along on top of the or on the side
14 of it or did they actually touch the cross ties, walk on the cross
15 ties?

16 A He was on the side.

17 Q Right up next to a bank. There is I assume gravel or
18 cinders there?

19 A It's gravel, cinders walkway.

20 Q O.k., so you followed the--at what point did the dog
21 cross the track to get on the left-hand side?

22 A He was on the left-hand side when we left out from under
23 Memorial Bridge.

24 Q He stayed on the left hand side?

25 A Yes, sir.

26 Q All the way. O.k., and he got to a, what did you say,

1 a path, where did he go across into the city from the tracks?

2 A Behind the old Colony Box Factory there is a dirt road
3 that comes around there. The dog went just a short ways past
4 that and turned around and started back up and went up this dirt
5 road which comes in behind the box factory. The dog circled the
6 box factory.

7 Q Did he seem confused?

8 A No, sir.

9 Q Why did he, he circled, you mean he went all the way
10 around?

11 A No, sir, he circled behind the building.

12 Q Made a loop?

13 A Yes, sir.

14 Q Then what did he do?

15 A The dog came back out on, I believe, it's known as
16 Robinson Street Extension. It's the street that runs beside
17 Colonial Gulf and goes into the box Factory. It went up to the
18 intersection there. At First Street it crossed across in front
19 of the Service Station there across in front of the shopping
20 center and then crossed the, First Street proceeding west on the
21 opposite side of the road, walked through, walked up to a car
22 wash and went through the last bay which would be on the west side
23 of the car wash.

24 Q Do you know whether or not that's a twenty-four hour
25 car wash?

26 A Yes, sir.

1 Q It's open all night?

2 A Yes, sir.

3 Q Do you know how well used it is?

4 A It used to be used quite a bit but it's slacked off now
5 because they went from 25 cent to a 50 vcent fee.

6 Q When you, did you follow the whole way right, follow the
7 trail of the dog all the way?

8 A Yes, sir.

9 Q Did you go through the car wash?

10 A Yes, sir.

11 Q Do you recall whether or not the car wash had been used?
12 that day, was it wet?

13 A I don't remember whether it was wet or not.

14 Q O.k., after you got through the car wash, where did the
15 dog go then?

16 A The dog went out the back part of the car wash parking
17 lot to a small alley way there that leads over to Wirt Street.
18 The dog turned to the left and started up towards 2nd Street
19 through a yard which the house is adjacent, well, it's right across
20 the street from Mr. Epperly's house here.

21 Q So he went all the way across the street?

22 A No, sir, he did not cross the street, this alleyway, he
23 crossed the alleyway and went up through this yard beside the
24 house which the house is on the corner of 2nd and Wirt.

25 Q O.k., where did the dog go then?

26 A The dog then crossed Wirt Street, went over toward a

1 house on the other corner, which would be Mr. Epperly's house.

2 Q So where did he go when you got to the Epperly house?

3 A All right, I was--the dog walked over in the yard and
4 walked up on the porch of Mr. Epperly's house, and--

5 Q The front porch?

6 A Yes, sir.

7 Q Are you certain it was the front, he went directly to
8 the front porch?

9 A Yes, sir.

10 Q He didn't wander around in the yard?

11 A No, sir.

12 Q He didn't go to the side porch or the back door?

13 A No, sir.

14 Q He went directly to the front door?

15 A Yes, sir.

16 Q O.k., what did he do then?

17 A As the dog walked up on the porch Mr. Preston asked me
18 who lived here and I said, "The suspect."

19 Q Prior, had Mr. Preston been given any idea of the direc-
20 tion where Mr. Epperly lived in the City of Radford?

21 A No, sir.

22 Q You say you told him it was the suspect?

23 A Yes, sir.

24 Q What was the date that this was done, sir?

25 A July the 11th.

26 Q Getting back to where the dog went across along the railway,

1 I think we can use this map. O.k., this is the trestle?

2 A Yes.

3 Q This is the, it goes to Memorial Bridge?

4 A Yes, sir.

5 Q This is that side track, what do you call it?

6 A This is the side track, the spur that goes into Lynch-
7 burg Foundry.

8 Q All right, now as the dog made this circuitative route
9 here, turned and came back, staying on the Radford side of the rail-
10 way, did he stay--he stayed there all the way to the point that he
11 came up right behind the box factory, where's the box factory on
12 here, sir?

13 A Right here (indicates).

14 Q Did at anytime that dog veer from one side of the track
15 or the other as it came along the railroad track?

16 A I don't remember whether he did or not.

17 Q As you were going down the tracks, he would have been
18 on the left side of the tracks of this spur?

19 A Yes, sir.

20 Q Did the dog go down here anytime? (Indicates).

21 A No, sir, the dog did not go down here.

22 Q Did he go down here (Indicates)?

23 A No, sir.

24 Q Did he go down here (indicates)?

25 A No, sir.

26 Q Or here? (Indicates).

1 A No, sir.

2 Q He stayed on the left side of the track all the way?

3 A Yes, sir.

4 Q And then came up behind the box factory?

5 A Yes, sir.

6 Q And, of course, you, you were right behind him, 15 feet?

7 A Something like that, sir.

8 Q You had your eye on the dog and you had your eye on

9 Mr. Preston?

10 A Yes, sir.

11 Q And the dog ended up on the front porch of the Epperly
12 home?

13 A Yes, sir.

14 Q The front porch?

15 A Yes, sir.

16 Q Sgt. Duffy, prior to going there that night, how much
17 contact had you had with the case?

18 A Yes, sir, I had worked on this case--

19 Q Prior to this?

20 A --Since July the 3rd.

21 Q Were you aware of the weather conditions for the few
22 days preceding the use of the dog in this case?

23 A Yes, sir.

24 Q What was the weather like?

25 A I know it was very hot and humid.

26 Q What about rainfall?

1 A Yes, sir, it did rain.

2 Q Do you know when it rained?

3 A I don't have the exact dates, but it did rain.

4 Q How many days before the search did it rain?

5 A I have no idea.

6 Q Would it surprise you that it had rained close to two
7 inches two days prior to this--

8 MR. SHOCKLEY: Your Honor, I object to that unless Mr. Looka-
9 bill can lay the proper foundation for this.

10 Q Do you have, do you have knowledge of the rainfall?

11 A I know it did rain.

12 Q Do you know how long it rained, what periods of time
13 it rained?

14 A No, sir, I know that I was caught out in it sometime,
15 got soaking wet.

16 Q Would it be a surprise to you to find that there was
17 close to two inches of rainfall those two days before this?

18 MR. SHOCKLEY: Your Honor, I would renew my objection. Mr.
19 Lookabill is attempting to--

20 THE COURT: Are you prepared to introduce evidence on that
21 point?

22 MR. LOOKABILL: I have the climatological charts for this
23 period, Your Honor. I just want to cross examine on it. I don't--
24 I think it's perfectly proper as long as there's some foundation
25 for the questions. I'm asking about his knowledge of it.

26 THE COURT: Well, you are asking him if he would be surprised

1 about a certain thing. My question to you is are you prepared to
2 prove that certain thing. In other words do you have a factual
3 basis for your question?

4 MR. LOOKABILL: Yes, sir, I have.

5 THE COURT: I assume that you do.

6 MR. LOOKABILL: I have a factual basis with a climatological
7 chart which I got from the airport.

8 THE COURT: All right, you may ask him.

9 Q Would that fact surprise you, sir, that there was 1.79
10 inches of rain on the 9th of July?

11 A I don't remember the exact dates. Like I said it did
12 rain and I don't know how much.

13 Q Were you aware of whether or not it was raining the day
14 prior to the search better than a half an inch?

15 A I have no idea.

16 Q Are you aware of or have any idea of the amount of rain-
17 fall in the two weeks prior to this?

18 A No, sir.

19 Q Do you know how many times it may have rained in the
20 last two weeks prior to the search?

21 A No, sir, I don't.

22 Q You just, let me ask you this. During this period of
23 time were you in the area, in this, staying in this area, working
24 in this area?

25 A Yes, sir, I was.

26 Q Would you challenge the fact that better than three inches

1 of rain had fallen during the ten-day period?

2 A It was like I stated before, I have no idea how much it
3 did rain.

4 Q One other question, sir, the dog Mr. Preston had, I
5 believe you said he responded to "shutz", is that the expression--

6 A Something to that extent, yes, sir.

7 Q Were there any other commands that he took in German
8 besides that?

9 A I really don't remember.

10 Q You don't recall hearing any?

11 A No, sir.

12 Q I assume that like the rest of us you probably are not
13 too well versed in German, is that true?

14 A Yes, sir.

15 Q But you don't recall any other commands that might have
16 been given that would have made, would have given the dog any
17 particular response, is that true?

18 A No, sir, I don't remember.

19 Q I think that's all, thank you.

20 (The witness stands aside and leaves
21 the courtroom.)

22 CLARENCE AUSTIN HALL,
23 a witness called on behalf of the Commonwealth, after being first
24 duly sworn, testified as follows:

25 DIRECT EXAMINATION

26 BY MR. SHOCKLEY:

1 Q State your name, please.

2 A Clarence Austin Hall.

3 Q Mr. Hall, how are you employed?

4 A I'm a trooper for the Department of State Police for the
5 Commonwealth of Virginia.

6 Q Mr. Hall, I want to ask you if you participated in the
7 search for Gina Hall and the investigation subsequent to her dis-
8 appearance?

9 A Yes, sir, I did.

10 Q When did you first get involved in this particular case?

11 A On June the 30th of this year I was notified at 12:38
12 p.m..

13 Q Of what?

14 A To check on an unattended vehicle on Route 626 for the
15 Radford Police Department.

16 Q Did you do so?

17 A Yes, sir, I did.

18 Q And what did you find there?

19 A When I arrived at the scene I observed a Chevrolet
20 Monte Carlo two-door hard top. It was parked in the grass
21 facing north towards Route 11. It was parked directly under the
22 railroad trestle.

23 Q Is this in Pulaski County?

24 A Yes, sir, it is.

25 Q All right.

26 A The, when I observed the vehicle the trunk lid was up.

1 It's a two-door hard top. The two windows were rolled down.

2 Q All right, sir, did you examine the trunk of the car?

3 A Yes, sir, I did.

4 Q Did you remove anything from the trunk of the car?

5 A Yes, sir, I did.

6 Q What did you remove?

7 A There were several items in the car, but the most impor-
8 tant thing was the carpet.

9 Q All right, sir, let me obtain that, please.

10 Your Honor, I refer to Laboratory Item No. 31. Did I say 31,
11 I meant No. 1.

12 What did you do with the carpet out of the trunk, Mr. Hall.

13 A I took it in my possession and placed it in the plastic
14 bag and--

15 Q This plastic bag or another one?

16 A I believe it was that bag.

17 Yes, sir, this is the bag that I took it to the lab in.

18 Q Have you initialed it in some way?

19 A Mrs. Pat Hamby at the lab initialed it when I brought
20 it in.

21 Q I'd like you to just come down here and hold it up,
22 please.

23 Tell me if this, first of all, after you've had a chance
24 to look at it, that is the carpet that you removed--

25 THE COURT: Gentlemen, while he's rattling that paper don't
26 say anything because the microphone won't pick it up. Wait til he

1 gets through with that.

2 A Yes, sir, this is the carpet and this is where I put
3 the information on it and put my name on the back of it.

4 MR. SHOCKLEY: Your Honor, we'd like to offer that into
5 evidence at this point.

6 Q What did you say you did with the carpet, Mr. Hall?

7 A I placed it in a plastic bag and took it to the lab in
8 Roanoke.

9 Q Let me ask you a couple of questions before I, just to
10 get off the track a second, I want to ask you about Diana and any-
11 thing you may have secured from Diana Hall. I'll ask you first
12 of all if you've seen these before, Mr. Hall?

13 A Yes, I have.

14 Q And where did you--Your Honor, I refer to Commonwealth's
15 Exhibit No. 8. Where did you see these first of all?

16 A I obtained these from Diana Hall at her residence.

17 Q And what did you do with those?

18 A I took these into my possession and--let's see these
19 were the--I took these to the lab myself.

20 Q All right, sir. Now did you ever at anytime take any
21 hairs from Diana?

22 A She gave a hair sample to me in my presence. She pulled
23 the hair herself and I held a plastic bag and took a hair sample
24 from her.

25 Q What did you do with the hair sample, please?

26 A I sealed it and had her name put in it and I took this

1 and gave it to Sgt. Duffy.

2 Q And what about--Your Honor, there I refer to Laboratory
3 Item No. 36. What about Mr.--is it Bodner or Bodmer?

4 A Bodner?

5 Q Bodner.

6 A Yes, sir, he was also present at the same time and a
7 hair sample was taken from him, placed in a plastic bag with his
8 name and it was also turned over to Sgt. Duffy.

9 Q All right, sir. Your Honor, that hair sample of Mr.
10 Bodner is Laboratory Item No. 37. Mr. Hall, is there anything
11 else that you can tell us about the vehicle. You be totally and
12 specific as possible with the jury and tell them all of the things
13 that you observed about the vehicle when you found it.

14 A In visually observing the vehicle, I noticed that on the
15 front doors, or the two doors on the vehicle that spider webs had
16 grown across, had been put across the doors. I observed spider
17 webs over the front headlights. I observed two pieces of mud on
18 the left tires, One piece of mud on each tire. On the rear wind-
19 shield I observed short pine needles. I think there were two of
20 those. There were numerous items such as hair brushes, paper
21 bags, there was a set of keys in the back, lying on the back seat.
22 They were laying on the back seat on the right rear. I observed
23 a screw driver that was lying in front of the left rear wheel.
24 It was lying on the ground. I observed a key that was under the
25 rear bumper. It was also laying on the ground. I checked later,
26 not at this time, but sometime later at the residence in Radford

1 and found that this was the ignition key to that vehicle.

2 Q Can you tell me anything about the seats in the vehicle?

3 A The front seat was pushed back. It was not close to the
4 steering wheel.

5 Q Now, Mr. Hall, I want to ask you first of all if you
6 know the defendant, Mr. Epperly?

7 A I do now, yes, sir.

8 Q Did you at this time when you found the vehicle?

9 A No, sir, I did not.

10 Q After you found the vehicle did you have occasion to
11 discuss Gina Hall's disappearance with Mr. Epperly?

12 A Yes, sir, I did.

13 Q How many occasions did you discuss it with him?

14 A There was mainly three different discussions, but I
15 talked to him probably four, five, six different times.

16 Q When is the first time that you talked to him. Do you
17 recall the date and the approximate time?

18 A The first time that I had contact with Mr. Epperly was
19 at the State Police Office in Dublin. This was on July the 1st,
20 at approximately 5:30 in the evening.

21 Q Would you tell me please what Mr. Epperly told you about
22 the events of July or excuse me, June 28th and June 29.

23 A He came forth and told me that he had been with Gina
24 Hall on the night that she had disappeared. He stated that he
25 and Bill King were friends and that they had decided to go to the
26 Merriott in Blacksburg. He stated that at 9:30, a quarter of

1 10:00 in that area that he and Bill King had went to the King
2 home which is located on Claytor Lake. This is owned by Ron Davis.

3 Q Where is that home located? Is it in Pulaski County,
4 that's bmy question?

5 A Yes, sir.

6 Q All right, sir. Go ahead, please.

7 A He stated that they arrived at the Davis or King cabin
8 at approximately 10:00 p.m. and checked things out at the house
9 to make sure everything was o.k. and from there they went to the
10 Merriott in Blacksburg. They arrived there at apprximately 11:00
11 o'clock p.m. He stated that after he had been there for sometime
12 that he had observed Gina and that they had danced a few times.
13 He stated that after they had danced that he invited her up to
14 the cabin and at approximately 12:45 a.m. to 1:00 they left enroute
15 to the Davis cabin. He stated that he drove her vehicle to that
16 residence. He stated that they arrived at approximately 1:30 in
17 the morning at the Davis residence, stated that after he had been
18 at the house for just a few minutes that Gina wanted to call her
19 sister. He stated that the first time she called ~~that~~ she could
20 not get through. He stated then a few minutes later he tried
21 again and that this time she was successful. He stated that he
22 heard Gina talking on the telephone and ~~that~~ she stated that she
23 was at the lake with a man named Steve, that she would not be out all
24 night and that she would be in in the morning. He stated after
25 she hung up that they went down to the dock where he went swimming
26 but she refused to go swimming with him. He stated after a few

1 minutes of swimming they went back to the house where they talked
2 a few minutes and then he stated that he had kissed her some.
3 At this point she advised him that she had had a bad experience
4 with a man and had to know him very well before she could go to
5 bed with him. She said they talked a few more minutes and at that
6 time they left. At this point I--

7 Q Did he indicate to you what time they left?

8 A Not at that time he did not.

9 Q Did he mention Bill King to you or Robin Robinson to
10 you?

11 A Not at that time.

12 Q What did he tell you that they did when they left?

13 A He stated that she drove the car to his residence where
14 he got out and then stated that he gave her directions on how to
15 get to her apartment and that he went in and went to bed.

16 Q Let me ask you if you had occasion on another date to dis-
17 cuss the matter with Mr. Epperly?

18 A The same evening when I finished taking this statement
19 from him I asked him to take me to the Davis residence which he
20 did and we discussed it in my car as we drove up to the cabin.

21 Q All right, would you relate that?

22 A It basically was the same thing except this time he
23 stated that Bill King and a girl had come to the cabin before he
24 left and he stated that he had talked to them just for a minute
25 and that they had stayed a few minutes, maybe five or ten minutes
26 and that he and Gina had left.

1 Q O.k., after you went to the Davis home and looked around,
2 what did you do?

3 A At that point I took him back to the office. There was
4 no one at the Davis residence. We could not get in and I took him
5 back to the office and let him out.

6 Q Did you have occasion to discuss the matter with him at
7 a later point in time?

8 A Yes, sir, I did.

9 Q When was that, please?

10 A The next discussion I had with him was on the following
11 day, July the 2nd.

12 Q Approximately what time, please.

13 A This was at 10:30 p.m. and it was at the Radford Police
14 Department.

15 Q And where, what again did you discuss with him?

16 A At this point Mr. Epperly had become a suspect. At
17 this time when he first came into the Radford Police Department,
18 I advised him of his rights before I discussed the case with him.
19 At this time I accused him of killing Gina Renee Hall. He denied
20 it. Again I accused him. This time he did not say anything. I
21 talked to him at that time about his cooperating with me, of telling
22 me where the body was at and how the jury would look upon his
23 statement of cooperating. At this time I gave him two options.
24 I advised him to cooperate with me and how it would affect the jury.
25 I advised him his not cooperating and how a jury would look upon
26 this. At this time he stated, "I'll think about it," and this was

1 the end of our conversation and he left.

2 Q At anytime did you ever ask him to go out and look for
3 the body, I mean, you know, to join in the search or anything of
4 that nature?

5 A No, I did not.

6 Q When you discussed with him leaving the Davis home and
7 so forth, did he tell you how he exited the Davis home?

8 A He stated that he had went up through the kitchen and
9 left the key to the cabin on the kitchen table and that they had
10 went out that door. I would assume it's the front door. It's
11 near the driveway.

12 Q I'd like to ask you if shortly after this conversation
13 with him you participated in the investigation at the Davis home?

14 A Yes, I did.

15 Q Now there are several items that I have already mentioned
16 with Mr. Williams. Was Mr. Williams present that night?

17 A Yes, he was.

18 Q And how many rooms of the house were examined that
19 night?

20 A All of the rooms.

21 Q Do you know how many or from how many rooms various
22 physical items were removed?

23 A The best I can remember there were four different rooms.

24 Q What would those rooms be, please?

25 A On the lake side of the house the house appears to be
26 three floors. It has a walkout basement. In this area there is

1 a recreation room. It has carpet on the floor. Carpet samples
2 were taken from this area. The room that adjoined this appeared
3 to be a tool room or storage room of type. In this area a refriger-
4 erator door was taken, one golf shoe, one pair of brown shoes, a
5 mattock, water pitcher, a dust pan. On the same floor there is a
6 bathroom. There was a red stain in this bathroom. This was taken
7 with a cotton swab. On the second floor or the main floor there
8 is another bathroom and in this bathroom there was also some red
9 stains taken from around the faucet, around the light switch, in
10 this area.

11 Q All right, sir. What were done with these items. Did
12 you in any way participate in their taking or transporting to a
13 laboratory?

14 A Yes, sir, Captain Jerry Williams and I took these and
15 secured them and took them to the lab on the same day.

16 MR. SHOCKLEY: Your Honor, to save a little time in dragging
17 out each piece of evidence, Mr. Williams has already commented
18 upon each piece of evidence and I would just state to the Court
19 that, you know, this evidence would be merely cumulative. I don't
20 know that it's necessary for us to go into it at this point.

21 THE COURT: All right.

22 MR. SHOCKLEY: You know, I refer to the same laboratory items
23 we did with Lt. Williams or Captain Williams. If you have any
24 questions, of course, feel free to ask them.

25 Q Let me ask you, Mr. Hall, about the refrigerator door
26 and ask you what you did with it.

1 A I took this into my custody also and put it in my
2 police vehicle and transported it to the lab in Roanoke.

3 Q All right, sir. Did you receive at anytime anything
4 from other people who may have gotten involved in the investi-
5 gation?

6 A Yes, I did. On July the 19th, I met David L. Matherly
7 and Ward C. Royal. I was at the Radford Police Department and
8 they came in with some clothing that they had found.

9 Q Mr. Hall, I'd like you to look at these articles of
10 clothing, please, and I'll ask you if you can identify them for
11 me.

12 A These are our initials where we identified them at the
13 Radford Police Department.

14 Q And you received those articles from whom please?

15 A Ward Christopher Royal and Ward--let's see, David
16 Matherly.

17 Q All right, sir, what did you do with those articles of
18 clothing?

19 A I had those at the Radford Police Department where they
20 brought them to me. Investigator Walt Wilmore came to the Radford
21 Police Department and I turned them over to him.

22 Q I'd like you to look at this--Your Honor, excuse me,
23 for the record I refer to Commonwealth's Exhibits No. 5, Common-
24 wealth's Exhibit No. 7, Commonwealth's Exhibit No. 6 and Common-
25 wealth's Exhibit No. 4.

26 Mr. Hall, I'd like you to look at this blue and white striped

1 towel. It's been introduced as Commonwealth's Exhibit No. _____
2 (inaudible, cough). See if you can identify that for me, please.

3 A Yes, I can. This is a towel that was given to me by
4 the same two young men. These are my initials on it.

5 Q Again--

6 A This was at the same time.

7 Q Same time, to whom did you give that towel, please.

8 A I gave this also to Mr. Wilmore.

9 Q Mr. Hall, I'd like you to look at this blue towel,
10 Commonwealth's Exhibit 51. I'd like for you to see if you can
11 identify that for me, please.

12 A Yes, sir, I can.

13 Q And how did you come into custody of that towel?

14 A Sgt. Duffy gave this to me.

15 Q And what did you do with the towel?

16 A I took this to the lab in Roanoke.

17 Q Answer these gentlemen's questions, please, Trooper
18 Hall.

19 CROSS EXAMINATION

20 BY MR. LOOKABILL:

21 Q Trooper Hall, what were the circumstances when Mr.
22 Epperly first came to you to talk to you about this, the disappea-
23 rance of Gina Hall?

24 A On July the 1st he had came to the State Police Office.
25 He advised me that Bill King had heard a radio announcement that we
26 were looking for Gina Renee Hall, that Bill King recognized the

1 description of her and confronted him with it. He said he wanted
2 to come to the office and advise us that he had been with Miss
3 Hall.

4 Q He came and he was very cooperative was he not? He told
5 you he had been with her and he wanted to try to help in any way
6 he could.

7 A Yes, sir, he came to the office on his own, yes, sir.

8 Q You didn't contact him or call him or say, "Hey, you're
9 a suspect," or anything. He just voluntarily came in to talk with
10 you?

11 A Yes, he did.

12 Q And you indicated that he told you the story that you re-
13 lated about how he met her and then he went to the lake and then
14 you indicated that they left.

15 A That's correct.

16 Q You also indicated that there was some time lapse there.
17 According to your written statement here as I understand it, a copy
18 of which I have here, he told about Bill King arriving and about
19 their leaving, is that correct?

20 A He told about that later. He did not tell me that at the
21 office.

22 Q It's all in the same period of time when you were with
23 him?

24 A He told me this as we went to the lake in my car.

25 Q I assume your statement about what happened was written
26 sometime later so you were just recalling the conversation, is

1 that correct?

2 A The statement that he gave me at the office I wrote
3 while he was talking to me.

4 Q If I notice in your statement here, you indicated that
5 you were unclear about exactly which date something was said so
6 I assume that you wrote this, made the statement something as an
7 afterthought or to conclude your discussions with him, to summarize
8 your discussions, is that correct?

9 A I don't think I understand.

10 Q You had asked him a question and you said at the bottom,
11 you don't remember whether that question was asked on July the 2nd
12 or July the 1st.

13 A Oh, ok. I know--

14 Q Do you see what I mean.

15 A Yes, sir, I see what you are referring to there.

16 Q Is that true. You wrote this sometime later after your
17 discussions?

18 A The first statement that he give me I wrote it at the
19 time he gave it to me, but the statement that you are referring
20 to was made later.

21 Q He also stated to you did he not that Gina had to get
22 home because she was to meet a Army friend who was coming to
23 visit her at 6:00 o'clock?

24 A Yes, he did.

25 Q And after this he went with you to the cabin I believe?

26 A Yes, he did.

1 Q Was he generally cooperative in the questions you asked
2 him?

3 A Yes, he was.

4 Q To find out exactly what had happened to Gina Hall?

5 A Yes.

6 Q I want to get, I want to ask you a few questions about
7 some of these items. You indicate you got the carpet. Was that
8 on the 2nd, the carpet out of the car?

9 A The carpet out of the car was taken on the same day that
10 I received the initial call which was June the 30th. I took this
11 out of the vehicle while it was still parked under the railroad
12 trestle.

13 Q You said that there were some spider webs over the trunk
14 and over the, what else?

15 A The spider webs that I observed were on the two doors
16 and over the headlights. There were none that I observed on the
17 trunk.

18 Q Over the two doors?

19 A Yes, sir, it's a two-door hard top and where the door
20 shuts in this area I observed spider webs.

21 Q It wasn't over the window area?

22 A No, sir the windows were rolled down.

23 Q What do you mean over where it was shut?

24 A The crack where the door shuts between the front fender,
25 between the door and the rear fender there is a seam there and
26 there were spider webs on these two doors.

1 Q You don't have any idea how long it takes a spider to
2 weave a web do you?

3 A No, sir, I don't.

4 Q I assume you don't have any expertise in that area?

5 A No, sir.

6 Q Before you were there on July the 2nd which was Wednesday,
7 that's the day that you got this carpet?

8 A No, sir, the carpet out of the car was taken on June the
9 30th.

10 Q On June the 30th which was what day?

11 A This would be a Monday, I believe.

12 Q Who had, had any other troopers been there or any other
13 officers that you know of by the time you came to investigate?

14 A When I arrived I observed Jerry Williams, captain of the
15 Radford detectives. I observed Jack, Jackie Roop, who is also a
16 detective, Johnny Butler, who is a Radford City officer.

17 Q They were already present at that time?

18 A Yes, sir.

19 Q On Monday, the 30th, when you arrived. I assume that
20 Captain Williams assisted you with removing the car?

21 A Yes, he did.

22 Q And what did you do with the carpet thereafter?

23 A I placed it in this bag and took it, put it in my vehicle
24 and took it to the lab.

25 Q Did you take it that same day?

26 A No, sir, it was taken the following day, July the 1st.

1 Q Did that remain in your vehicle until then?

2 A Yes, it did.

3 Q Where in your vehicle?

4 A It was either in the, it was in the trunk because I
5 placed all the evidence in the trunk.

6 Q Was the trunk opened at anytime after that?

7 A No, sir.

8 Q Before you took it to the lab?

9 A No, sir.

10 Q I assume the car was kept at your home?

11 A Yes, it is.

12 Q You have no idea, of course, I assume what officers or
13 other persons had been in and out of the car between the 28th
14 sometime and the time you arrived on Monday?

15 A No, I do not know.

16 Q Was any offices in or out of the car while you were
17 there?

18 A There were none that I could locate. I asked that
19 question and my response was, "No," that no one had been in the
20 vehicle.

21 Q That is at least while the officers were there?

22 A Yes, sir.

23 Q You indicated that the seat was pushed back. Do you
24 know as a matter of fact that it was pushed all the way back or
25 partially way back, part of the way back?

26 A I do not know whether it was all the way back or not.

1 I thought John Hall had checked this and when I talked to him
2 later, I found that he had not checked it.

3 Q So you don't know, I mean as far as how long that seat
4 had been that way and how far back it was, is that correct?

5 A Yes, sir.

6 Q The items that you refer to that came out of the utility
7 room, did you personally deliver those with Captain Williams to
8 the laboratory?

9 A Yes, I did.

10 Q I assume they were all sealed and identified at the time
11 they were seized?

12 A Yes, they were.

13 Q Who actually did the taking of those items, gathering
14 the items together and marking them, preparing them for the lab?

15 A Jerry Williams and I worked on this together. He did
16 most of the identifying and writing the tags that go with them.
17 We were in his vehicle and we collected all the evidence and marked
18 and locked it in the trunk of his vehicle and then took it to the
19 lab on the same day.

20 Q Those were items from the house?

21 A That's correct.

22 Q How about the refrigerator door?

23 A We could not get that off the night of the search of
24 the house. At that time we took a knife and cut a strip of the
25 rubber molding that goes around the door. On the 3rd the door
26 was taken off and then I picked it up and took it to the lab in

1 my vehicle.

2 Q Did you keep it and deliver it the same day?

3 A No, sir, I did not. It was taken off late and I, 4th
4 of July holiday came into effect and the lab was closed so I had
5 to keep it locked in my vehicle.

6 Q That door was locked in your vehicle all the time?

7 A Yes, sir.

8 Q It would have provided some good traction had it been
9 winter, I assume. It was kind of a heavy item. Where was it
10 kept in the back seat or trunk?

11 A Yes, sir it was in the back seat.

12 Q And you turned the towel that was, what was the date
13 that the clothing and towel was given to you?

14 A The blue and white striped towel?

15 Q Yes, sir.

16 A And the clothes were given to me on July the 19th.

17 Q They were delivered to Investigator Wil Wilmore?

18 A That's correct, on the same day.

19 Q You indicated that Mr. Epperly had come and talked with
20 you. Had he talked to anyone else prior to this, any other law
21 enforcement officer?

22 A On July the 1st he had come to our office at approximately
23 3:00 o'clock in the afternoon and he had met with Sgt. Church and
24 Sgt. Church is my supervisor and he knew that I was conducting the
25 investigation. He requested that Mr. Epperly return at approximately
26 5:30 which he did.

1 Q How long did he talk with Sgt. Church?

2 A I was not present. I do not know.

3 Q Did Bill King call you at Mr. Epperly's request to try
4 to help with the situation?

5 A I do not remember talking to Bill King over the tele-
6 phone.

7 Q Do you remember him coming to you at Mr. Epperly's
8 request and talk to you?

9 A I remember finding Mr. King working one day on July the
10 2nd. He was working in Radford and I found him on the job and
11 talked to him about this.

12 Q Were you aware whether or not he had, Mr. Epperly had
13 already contacted the Sheriff's Department in Pulaski County to
14 find out who he should talk with?

15 A No, I was not.

16 Q You don't doubt that that happened. You are just not
17 aware of it?

18 A It could have happened. I do not know.

19 Q Did you, yourself, get in touch with Mr. King, Bill
20 King?

21 A On July the 2nd I did.

22 Q How did you know to contact him?

23 MR. SHOCKLEY: Excuse me, may I interrupt just a second. I'd
24 like to discuss something with you just a minute. I hate to
25 interrupt, Judge, but I'd like to discuss something, if I could.

26 THE COURT: Any objection, gentlemen?

1 MR. LOOKABILL: No, sir.

2 (Counsel, conference off record.)

3 Q I believe the last question I asked you was whether you
4 were aware he had talked with Mr. Shore, someone at the Sheriff's
5 Department?

6 A I was not aware of that.

7 Q What is your main function with the State Police Trooper
8 Hall?

9 A Enforce all the criminal statutes and the traffic laws.

10 Q What do you do most of, what's your normal function?

11 A Approximately 90 per cent of my work has to do with
12 traffic enforcement.

13 Q Who was it that called you initially about investigating
14 this case?

15 A Our dispatcher.

16 Q The dispatcher?

17 A Yes, sir.

18 Q I assume that that person had gotten request from some
19 other supervisor, is that correct?

20 A He had received a teletype message from Radford Police
21 Department requesting that an officer check on this unattended
22 vehicle.

23 Q Did you happen to be in the vicinity or the area that
24 you would be the appropriate officer to contact?

25 A Well, there were two of us working and the other officer
26 had a prior engagement and so I took the call.

1 Q During the time that you began investigating the car,
2 checking out _____ (unintelligible) physical evidence, was the
3 area secured, was it corded off to keep the public and any un-
4 involved people from coming near the vehicle?

5 A When I arrived at the scene and I observed the vehicle
6 I requested that the crime scene van come to this location, while
7 we were waiting for them a rope was placed around the vehicle,
8 keeping people away from the scene.

9 Q This was on Monday?

10 A This was after the time I arrived.

11 Q What time, that was, I believe, at 12:38 p.m. you gave--

12 A I received the call at 12:38 and I arrived at approxi-
13 mately 1:10.

14 Q How about the house, what was done to secure the house
15 the first time you were there which I assume was on the 1st.

16 A When I went up on the 1st, there was no one there and
17 the house was locked. When I went back on the 2nd, Bill King was
18 with us and he had a key to the house.

19 Q That was on the 2nd?

20 A Yes, sir.

21 Q Did he unlock the door or was it already unlocked?

22 A He unlocked the door and let us in.

23 Q When you were there, either time were any of the other
24 doors checked to see if they were in fact locked or just the
25 front door?

26 A The front door is the only door that I recall.

1 Q Do you recall, how long did you stay there on the 1st?

2 A Mr. Epperly and I did not stay very long. We walked
3 around to the back side of the house where the lake is located
4 and walked back around on the sidewalk and left, approximately 3
5 to 5 minutes.

6 Q Did you look inside the house?

7 A The best you could, but I could not really see anything.

8 Q That was on July 1st?

9 A Yes, sir.

10 Q And on July 2nd I assume you were there with many other
11 officers who were there in the afternoon and evening?

12 A Yes, sir, it was at nighttime.

13 Q Were you all the first to arrive, you and Bill King?

14 A Captain Williams went with us. Several people went,
15 police officers.

16 Q After the 2nd and until such time as all the evidence
17 was gathered later on by other officers and picked up, you don't
18 know if the house area, were officers left there _____ (unintelli-
19 gible) day or was there anything done to cordon off the house to
20 protect it from intruders?

21 A All the evidence that I collected was on the night of
22 the 2nd and the morning of the 3rd. After that date, I believe the
23 house was just locked and to my knowledge it was not--I know there
24 was no police protection there.

25 Q So even though other evidence was gathered later there
26 was no one left there to stay there or the area was not blocked off

1 in any way to your knowledge?

2 A That's correct.

3 Q Getting back to the question I asked you a little bit
4 earlier, did you contact, initially contact Bill King at Mr.
5 Epperly's request when you first talked with him about the matter?

6 A I do not remember Mr. Epperly requesting that I contact
7 Bill King. He could have, but it would be normal investigation
8 procedure to contact him.

9 Q Do you recall his mentioning Bill King and his suggesting
10 to you that Bill King might be of some help to you in this investi-
11 gation?

12 A Later on when he told me that Bill King had come to the
13 house and that he had talked to him it was obvious that I would
14 talk to Bill King. Whether Mr. Epperly requested that I did or
15 did not I do not recall.

16 Q But you recall talking with him about Bill King?

17 A Yes, I do.

18 Q _____ (Inaudible).

19 A Yes, sir.

20 Q Was it reported to you or do you know whether or not during
21 the period of time before you arrived and perhaps even later whether
22 or not the trunk of the car was open or closed there at the treatle?
23 Did anybody ever tell you that it was in fact closed at one time?

24 A I believe some people stated that they had seen the trunk
25 closed. I would have to check back and see.

26 Q Some people even suggest that they had saw it one time

1 up and one time down?

2 A Yes.

3 Q Thank you, sir.

4 REDIRECT EXAMINATION

5 BY MR. SHOCKLEY:

6 Q Mr. Hall, the blue towel in front of you, Commonwealth's
7 Exhibit No. 51, can you give me the date that you received that,
8 please. You may have already given it; if so, it slipped by me.

9 A The item, the blue towel is Item 39 and I received it
10 on July the 10th.

11 Q Now when did you go into the Davis home with Mr. Williams
12 and gather the evidence? What was that date?

13 A That was the night of July the 2nd and the morning of
14 July the 3rd.

15 Q And we've talked about the blood, the swabs taken, the
16 carpet, the dust pan, the pitcher, the shoes and various other
17 assortment of things. Were all those things gathered that night
18 or were they gathered at a later point?

19 A All of that evidence was collected that night, and
20 that morning.

21 Q Was there anything besides the refrigerator door that
22 was gathered on subsequent dates from that house?

23 A Not to my knowledge. The door was the last thing to be
24 taken as far as I know.

25 Q All right, sir. Mr. Hall, they asked you about people
26 reporting to you about the trunk lid up or down. Did you take a

1 survey?

2 A No, sir, the people that I talked to just came to me and
3 gave me this information. I do not know how many.

4 Q Do you know how many said up and how many said down?

5 A No, sir.

6 Q Was it more than one in each direction?

7 A There was only one or two, maybe three had said that they
8 had saw the trunk down. The majority by far said that the trunk
9 lid was up.

10 Q How was it when you got there?

11 A It was up when I arrived.

12 Q Did you later find this vehicle to be that of Diana
13 Hall's vehicle that we talked about?

14 A Yes, I did. I took the license plate number and ran
15 a check through the Division of Motor Vehicles and it returned
16 her name and address.

17 Q All right, that's all I have. They may have some more
18 for you.

19 RE-CROSS EXAMINATION

20 BY MR. LOOKABILL:

21 Q Trooper Hall, you said you got the license plate number,
22 did you pull up in front of or behind the car?

23 A On Route 11 side of the vehicle approximately 100 feet
24 in front of the vehicle on the same side of the road there is a
25 small driveway. I pulled up in front of it, and parked in that
26 wide place.

1 Q Then I assume that you got the license plate number
2 from the front license plate?

3 A I do not remember whether it was front license plate or
4 the rear license plate. I got the information from the vehicle.

5 Q Did the car have both license plates attached on it?

6 A I do not remember. I took--Gerald Williams took photo-
7 graphs. I could tell from that, but I do not personally remember.

8 Q You didn't notice anything unusual about the way the
9 car was licensed, the plates were there or anything unusual about
10 that registration plate, do you?

11 A No, I did not.

12 Q You say you didn't have any difficulty finding the owner
13 of the car through the check with DMV. Wasn't it in fact registered
14 in the wrong name or something. Did you have any problems with
15 that to someone else in Coeburn?

16 A It was registered to Diana Hall, Box--(pause) She had
17 had a box number. It was Diana J. Hall, box number in Coeburn,
18 Virginia. It was registered to her.

19 Q I understood one of the troopers to say there had been
20 some difficulty, an incorrect number on the plate or something.

21 A Not to my knowledge. It came back to her. I believe it
22 was Box 699, Coeburn.

23 Q Thank you very much.

24 (The witness stands aside and leaves
25 the courtroom.)

26 MR. SHOCKLEY: Your Honor, may I request a short recess.to

1 get the next witness some physical evidence together, please.

2 THE COURT: All right. Members of the jury, you may retire
3 and take a brief recess.

4 (Thereupon the following proceedings were had in Chambers:)

5 THE COURT: All right, we are in chambers. Everybody is
6 present, including the defendant and Mr. Shockley has a matter
7 to present.

8 MR. SHOCKLEY: Your Honor, in my discussions with Patricia
9 Hamby, probably our next witness, she is our lab--one or our two
10 laboratory experts formerly employed by the Virginia Consolidated
11 Laboratories. In my discussions with her in discussing the
12 physical evidence, particularly with reference to the blood, she
13 informed me that the blood found was a splatter type blood, very
14 tiny particles of blood in many areas at least. In asking her
15 about that, first of all, she informs me that she worked for the
16 Kiahowga (spelling by enunciation) County coroner's office which
17 is Cleveland, Ohio, for 9 years from, I think, 1964, to 1973.
18 She had had quite a bit of experience in dealing with corpses and
19 so on that have come into the coroner's office in various types
20 of violent death. She indicated to me that in her opinion to
21 cause this break-up of the blood, rather than having drop of blood
22 here and there, but, you know, instead of having that you had
23 splatter type blood. She indicated to me that her experience in
24 the coroner's office would indicate that it was some sort of force
25 had to cause that blood to, a force to break up a blood drop into
26 blood spots or particles and she would also testify that the force

1 would have to be applied to some portion of the body that would be
2 exposed from clothing inasmuch as if it came to a part of the body
3 that had clothing on it with the exception maybe of a gunshot
4 wound that the clothing would absorb, you know, any type of blood
5 that would be brought out so she would, you know, I would want
6 to ask her in her opinion from examining these various items of
7 evidence if she had an opinion as to, you know, how they got in
8 such small droplets and that's basically, I wanted to bring that
9 up. I knew that they probably would object to it and I wanted
10 to bring it before the court.

11 THE COURT: All right, gentlemen.

12 MR. LOOKABILL: Well, Your Honor, we would object to the
13 expert witness testifying to that effect for this reason. I
14 think her conclusions in a matter such as this are, could be very,
15 very prejudicial. I think that common sense would dictate that
16 splattering, blood splatters or whatever, could be caused in a
17 numerous, in an almost innumerable types of situations and that
18 this type of conclusion would be something for the jury to draw
19 from the evidence. We have no objection to her testifying that
20 the, you know, that there were blood droplets spaced at a certain
21 millimeters wide, spaced at certain distances apart or whatever.
22 But I think that is usurping the job of the jury to have her con-
23 clude for them that the blood splatters were caused by violent
24 force upon the person of whoever and I think it would be very pre-
25 judicial and I think the prejudice created by such testimony would
26 far outweigh any probative value that it would have for the

1 Commonwealth.

2 MR. WARBURTON: Your Honor, in addition, other than the
3 profer that she was employed in the coroner's office in Cleveland,,
4 Ohio, we don't have anything to lend any expertise to conclusions
5 as to force and things like that. I assume that she was a labora-
6 tory person in Cleveland, Ohio, as she has been a laboratory person in
7 the Commonwealth of Virginia.

8 MR. SHOCKLEY: Before we rest our case so to speak on this
9 issue we would want to have her come back here. I was just
10 giving you preliminary view of what we would elicit from her.
11 I would say, Judge that a layman, I know that until I talk to her
12 I would not have been able to have drawn any type of inference
13 from the size of the blood droplets. Obviously if you had a puddle
14 of blood there in the floor, you could assume; I think a layman
15 could assume that it came from a rather substantial wound, but
16 from specks of blood here and there, you know, on the refrigerator
17 door and on the golf shoe and, you know, wherever else it was found,
18 I think that it would require an expert and it would not be something
19 that the jury should be able to conclude themselves. I think it
20 would be entirely proper to allow her as an expert witness to give
21 her professional opinion as to why those small defused droplets
22 of blood were found and then, of course, she's subject to cross
23 examination and, of course, the jury is not bound by her conclusion.
24 They can draw another conclusion should they so desire.

25 THE COURT: Gentlemen, this area of blood spattering is a
26 highly specialized area. I heard a specialist and expert in this

1 field speak for two hours or more at a judicial conference one time
2 and it's remarkable some of the things he had to say and the con-
3 clusions he had to draw. He had slides, pictures of actual
4 cases in rooms and places and he described the appearance of the
5 blood and the designs it made and explained the conclusions he
6 drew from that and it really was truly amazing, but it takes an
7 expert to do it so what it would boil down to it seems to me is
8 simply whether or not this lady is an expert in this field.
9 Simply because she has worked in a coroner's office or been a
10 laboratory technician would certainly not qualify her, but I'll
11 be glad to hear her on the issue of qualifications only, and then
12 I'll make my decision.

13 MRS. PATRICIA PERDON HAMBY,
14 a witness called on behalf of the Commonwealth, after being first
15 duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. SHOCKLEY:

18 QQ State your name, please.

19 A Mrs. Patricia Perdon Hamby and my last name is spelled
20 H-a-m-b-y.

21 Q Where are you employed now?

22 A With the Illinois Bureau of Scientific Services in the
23 Joliet laboratory, Joliet, Illinois.

24 Q How long have you been employed there?

25 A Since the first of November of this year, 1980.

26 Q And where were you employed prior to that date?

1 A With the Bureau of Forensic Science, Roanoke laboratory
2 in the Commonwealth of Virginia.

3 Q And what are your jobs with the laboratories, what were
4 they, you know, these different times?

5 A I have been employed as a forensic scientist in these
6 laboratories and my responsibility in my present employment as
7 in Virginia has been the examination of blood and other body fluids,
8 blood stains and other body fluid stains and hairs.

9 Q What type of educational background do you have?

10 A I have a Bachelor of Science and a Master of Science
11 from Michigan State University.

12 Q In what fields?

13 A The Bachelor of Science is in Police Science in their
14 criminalistic curriculum. The Master of science is under the
15 school of Criminal Justice and that also is a criminalistics
16 major.

17 Q And how long have you had experience with dealing with
18 body fluids of various types?

19 A I began working in this field in 1964.

20 Q And where did you begin that employment?

21 A With the Coroner's Laboratory in Cleveland, Ohio.

22 Q And how long did you work there, please?

23 A From 1964 until 1973.

24 Q And what was your function there at that time?

25 A I was employed as a trace evidence technician in the
26 trace evidence department of that laboratory, and in that position

1 I again examined blood and body fluids, blood stains, body fluid
2 stains, hairs, some fibers, examined clothing for the correlation
3 of damage to the clothing with wounds in the body, evaluated blood
4 stain evidence associated with that clothing and did muscle target
5 distance determinations in gunshot cases, evaluating the damage
6 caused by the bullets passing through clothing, also evaluated
7 clothing on the basis of injury caused by sharp objects such as
8 knives.

9 Q All right, what exactly is trace evidence. Would you
10 tell me what that is.

11 A The term is applied really to the area of physical
12 evidence. It was a term that was used in that laboratory to re-
13 late to all types of physical evidence coming within the evaluation
14 of the personnel of that laboratory so it could include large as
15 well as small objects, primarily those which I have already de-
16 scribed.

17 Q Have you had occasion to work with blood and the quantity
18 of blood, the size of blood stains and draw conclusions from those?

19 A I have in conjunction with the total examination of clothing
20 in cases of violent death.

21 Q Do you recall how many different cases you may have worked
22 on while you were with the coroner's office in Cleveland?

23 A It would be several thousand cases.

24 Q During that time did you ever testify in Court as to
25 your conclusion from blood staining and so forth that was found
26 maybe at the scene of a crime or on a person, did you ever testify

1 as to any conclusions that you drew from that or were you in a
2 position to testify. I mean was that part of your function?

3 A That was part of my function.

4 Q Would you elaborate for me please and tell me what
5 experience you've had in giving testimony about size of blood and
6 any conclusions to be drawn from the blood found.

7 A For the most part the evaluation of the blood staining
8 was to show two things, an attempt to establish the position of
9 a person at a time that blood was shed, whether the person was
10 passive or moving around, also an evaluation of the staining to
11 give some indication as to the amount of force that may have been
12 used to create the types of blood stain patterns that were visible.

13 Q Have you examined various physical evidence, items of
14 physical evidence submitted to you in this case of Commonwealth
15 v. Stephen Epperly?

16 A Yes, I have.

17 Q And would you describe for the Court please the pattern
18 of blood staining that you found on the items submitted to you.

19 A Well, the, first of all, from the, I guess it would be
20 the area which would be affiliated with the refrigerator--

21 Q Uh hum.

22 A From items that were found associated in that area all
23 the staining which I had seen was very small droplet type stains,
24 smaller than that which would be found just by blood which would be
25 a whole drop of blood falling to a surface and striking it, all of
26 what I would call spatter stains or fractions of blood drops and

1 this type of staining is created by some force being applied
2 which would cause blood to break up into smaller particles.

3 Q Force applied to what?

4 A To the object which would have blood in it such as a
5 human body, with force being applied to exposed flesh.

6 Q Why exposed flesh?

7 A If a blow is administered to a portion of a body that
8 is clothed, the clothing is going to absorb any blood which might
9 be exhibited by the body whether it's because there has been a break
10 or whether it has been, well, it would be a break of the skin of some
11 sort, whereas exposed flesh there is nothing there to absorb that
12 blood so the blood from force being applied to exposed flesh is
13 going to be allowed to spatter or fly.

14 Q Did you draw any conclusions in this particular case?

15 A Yes, I did.

16 Q And what were those conclusions, please.

17 A That the blood staining which I saw in that area was
18 compatible with some force being applied to exposed flesh.

19 Q Do you know how many times you've testified in Court on
20 similar type matters and have been asked to express an opinion as
21 to whether or not force was present from the physical evidence
22 found at a crime scene?

23 A No, sir, I don't. Many of the times that I have dis-
24 cussed blood stains, it's been in conjunction with other things
25 and I don't have an accurate recollection of how often I may have
26 done that.

1 Q Have you done it?

2 A Yes.

3 Q Do you know when the last time was you may have testified
4 in Court on a similar type matter as to whether or not force was
5 present from the, your examination of items found at a crime scene?

6 A As I recall it was in connection with cases that I
7 worked in the State of Michigan.

8 Q And when would that have been?

9 A Between 1974 and 1978.

10 Q When you worked for the Consolidated Lab in Roanoke for,
11 you know, State of Virginia, did you continue working with blood
12 and body fluid and hair samples and so on?

13 A Yes, I did.

14 Q And is that what you do now?

15 A Yes, it is.

16 Q Have you ever written any articles or any books or any
17 other sort of publications on anything related to this?

18 A I have an article which has been published in the annual
19 statistical report of the coroner's laboratory dealing with the
20 correlation of wounds and body injuries, but that does not really
21 include very much as far as blood evidence is concerned. The
22 only other things which I have, I have presented papers regarding
23 blood typing, but I have not published any particular papers with
24 regards to blood spattering.

25 THE COURT: Well, let's get right down to it, Miss Hamby,
26 do you consider yourself an expert on blood spattering or is that

1 a separate kind of field?

2 A If we can define expert as a person who has more know-
3 ledge on a given subject than the average layman, then, yes, I
4 would consider myself an expert. I also agree with you that it
5 is an area of great speciality and there are people in this field
6 who do that almost exclusively. My involvement with it is in con-
7 junction with other tests conducted on blood, and I certainly
8 would not put myself in the same category as someone who devotes
9 their full time to that, but I would by the definition I have
10 given consider myself an expert, at least to the extent that I
11 have described my findings here.

12 THE COURT: All right, gentlemen, anything further?

13 CROSS EXAMINATION

14 BY MR. WARBURTON;

15 Q Well, Your Honor, I suppose I'd like to bring out from
16 this witness, I assume the Court's going to make his decision
17 based on those last two responses, how much of an expert she
18 considers herself. Miss Hamby, you gave your job title as trace
19 evidence technician when you were with the coroner's laboratory
20 in Cleveland, is that right?

21 A That's right.

22 Q You were not an adjunct other than, you worked for the
23 lab for the coroner?

24 A That's correct.

25 Q And you weren't in the coroner's investigatory staff?

26 A All of us within the laboratory contribute to the coroner's

1 investigation.

2 Q Right, but your boss or superior is this person that's
3 in the laboratory set-up, am I correct?

4 A My immediate supervisor was in the laboratory, yes.

5 Q Would it be comparable to your position with the forensic
6 labs in the Commonwealth of Virginia basically?

7 A Yes, it would. There is only a difference in title.

8 Q Right, o.k., and basically both in Cleveland and then
9 in the Commonwealth of Virginia in the Roanoke labs I assume you
10 worked there from 1973 until this year in the Roanoke labs?

11 A No, sir, from 1973 to 1978 I was with the laboratory
12 system in the State of Michigan.

13 Q I'm sorry and then the Roanoke labs from '78 to '80?

14 A That's correct.

15 Q In all of those three positions then you worked in a
16 laboratory setup, am I correct?

17 A That is correct.

18 Q You received evidence from police officers, did your
19 lab work and returned it to law enforcement officials?

20 A That is correct.

21 Q And any investigation you did then would have been wholly
22 within the laboratory setup in the city in which you were stationed?

23 A With the occasional crime scene work that was done.

24 Q Your major contribution then to the different law
25 enforcement offices would have been in connection with analysis of
26 body fluids, correct?

1 A Body fluids and hairs.

2 Q Right, blood typing, other serological work, correct?

3 A A major part of the work, yes, sir.

4 Q And basic identification, comparing and contrasting
5 certain bags of evidence, contents of bags of evidence, correct?

6 A Identification and comparison is the type of work which
7 is done.

8 Q And your major contribution again then would be your
9 analysis of these body fluids as to whether they match or do not
10 match, would that be safe to say?

11 A That is a portion of the work.

12 Q O.k, is that a major portion of the work?

13 A Yes.

14 Q Is it not almost what 80 per cent of what you do, 90
15 per cent of what you do?

16 A It's a fairly substantial amount. I wouldn't really be
17 able to give you a good estimate of per centage.

18 Q You recognize that there is a very narrow speciality
19 involved with pattern of body fluids, is that correct?

20 A Yes.

21 Q And you have not done any testifying on that particular
22 narrow speciality since 1978?

23 A That is correct.

24 Q Since 1978 or when you were with the Roanoke branch of
25 the Consolidated Labs of the Commonwealth of Virginia what activities
26 did you do in that particular narrow speciality?

1 A I examined evidence and made record of my findings in
2 connection with both blood spatter evidence as well as fluid
3 typing and comparisons, but I have not testified as to those
4 findings. Many of those cases were settled without my having to
5 appear in court.

6 Q So you haven't testified, would it be safe to say that
7 since 1978, within this narrow speciality of spatter patterns
8 you have merely done lab work?

9 A I have done lab work.

10 Q Have you, I assume there's a body of literature on this
11 particular narrow speciality. Have you kept up with that?

12 A I have.

13 Q Every bit of it as far as you know or a majority of
14 it, the major journals?

15 A I continue to try to review the journals. I assume that
16 I am keeping up as much as possible.

17 Q Have you, yourself, conducted any tests independent of
18 any investigation regarding spattering?

19 A No, sir, I have not..

20 Q Have you been to any particular seminar devoted to the
21 issue of spatter identification and that sort of issue, much like
22 the Judge was talking about?

23 A Yes, I have.

24 Q How many times?

25 A I have attended one such seminar in Richmond. I have
26 also had the opportunity to review the materials of _____

1 (unintelligible) before they were published in the area of blood
2 spattering analysis.

3 Q And going back to your definition of an expert, you feel
4 that you are an expert in this narrow speciality in that you know
5 more than the average layman but you feel that you are not an
6 expert when compared with persons who are devoted to that parti-
7 cular speciality, is that fair?

8 A I don't feel that I have the degree of expertise as
9 someone who is devoted solely to that area. They would be able
10 perhaps to tell you a great deal more about the staining than I'm
11 able to tell you.

12 Q And would they be more sure of their conclusions?

13 A No, I think we would be equally sure in our conclusions.

14 Q But again you feel that you are an expert as to the
15 particular evidence you've reviewed in this case because you know
16 more than the average layman, is that right?

17 A If we are following that definition.

18 Q Under that definition, is that the only definition of an
19 expert as far as you come up with that applies to this case and
20 how you feel about your expertise?

21 A I think that's a valid definition of my work with it.

22 Q I have no further questions, Judge.

23 REDIRECT EXAMINATION

24 BY MR. SHOCKLEY:

25 Q Let me just ask a couple more if I might please, Judge.
26 What things, you know, we are talking about the person who devotes

1 his full attention to maybe the crime scene and analyzing the
2 flow of blood from a gunshot wound or a knife stabbing or some-
3 thing like that, can you tell me what things those individuals
4 may be able to testify to that you would not feel comfortable
5 testifying to.

6 A The person who has devoted much more of their time to
7 the analysis of blood spatter evidence would be able to describe
8 in great detail perhaps the number of blows or number of gunshots
9 that were administered to the exposed flesh portion of the body,
10 be able to give some description of how high above the floor or
11 how far from a wall that portion of a person's body was at the
12 time the blows were administered. I do not profess to have that
13 level of expertise. I have limited mine to the area in which I
14 am secure as far as my interpretation of blood spatter patterns,
15 that being an interpretation of what may cause the various sizes
16 of patterns seen.

17 Q Any doubt in your mind that some sort of force was
18 exerted upon an exposed area of flesh from--

19 A I have no doubt whatsoever that that indeed took place.

20 MR. SHOCKLEY: Judge, there was a recent case that's in the
21 advance sheets involving a homicide in a shotgun death and in
22 that particular case the Commonwealth offered the testimony of
23 one of its police officers. Anyway it dealt with whether or not
24 a woman was seated or standing when she received a shotgun blast
25 to the body area, and in that particular case there was objection
26 by the defense and the police officer was allowed to testify that

1 the woman from the pattern of staining and so forth and the direc-
2 tion of the runs and so forth on the refrigerator door behind her
3 was allowed to testify and it was upheld by the Virginia Supreme
4 Court that the woman had to have been seated when she received
5 the shotgun blast and I don't think that case, you know, made
6 reference to any particular type of expertise that the police officer
7 had or any specific type of training, you know, that even a lab
8 expert would and again she is not going to try to say that there
9 were three blows to the head or that it was a shotgun or, I mean
10 a pistol shooting or a stabbing or anything like that. She is
11 going to testify that there had to be some force exerted to take
12 what would otherwise be a drop of blood which I think she would
13 define as being about three-quarters of an inch in diameter if
14 it hit the surface, is that what you told me?

15 MRS. HAMBY: Yes, sir.

16 MR. SHOCKLEY: And make it little specks around, it would
17 have to be something to cause that to defuse.

18 MR. WARBURTON: Your Honor, when we are in the area of expert
19 testimony, we are in the area in which the Court would, in its
20 discretion, decides that this type of evidence or conclusion is
21 beyond the _____ (unintelligible) of the normal juror and that
22 it is safe and it is not too prejudicial to allow the expert to
23 testify to a certain matter that the jurors will not assume that
24 this is an unalterable conclusion for which they cannot challenge.
25 It won't decide an ultimate decision in the case. It would appear
26 to me that Mrs. Hamby has been extremely honest and I appreciate

1 ~~it~~ it very much, going into some detail about her back-
2 ground. She testifies that her experience as to spattering deals
3 with gunshot and blunt instruments, I'm sorry, sharpe instrument,
4 sharpe object damage analysis and gunshot damage analysis. It
5 would appear to me also that by her own definition of what an
6 expert is, she is not an expert in this case. A real specialist,
7 that is one that would qualify as an expert, she does not have
8 this experience. For those reasons we would ask the Court to rule
9 that she is an expert in blood identification and the things for
10 which we normally receive Miss Hamby's services, but in this one
11 particular area she would not be qualified as an expert who can
12 draw this type of conclusion.

13 THE COURT: I, too, appreciate Miss Hamby's candor and I'm
14 going to be conservatively cautious in this matter and I'm going
15 to rule that Miss Hamby is not an expert in the field of blood
16 spatter evidence. I assume she is an expert in the other areas.

17 MR. SHOCKLEY: All right, Your Honor, for purposes of clari-
18 fication may she be allowed to testify that if you were standing
19 there with a cut finger and blood was dropping from your finger,
20 that a drop of blood would be three-quarters of an inch, I believe,
21 that she's told me.

22 THE COURT: I think so.

23 MR. SHOCKLEY: Would she then be able to say that the--I
24 don't even know that she could measure the diameter of many of
25 these spots that you found. Were you able to do that?

26 MRS. HAMBY: I did not physically measure _____ (inaudible,

1 noise) much smaller than three-quarters of an inch.

2 MR. SHOCKLEY: Would she be allowed to testify that a drop
3 of blood--maybe you had better say, would a drop of blood, what size
4 would it be if it hit the floor, if my nose were bleeding or my
5 finger were cut.

6 MRS. HAMBY: The size ranges between five-eighths and three-
7 quarters of an inch in diameter, if it's a drop of blood falling,
8 free falling and striking a flat surface, it would create a circular
9 stain that would be approximately five-eighths to three-quarters of
10 an inch.

11 THE COURT: Well, what about the door of the refrigerator
12 which is vertical to the floor, what about that?

13 MRS. HAMBY: The staining which was on the door of the re-
14 frigerator did not include any spatter type stains. The staining
15 on the door is all very, very thin film, like a wiping of staining
16 on the door.

17 MR. SHOCKLEY: That's another thing, too, Judge, for clari-
18 fication, we would apprise the Court that that would be her testi-
19 mony that--

20 THE COURT: Well, what, what spattering now are you talking
21 about?

22 MR. SHOCKLEY: On the golf shoe.

23 THE COURT: She's eliminated the door, where else?

24 MR. SHOCKLEY: The golf shoe, the--

25 THE COURT: Oh.

26 MR. SHOCKLEY: The dust pan, the water pitcher, you know--

1 THE COURT: Those were tiny little--

2 MR. SHOCKLEY: Droplets.

3 THE COURT: Droplets and not the--uh huh.

4 MR. SHOCKLEY: But while we're at it we have the refrigerator
5 door to consider.

6 MR. WARBURTON: Well, let's, if you don't mind, Mr. Shockley
7 let's establish _____ (inaudible, noise) of this witness'
8 expertise as to the few drops of blood. I assume the Court will
9 rule that she can testify that these were smaller than which
10 would normally find when someone cuts their finger and the blood
11 drops. I would anticipate an objection on Mr. Epperly's behalf
12 coming from me or Mr. Lookabill if Miss Hamby were to be asked to
13 state that that did not come from a free fall drop consistent
14 with the Court's ruling that she is not an expert as to spattering.
15 I think she can testify that it is indeed a spatter but I don't
16 think she can give any conclusion whatsoever to the jury about
17 how that occurred.

18 THE COURT: Well--

19 MR. WARBURTON: Other than to say that it was not a free
20 fall drop period.

21 THE COURT: Gentlemen, I don't know anything else to say.
22 I've made my ruling and I suppose we'll just have to--

23 MR. SHOCKLEY: Well, I just want some guidelines, Judge. I
24 want to know what I can ask her and what I can't.

25 THE COURT: I don't know. I think I would just stay away
26 from it entirely except to show that these were not free fall

1 spatters, that they were too small for that, that they indicated
2 something else rather than a person standing there with the blood
3 slowly and deliberately dropping on certain objects. I take it
4 that that's the thrust of her testimony. Then you wanted her to
5 go a step further and say that this, these small droplets were
6 caused by some force.

7 MR. SHOCKLEY: And you said I can't do that?

8 THE COURT: And I don't believe we had better get into
9 that that's all I'm saying.

10 MR. SHOCKLEY: That's fine, that's fine, but again can I
11 ask the question if the drop which she found would be consistent
12 with, you know, the person and the cut finger standard?

13 THE COURT: I think you can show that it's inconsistent.

14 MR. SHOCKLEY: All right, inconsistent. Now the next question
15 is--I forget how your lab report reads, but she indicates some-
16 thing had been done to the refrigerator door and--first of all
17 did you identify that as human blood or just blood or, I forget.

18 MRS. HAMBY: I need to refer to my report.

19 MR. SHOCKLEY: O.k., let me see, I'll do the same.

20 MR. LOCKABILL: Blood and in insufficient quantity to establish
21 type.

22 MR. SHOCKLEY: It's Item 31.

23 (Conference off record.)

24 THE COURT: Let the record show that this morning the de-
25 fendant handed the Court a letter in which he complained of the
26 representation that he has received at the hands of court-appointed

1 counsel, Messrs. Lookabill and Warburton. Just one minute, now
2 I've got it right here, thank you. Here it is.

3 That letter is dated December 14, 1980. I read it to all
4 counsel in the case in the presence of Mr. Epperly and declined
5 Mr. Epperly's request which was that the Court should declare a
6 mistrial at that point and discharge his attorneys and presumably
7 appoint new counsel and start all over. I expressed the opinion
8 at that time that from my observation of the trial of the case
9 that defense counsel had been giving Mr. Epperly an energetic
10 and effective representation, that, of course, I personally do
11 not know anything about the specific matters to which he refers
12 in his letter but that in any event I would decline his motion to
13 declare a mistrial. I also explained to Mr. Epperly that normally
14 the procedure in cases of this kind is that in the event he is
15 disappointed in the verdict and judgment of the Court, that he
16 would probably first seek a direct appeal to the State Supreme
17 Court and then if he's still disappointed, somewhere along the
18 way, if he wants to allege ineffective representation of counsel,
19 he would do that in the form of a habeas corpus petition. That's
20 the status of the matter at the moment and I will make the letter
21 to which I have referred a part of the record in this case.

22 (Thereupon proceedings were resumed in the Court room with
23 the Court, jury, counsel and the defendant being present.)

24 W. B. WILMORE, JR.,

25 a witness called on behalf of the Commonwealth, after being first
26 duly sworn, testified as follows:

1 BY MR. SHOCKLEY:

2 Q Would you state your name, please.

3 A W. B. Wilmore, Jr.

4 Q And how are you employed, Mr. Wilmore?

5 A With the Bureau of Criminal Investigation, Virginia
6 State Police.

7 Q And where are you employed in Virginia?

8 A The Wytheville office.

9 Q I'd like to ask you if you were assigned to the case
10 of Commonwealth v. Stephen Epperly in the disappearance of Gina
11 Hall?

12 A Yes, sir.

13 Q I'd like for you to look at these clothing items. I
14 refer to panties, Commonwealth's Exhibit No. 7 and blue, or
15 excuse me, a purple body suit, Commonwealth's Exhibit No. 6; a
16 jacket, Commonwealth's Exhibit No. 4. and white slacks, Commonwealth's
17 Exhibit No. 5, and ask you if you received those in the course of
18 your investigation and transported them to the consolidated lab
19 in Roanoke?

20 A Yes, I did.

21 Q Mr. Wilmore, I'd like you to look at this blue and
22 white striped towel, Commonwealth's Exhibit No. 60, and ask you if
23 you took that into your possession also and took it to the labora-
24 tory?

25 A Yes, sir.

26 Q I'd like you to look at the green cap, Commonwealth's

1 Exhibit No. 59, and ask you if you took that to the laboratory,
2 please.

3 A Yes, sir.

4 Q Mr. Wilmore, I'd like to ask you if you took some hair
5 samples from Mrs. Betty Davis?

6 A Yes, I did.

7 Q And ask you if you would examine it without opening it
8 at this point to see if your initials or anything are on there?

9 A Yes, sir, this is the envelope that I put those items
10 in.

11 Q And did you also submit those to the Consolidated
12 Laboratory for analysis?

13 A Yes, I did.

14 MR. WARBURTON: What number is that, Mr. Shockley.

15 MR. SHOCKLEY: I'm sorry. This has not been introduced into
16 evidence yet. This is Laboratory Exhibit or Laboratory Item No.
17 71.

18 MR. WARBURTON: Thank you.

19 Q That's all the questions we have.

20 CROSS EXAMINATION

21 BY MR. LOOKABILL:

22 Q Sgt. Wilmore, where did you get each of these items,
23 where did you get the clothing?

24 A The clothing and the blue and white striped towel were
25 given to me on July the 19th by Trooper Austin Hall at the Radford
26 Police Department.

1 Q Where did you get the hair sample from, Mrs. Davis?

2 A Yes, sir.

3 Q The green cap for the cleaner, where did you obtain
4 that?

5 A That was obtained on July the 29th from Sgt. Church of
6 the Dublin office.

7 Q Where were you at that time?

8 A I was at the Dublin office.

9 Q And you took that item or these items to the lab just as
10 soon as you obtained them?

11 A I took the cleanser cap the next day. I took it on the
12 30th. I didn't obtain it until late in the afternoon of the 29th.

13 Q The other items I assume you had in your possession
14 until such time as you transported them to the lab?

15 A Yes, sir.

16 Q Where were they, in your car?

17 A Yes, sir.

18 Q Locked?

19 A Yes, sir.

20 Q And the cap that was taken the next day, where did it
21 stay overnight until it was taken to the lab?

22 A It was also locked in the car.

23 Q And you transported these yourself?

24 A Yes, sir.

25 Q That's all, thank you.

26

(The witness stands aside and leaves

1 the courtroom.)

2 MR. SHOCKLEY: Your Honor, the Commonwealth would call as our
3 next witness Mrs. Jenette Wilkins. Mrs. Wilkins is the custodian
4 of the medical records at the University of Virginia Hospital in
5 Charlottesville. I obtained from her certain medical records on
6 Gina Renee Hall. I've provided copies of these to defense counsel
7 and they agreed to stipulate that these were the medical records
8 in lieu of having Mrs. Wilkins here to testify and we would intro-
9 duce these medical records to show that Gina Hall has Type O
10 blood. We would offer these medical records as our next exhibit,
11 Your Honor.

12 THE COURT: All right, let the exhibit be received and
13 marked.

14 MRS. PATRICIA PERDON HAMBY,
15 a witness called on behalf of the Commonwealth, after being first
16 duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. SHOCKLEY:

19 Q State your name, please.

20 A Mrs. Patricia Perdon Hamby.

21 Q And Mrs. Hamby, where do you live?

22 A I live in Joilet, Illinois.

23 Q And how long have you lived in Illinois?

24 A Since the first of November of this year.

25 Q And where did you live prior to that date?

26 A In Roanoke, Virginia.

1 Q And what is your occupation now in Illinois?

2 A I'm a forensic scientist with the Bureau of Scientific
3 Services, Department of Law Enforcement, for the State of Illinois.

4 Q And what was your occupation when you live in Virginia?

5 A Forensic scientist with the Western Regional Laboratory
6 of the Bureau of Forensic Science of the Commonwealth of Virginia

7 Q And in what area of forensic science do you categorize
8 your speciality?

9 A The speciality is forensic serology.

10 Q And what is serology exactly?

11 A The term applies to the, to examination of evidence that
12 includes blood, blood stains, body fluids, body fluid stains and
13 hairs.

14 Q What is your educational background, please.

15 A I have a Bachelor of Science from Michigan State Uni-
16 versity and a Master of Science from Michigan State University.

17 Q And when did you begin your employment with the Consoli-
18 dated Laboratories in Virginia?

19 A In September of 1978.

20 Q Where were you employed prior to that time?

21 A Immediately prior to that I was with the crime laboratory
22 system of the State of Michigan from 1973 until 1978, before that
23 with the Kiahowga (spelling by enunciation) County Coroner's
24 Laboratory in Cleveland, Ohio, from 1964 until 1973.

25 Q Since 1964 is it safe to say that your employment has
26 been in, as a forensic scientist in the field of serology?

1 A Yes, that would be.

2 Q To which professional organizations to you belong?

3 AMR. LOOKABILL: Your Honor, we are willing to stipulate her
4 qualifications as a forensic scientist may it please the Court.

5 MR. SHOCKLEY: Well, Judge I think that even though she
6 will offer certain testimony, the jury, of course, is free to
7 accept it or reject it or give it whatever weight that they feel
8 it is entitled and I think that the jury should know something
9 about this woman's background involving cases--

10 THE COURT: All right, you may proceed.

11 Q Now, the question I just asked you is to which professional
12 organizations you belong, please.

13 A I am a member of the Midwestern Association of Forensic
14 Scientists and a Fellow in the American Academy of Forensic
15 Scientists and a member of the Forensic Science Society of Great
16 Britan.

17 Q Have you had any specialized training since you have
18 been in the field of forensic science?

19 A Well, in addition to on the job training I have had the
20 opportunity to attend two schools sponsored by the FBI, one in the
21 examination of hairs and fibers, the other in the biochemical
22 methods of analysis of blood stains.

23 Q When you were in Virginia, you may have touched upon
24 this already, but what were your job functions in the laboratory?

25 A My functions were the examination of physical evidence
26 submitted to the laboratory, the examination of that evidence

1 primarily for blood, blood stains, body fluids, body fluid stains
2 and hairs, the identification of those materials and comparisons
3 and evaluations of those materials.

4 Q I'd like to ask you if you have participated in the in-
5 vestigation that the Commonwealth has conducted in the case of
6 Commonwealth v. Stephen Epperly?

7 A Yes, I have.

8 Q First of all before we get into the results of any
9 physical evidence, I'd like for the Court and the jury to know
10 those items that you had to work with for comparison purposes.
11 Of course, we've mentioned the medical records of Gina Hall that
12 have been introduced.

13 MR. SHOCKLEY: Your Honor, it may take me a few minutes.
14 I've got so many exhibits here.

15 THE COURT: That's all right. Take your time.

16 Q --if you've seen these set of curlers before?

17 A Yes, I have.

18 Q O.k., did you receive those at the laboratory?

19 A I did.

20 Q All right, I'll get in in a few minutes as to what things
21 were done with the hair.

22 I'd like to ask you to look at Laboratory Item No. 36 identified
23 previously as the head hairs of Diana Hall and ask you if you
24 used those particular hair samples in your analysis?

25 A I did.

26 MR. SHOCKLEY: Your Honor I would offer Laboratory Item No.

1 36 into evidence at this time. I do not think it has previously
2 been admitted. The curlers have been.

3 Q I'd like to ask you to look at Laboratory Item No. 47
4 previously identified as the pubic hair and--excuse me the pubic
5 hair of the defendant Stephen Epperly and ask you if you had the
6 benefit of those in your examinations?

7 A Yes, I did.

8 MR. SHOCKLEY: Your Honor, we would offer those into evidence
9 at this time as the next Commonwealth's exhibit.

10 THE COURT: All right, let these exhibits be accepted
11 unless there is some objection to them.

12 MR. WARBURTON: No, sir.

13 Q I'll ask you if you had the benefit of Laboratory Item
14 No. 45 previously identified as the head hair from the defendant,
15 Stephen Epperly?

16 A Yes, sir, I did.

17 MR. SHOCKLEY: Your Honor, we would offer that into evidence
18 as the next Commonwealth's exhibit.

19 Q When you worked with these hair curlers did you remove
20 certain hairs from them?

21 A Yes, I did.

22 Q Did you find certain hairs present on them?

23 A I did.

24 Q And did you identify those by Laboratory Item number?

25 A Yes, after I removed I then, following my examination
26 I have repackaged them thusly.

1 Q As Laboratory Item No. 25?

2 A Yes.

3 MR. SHOCKLEY: We would offer Laboratory Item No. 25 into
4 evidence as the next Commonwealth's exhibit, Your Honor.

5 Q I'd like to ask you if you had the benefit of Laboratory
6 Item No. 37 previously identified as the head hairs of Mr. S. E.
7 Bodner?

8 A Yes, I did.

9 Q Your Honor, we offer Laboratory Item No. 37 into evidence
10 as the next Commonwealth's exhibit.

11 THE COURT: How do you spell that name?

12 MR. SHOCKLEY: He's seated over here, maybe he'd best do it
13 for us.

14 MR. BODMER: Bo-d-m-e-r.

15 MR. SHOCKLEY: "M", Bodmer, I guess.

16 Q And have you looked at Laboratory Item No. 50 that's
17 previously been identified as a sample of the carpet from the den
18 of the Davis home and I ask you whether you did any analysis on
19 that yourself or whether you came in possession of it?

20 A I came in possession of it. I did not conduct any
21 analysis on this particular item.

22 Q All right, what did you do with this particular item of
23 evidence?

24 A This item was turned over to another analyst for addi-
25 tional examinations.

26 MR. SHOCKLEY: Your Honor, we have that analyst here. He

1 will testify after Mrs. Hamby. I will get ahead at this time and
2 introduce it into evidence.

3 THE COURT: All right, sir.

4 Q Mrs. Hamby I want you to look at your Laboratory Item
5 No. 1 and Commonwealth's Exhibit No. 61 which has been identified
6 as the carpeting out of the Hall vehicle and ask if you have done
7 an examination on this particular carpet?

8 A Yes, I have.

9 Q I'll give you a pointer and in just a minute I'll ask
10 you some questions about it.

11 MR. SHOCKLEY: Your Honor, this is sort of difficult to hold
12 up. I don't know whether it will be best for the jury to stand
13 around it over here or--

14 THE COURT: Well, you can do that or why not let two of these,
15 two of your gentlemen just hold it up like they've been holding
16 up the other exhibits and the witness can come around to the front
17 around to the front and stand right in front of this microphone.

18 Q If you would I'll just turn the floor over to you on
19 this article and ask you what tests were conducted and the results
20 of those tests.

21 A The item I received was examined first of all for the
22 presence of any foreign material on it. Loose material which
23 was adhering to it was removed and packaged separately. Following
24 that the item was examined for the presence of any stains which
25 might be blood stains. Those areas which were evaluated are
26 circled with the orange marking pencil. These are the areas

1 which I tested, and this was a control area which I cut, an area
2 that did not indicate any suspicious staining.

3 Q Excuse me, I missed the point you said where the control
4 area was.

5 A The area that's marked with a square is a control area.
6 that did not exhibit any suspicious staining.

7 Q May I ask you at this point, you have various types of
8 configurations shown with your red or orange pencil. Is that the
9 pattern of the staining or is that just your way of drawing a
10 circle around it or what?

11 A No, I was marking the margins of the stains that I
12 observed at the time this was received in the laboratory.

13 Q Uh hum.

14 A And as you can see I then cut areas from these various
15 areas for testing. Do you wish me to discuss what I found
16 at this time?

17 Q First of all if you would, if you would tell us what
18 items if any, you may have removed and packaged separately for
19 further analysis and after you do that if you would tell us what
20 results you may have conducted on the staining of the carpet.

21 A The items removed was debris that was on the surface of
22 this carpet and that included some fibers.

23 Q O.k., and I believe another gentleman at the lab did the
24 fibers, is that correct?

25 A That is correct.

26 Q Did you remove any hairs from the carpet?

1 A Yes, I did; that was also in the debris that was removed
2 from the, from the carpet, and those I examined at a later time.

3 Q O.k., all right. Now if you will tell us about the
4 staining please.

5 A There were several dark areas of staining, areas in
6 which I identified blood was this area at the lower portion of the
7 carpet, this long streak there were two areas in here that I
8 identified blood and also blood was found here and here. So we
9 have four, --excuse me, /five areas in which blood was found; human blood, Group
10 O human blood was identified in this area of the carpet.

11 MR. SHOCKLEY: Your Honor, for the record I'd like to show
12 that the carpet is being held so that the writing she has put on
13 it is in the upper left-hand corner as you would face the carpeting
14 and the stained areas that she has referred to have been in the
15 right center and extreme right-hand side of the carpeting.

16 Q Is there any way you can designate on there any type of,
17 can you write with this type of pen?

18 A As far as numbering areas for example?

19 Q Well, that might not be a bad idea if you would maybe
20 number each area and then, you know, we can describe or we can
21 discuss each numbered area at a later time.

22 A Yes, that would help.

23 Q O.k., you have labeled 1,2,3,4 and 5, is that correct?

24 A That is correct. Those are the areas in which blood was
25 identified and additional tests were then conducted.

26 Q Were you able to draw any type of conclusion as to the

1 type of blood found in these various stained areas?

2 A Yes, the tests on Areas 1, Areas 2 and 3 yeilded results
3 consistent with Blood Group O, human blood Group O.

4 Q O.k., and what about 4 and 5?

5 A I have to look back at my notes on this but I know that
6 in 5 I was just able to detect blood.

7 Q Were you able to determine whether it was human blood?

8 A Not in area 5.

9 Q All right.

10 A And in Area 4 I'm not sure whether I detected the human--

11 Q All right, will you please refer to your notes just
12 a second.

13 A If I may correct myself, Area 1, I found human blood in
14 Area 1. I was not able to determine the type in that particular
15 stain.

16 Q Why would that be?

17 A It has, well, many things can happen to a blood stain
18 which will prevent our doing additional identifications such as
19 identifying the human protein. There has to be a certain amount
20 of protein in the stain to give a result and I did not find enough
21 of the blood group substance there to be able to type it. It's
22 Areas 2, 3 and 4 that I was able to determine the blood type.

23 Q Did you ever measure perhaps the diameter of any of
24 these stains or square inches or anything like that. Can you
25 roughly tell us about the size of the stain, the actual, the blood
26 stain itself?

1 A Well, the stains each of them are several inches in
2 size. Some are only about two inches in diameter. You have one
3 that is approximately two inches by maybe 8 or 9 inches in diameter.

4 Q Now going back to the hairs that you removed from the
5 curlers, can you tell me--and I know it's somewhat complex because
6 I've talked to you about it before but can you relate to the
7 Court and the jury the procedures you followed in an effort to
8 try to determine whose hairs were what on the curlers. Do you
9 need A some pad and pencil?

10 A It might be helpful.

11 Q It might be best if I pulled this around--I think this
12 will set up there.

13 You are the expert here so I'm going to, if I could turn the
14 floor over to you and again now I'm concerned with the curlers and
15 what procedures you followed in reference to the curlers and any
16 type of conclusions that you were able to draw, you know, that
17 examination.

18 A All right, sir. The--

19 THE COURT: Yes, step around, please ma'am, and you can
20 bring your notes with you if you need them.

21 A The examination of the hairs and those of Item 36 was
22 conducted to determine if there were any hairs present on those
23 curlers which were not like those in Sample 36.

24 Q Now 36, to back up just a second, is Diana's hair, I believe
25 that correct?

26 A That is correct.

1 Q O.k.

2 A So the hairs were mounted on glass slides for examination
3 at various degrees of magnification and under conditions that would
4 allow me to look at the hairs for their general color characteristics
5 and also to look inside the hairs for their internal characteristics.
6 Procedures we go through in this type of examination, first of all
7 would be the examination of the hair itself and this is just a
8 short example of the hair (diagrams). This being a root area of
9 the hair and then from here out to about here we have what would
10 be referred to as the shaft of the hair and then the very end of
11 the hair, of course, is the tip of the hair. We note the color
12 of the root, we note what type of pigmentation appears in the root;
13 we note whether hairs have a natural pointed tip on them, whether
14 or not the hair had been cut or if they have split tips and then
15 when we mount the hairs we also examine the internal area of the
16 hair and we select for the most part an area in the central portion
17 of the hair for that detailed examination. When we look at the
18 central portion of the hair shaft, we will see this type of
19 structure (diagrams). There is an outer layer of scales on the
20 hair and that is what is being depicted by these lines in the
21 diagram. If this area back here is towards the root of the hair
22 and this area is towards the tip, then the scale which comprise
23 this layer of cuticle are going to point in this direction (indi-
24 cates), and we will see this sort of a pattern on the cuticle of
25 the hair, overlapping scales. If you will imagine the skin or
26 surface of a fish, there are overlapping scales there. This has

1 somewhat of that appearance so we have that characteristic and
2 these scales, some can be protruding or referred to as prominent
3 and they will stick out like these do (indicates). Other times
4 the scales can be very tight overlapping and the margin will
5 appear smooth as is indicated here.

6 We can look at the internal structure of the hair and one of
7 the main features of the hair will be a channel through the center
8 of the hair which is called a medulla. This is an open, an _____
9 (unintelligible) open structure in the hair. It may be contin-
10 uous as this one is or--we'll indicate here--it may have a break
11 in it so it may be interrupted. There are variations in the
12 appearance of the central portion of the hair. The area surround-
13 ing this central canal is referred to as the cortex and it is in
14 this portion of the hair that pigment is located and pigment may
15 appear in a very even distribution of particles or you may see
16 clustering of particles and so differences in the appearance of
17 the pigment in the cortex are used in the evaluation of hairs.
18 There may also be air sacs or air pockets in the hair called
19 fossi and we look at those under the microscope also and note
20 whether hairs have them or are devoid of them.

21 The hairs then which I received on the curlers were examined
22 for characteristics such as are indicated here. The hairs in
23 Sample 36 were also examined for those characteristics and it was
24 found that there were hairs on the curlers which were different
25 from those in Item 36.

26 Q Now taking Item 36, the head hairs known to be from
Diana Hall and comparing them with the hairs found on the curlers

1 unlike those known to be Diana Hall, can you say without a doubt
2 that they couldn't have come from the same person or is there a
3 possibility or, you know, you're the expert?

4 A The characteristics which I examined I could not assoc-
5 iate some of the hairs from the curlers with those of Diana and
6 in my opinion they are not from Diana.

7 Q Now how many times have you had occasion to examine
8 hairs in the laboratory, laboratory setting, where you have had,
9 let's say the known hairs on both ends. In other words, you've
10 had the known hairs from Person A, the known hairs from Person B
11 and you have an unknown hair. How many times have you conducted
12 hair sampling or testing for comparison purposes?

13 A Several thousand times.

14 Q Can you tell me, can you be a little more specific, how
15 many would several thousand be?

16 A The only thing I can do is give you a time estimate in
17 saying that I have examined several 100 cases a year and I have
18 been doing it since 1964.

19 Q Out of the several thousand that you have examined, how
20 many times have you ever run across two people where you could not
21 differentiate their hair. In other words you take my hair and
22 Mr. Russell's hair and compare them, do that type of thing. How
23 many times do you run across known hair samples of different
24 people, put them together and have been able to not differentiate?

25 A I have only had that occurrence happen about five times.

26 Q Five times out of several thousand?

1 A Yes, sir.

2 Q Is it safe to say then that in the other cases you are
3 able to differentiate between my hair and yours and somebody else's?

4 A Yes, sir.

5 Q All right, is there anything else that you would like to
6 describe to the jury? Would it be beneficial to them to show not
7 only a side view through the hair but what about down through the
8 shaft. Would that be beneficial you think to the jury to show
9 them a diagram down the shaft.

10 A We can certainly add that. The appearance of the cross
11 section of the hair is used more for the differentiation of the
12 race of the individual and the hairs in this particular instance
13 are classically Caucasian hairs in that the cross section appearance--
14 I'll put it right here. The hair is slightly oval. You have the
15 medulla in the center and you have the rim of cuticle around the
16 outside edge and again you have the flecked pattern created by the
17 pigment. This, of course, differs from Mongoloid hair which is
18 much more, much larger, more round, more uniform in appearance as
19 compared to Negroid hair which is more of a flat ribbon hair in the
20 cross sectional appearance.

21 Q Be seated if you would, please. Now again, I'm not
22 trying to put words in your mouth or anything, but was it your
23 testimony that in your opinion there were certain hairs on the
24 curlers, found on the curlers that you removed that were not those
25 of Diana's?

26 A That's correct.

1 Q Now you testified previously that from the carpet you
2 took certain hair samples, is that correct?

3 A Yes, si did.

4 Q I'd like you to look again at a portion of Laboratory
5 Item No. 1 and ask you if you conducted---tell me what it is first
6 of all and then tell me what testing you conducted.

7 A These are the packages in which I placed the hairs re-
8 moved from the trunk carpet following my examination, and the ex-
9 amination conducted on those was to compare them with the other
10 submitted hairs.

11 Q Tell me what type of hairs, first of all that you found
12 when you removed the debris from the carpet.

13 A May I refer to my report, please?

14 Q Sure.

15 A There were head hairs found and there were pubic hairs
16 found in the trunk of the car.

17 Q And did you compare the head and pubic hairs found in
18 the trunk of the car with any of the known samples that I have
19 previously shown to you?

20 A Yes, I did.

21 Q Would you tell me what comparisons were made and what
22 conclusions were drawn.

23 A The pubic hairs were compared against the submitted
24 pubic hair sample from the suspect which was Item 47.

25 Q Mr. Epperly?

26 A Yes.

1 Q O.k. And what result did you make there?

2 A That the pubic hairs were not similar to and were not
3 consistent with his hair sample.

4 Q O.k.

5 A The Caucasian head hairs were found, of those found--

6 Q How many, please.

7 A There were six found altogether, I believe, two of which
8 were found, which were similar to the head hairs of Diana Hall,
9 Item 36, three of which were similar to the hairs from the curlers
10 but were different from those of Diana Hall, and also there was
11 one very light Caucasian head hair which did not exhibit enough
12 features for comparison purposes.

13 Q Did you find anything else, you mentioned the fibers.
14 Did you examine the fibers?

15 A The fibers were packaged for examination by another
16 analyst.

17 Q Did you conduct any examination whatsoever on the fibers?

18 A I examined or just visually examined them under the
19 microscope and noted their microscopic characteristics.

20 Q Mr. Porter is the one who actually conducted the exami-
21 nation on them?

22 A Yes, he conducted the additional examinations.

23 MR. SHOCKLEY: Your Honor, I would offer the six hairs testified
24 to, a portion of Laboratory Item No. 1, into evidence as the next
25 Commonwealth's exhibit.

26 Q Did you have any known pubic hairs of Gina Hall to work

1 with?

2 A No, sir, I did not.

3 Q Now, I'd like you to look at Laboratory Item No. 4, and
4 tell me if you had an occasion--this has previously been identified
5 as a swab took by Mr. Williams.

6 A Yes, sir.

7 Q And Mr. Williams testified that this was a swab taken
8 from the light switch at the first floor bathroom. Would you
9 tell me what you have there and what tests were conducted, please.

10 A What remains in the package now is a portion of this
11 swab which was received. The portion which was used in testing
12 has been discarded. On this particular swab I was able to deter-
13 mine the presence of human blood.

14 Q Were you able to determine the type of that blood?

15 A No, I was not.

16 Q Was there any certain reason for that?

17 A This was a very small amount of staining on the swab.

18 Q Human blood, unable to determine the type, is that correct?

19 A Yes, sir.

20 MR. SHOCKLEY: Your Honor, we would offer Laboratory Item No.
21 4 into evidence as the next Commonwealth's Exhibit.

22 THE COURT: All right, sir.

23 Q Mrs. Hamby, I refer you to Laboratory Item No. 15 that's
24 previously been identified by Mr. Williams of the Radford Police
25 Department as the light switch plate that was in the same bathroom.

26 A Yes, sir.

1 Q O.k., would you tell me what tests were conducted on
2 that please.

3 A The staining which was on this particular item was sub-
4 jected to the routine testing for blood and species origin and
5 blood type.

6 Q O.k., what results did you make or come to?

7 A That the staining that was found is human blood, Group
8 O.

9 Q Did you make any marks on that light switch plate to
10 indicate from where you had obtained your sources of blood or are
11 they obliterated by the fingerprint powder?

12 A I'm afraid they are now obliterated if I had marked them.
13 I don't believe I did.

14 MR. SHOCKLEY: Your Honor, we would offer Laboratory Item
15 No. 15 into evidence as the next Commonwealth's Exhibit.

16 Q Now I refer you to Laboratory Item No. 8 that's previously
17 been identified as a swab from the actual switch of the light in
18 the first floor bathroom, and ask you if you've seen that and if
19 so what tests were conducted and what conclusions you came to.

20 A This package now contains again a portion of the swab
21 which had been submitted and the analysis conducted resulted in a
22 determination of human blood present in the swab from the light
23 switch.

24 Q Human blood?

25 A That's all I was able to determine.

26 MR. SHOCKLEY: Your Honor, we would offer Laboratory Item

1 No. 8 in evidence as the next Commonwealth's exhibit.

2 Q Mrs. Hamby, I refer you to Laboratory Item No. 11 which
3 has previously been identified as a stain taken from the walkway
4 outside the sliding glass doors.

5 A Yes, sir.

6 Q And what testing did you do and what results did you
7 reach?

8 A Again the swabs which have been contained in this enve-
9 lope and there are portions of them still present, were subjected
10 to the routine testing and I was able to determine that there
11 was human--excuse me, I want to be absolutely sure here. Yes,
12 human blood was found on the swabs but there was not enough to
13 determine blood type.

14 MR. SHOCKLEY: Your Honor, we would offer Laboratory Item
15 No. 11 as the next Commonwealth's exhibit.

16 Is that No. 11 I give you. I'm sorry, Your Honor, I mis-
17 identified this. No. 11 was the stain from the carpet so I want
18 to identify that. I know she doesn't know the source of this
19 blood, but Item No. 11 I misidentified. It's not the stain out
20 in front of the walkway.

21 A It is from the carpet.

22 Q From the carpet?

23 A From the carpet, yes, sir.

24 Q Now I'll ask you about Laboratory Item No. 13 which has
25 previously been identified as the stain taken from the walkway out-
26 side the sliding glass door.

1 A Item 13 contains portions of the swabs which were ori-
2 ginally submitted, and here human blood was identified but there
3 was not enough to determine type.

4 MR. SHOCKLEY: We would offer Laboratory Item 13 into evidence
5 as our next exhibit, Your Honor.

6 Q Now since we have started on the carpet, I will refer you
7 to Laboratory Item No. 12 which has previously been identified
8 as carpet fibers from the stained area in the carpet of the den
9 of the Davis home.

10 A The packaging there is my identification. The fibers
11 were used in the analysis but the fibers did containing and that
12 staining was identified as human blood, Group O.

13 MR. SHOCKLEY: Your Honor, we would offer Laboratory Item
14 No. 12 into evidence as the next Commonwealth's exhibit.

15 Q Mrs. Hamby I refer you to Laboratory Item No. 7 which
16 has previously been identified as a stain from the side of a
17 chair down in the rec room of the Davis home.

18 A Yes, sir, the packet contains a portion of the swab and
19 the analysis on that particular swab I was able to identify human
20 blood, but again not enough to determine type.

21 MR. SHOCKLEY: Your Honor, we offer Laboratory Item No. 7
22 into evidence as the next Commonwealth's exhibit.

23 Q Backing up just a second to the bathroom, I forgot one
24 item. I refer you to Laboratory Item No. 29 which has previously
25 been identified as a swab taken of a stain on the nozzle of the
26 faucet.

1 A Yes, sir. this packet contains a portion of the swab
2 which was analyzed and human blood was identified on that swab.
3 Again there was not enough to determine type.

4 MR. SHOCKLEY: Your Honor, we would offer Laboratory Item No.
5 29 into evidence as the next Commonwealth's exhibit.

6 Q Now we are going to move into the utility room of the
7 house. I want to refer you to Laboratory Item No. 14 which has
8 previously been identified as a portion of the rubber molding
9 taken from the refrigerator door.

10 A Yes, sir.

11 Q Would you tell me what tests were conducted and what
12 conclusions you made.

13 A Again tests were conducted to determine if there was
14 blood present and what the species origin was and if possible the
15 blood type. There was human blood identified on this item. There
16 was not enough to determine the type.

17 MR. SHOCKLEY: Your Honor, we would offer Laboratory Item
18 No. 14 into evidence as the next Commonwealth's exhibit.

19 Q Mrs. Hamby, I refer you to Laboratory Item No. 17 which
20 has previously been identified as an orange water pitcher or juice
21 pitcher taken from the utility room area of the Davis home.

22 A Yes, sir.

23 Q And again what tests were conducted and what conclusions
24 did you make?

25 A A test to determine whether there was blood present, the
26 origin and the type were conducted on this and human blood,

1 Group O was identified on this item.

2 Q Did you make any type of designation on that pitcher as
3 to where you found your spots of blood?

4 A I did. The "x's" which are--

5 Q If you would come on down so the jury can see them a
6 little closer.

7 A I marked a small "x" on the outside surface of the
8 pitcher to indicate an area of staining and also, you would have
9 to tip this back and forth to see there are two areas marked
10 with an "x" on the inside of the pitcher, small stains which were
11 identified on this item.

12 Q Can you tell me the number of "x's" that you put on
13 there?

14 A It appears I have some that are getting rubbed off here.
15 There are three very definite spots and two others maybe, but there
16 are three definite spots.

17 Q Can you tell me something about the approximate diameter
18 of the spots that you found on that pitcher.

19 A The staining which was found on this item the spots were
20 all less than a quarter of an inch in size.

21 Q Now let's suppose that I had cut my finger or got hit
22 in the nose, had a bloody nose or cut my toe, had some sort of
23 superficial wound, let's say, not a mortal wound but a wound that
24 I would fix with a gauze or something. If I were standing here
25 dripping blood, can you tell me, and the blood was free, you know,
26 to fall. I was not moving around or anything. Can you tell me

1 the approximate size that a drop of blood would make when it hit a,
2 assuming a flat surface like this and one that was relatively
3 smooth?

4 A Yes, sir.

5 Q O.k.

6 A The size spot that would be created by a whole drop of
7 blood falling that manner would be between five eighths of an
8 inch and three-quarters of an inch in size.

9 Q And what did you say the size were on these spots that
10 you've identified on the orange pitcher?

11 A None of these spots were more than a quarter of an inch
12 in size.

13 Q Did you tell us about the analysis of the spots, what
14 you found.

15 A Yes, human blood, Group O was identified on those.

16 MR. SHOCKLEY: Your Honor, we would offer the pitcher, Item
17 No. 17 on the lab sheet into evidence as the next Commonwealth's
18 exhibit.

19 Q Mrs. Hamby, I ask you to look at this dust pan and ask
20 you if you have examined it before please.

21 A Yes, I have.

22 Q And what tests were done on it and what conclusions did
23 you reach?

24 A Again the test conducted was to determine if there was
25 blood staining present, the species origin and blood type.

26 Q And--

1 A And the results of the analysis were that human blood,
2 Group O was identified on this particular object.

3 Q Have you designated on that dust pan where you found
4 any spot or spots of blood?

5 A Yes, I did.

6 Q And would you hold it up and let the jury see where you
7 made your mark.

8 A I have placed a mark in this corner of the dust pan to
9 indicate the area of where I found staining which I then removed
10 and analyzed.

11 MR. SHOCKLEY: Your Honor, let the record show that if you
12 were holding the dust pan with the blade away from you that the mark
13 is a black "x" in the lower right-hand portion nearest the heel
14 of the dust pan.

15 Q And again did you, the results of the blood type?

16 A Group O human blood.

17 Q Group O human blood. What about the size of that parti-
18 cular spot of blood. Do you recall, if you don't--

19 A I don't. I can remaining here some tiny margins of
20 staining but I do not recall the exact size of the stain on that.
21 There are some other small red brown stains still remaining on
22 this item.

23 Q Did you analyze this over here or whatever else you
24 referred to?

25 A No, I did not. They bear the appearance similar to the
26 area which was analyzed but these were not analyzed.

1 MR. WARBURTON: What's the laboratory item number.

2 MR. SHOCKLEY: I'm sorry. This is Item No. 18 offered into
3 evidence as the Commonwealth's next exhibit.

4 Your Honor, we refer now to Commonwealth's Exhibit No. 48,
5 a pair of brown shoes which is Laboratory Item No. 19, I believe.

6 Q And Miss Hamby I'd like to ask you if you have conducted
7 an examination on these shoes?

8 A Yes, sir, I have. I examined these items for the pre-
9 sence of any blood staining and also the subsequent tests for
10 species origin and blood type and the result of my examination,
11 there was blood staining found on the outside tip areas of both
12 shoes.

13 Q If you would, again I hate to bother you, but if you
14 would come down and with a pointer maybe show approximately where
15 the stain was located and the approximate area that was taken up
16 by the stain.

17 A The area that exhibited--

18 Q Put them right down there maybe.

19 A The area that exhibited staining was primarily on this
20 toe portion of the shoes and on the edge of the sole at the toe of
21 both shoes, very small stains in this area. One of the stains--
22 and I don't recall now which shoes--was a drop had hit it right
23 at this curve, droplet had hit and ran slightly down, but most of
24 the stains were very tiny, red brown crusted stains on the toes
25 of the shoe, and the left shoe there was also a small minute red
26 brown crusted stain on the inside surface of the shoe.

1 Q What would have been the approximate diameter of that
2 stain on the inside of the left shoe?

3 A Less than an eighth of an inch in diameter.

4 Q Now to take the pointer from you just a second, you've
5 talked about the edge of the shoe and you've gone from the stitching
6 where you have a, it looks like something almost stitched onto the
7 top of the toe. You've gone from the stitching on the inside to
8 the stitching on the outside. Was the blood all around that far
9 or was it just up here in the front. Can you show me the outside
10 perimeters.

11 A They were flecks of red brown staining all over this
12 area on the toes of the shoes.

13 Q Did you have any larger surface areas anywhere other than
14 just the specks here and there?

15 A No, sir, all the stains were very small.

16 THE COURT: Did she give the result of her tests on the shoe.

17 A No, sir.

18 Q If you would, please.

19 A The staining on the outside of the shoes was identified
20 as Group O human blood. The stain which was on the inside of the
21 left shoe I was able to determine it was human blood but I could
22 not determine the type.

23 Q Now I want to refer you to Laboratory Item No. 20, a golf
24 shoe and ask you if you have conducted any examination on that
25 please.

26 A Yes, sir, I did. The examination was the, first of all

1 the inspection of the shoe for any staining and foreign material.
2 I removed a hair from the cleat at the toe and the red brown
3 staining which was present on the sole of the toe and out on this
4 forward edge of the sole.

5 Q Now was this specked staining that you've described,
6 just being specks all over the shoe, was this different in any
7 way?

8 A This was a smeared red brown stain. This was not a
9 fleck of blood. This was a smear across this area.

10 Q And what results as to the type of blood?

11 A Group O human blood was identified in the area of
12 staining on the toe of the shoe.

13 Q What type of hair did you remove from the cleat of that
14 shoe?

15 A The hair that was removed was a Caucasian pubic hair.

16 Q Did you compare it with any other pubic hairs?

17 A I compared it against the pubic hair sample from Mr.
18 Epperly and it was not similar to that hair.

19 MR. SHOCKLEY: Your Honor, we offer the golf shoe, Laboratory
20 Item No. 20 into evidence as the next Commonwealth's exhibit.

21 Q Mrs. Hamby, I have a mattock here previously introduced
22 as Commonwealth's Exhibit No.50 and its your Laboratory Item No.

23 21. I'd like to ask you if you have seen this and if you conducted
24 any sort of examination on it. It's kind of heavy.

25 A You can balance it there. Yes, my identification is on
26 the side of that and I examined it for blood stains and found

1 Group O human blood on this particular blade of the mattock.

2 Q You are referring to the larger blade?

3 A The larger shovel like blade.

4 Q Now was this specked blood, how was it, or was it
5 smeared. You know, you are going to have to tell us.

6 A I'm sorry I don't have a description of the staining.

7 Q But it was Group O human blood?

8 A Group O human blood.

9 Q Mrs. Hamby, the type of blood stains found on the toe
10 of the shoes, the brown shoes, Commonwealth's Exhibit No. 48,
11 would that be consistent or inconsistent with the drop of blood
12 that we've talked about if I had a cut finger or bloody nose?

13 A The type of staining which was on the shoes is not con-
14 sistent with the staining I described as that caused by a bloody
15 nose or a cut finger.

16 Q Do you have enough information in your mind to make that
17 same assessment with reference to the stain found on the mattock,
18 Commonwealth's Exhibit No. 50.

19 A No, sir, I don't.

20 Q Now as to the refrigerator door, I'll bring that to
21 you. Again I'm going to ask you if you would to come on around
22 so you can point this out to the jury exactly what you found.

23 MR. LOOKABILL: What item number is that?

24 MR. SHOCKLEY: I'm sorry. This is Commonwealth's Exhibit No.
25 49 which is Laboratory No. 31.

26 Q I'll just turn it over to you again if I might.

1 A When the item was received in the laboratory I observed
2 faint streaks of beige color staining running down the face of
3 the refrigerator door and on the base of the refrigerator door.
4 You might want to turn this upside down.

5 Q O.k.

6 A On the base of the door was some of what I would describe
7 as puddling of red brown staining.

8 Q May I stop and ask if this is blood here?

9 A This is blood in this area, and it is consistent with
10 the streaks of staining which were visible on the face of the
11 door. I was able to determine the presence of human blood on the
12 refrigerator door. I was not able to determine blood type.

13 Q May I ask you why.

14 A In the test which is conducted to determine blood type
15 we are looking at reactions of actual red blood cells in our test
16 procedure, not those from the stain but those which we add in the
17 course of the test. Something on this particular object was
18 destroying those cells and each time I determined or attempted to
19 determine the blood type, the cells which would give me an answer
20 would be destroyed so I was not able to determine blood type.

21 Q Do you know what may have been on the door to do that?

22 A I do not.

23 Q Now I see that you have an "X" mark on the bottom of the
24 door and you have a couple, an "X" mark there and there is also
25 appears to be some black dots. Let me turn it back up again.
26 Did you make any designations there for any reason?

1 A The "X's" which I placed, one of which is in this area
2 another here in this area, and one which is on the bottom of the
3 door which you can't see now because it's turned back over, these
4 are the areas that I lifted stains for the tests which I conducted.
5 I really don't know what the other marks refer to.

6 Q Did the streaks that now appear on the door--there appear
7 to be some vertical lines running. Is that what you saw or is
8 this somehow different or--

9 A Well, what is here now has been given a different
10 appearance by the presence of fingerprint powder but it does--The
11 staining which was there is holding some of that powder so it is
12 showing the streaked appearance of the door as I saw it, but not,
13 of course, in the light beige color which I saw it.

14 Q O.k., did you find anything else on the door?

15 A Yes, sir, I did.

16 Q Could you tell me what that was please.

17 A I removed hairs from the door and there were fibers
18 associated with those hairs.

19 Q Fibers and hairs?

20 A That's right.

21 Q Now I show you a packet which is a portion of Laboratory
22 Item No. 31 again and ask you what that is please.

23 A These are the packages which contain the hairs which I
24 removed from the door.

25 MR. SHOCKLEY: Your Honor, we would introduce this packet of
26 hairs, a portion of Laboratory Item No. 31 into evidence as the

1 next Commonwealth's exhibit.

2 Q Would you tell me if you conducted any tests on those
3 hairs removed from the door, please.

4 A Yes, I did.

5 Q And what were your results?

6 A I determined that there were five Caucasian head hairs
7 which were similar to those from the curlers but were different
8 from those of Diana Hall. We are talking about curlers, Item
9 25 and Diana Hall's hairs, Item 36. There were also Caucasian
10 hairs in fragments which I was unable to associate with any of the
11 submitted hairs, and present with those hairs were some fibers.

12 Q And what did you do with those fibers?

13 A The fibers were inspected and then packaged for transfer
14 to another examiner.

15 Q I'd like for you to look at this blue towel, previously
16 admitted as Commonwealth's Exhibit NO. 51 as Laboratory Item No.
17 39, and I'll ask you if you have conducted any sort of examination
18 on that towel.

19 A Yes, sir, I have.

20 Q And would you tell me what you did with that towel
21 when you received it into your laboratory.

22 A When this item was received in the laboratory, it was
23 inspected first of all for the staining which was visible on it
24 and I determined initially that there was blood staining on the
25 item. Before conducting additional tests the item was scraped
26 with a large metal spatula and there was collected from the surface

1 of this towel a substantial number of fibers which were not con-
2 sistent with this particular item. Then the examinations, further
3 examinations were conducted on the staining, and I determined the
4 presence of Group O human blood on the blue towel.

5 Q Can you again please come down and show with a pointer
6 where you found or where you took your samples and where you
7 found blood.

8 A The item exhibits several areas of biege colored
9 staining, up in this area (indicates) and also it's apparent on
10 the other surface as well. As you notice some of this staining
11 (indicates) is a little bit darker.

12 Q Now are the stains that stand out as rust color or what-
13 ever are they blood?

14 A These stains, no. These are not.

15 Q O.k.,

16 A It's the stains which have a reddish brown appearance to
17 them. These stains also are streaks of--well it has the appearance
18 of diluted. It's not, again a drop of blood on something. That
19 would appear as a very, very dark red brown spot. These are very
20 light biege smears.all over this particular item.

21 Q Where did you find the fibers that were removed?

22 A The fibers were generally located on the surfaces of
23 the item. We held the item and scrapped it down on both sides
24 and obtained a packet of or a pile of fibers which were packaged
25 for further examination.

26 Q Can you comment on the quantity of fibers that were

1 removed?

2 A A lot of fibers.

3 Q And you say that you found human blood, Type O on the
4 towel?

5 A Yes, I did.

6 Q What did you do with the fibers, did you say you trans-
7 ported those to the other lab?

8 A Those were conveyed to the analyst in the Richmond
9 laboratory.

10 Q Did you find any hairs on this towel?

11 A Yes, sir I did.

12 Q I refer you to a portion of Laboratory Item No. 39 and
13 ask you if those are the hairs that you removed from the towel?

14 A Yes, these packages contain the hairs which I removed
15 from the towel.

16 Q And did you conduct any analysis on those hair samples?

17 A Yes, sir, I did.

18 Q And the results, please.

19 A There were found, first of all six Caucasian head hairs
20 which were similar to the hairs on the curlers, Item 25 which were
21 different from the hairs of Diana Hall, Item 36. There was also
22 found a Caucasian pubic hair and another Caucasian pubic hair
23 fragment and those were found to be different from the pubic hair
24 sample from Mr. Epperly, Item No. 47. There was also a Caucasian
25 hair fragment which could not be associated with any of the sub-
26 mitted hair samples.

1 MR. SHOCKLEY: Your HONor, I offer into evidence the balance
2 of Laboratory Item No. 39, the hairs removed.

3 Q Were the carpet fibers in that bag or just the hairs?

4 A Just the hairs. The fibers were sent on to another
5 analyst, examiner.

6 Q O.k., I have those fibers over here, I believe.

7 I want to back up just a second. I forgot one item with
8 reference to the golf shoe you talked about a pubic hair that was
9 taken off the cleat.

10 A Yes, sir.

11 Q I want to ask you what's contained in that bag?

12 A This package is the package holding the hair which was
13 removed from the golf shoe.

14 Q I refer to Laboratory Item No. 20.

15 MR. SHOCKLEY: Your Honor, this hair, we would offer into
16 evidence as the next Commonwealth's exhibit.

17 Q Just for the record, I have here Laboratory Item No. 44
18 which has previously been identified as body hairs from the de-
19 fendant, Stephen Epperly. Did you use these in any of your com-
20 parisons or was it necessary or--

21 A Those were used in initial inspections and I did not find
22 any hairs that were anything like those.

23 Q O.k., do head hairs differ from body hairs?

24 A Yes, sir, they do.

25 Q O.k., that's a silly question to you I'm sure but I
26 don't know the answer. I want to refer you Commonwealth's Exhibit

1 No. 60 which is Laboratory Item 64, I believe, right, blue and
2 white striped towel and ask you if you conducted any examination
3 on that please.

4 A Yes, sir, I did.

5 Q And the results of the examination?

6 A In the blege staining which was present on the item I
7 was able to determine that there was blood in that staining. How-
8 ever I was not able to determine if it was human in origin, and
9 similarly I was not able to type it. There was also found on the
10 towel a pubic hair fragment which is not similar to the submitted
11 pubic hairs from Mr. Epperly, Item 47 and there was also found a very
12 light Caucasian head hair which did not have enough characteristics
13 in it to make it suitable for comparison purposes.

14 Q O.k., again if you would, I'd like Mr. Russell to hold
15 this towel up and you with a pointer show on here where you found
16 the areas of blood. There appears to be some dark staining on
17 there. Is any of that just soil?

18 A There could very well be a mixture of soil with the
19 staining that was identified as blood, but the areas that I cut out
20 are areas which were subjected to tests to identify blood and
21 attempt to do additional tests.

22 Q Mrs. Hamby, I refer you to Laboratory Exhibit or Labora-
23 tory Item No. 66 which has previously been admitted as Commonwealth's
24 Exhibit No. 59, a green cap, and ask you if you conducted any sort
25 of examination with it?

26 A Yes, sir, I did.

1 Q And what did you do, please.

2 A I removed a hair from this particular item, and I subjected
3 staining which was on it to tests but I did not identify any blood
4 in the staining which was on the cap, and the examination of the
5 hair which was removed, it was similar to the head hairs on the
6 curlers, Item 25, and different from those of Diana Hall, Item 36.

7 Q All right, I show you a portion of Laboratory Item No.
8 66. Is that the hair that you removed from the cap?

9 A Yes, sir this package contains the hair removed from
10 the cap.

11 Q Would you show me how the hair was contained on there or
12 in there? Do you recall?

13 A No, sir, I don't.

14 Q O.k. Your Honor, we will offer the package of hair, a
15 portion of Laboratory Item No. 66 into evidence as the Commonwealth's
16 next exhibit.

17 Now Mrs. Hamby I am going to refer you to Laboratory Exhibit
18 60 or 63. First of all we will start with Item No. 60 which has
19 been previously introduced as Commonwealth's Exhibit No. 7, a pair
20 of white panties and ask you if you conducted any sort of examina-
21 tion on those?

22 A Yes, sir, I did.

23 Q And the results of that examination, please?

24 A I examined the item for both blood staining and any
25 seminal staining. I did not find either blood staining or seminal
26 staining on the item.

1 Q Now Laboratory Item No. 61 which has previously been
2 introduced as Commonwealth's Exhibit No. 6, a purple body suit.
3 I ask you the same questions, please.

4 A The item was inspected and there was areas of brownish
5 staining identified on the item. Those areas were cut out and
6 examined further. If I get it all in one direction here, it'll
7 be easier to see. Several areas were cut in an effort to identify
8 the staining. Blood was identified in this staining but I was
9 unable to determine whether it was human in origin.

10 Q Now previous testimony in this matter has indicated that
11 these clothing items were found out in the bushes, you know, over
12 near Radford, outdoors on about the 19th, I believe. Would the fact
13 that these items have been subjected to the elements in any way
14 hinder your efforts to determine whether or not a blood sample is
15 human or not?

16 A Yes, sir.

17 Q Mrs. Hamby I refer you now to Laboratory Item No. 63,
18 a white jacket previously introduced as Commonwealth's Exhibit No.
19 4 and ask you if you conducted any test on that, please.

20 A Yes, sir, I examined this item, and removed hairs from it
21 and conducted tests to identify the staining on it.

22 Q I jumped a number if that confused you. This is Item
23 No. 63?

24 A Yes. In the staining which is again this defused light
25 beige colored staining on the item, blood was identified but there
26 was not enough there to determine the origin or blood type.

1 Q Now if we held this up again just a second, looking down
2 the right front side of this jacket, apparently on the outside
3 because there's the pocket, there appears to be quite a bit of dark
4 staining in here, maybe if I stand back. Do you know whether all
5 of this is blood or whether it's dirt or what it may be?

6 A We know there is blood in the beige portions of the
7 staining from the tests which were conducted. The other staining
8 has the appearance of some soil type staining but it's not identified.

9 Q So the blood would then run from the split along the
10 right side of the rest of the jacket and into the shoulder area?

11 A There is staining all over the front of this and down
12 in this area (indicates) also there are these streaks of staining
13 and there are also small areas of staining which have the appearance
14 of defusing outward like stains have been subjected to some moisture.

15 Q O.k., how about the back of the jacket? We've already
16 talked about this area but along the right back down from the shoulder
17 blade on down.

18 A We have in this area staining which is continuing from
19 the front of the garment around to the side. Again it's light
20 defused staining and examinations were not done on this particular
21 areas.

22 Q Now turning to Laboratory Item No. 62, a pair of white
23 pants previously identified or introduced as Commonwealth's
24 Exhibit No. 5. Did you conduct any sort of an examination on
25 those, please?

26 A Yes, sir, this particular item was examined also for the

1 staining and for the presence of any hairs. I should note I did
2 not find hairs on the previous item. Hairs were found on the pants.

3 Q What about the results of the blood testing?

4 A Blood was identified in the staining which was on these
5 pants. Again we have stains that have this appearance of stains
6 which defuse outward, stains which have been subjected to some
7 moisture, areas of beige staining, etc. As I said blood was
8 identified in those but I couldn't determine whether it was human
9 or the type. There were hairs removed from this item.

10 Q Do you know how many hairs?

11 A There were some animal hairs and they were two Caucasian
12 head hairs which were similar to the hairs from the curlers, Item
13 25 which were different from those of Diana Hall, Item 36. There
14 was another Caucasian head hair found which was similar to the
15 head hair sample from the, from Mr. Epperly, Item No. 45.

16 Q Do you recall where on that item of clothing, the pants,
17 that you found the hair sample that was similar to the hair sample
18 known to be Mr. Epperly's?

19 A No, sir, I do not. I had just collected the hairs and
20 then examined them later.

21 Q I'd like to ask you if that's the hair samples that you
22 removed from the pants, Item No. 62.

23 A There should be a package of mounted hairs. This would
24 have been the initial packet that the debris was collected in.

25 Q How about this. Does that look familiar to you?

26 A No, sir.

1 Q When you say mounted, do you mean on a slide like that?

2 A In a slide that would be in a cardboard packet.

3 Q Oh, I found it. I found it. Here we are.

4 A Thank you.

5 Q What, first of all let me back up, what is this in the
6 white piece of paper there marked 62?

7 A Well, the debris which was collected from the item in-
8 cluded the hairs and soiled debris which was on the surface.

9 Q O.k., so this would be the soil and that's the hair.

10 A And that also bears other identification so it may also
11 include fibers, but it's debris that was removed from the garment.

12 Q O.k., what are these pressboard things, is that
13 strictly hair?

14 A Yes, these contain hairs. We have in here, the middle
15 one contains a hair from the white pants.

16 Q And then also in this same bag are hairs taken from
17 Item No. 64, the blue and white striped towel?

18 A That's right.

19 Q And hairs taken from Laboratory Item No. 61, the purple
20 body suit?

21 A That's correct.

22 MR. SHOCKLEY: Your Honor, we would offer all three of these in
23 one bag as the next Commonwealth's exhibit.

24 Q Miss Hamby, I refer you to Commonwealth's Exhibit No. 2
25 previously admitted which is Laboratory Item--oh, ok. Laboratory
26 Item No. 35 previously identified as the shoe belonging to Gina

1 Hall that she wore when she was last seen.

2 A Yes, sir.

3 Q Did you attempt to remove anything on here for, that
4 appeared to be blood?

5 A There was some dark staining on the item and I attempted
6 to identify it by applying cotton tip swabs that had been dampened
7 with either water or saline and then testing those swabs. I did
8 not identify any blood on this.

9 Q But you attempted to remove certain spots with either
10 water or saline solutions?

11 A Uh hum, yes, I did.

12 Q Miss Hamby, I refer to Laboratory Item No. 16. I don't
13 believe this has been introduced yet, which Mr. Williams identified a
14 as the control swab.

15 A Yes, this packet had contained two swabs. There is
16 portions of two remaining in this. These were swabs which had been
17 dampened, identified to me as just dampened with saline to be used
18 as a negative control in the tests.

19 Q For what purpose would you examine this, for what purpose?

20 A To determine if the testing materials are lifting materials
21 that had been used in the collection of the stains was not con-
22 taminated in any way, so this swab would be from the source of the
23 swabs which the officer used to collect the stains.

24 Q Did you find any contamination?

25 A No, I did not.

26 MR. SHOCKLEY: Your Honor, we would offer laboratory Item

1 NO. 16 into evidence as the next Commonwealth's Exhibit.

2 Q Mrs. Hamby I refer you to Laboratory Item No. 46, a
3 group of four vials which Mr. Williams of the Rufford police and
4 Miss Comere have testified was the blood from the defendant sub-
5 mitted for your analysis.

6 A Yes, sir, I examined this.

7 Q And what did you do, just type it?

8 A Yes, I did.

9 Q And what type of blood does Mr. Epperly, the defendant
10 have?

11 A He had Group A blood.

12 Q Group A?

13 A Uh hum.

14 Q And I'll ask you the same thing about Laboratory Item
15 No. 48 which has previously been identified as a saliva sample
16 from the defendant.

17 A Tests were conducted on this item and determined that the
18 saliva is from a person who is a secretor and again Group A secre-
19 tor.

20 MR. SHOCKLEY: Your Honor, I offer Laboratory Item No. 46
21 into evidence as the next Commonwealth's exhibit, and Laboratory
22 Item 48 as the following exhibit.

23 Q Did you use Mr. Bodmer's hair samples for any comparison
24 purposes?

25 A Yes, I did.

26 Q And did you find any of the hair samples found at the

1 various scenes in the Davis home, on the carpet from the trunk,
2 from the clothing did you find any of those to compare to his?

3 A The hair sample I had from Mr. Bodmer was a head hair
4 sample and none of the hairs which I examined were similar to his.

5 Q So you worked with Mr. Bodmer, Diana, the defendant and
6 then the hairs from the curlers that were not like Diana's.

7 A That's correct.

8 Q And did you conduct any analysis on hair, head hairs,
9 from Mrs. Davis, Betty Davis?

10 A There was a head hair submitted later for comparison
11 with the hair found on the green plastic cap.

12 Q Did it, you know, match up with anything?

13 A No, sir, it did not.

14 Q Did her head hairs compare with either the defendant's,
15 Mr. Bodmer's, Diana's or those found on the curlers that were not
16 similar to Diana's?

17 A Her hair sample was different from all of those.

18 Q Is this the head hairs of Mrs. Davis?

19 A As far as my identification it is labeled as that.

20 MR. SHOCKLEY: Your Honor, we would offer this envelope, this
21 is Laboratory Item No. 71 into evidence as the next Commonwealth's
22 exhibit.

23 Q Has this got a--

24 A It has a cardboard package in it also.

25 Q Why don't I tear it open and get that out. Was her hair
26 in both of these packets, No. 71?

1 A Yes, did I not label those?

2 Q Well, you have them both marked "71" but you had two
3 separate--

4 A Yes, sir.

5 MR. SHOCKLEY: I'd offer those two together as one exhibit,
6 please, Your Honor.

7 Your Honor, that's all we have of this witness.

8 THE COURT: All right, gentlemen, we are going to adjourn at
9 this point. Now people in the audience do not rise. Keep your
10 seat until Court's formerly adjourned.

11 Members of the jury, what I'm going to say to you now is sort of
12 like the benediction at church, I suppose. You hear it again and
13 again, but it's important everytime. So by way of refresher, I'm
14 going to remind you that until the case is submitted to you for
15 your final deliberation, you must not discuss the case with any-
16 one nor remain in the presence of anyone talking about it. You
17 will not read anything about the case in the newspapers or listen
18 to any account of the trial on television or radio, including any
19 interview that may appear there or any article that has anything
20 to do with the case one way or another. After the case has been
21 submitted to you, you must discuss the case only in the jury room
22 when all of you are present. You are to keep an open mind and
23 you shall not decide any issue in the case until the case is sub-
24 mitted to you for your deliberations under the instructions of the
25 Court. I thank you for another day's work here today and we shall
26 adjourn now until 9:30 in the morning.

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(Thereupon Court was adjourned to December 16, 1980, at
9:30 a.m.)

(End of proceedings 12-15-80.)

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December 16, 1980)

THE COURT: All right, gentlemen, you may proceed whenever you are ready.

MR. LOOKABILL: Do you have any further questions, Mr. Shockley?

MR. SHOCKLEY: Not at this time, Mr. Lookabill.

CROSS EXAMINATION

BY MR. LOOKABILL:

Q Mrs. Hamby, yesterday you testified regarding quite a few items that were presented to you for analysis, particularly body fluids and also some hairs, is that correct?

A Yes, sir.

Q During your examination were there any blood, was there any blood found on any of the items that you analyzed that were consistent with the blood of Mr. Epperly?

A No, sir, there was not.

Q On none of the items and I'm sure we've paraded quite a few items before the jury, none of those items containing Type A blood which you determined was that of Mr. Epperly, is that correct?

A All the stains in which I was able to determine a blood type were not consistent with Mr. Epperly's.

MR. LOOKABILL: Mr. Shockley, do you have the vials of Mr. Epperly's blood?

Q (Inaudible).

A Yes, I did.

Q Now, of course, at this point the blood in here is dry.

1 _____ (unintelligible).

2 A May I see.

3 Q I assume the blood was absorbed into that, is that
4 correct?

5 A The samples when I received them were liquid blood
6 samples. For storage purposes following my examination I dried a
7 portion of the contents of each tube and dried it on a piece of
8 fabric and placed that back in the tube.

9 Q When you received these how much blood was present in
10 each vial?

11 A The tubes were full to within a half an inch to an inch
12 to the top.

13 Q So they were almost to about to here?

14 A Yes.

15 Q In each one?

16 A In each one of them.

17 Q There are four of these?

18 A Yes, sir.

19 Q Could you tell the jury whether or not, how the amount
20 of blood that was found on all the items or that was analyzed
21 compares with the amount of blood in those vials? Would it have
22 been as much as in all those four vials when they were three-fourths
23 full?

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

25 Q O.k., so what we are saying is if the total amount of
26 blood that was analyzed by the laboratory which I assume was all

1 the blood that the Commonwealth gathered does not mount up to the
2 amount of blood that was in those vials?

3 A That's correct.

4 Q So there was no massive amount of blood is what I'm
5 saying?

6 A There was not as much as in the vial. I don't know that
7 the term massive or not massive would be applicable.

8 Q If we would use this as a guiding light, then that would
9 be less than what was in those four vials?

10 A That is correct.

11 Q Did you ever have the opportunity to compare the blood
12 of Ron Davis or Betty Davis or Bill King or Robin Robinson?

13 A No, sir, I did not.

14 Q You had none of that blood for comparison?

15 A That's correct.

16 Q Now you testified yesterday and had a very good drawing.
17 I don't see it here today of a hair. How you analyze a hair in
18 order to compare it with other hairs. Would the hair of two
19 sisters be because of genetics, would they be similar?

20 A They may exhibit a number of similarities, but may also
21 be distinguishable as they were in this instance.

22 Q In what, specifically how are they, is Diana's from
23 Gina's hair or the hair on the curlers let's say, whosever hair
24 that was.

25 A The main differences between the hairs on the curlers
26 which were unlike those of Diana was that the pigmentation within

1 cortex of the hair was much less, much more sparse would be a
2 descriptive term for it indicating there were many spaces between
3 the areas of pigmentation in the hairs. In addition to that the
4 general coloration of the hairs was slightly redder for the hairs
5 on the curlers that were unlike those of Diana. Also the cuticle,
6 the outer thickness, the outer layer of the hair, there was a
7 significant difference in the thickness of that layer between the
8 hairs on the curlers that were different from Diana's and those of
9 Diana, Diana's hair as being, having a very, very thick cuticle
10 and the other hairs not having that characteristic.

11 Q How much does one person's hair differ from another hair
12 of the same person. Are they generally very, very consistent or
13 do they sometimes vary as far as the cuticle and pigmentation and
14 spacing in between?

15 A There are ranges of characteristics that can be visible
16 in one person's head hair. For some people all the hairs are very,
17 very much alike. For others there can be a considerable range
18 of differences. For example with Diana's hair she has fine, course
19 and medium hairs in her hair sample. Some people have almost all
20 medium or all course or all fine so there's that kind of differences
21 that can be seen.

22 Q How did that, what you've just described, how does that
23 relate as far as the different hairs on the curlers?

24 A Well, the hairs on the curlers included again the ranges
25 of fine, medium and coarse hairs and so those hairs were then
26 compared with those of Diana to determine which, if any, of those

1 may have been different from hers.

2 Q Were any of Diana's hairs on the curlers?

3 A On--I'm sorry.

4 Q Were any of Diana's hairs present on the curlers?

5 A There were hairs there that I determined were consistent
6 with hers.

7 Q And it was your job then to differentiate the ones on
8 the curlers that were Diana's from the ones that were presumably
9 those of Gina's, is that correct?

10 A That is correct.

11 Q You indicated in reference to that carpet that came out
12 of the trunk of the car, you indicated that maybe out of five stains,
13 three were human blood, is that correct? Type O.

14 A Four stains were identified as human blood and three of
15 them I was able to type as Group O.

16 Q What was the fifth one?

17 A I was unable to determine the blood type. It was human
18 blood.

19 Q Are you telling me you were able to establish all the
20 blood was human blood?

21 A Four areas human blood. One area I was only able to
22 say that there was blood there.

23 Q Could that have been animal blood also?

24 A I would not be able to tell.

25 Q You could not tell but you could tell it was blood and
26 that was it?

1 A Yes.

2 Q Was anything pursued in the laboratory analysis as to
3 some animal hairs that were also found in the trunk?

4 A Only the notation that they were animal hairs. I did
5 not proceed with any further identification of those hairs.

6 Q Do you ever work with animal hairs?

7 A Yes, sir, I do.

8 Q Can you differentiate the different types of animals?

9 A Yes, I can.

10 Q Tell the difference between a rabbit and a squirrel?

11 A Yes, sir.

12 Q You indicated in your analysis, you used the word
13 "similar" quite often. You indicated, for example, that there was
14 a hair located on the pants or slacks that was produced in evidence,
15 the white slacks, that was similar to the hair of Mr. Epperly's
16 head hair. Now when you say "similar", in what way was it similar?

17 A It exhibited sufficient similarities that it was con-
18 sistent with the sample of known head hairs from Mr. Epperly, and
19 different from all the other head hairs which I had to examine.

20 Q Could you tell us what characterized it as similar to
21 his?

22 A The head hair sample from Mr. Epperly is predominantly
23 very light hairs which were lighter at the ends of the hairs than
24 they are toward the root end of the hair. That is one feature right
25 there which distinguishes it from all the other hair samples
26 received because all the others are hairs which are darkening

1 towards the tip. In addition again the pattern of pigmentation
2 in his hair which is a very even pattern of pigmentation when it
3 is present, the pigment granules in his hair are very light. The
4 pigment granules in the other hair samples are much darker.

5 Q What causes peoples' hair--I know every once in awhile
6 I find a hair on the shoulder. What causes hair to fall out?

7 A The normal growth process of the hair. There is a period
8 of time when it is held securely by the scalp and when it has gone
9 through all of its growing stages, it then dies and falls from the
10 scalp.

11 Q Do you know of any way to keep from getting bald?

12 A No, sir, I don't.

13 Q I thought maybe since you had done some work in this
14 area you might be able to help me on that. I have a little pro-
15 blem myself.

16 Am I correct in assuming that the only hair found on any of
17 the items that were tested that were in any way similar to Mr.
18 Epperly's hair was the one hair found on the white pants?

19 A That was the only hair which exhibited enough characteristics
20 for comparison purposes and could be found to be consistent with
21 his, yes.

22 Q That's the only one you could state that was any way similar
23 to his, is that correct?

24 A That is correct.

25 Q I notice there were during the process of analyzing these
26 things, I notice there were some hairs that were completely uniden-
tified. Could they have belonged to just anyone? I assume as

1 long as they were excluded from the people whose samples you had,
2 they could have belonged to anyone, is that correct?

3 A The--no, they could not have belonged to anyone. They
4 would have to have belonged to some person who had hairs that had
5 almost no visible characteristics for comparison purposes. The
6 head hairs, for example, which I stated could not be compared with
7 anyone's were those that were almost devoid of any pigmentation,
8 which would--

9 Q Is that unusual to find hairs that you just don't have
10 enough characteristics that you can analyze?

11 A No, this is a common characteristic of some blond
12 haired people.

13 Q Oh, it's usually blond haired people?

14 A Blond or white haired people.

15 Q Is the hair of blond people finer usually than that of
16 others?

17 A Many times it is.

18 Q Do you know the genetic reason for that. I see you are
19 sort of sandy light. Is yours fairly fine also?

20 A It is.

21 Q And I believe, you didn't do any of the fiber analysis?
22 You simply did the blood analysis or stain analysis and the hair
23 analysis, is that correct?

24 A That's correct. All I did was collect fibers, conduct
25 an initial inspection on some of them, but they were forwarded to
26 another analyst for identification.

1 Q I believe from your analysis of that carpet that was
2 referred to that there was hair belonging to Diana in the trunk,
3 you identified it as similar to that of Diana?

4 A Yes, I did.

5 Q As well as similar to that of Gina Hall in the trunk of
6 the car?

7 A Those are different hairs we are talking about?

8 Q Yes, ma'am.

9 A Yes.

10 Q And you were able to differentiate those hairs?

11 A Yes, sir.

12 Q Determined that some were like those on the curlers and
13 some were like those that Diana had given you as a sample, is that
14 correct?

15 A That is correct.

16 Q Now you, an example of where you testified that you
17 could not type the blood, what is there about a smaller quantity--
18 I'm specifically talking about Item 4 swab from the first floor
19 bathroom, the small amount of blood that was found, you indicate
20 was human blood but you could not type it. What makes it diffi-
21 cult or impossible to type blood if the quantity is--I assume it's
22 quantity. Is quantity the determining factor?

23 A There are two determining factors, two of several, but
24 the major ones would be what we would refer to as the quantity of
25 the stain and the quality of the stain. In this instance quantity
26 was the limiting factor. The stain that was submitted was a beige

1 colored swab and the amount of blood that was present in that was
2 only sufficient to conduct tests to determine that there was
3 blood there and that there was human blood there.

4 Q Having been to several seminars, forensic seminars, I
5 learned that you can type blood and you can analyze it in numerous
6 ways. Sometimes identify people by various qualities, different--
7 I understand you do different processes where certain things precip-
8 itate out and certain _____ (inaudible, cough) that you can
9 analyze and break it down further and further and further. Were
10 you able to do that in any of these cases?

11 A I did not attempt to do that in any of the samples which
12 I received. For the most part most of the stains which I received
13 were too small for that type of analysis. Those where the appearance
14 of the stain would suggest there was enough for that type of
15 analysis the quality of the staining did not warrant that type of
16 examination.

17 Q Was it attempted?

18 A No, sir, it was not.

19 Q So the only thing that you can say about the blood that
20 was found is that where there was Type O blood determined, you can
21 just type it as Type O?

22 A That's all that was done with those, yes, sir.

23 Q Now Type O blood is very common, is it not?

24 A Yes, sir, it is.

25 Q What percentage of the population of the United States
26 has Type O blood?

1 A It varies from one part of the country to another but
2 in general terms it's between 43 to 44 per cent of the population.
3 would have Group O blood.

4 Q Comes close to being 1 out of every 2 people?

5 A Very close.

6 Q In other words about five people on this jury would
7 likely have Type O blood if you did it statistically?

8 A With that small a group you could end up with none of
9 them having Group O blood.

10 Q If you increase the size of your sample then eventually
11 you would come to four out of ten people, isn't that correct?

12 A If you increased the size of the samples so that you
13 were dealing with perhaps 50 to a 100 people then that figure
14 would be accurate.

15 Q I notice that the stain from the carpet that was analyzed
16 that initially it was determined human blood could not be typed
17 and then later it was typed through the fibers as Type O. What
18 was the reason it couldn't be determined initially?

19 A There were two samples submitted. I assume you are re-
20 ferring to the carpet from the cabin?

21 Q Yes, ma'am.

22 A The first sample that was received was a swab where the
23 stain had been lifted onto a cotton swab and in that particular
24 sample I was not able to determine blood type. From the crusted
25 staining which was on carpet fibers submitted I was able to determine
26 blood type.

1 Q Why is that?

2 A The quantity of staining that was present. There was
3 sufficient to perform those analyses.

4 Q The quantity again and quality?

5 A Yes, sir.

6 Q I notice on such items as the stain from the side of
7 the chair and stain from faucet handle, the rubber molding on the
8 refrigerator, blood from the left shoe and some other items that
9 you indicated it was just human blood. Is this again because you
10 didn't have enough to analyze such a small quantity involved?

11 A That is correct. There was enough on those particular items
12 to conduct the test to identify blood being present and to deter-
13 mine the origin, species origin which was human.

14 Q Isn't it quite possible, scientifically isn't it quite
15 possible that all of the blood that was found in the house, a
16 drop here and a drop there, isn't it very possible that six or
17 seven different people with Type O blood could have left that blood
18 there?

19 A It would be possible.

20 Q It could have been possible that twelve people could
21 have conceivably some type of a wound or cut that could have left
22 that Type O blood. In other words just Type O blood, 40 to 43 percent
23 of the people in the United States have that type of blood, isn't
24 that true.

25 A 43 to 44 per cent do have that type.

26 Q What was the, you indicated there was a problem with

1 identifying anything from the shoe that was identified as that
2 of Gina Hall. Would you explain that.

3 A I don't recall that that was my phraseology but I did
4 not identify any blood on the shoe.

5 Q You could not identify any?

6 A I did not identify any. If there had been blood there,
7 I'm sure I would have identified it.

8 Q Tell the jury a little bit if you would, you indicated
9 that in testing Mr. Epperly's blood type, you indicated you took
10 a saliva test. How does that relate to blood type if you would.
11 I think the jury might be interested in knowing that.

12 A The saliva sample on swabs was submitted for analysis and
13 what we do is examine the saliva to determine whether or not a
14 person is what is termed a secretor. In other words a person who
15 exhibits in their body fluids other than blood, their blood type
16 information in the ABO blood type. The blood sample from Mr.
17 Epperly was Group A. The tests on the saliva swab from Mr. Epperly
18 indicated also that he was a secretor of Type A in his other body
19 fluids.

20 Q And again in all your analyses, there was no indication
21 of Type A blood on anything, is that correct?

22 A I did not identify any Type A blood.

23 Q I thank you.

24 REDIRECT EXAMINATION

25 BY MR. SHOCKLEY:

26 Q Mrs. Hamby, just a few last questions, please. First

1 of all, before I do that, Your Honor, I would like to offer into
2 evidence the sketch that she has made of the hair shaft and the
3 cuticle and the pigmentation--Did I hit a few words right?

4 A Yes, you have.

5 Q I'd like to offer that into evidence as the next Common-
6 wealth's exhibit so the jury can have the benefit of it.

7 THE COURT: All right, let it be marked and received

8 Q Mrs. Hamby, Mr. Lookabill asked you as to the blood that
9 you sampled whether or not it would be as much as you received in
10 these vials of _____ (unintelligible) and you said that, you
11 know, probably not. Now I'm not sure that I understand your
12 answer to that question. In talking about Commonwealth's Exhibit
13 No. 4, the white jacket, I asked you yesterday--I'll stand back
14 here so the jury can see me. I asked you yesterday about the
15 staining along the right front breast area pocket and then some
16 along the shoulder area. Now when you talk about quantity of
17 blood in reference to the amount in those vials, are you talking
18 about all that was here or are you talking about what you cut out
19 to test. I don't understand.

20 A Well, on this particular item what is exhibited here is
21 diluted blood staining. At this point I would not be able to give
22 you a good estimate of how much had actually been there. The
23 garment has been wet at sometime and estimating the volume of
24 blood on that would be very difficult.

25 Q From the absorption into this particular garment and
26 the diluting effect that you say was apparent in your examination

1 can you estimate how many vials or portions of vials or whatever
2 would be necessary to make that type of stain. If you can't, fine.

3 A I really would not want to try that.

4 Q What about the blue towel. Could you make any estimate
5 of the quantity of blood there with reference to blood vials and
6 how much it would take of blood, assuming you had vials or a
7 portion of a vial and started sprinkling it on the towel, do you
8 know anything about the rate of absorption on the towel?

9 A No, sir, I don't and again we are looking at an item
10 in which staining has been diluted in some way.

11 Q Uh hum. The same with the blue and white towel, do you
12 have any idea of the quantity of blood that would be necessary
13 to make the stains that are apparent on that towel?

14 A Again sir, I would not want to make that estimate.

15 Q From anything that you examined, would you be able to
16 quantify the amount of blood?

17 A No more so than the statement which I had already made
18 is that the staining appears to me as such to be less than what
19 would fill those volumes.

20 Q Are you talking about on all these garments or are you--
21 I don't understand.

22 A As what is visible to me at this time, that I do not
23 believe the amount of staining which I see at this time if it were
24 in fluid form would fill those four tubes.

25 Q Are you sure of that?

26 A No, sir.

1 Q Did you see the carpet in the house?

2 A No, sir, I did not.

3 Q Are you aware of its dimensions?

4 A No, I am not.

5 Q Mr. Lookabill asked you about a hair that was found on
6 Commonwealth's Exhibit No. 5, the pants which I believe is you
7 lab Item 62. Does that sound right, 62, and he asked you about
8 the word "similar". You stated both in your lab report and your
9 testimony yesterday that the hair that was found on the white pants
10 was similar to a known hair sample of the defendant, Stephen
11 Epperly.

12 A Yes, sir.

13 Q Again in how many cases of your thousands, how many sit-
14 uations did you run across where two people you could not distinguish
15 their hairs?

16 A As I indicated yesterday, I've only had about five
17 cases where I was unable to distinguish known hair samples that
18 were submitted for comparison with unknowns.

19 Q Mr. Lookabill also asked you about the various types of
20 blood. Obviously you get your ABO typing and you go into RH and
21 beyond there you've lost me. I know there's what, 6, 8, 10 more
22 types of tests, how many more?

23 A There are several additional tests that can be run on
24 blood. At this time the laboratory system in Virginia analyzes
25 for six enzymes and two serum proteins.

26 Q Eight more in addition ABO and RH, is that right?

1 A Yes.

2 Q Now assuming you were able to do that with the type of
3 blood, would you need the blood of Gina Hall's for that type
4 testing to be of any, to make any sense or to be of any value?

5 A Yes, I would.

6 Q Mrs. Hamby, on those various items which you examined
7 which were known to have come out of the utility room of the
8 house, the shoes, the refrigerator door, the water pitcher, the
9 dustpan, what about the pattern of blood, was the size of the
10 drop or droplets found on the shoes, the golf shoes, the refrigera-
11 tor, dustpan, water pitcher, etc., would those be similar or dis-
12 similar?

13 A As far as size of the droplets they were all very small,
14 all of them less than about a quarter of an inch, some of them being
15 much smaller than that, so they were not all exactly alike.

16 Q I believe that's all.

17 REXCROSS EXAMINATION

18 BY MR. LOOKABILL:

19 Q Let me ask one other question if I may. I notice from
20 the lab report that a Marlbro cigarette butt was sent to the lab
21 for analysis. I believe analysis was done on that. Is that
22 correct?

23 A Yes, it was.

24 Q That was also a saliva secretion type test?

25 A That was.

26 Q And what was the results of that, what type of blood was

1 on that Marlbro cigarette butt?

2 A Do you recall which item we are referring to?

3 Q Yes, ma'am, it was Item 28.

4 A The secretion type was Type O, determined on the cigarette
5 butt.

6 Q Were there any other types of cigarettes or anything
7 that, of that nature that was submitted for analysis?

8 A No, sir.

9 Q Nothing else out of the ash tray or anything except the
10 Marlbro?

11 A There was additional debris in the ash tray but the
12 cigarette butt was the only item analyzed for secretions.

13 Q Do you know what the other debris was?

14 A Yes, sir.

15 Q What was it?

16 A There were chewing gum wrappers, wooden matches, paper
17 matches, the plastic cap from a pen. There was a black ball point
18 pen, a metal twist off cap from a beer can and the cigarette butt.

19 Q Thank you.

20 (The witness stands aside and leaves
21 the courtroom.)

22 ROBIN DARRELL PORTER,
23 a witness called on behalf of the Commonwealth, after being first
24 duly sworn, testified as follows:

25 DIRECT EXAMINATION

26 BY MR. SHOCKLEY:

1 Q Would you state your name, please.

2 A Robin Darrell Porter.

3 Q Mr. Porter, how are you employed?

4 A I'm employed by the Commonwealth of Virginia, the Depart-
5 ment of General Services, the Bureau of Forensic Science.

6 Q Mr. Porter I'd like to ask you if you had an occasion
7 to do some laboratory work in the case of Commonwealth v. Stephen
8 Matteson Epperly?

9 A Yes, sir, I did.

10 Q Mr. Porter I show you Laboratory Item No. 50 previously
11 introduced as Commonwealth's Exhibit No. 68, a portion of carpet
12 and ask you if you had the benefit of that in conducting your
13 analysis?

14 A Yes, sir, I did.

15 Q Mr. Porter I show you a portion of Laboratory Item No.
16 39 which has previously been identified by Pat Hamby as some
17 fiber scrapings from a blue towel which is this towel here. You
18 may not be familiar with it but for the jury this would be Labora-
19 tory Item No. 39 and ask you if you had the benefit of those fibers
20 in your analysis.

21 A Yes, sir, I did.

22 Q Mr. Porter, I show you a portion of Laboratory Item 31
23 which is the refrigerator door previously identified as coming from
24 the Davis home and ask you if you had certain fibers from that
25 door to work with on your analysis.

26 A Yes, sir.

1 Q And I refer you to Laboratory, or a portion of Laboratory
2 Item No. 1 which has been referred to previously by Miss Hamby
3 as some carpet fibers removed from the carpet out of the Hall
4 vehicle and ask you if you had the benefit of those in your ex-
5 amination?

6 A Yes, sir.

7 Q Mr. Porter as to the Commonwealth's exhibits 5, the
8 pants--I can't find this one--6, the body suit, the jacket, Com-
9 monwealth's Exhibit 4 and a pair of panties, Commonwealth's Ex-
10 hibit No. 7. I want to show you some slides. Were any fibers
11 removed from those?

12 A Yes, sir.

13 Q Are they all contained in here?

14 A Yes, sir, the mounts of the fibers are contained in
15 there.

16 Q Now Mr. Porter, would you tell us what you do with Con-
17 solidated Laboratory, please.

18 A I am in charge of what is referred to as the trace
19 evidence section. In this particular section we conduct analyses
20 on a number of materials, including synthetic fibers.

21 Q What is your educational training background?

22 A I graduated from Lynchburg College with a Bachelors of
23 Science degree in chemistry. I went to the University of North
24 Carolina at Chapel Hill, North Carolina and I received my Masters
25 Degree in analytical chemistry. I went to work for the northern
26 Virginia laboratory initially as a drug chemist. It was there

1 that I received my training in trace evidence type materials.
2 I was transferred to the central laboratory where I am working
3 currently.

4 Q And how long have you been working in fiber analysis?

5 A I have been working with fiber analysis for approximately
6 two years.

7 Q How many times have you had occasion to testify in Court
8 on your comparison of various carpet fibers analysis?

9 A I have testified--I don't know exactly--several occasions.

10 Q How many various tests have you conducted with a known
11 fiber or source of fiber with other fibers found, you know, out
12 in the crime scene or on suspect articles or whatever?

13 A I would say in the past two years I have conducted
14 analysis on 40 or 50 different samples and this would include also
15 samples in proficiency testing that the laboratory gets into.

16 Q May I ask you what procedures you followed in this parti-
17 cular instance in testing?

18 A The procedures that I used in this case are the same
19 procedures that I use in every case for testing fibers. I examine
20 these fibers under a microscope to look at the microscopic properties.
21 I do solubility analysis of the fibers and I also do instrumental
22 analysis. There are occasions when I do not have enough of the
23 material to do the solubility tests. I try to do the microscopic
24 and the instrumental first and then if there is sufficient enough,
25 I will do the solubility test.

26 Q Now working with Laboratory Item No. 50, the known carpet

1 from the Davis home, Commonwealth's Exhibit No. 68, did you com-
2 pare this with fibers taken from any of these other items of
3 clothing?

4 A Yes, sir, I did.

5 Q Would you tell me what you compared and the results of
6 that comparison, please.

7 A Yes, sir, I looked at fibers that were on all of the
8 items that have previously been described--this would be the fibers
9 from the refrigerator door, the fibers from the blue towel, the
10 fibers from the carpet from the trunk of the vehicle and also the
11 fibers from the clothing of the victim as--

12 Q May I stop you there just a second. Were the fibers
13 from the clothing of the vehicle, of the victim taken by you,
14 removed by you?

15 A No, they were not. They were already in a packet that
16 Mrs. Hamby removed.

17 Q All right.

18 A And also the fibers from the blue towel. In all of those
19 cases except for one I found fibers on these items that were similar
20 in the microscopic properties, the composition and the color to
21 some of the fibers from the cabin, Item No. 50.

22 Q Do you think that it would be beneficial to have a drawing
23 board here, could you illustrate what properties you looked at
24 and how you were able to draw comparisons between the know carpet
25 sample and the fibers taken from the clothes or the towel and the
26 refrigerator door?

1 A Well, we can if we wish. I really don't, you know.

2 Q If you don't mind Mr. Porter, I'll get you to come on
3 down here. Can you first of all show me a rough sketch of what
4 this carpet fiber from Laboratory Item No. 50 would look like under
5 a microscope?

6 A Well, of course, they will vary in color. However the
7 shape of the fiber is what they refer to as a trilocular fiber.
8 To draw an analogy this is very similar to a star fish. It has the
9 three points. I am not an artist so forgive me, but the fibers
10 roughly look something like this (diagrams).

11 Q Now would that be looking down through the shaft or
12 would that be looking across it or--

13 A This is looking at the end of the fiber. Now the fibers
14 that I found on these materials all had this trilobal appearance.
15 Now when I examined the fibers I look for color. It so happens
16 that in the Item 50, this Item 50 fibers, it's multicolored fibers,
17 contains a number of fibers. In the specimens that I examined I
18 found clear fibers and yellow fibers. So I looked at color. The
19 next thing I looked at--

20 Q May ^I interrupt you there and ask between the known sample
21 from the house and the fibers that were removed from the towel
22 and the refrigerator door and the items of clothing, can you tell
23 me whether they were similar or not, as far as the characteristic
24 of color?

25 A Yes, if I may, I will--

26 Q Yes, please.

1 A --draw a comparison. I am going to compare Item No.
2 50. Item No. 50, Item No. 50 is the carpet at the house. I'm
3 going to compare this--excuse me, I keep crossing over.--micro-
4 scopically, one, under the microscope. I'm going to abbreviate
5 that. I'm going to also compare it solubility wise. I also
6 compared it instrumentally. The instrumental technique that I
7 use is what is referred to as _____ (unintelligible) and
8 abbreviation just use GC-P and also the fact, I have already in-
9 dicated the color. This is part of the microscope technique and
10 also the fact the shape of the fibers. Now I did this comparison
11 with all of the items, Item No. 1, Item No. 31, Item No. 39, and
12 Items No. 60, 61, 62, 63 and 64.

13 In the first comparison under the microscope, looking at the
14 properties of the fibers, the shape of the fiber, color comparisons,
15 in all of these cases I found fibers in each of these items that
16 matched to Item No. 50. As I stated before, the fibers in these
17 items were either a clear or the yellow. NO. 1 had, I found both
18 colors of fibers.

19 Q No. 1 is the car mat or fibers from the--

20 A Car mat.

21 Q Car mat, so the jury will know your lab numbers.

22 A O.k., and Item No. 31, I found a yellow, a yellow brown
23 type fiber. I refer to them as yellow. Some of them were more of
24 a yellow brown.

25 Q Item 31 is the refrigerator door?

26 A Yes, sir.

1 Q O.k.

2 A Item No. 39 I found both the yellow and the clear fibers.

3 Q Item 39 is the blue towel.

4 A Item No. 60 I found only the clear fibers.

5 Q Just a second--

6 A 60 was the--

7 Q Panties?

8 A Yes.

9 Q Fibers from the panties?

10 A Yes, sir.

11 Item No. 61 was the purple body suit. I found the yellow
12 fiber on it. Item No. 62 which is a pair of light trousers, I
13 found only the clear fiber. Item No. 63, the light jacket, I
14 found both the clear and the yellow fibers. In Item No. 64 which was
15 the blue and white striped towel, I found both the yellow and the
16 clear fibers. The solubility test I ran on Item No. 1 and each
17 time I say this, I'm referring to comparisons. I ran them on
18 Item No. 1 and No. 31 I did not have sufficient fiber and I ran it
19 only in two of the solvents. If I may explain in solubility I have
20 a number of different types of solvents or chemicals that I use.
21 and it so happens that I did not have enough of the fiber so I
22 could only use it in two of the solvents. So it's limited at that
23 point on Item 31. Item No. 39, I ran it. Solubility, I had suff-
24 ficient fibers for all the tests. Item No. 60, I did not run
25 solubility. Item No. 61, I did not run solubility tests. I did
26 not have sufficient fibers. Item No. 62, I ran the solubility

1 test. Item No. 63 I ran the solubility test and Item No. 64 I
2 ran the solubility test.

3 Q And the results of that testing.

4 A In all cases that I ran the fibers they came up con-
5 sistent with the fibers in Item No. ___ (inaudible, cough). O.k.
6 the GC Poralysis (phonetic spelling), the instrumental test, I did
7 a comparison work with the fibers in Number 50 and in all cases I
8 was able to run a GC Poralysis. As it turned out I had a limited
9 amount of fiber. In Item No. 31, the fiber from the refrigerator
10 door I was not satisfied with my results at that point. I did not
11 have enough to run any more analysis on the instrumentals. As I
12 stated before I ran only two solvents here and I did not have
13 enough information on 31 to reach any definite conclusion one way
14 or the other. After running these series of tests on these fibers
15 I concluded that the fibers in Item No. 1, 39, Item No. 60, 61, 62, 6
16 63 and 64 that I examined could have originated from Item No. 55.

17 Q Do you have anything else that would help to illustrate
18 the testing done?

19 MR. SHOCKLEY: Your Honor, we would go ahead at this time and
20 offer this chart into evidence as the next Commonwealth's exhibit.

21 THE COURT: All right, sir.

22 Q Mr. Porter, answer their questions, please.

23 CROSS EXAMINATION

24 BY MR. LOOKABILL:

25 Q Mr. Porter, after showing various analysis that were per-
26 formed on these items you indicated that the fibers could have

1 originated from Item 50 which was the fiber from the Davis home,
2 is that correct?

3 A Yes, sir.

4 Q You say "could have"? Now do you know how many carpets
5 are made of trilobe, brilliant trilobe fibers such as were found
6 on these items?

7 A No, sir, I do not.

8 Q Do you find brilliant trilobe fibers very often in doing
9 analyses of carpets in your laboratory?

10 A Well, that's a hard question for me to answer. Unfortu-
11 nately I have only looked at a limited number of carpet fibers.
12 It's probably safe to say that there are a number of carpets around
13 with that type of fiber, yes, sir.

14 Q When you say brilliant, you mean a bright--and you are
15 talking about yellow and clear. I assume that those woven together
16 come out a light colored carpet, is that, do I understand that
17 correctly. On some type of fibers they put a material, a delustrant
18 material that cuts down on the brightness of the fiber. In this
19 particular case there was none of this material present.

20 Q Particularly as to the microscopic, I assume that means
21 the determining, the form and shape of the fiber, is that what the
22 microscopic examination basically does?

23 A Yes, sir, we also look at the size of the fiber. We look
24 at some of the other physical properties that would be good for
25 comparison work.

26 Q And the solubility analysis that's the application of

1 various demicals to it, is that correct?

2 A Yes, sir.

3 Q What in fact does that show about the fiber itself?

4 A It will not definitely show but it will help to place a
5 fiber into a particular class. In other words it can help to tell
6 you whether you are dealing with a nylon fiber, an acrylic fiber,
7 a modified acrylic fiber, things on this order.

8 Q O.k., now what does the instrumental GCP, instrumental
9 analysis demonstrate?

10 A It also gives you a further verification of the type of
11 fiber that you are looking at because of the sensitivity of this
12 particular test, it's an excellent tool for doing comparison
13 works since it can detect things in small amounts.

14 Q So the most you could say with the three analyses to-
15 gether is that it could have come from the fibers similar to that
16 in the Davis home or it could come from a carpet of similar or
17 identical source, is that correct?

18 A Yes, sir, that's correct.

19 Q In other words it's not humanly possible to pin it down and
20 say positively it came from there or any other particular place,
21 isn't that correct?

22 A That's correct.

23 Q Thank you, sir.

24 REDIRECT EXAMINATION

25 BY MR. SHOCKLEY:

26 Q Mr. Porter, can you say that the carpet in these various
items did not come from the Davis home?

1 A No, sir, I cannot.

2 Q Now, do I have everything here that you have analyzed
3 or am I omitting anything?

4 A To the best of my knowledge you have everything.

5 Q Now these slides do they encompass everything that were
6 on the clothes and towel, etc.?

7 A The clothes, the towels, Item 50, the carpet.

8 MR. SHOCKLEY: Your Honor, I would-- 1, 2, 3, 4, it looks like
9 five bags. I would offer all of these five bags into evidence--
10 excuse me, I have four bags. I will offer those bags into evidence
11 at this time, Your Honor.

12 THE COURT: All right.

13 Q I have no further questions.

14 (The witness stands aside and leaves
15 the courtroom.)

16 WILLIAM CRANWELL,
17 a witness called on behalf of the Commonwealth, after being first
18 fully sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. SHOCKLEY:

21 Q Would you state your name, please?

22 A Williams Cranwell.

23 Q Mr. Cranwell, where do you reside?

24 A Blacksburg, Virginia.

25 Q And what is your employment?

26 A I'm self-employed as a contractor in the healthcare

1 business.

2 Q Mr. Cranwell, do you know the defendant, Stephen Epperly?

3 A Yes, I do.

4 Q Do you recall the date that Gina Hall disappeared?

5 A It was a Saturday in July, I believe.

6 Q Did you have occasion to see the defendant shortly after
7 that occasion after she disappeared?

8 A I believe it was a Tuesday after the Saturday.

9 Q And where did you see Mr. Epperly?

10 A He and a friend, a mutual friend of ours, Tom Hardy,
11 came by my house.

12 Q How long have you known the defendant?

13 A Approximately 5 years I'd say.

14 Q And how have you known him?

15 A As a close friend and one that my son has spent the
16 summer with and one that had dated a cousin of mine.

17 Q Did, when he came to you with Mr. Hardy, did he mention
18 your brother?

19 A During the later part of our conversation that after-
20 noon, he did, yes.

21 Q Who is your brother that he mentioned?

22 A C. Richard Cranwell, who is an attorney in Vinton and
23 Roanoke, Virginia.

24 Q And did he ask you about whether or not your brother
25 might assist him?

26 A He asked if Dick, if I thought Dick would represent him

1 and I said, "No."

2 Q Did he ask you to ask anything of your brother?

3 A At the end of our conversation as Steve was leaving,
4 this is, you know, the most prominent thing that stands out in
5 my mind, he said, if and when I talked to my brother to ask him
6 if there was anything that they could do to him if they didn't
7 find a body and walked on out to the car and repeated that state-
8 ment a second time.

9 Q Thank you. Answer their questions, please.

10 CROSS EXAMINATION

11 BY MR. WARBURTON:

12 Q Mr. Cranwell, who was there that night besides yourself,
13 Tom Hardy and Steve Epperly?

14 A A boy named Benny Martin.

15 Q Can you tell us about Benny Martin.

16 A Not very much.

17 Q Is he an alcoholic?

18 MR. SHOCKLEY: Objection, Your Honor, we are not trying
19 Benny Martin or anything about him and his presence--

20 MR. WARBURTON: I'm not suggesting that we are Your Honor.

21 THE COURT: At this point I sustain the objection unless
22 there is some relevancy.

23 Q Benny Martin was there, too?

24 A Yes.

25 Q The four of you were talking about the whole situation
26 with Gina Hall's disappearance?

1 considering resting its case. Before we, so, I would like to retire
2 to my office with fellow counsel that I have to consider any last
3 minute--

4 THE COURT: All right, we will give you, how long do you
5 want, another ten minutes.

6 MR. TERWILLIGER: How about til 11:00 o'clock, sir?

7 THE COURT: All right, we'll give you til 11:00 o'clock.
8 Go off the record, Elinor.)

9 (Thereupon proceedings were continued in the Courtroom with
10 the Court, counsel and the defendant being present.

11 THE COURT: All right, Mr. Shockley.

12 MR. SHOCKLEY: Commonwealth rests, Your Honor.

13 THE COURT: Gentlemen.

14 MR. LOOKABILL: Your Honor, I'd like to make a motion to
15 strike.

16 THE COURT: All right, sir.

17 MR. LOOKABILL: Your Honor, I realize that in a motion to
18 strike the evidence at the conclusion of the Commonwealth's
19 evidence that the evidence must be viewed in a light most favorable
20 to that of the Commonwealth. I realize that this is the standard
21 that the law requires. However the defense would state that as a
22 matter of law the evidence presented in this case is not sufficient
23 for the Court to allow the jury to consider this case.

24 My grounds for this statement and this motion are as follows:

25 The statement made by Mr. Epperly to Trooper Austin Hall,
26 the statements that he made to other law enforcement officers,

1 have been completely consistent and not inconsistent with the
2 evidence that the Commonwealth has presented. Now the Court and
3 the jury has heard evidence regarding the dogs that were used and
4 the Court knows, I'm sure, from the cases that have been written
5 regarding the use of tracking dogs in criminal cases, that it's
6 nothing more than mere evidence, it's corroborative evidence.
7 It's evidence which alone cannot stand and even in conjunction with
8 other evidence considered by the Commonwealth, it is very weak.
9 I think the Court can realize this from the fact that it was pointed
10 out from the picture that according to where the clothes alleged to
11 be those of the victim, the alleged victim were found were some
12 40 feet down below the railroad tracks, 40, 45 feet. The dog never
13 traed down there. He went all the way along the tracks in a
14 _____ (unintelligible) route to the defendant's home. I think
15 this points out the weakness of tha evidence standing alone.

16 The evidence, the strongest evidence that places the defendant
17 even at the Davis cabin is that evidence of Robin Robinson who
18 stated that she saw the defendant who had been swimming by his own
19 statement drying off down in the den. This is consistent, of course,
20 with the defendant's statement. It is not in itself anyway incrim-
21 inating. The blood that was analyzed at the laboratory, there is
22 no evidence whatsoever that the defendant's blood was at anytime
23 found. There is no evidence that the blood came from Gina Hall.
24 The most the laboratory analyst can do is determine a Type O blood.
25 This in itself is not in anyway incriminating as regarding the
26 defendant. The defendant stated among other things in his statement

1 A It got around to that.

2 Q Mr. Martin was involved in _____ (inaudible, noise)?

3 A I really don't recall. This has been months ago and I
4 don't know how much participation Benny had in our conversation.
5 I'd say probably very little.

6 Q You were involved in the discussion?

7 A Mostly listening because--

8 Q Mr. Hardy was involved in the discussion?

9 A To a limited extent also.

10 Q How long--you say you finally got around to talking
11 about the disappearance of Gina Hall. I assume you talked about
12 weather, baseball or whatever. How long did the discussions
13 center on this disappearance?

14 A My guess would be 15 to 20 minutes. It was, I've known
15 Steve long enough that I think--

16 Q I'm not going to ask you for your opinion. I want to
17 know how long the discussion was, sir?

18 A 15 to 30 minutes.

19 Q And the four of you at least to a limited were involved
20 in a discussion?

21 A Right.

22 Q Did Mr. Hardy mention the word "body"?

23 A Mr. Hardy?

24 Q Tom Hardy, did he mention the word "body"?

25 A Not to my knowledge.

26 Q Benny Martin?

1 A Nope.

2 Q You?

3 A No.

4 Q No one did?

5 A Steve Epperly did.

6 Q He is the only one that brought it up?

7 A He is the only one that brought up the word "body".

8 Q He is the only one that discussed this disappearance and
9 brought that up?

10 A Yes, he was.

11 Q You swear to that under oath.

12 A (Inaudible).

13 Q Was there any discussion about that after it was brought
14 up?

15 A No, that was the last thing he said as he was getting in
16 the car was he said, again, "Ask your brother what will happen--

17 Q If there is no body?

18 A --if there is no body.

19 Q Have you asked that question of yourself since that time,
20 sir?

21 A I expect I have.

22 Q Have you met with people since that time who have that
23 same question on their mind?

24 MR. SHOCKLEY: Your Honor, I object. I don't see any relevance
25 to this particular line of questioning.

26 THE COURT: Objection overruled.

1 A I don't think I could state what other people have on
2 their mind. I'm not sure of that.

3 Q I'm talking about whether they've discussed it with you,
4 Mr. Cranwell?

5 A Not to my knowledge.

6 Q Your brother, Richard, is a member of the House of
7 Delegates, is that correct?

8 A That's true.

9 Q And as an attorney practices in Vinton, did you say?

10 A Yes.

11 Q Has an office in Roanoke?

12 A Right.

13 Q Thank you, sir.

14 REDIRECT EXAMINATION

15 BY MR. SHOCKLEY:

16 Q Mr. Cranwell, when you were starting to say what Mr.
17 Epperly said the second time as he was going out to the car
18 Mr. Warburton answered his question for you. Just so the jury
19 knows what was said I'd like you one more time to repeat what Mr.
20 Epperly said.

21 A He said for me to ask my brother what they could do to
22 him if there was no body found, that was the question. It was
23 asked twice.

24 (The witness stands aside and leaves
25 the courtroom.)

26 MR. SHOCKLEY: Your Honor, I'm confident that having 97

1 exhibits at this point that we have introduced everything that has
2 been mentioned from the witness stand, but as to all items that
3 have been mentioned I offer them into evidence at this point. I
4 feel confident though that everything has been introduced by Item
5 No.

6 THE COURT: Well, rather than take a scatter shot approach
7 like that I suspect maybe you had better check your list with the
8 court reporter.

9 MR. SHOCKLEY: We have done so.

10 THE COURT: We can do that during the recess, and if you
11 find anything that has not been introduced that you wish to offer,
12 I'll give you an opportunity to do that after recess.

13 MR. SHOCKLEY: Your Honor, at this point the Commonwealth
14 would request a short recess.

15 THE COURT: All right.

16 (In Chambers)

17 MR. SHOCKLEY: Your Honor, the Commonwealth at this time
18 would proffer the results of the polygraph test administered upon
19 the defendant I believe on July 2nd into evidence.

20 THE COURT: All right the Court has already ruled on this
21 issue in the argument on the motion to suppress this evidence and
22 I adhere to my former ruling.

23 MR. SHOCKLEY: Your Honor, also, I guess I misstated or at
24 least confused the motion I made out in the courtroom and we would
25 ask that all tagged items of evidence, I believe, 92--

26 A VOICE: Seven.

1 MR. SHOCKLEY: Ninety-seven? Ninety-seven exhibits to be
2 accepted by the Court as Commonwealth's exhibits.

3 THE COURT: Mr. Warburton.

4 MR. WARBURTON: If it please the Court, Mr. Shockley has asked
5 now that the Court accept all the exhibits as being connected up
6 with the evidence. As to each individual item that has come in
7 our objections have been noted as they have been proffered by Mr.
8 Shockley. As to the chain of custody of the items offered in evidence
9 by Mr. Shockley we only questioned one and we would object to the
10 introduction into evidence of the green cap alleged to be a cap
11 on bathroom cleaner can since the chain of custody is extremely
12 unclear when Sgt. Church of the Virginia State Police testified
13 that he took that cap to his home and left it in a night stand.
14 He did not testify that it was locked up, did not testify that
15 other persons were excluded from access to it and we formally object
16 to the introduction of that particular item of evidence into the
17 jury's purview.

18 THE COURT: All right, gentlemen, Exhibits 1 through 97
19 offered by the Commonwealth are accepted, received into evidence
20 as Commonwealth's exhibits, the Court being satisfied that all of these
21 exhibits have now been properly tied into the case through the
22 evidence presented.

23 MR. LOOKABILL: We would ask the Court to note our exception as
24 to that green cap, Your Honor.

25 THE COURT: Yes, defendant's exception is duly noted.

26 MR. SHOCKLEY: Your Honor, at this point the Commonwealth is

1 that Gina Hall had to meet someone in the early morning hours
2 of Sunday. This was corroborated and this statement was totally
3 consistent with the evidence that Gina was to meet Greg Bass
4 that morning who was going to Italy in the service. The Court
5 also has before it the evidence regarding the state of the Davis
6 home early that Sunday morning, the statement of Robin Robinson
7 that she went down to tidy up the den area and saw nothing amiss,
8 saw no blood stains, nothing of any consequence. Of course, the
9 Court knows that there was several days time lap between when the
10 evidence was gathered and there is no evidence that the door was
11 locked. Many people had access to that room. I think it's
12 totally incredible, the evidence of Robin Robinson. If the Court
13 believes that _____ (inaudible, noise) to think that any heinous
14 act occurred there, then, of course, there is no connection whatso-
15 ever with the defendant to that act.

16 The quantity of blood has been testified to. The Commonwealth
17 cannot establish to a point that a jury could possibly believe,
18 possibly believe beyond a reasonable doubt that Gina Hall is dead.
19 The quantity has been testified to that from what she analyzed,
20 what Mrs. Hamby analyzed would not even fill the four small vials
21 of blood that the Commonwealth presented into the evidence which
22 was that of the defendant. They cannot establish or assume death
23 simply because of a small quantity of blood and the quantity was
24 quantitative. It was very small, Your Honor.

25 Consistently, Mr. Epperly has denied to everyone that discussed
26 it, to every officer, he's denied any participation in any type of

1 criminal act, the act against the person of Gina Renee Hall

2 In addition to this, Your Honor, the Commonwealth, in order to
3 prove premeditated, first degree murder must also prove premedita-
4 tion. He must prove malice and, of course, must prove _____
5 (inaudible, cough). I submit to you, Your Honor, that the Common-
6 wealth has not proven these things. The Commonwealth has not
7 proved this case to that degree of satisfaction which would allow
8 the Court to present such issues, such questionable issues to a
9 jury to make a determination. I feel that as a matter of law
10 that the Court should and must strike the Commonwealth's evidence
11 and direct a verdict in favor of our client Mr. Epperly.

12 Thank you, Your Honor.

13 MR. SHOCKLEY: May it please the Court, in support of the
14 Commonwealth's evidence we have a young girl eighteen years of age
15 who has been missing now for over five months. The Court has
16 heard no less than six character witnesses testify as to her
17 stability, her lack of emotional problems, her good reputation
18 and her happy nature. She has been missing, has not been hear of
19 nor seen since the time she was missing. She was last hear from
20 approximtely 1:30 am. Shortly after that time from the evidence
21 of Robin Robinson and Bill King, they went to the Davis home
22 where Mr. Epperly has admitted to law enforcement officers he
23 took Gina Hall. She was not seen or heard at that point. Shortly
24 after Mr. Epperly left, Bill King testified that he stepped in a
25 wet spot. The location that he gave was most consistent with the
26 stain on the carpet later found by Trooper Hall and Captain

1 Williams, later found by lab analysts to be human blood Type O.
2 We have several items throughout the Davis home which contained
3 Type O human blood. We have pubic hairs found that are inconsistent
4 with that of the defendant's. The dog evidence eluded to by Mr.
5 Lookabill, while he says it is standing alone insufficient to con-
6 vict and while that is a correct statement, it certainly corrobo-
7 rates the balance of the Commonwealth's evidence and indicates that
8 in all likelihood the defendant departed from the abandoned Hall
9 vehicle under the railroad trestle and followed a path across the
10 trestle through Radford and to his home.

11 In response to Mr. Lookabilli's statement that the dog did
12 not pick up on the scent, or excuse me, the items of clothing
13 found along the railroad trestle, if the Court will recall in
14 Mr. Warburton's lengthy cross examination with Mr. Preston, Mr.
15 Warburton demonstrated to Mr. Preston and to the jury if I followed
16 a path like this and then went down here and came back and then
17 got back on my same path, he asked Mr. Preston what would the dog
18 do and Mr. Preston testified that the dog would ignore the side
19 path seeing that it is a lesser prominent path. It would be back
20 tracking and the dog would continue on the main direction of travel.
21 So in this very situation, the dog would not have and should not
22 have meandered off the trail and gone down into the bushes where
23 the towels were found. For him to have done so would have caused
24 him to have backtracked against his training.

25 All testimony indicates that the home was locked after it was
26 initially, the items of evidence were initially found and seized

1 by law enforcement officers and while the quantity of blood cannot
2 be established with certainty, its obvious from a visual examination
3 let alone a laboratory examination but from a visual examination
4 alone of the towel or the clothing that there had to be some
5 quantity of blood passed, more than a cut finger, more than a
6 bloody nose I submit to the Court.

7 We also have statements of the defendant which are most in-
8 criminating. His statement to Austin Hall when confronted with
9 being the murderer and asked to cooperate and assist and how that
10 would help him be viewed by a jury of twelve and the defendant
11 shortly after Gina Hall's disappearance stated, "I will think about
12 it." His statement to Bill King a short while later to the effect,
13 "Bill, I don't know anything about it. We'll just have to wait
14 and see," never a denial. His statement to one of his good friends
15 Mr. Cranwell, what can they do to me if they don't find the body?"
16 The very act of hiding the body is indicative of malice. It along
17 with the spots of blood, the quantity of blood, the number of rooms
18 in which blood was found, the staining on the trunk of the carpet,
19 all of these things are indicative of some sort of beating that
20 was administered upon Gina Hall enough to substantiate a verdict
21 of first degree murder should the jury so elect.

22 I remind the Court that there is no law in the Commonwealth
23 of Virginia which requires the Court to produce a body. Death
24 can be established by means of circumstantial evidence as any other fac
25 can be established by circumstantial evidence and as Mr. Lookabill
26 has stated at this juncture it is the duty of the Commonwealth to

1 examine the evidence in the light most favorable to the Commonwealth
2 and I submit to the Court with all the evidence adduced by the
3 Commonwealth and produced here in evidence over this past week
4 the jury very easily could conclude that the defendant Stephen
5 Epperly murdered Gina Hall, disposed of her body and has done nothing
6 but lie about it since that time.

7 MR. LOOKABILL: Very briefly, Your Honor, the only thing I
8 will say in response to what Mr. Shockley said. There is a lot
9 of evidence. There was 19 exhibits, I believe, but numbers, of
10 course, do not make as we know 50 people can testify or two people
11 can testify in the case and have the same outcome and the same
12 effect. The point is, Your Honor, Mr. Shockley and the Commonwealth
13 have not proved beyond a reasonable doubt or to such a degree that
14 a jury could even consider and arrive at a verdict of guilt when
15 death has not been proven to that degree of moral certainty. The
16 jury could not on this evidence looking at it most favorably. They
17 could conjecture, they can guess, they can surmise, they can hypoth-
18 esize but they cannot arrive at a verdict of guilt to murder, either
19 first or second degree murder without proof that Gina Hall is dead.
20 We have a presumption in Virginia--I know that it probably applies
21 mostly to civil cases, that a person missing is not even presumed
22 dead until seven years and that's a light presumption and another
23 seven years is a greater presumption of death, but in a criminal
24 case where a man's liberty is at stake, jurors should not be allowed
25 to presume or guess or speculate about anything. They cannot speculate
26 about death, they cannot speculate about malice, about premeditation

1 As a question of law, Your Honor, the Commonwealth has not made a
2 case which the jury can consider and I feel that as I've said before
3 that as a matter of law the Court must and should strike the evidence
4 and acquit the defendant in this case.

5 THE COURT: All right, thank you, gentlemen.

6 What defense counsel seems to be saying is that the corpus
7 delecti must be proved by direct evidence. Now, you, of course,
8 didn't actually say that. You recognize that it can be proved by
9 circumstantial evidence but then you go on to argue that in the
10 absence of direct evidence, eye witness evidence that as a practical
11 matter death cannot be proven, at least cannot be proven to an
12 extent even to submit the case to the jury, but that is not the
13 law. This is a very unusual case; it's a unique case obviously,
14 but the law is that direct evidence is not essential to prove the
15 corpus delecti in any case. It may be proved as any other fact
16 may be proved which is essential to establish the guilt of the
17 accused, namely, by circumstantial evidence which produces the full
18 assurance of moral certainty on the subject. I'm quoting there
19 from a footnote at page 194 of Volume 5B of Michie's Jurisprudence
20 and that footnote cites Cochran v. Commonwealth, 122 Va. 801, 94
21 S.E. 329, a 1917 case and also Bowie v. Commonwealth, 184 Va. 381,
22 35 S.E. 2d, 345, a 1945 case.

23 The law as I understand it is that the corpus delecti can be
24 proved by circumstantial evidence provided that evidence satisfies
25 the trier of fact beyond a reasonable doubt and to the full assurance
26 of moral certainty. That's a very high standard of proof, but

1 INSTRUCTION NO. 11

2 (Given without objection.)

3 INSTRUCTION NO. 12

4 (Given without objection).

5 INSTRUCTION NO. 13 of the DEFENDANT

6 MR. SHOCKLEY: Absolutely should not be accepted by the Court.
7 It is the Court's comment on evidence and, of course, consideration
8 of any evidence is solely for the jury and I think it would be
9 totally improper for the Court to comment on any points of any
10 evidence in any case as to its strength and weakness.

11 THE COURT: I agree and I shall refuse No. 13.

12 (Thereupon proceedings were resumed in the Courtroom with
13 the Court, jury, counsel and the defendant being present.)

14 (Thereupon Mr. Shockley made his opening argument to the
15 jury.)

16 (Thereupon Mr. Lookabill made his argument to the jury.)

17 (Thereupon Mr. Shockley made his closing argument to the
18 jury.)

19 (Thereupon the alternate jurors were discharged.)

20 (Thereupon the jury retired and after a time returned into
21 the courtroom.)

22 THE COURT: --jury I understand you have a question for the
23 Court.

24 A JUROR: Mr. Carter has a question.

25 MR. CARTER: Yes, sir, we have had some concern about sen-
26 tencing, what to do about that, the definition of sentencing,

1 what to do about that, the definition of sentencing, what life
2 consists of, what twenty years or more consists of?

3 THE COURT: I can only tell you on that, ladies and gentlemen,
4 there are two instructions there that set out, I believe there are
5 two that set out specifically the range of punishment, minimum and
6 maximum. There is another instruction that tells you not to be
7 concerned when you--you decide on what's fair and reasonable and
8 just if you find the defendant guilty and you are not to concern
9 yourselves with what happens thereafter, that's not your responsi-
10 bility so if I understand your question properly, there is really
11 nothing that I can add to it because the instruction specifically
12 sets the minimum and maximum on first degree murder, the minimum
13 and the maximum on second degree murder and that's as far as you need
14 to go. Is that, I'm not sure that I've answered your question.
15 I think I have. Now let me ask you this, do you want to go to
16 dinner and come back and have a night session or would you rather
17 adjourn at this point and come back in the morning.

18 A JUROR: (Inaudible).

19 THE COURT: You'd rather work tonight and try to finish the
20 case. Do you all agree?

21 (The jurors indicated in the affirmative.)

22 THE COURT: All right, well, we'll arrange to take you to
23 dinner and is this a convenient--yes, ma'am, do you have a
24 question? Is this a convenient place to take your dinner break
25 or do you not want to go to dinner, maybe you don't want to eat.

26 JURORS: (Inaudible).

1 THE COURT: Just keep on working, all right, that'll be fine.
2 You may retire.

3 (Thereupon the jury again retired and again returned into the
4 courtroom.)

5 THE COURT: Have you reached your verdict?

6 (The jurors indicated in the affirmative.)

7 THE COURT: All right, let there be no noise or demonstration
8 in the courtroom after the verdict is read. Mr. Clerk, will you
9 read the verdict, please.

10 THE CLERK: "We, the jury, find the defendant, Stephen
11 Matteson Epperly, guilty of first degree murder as charged in the
12 indictment and fix his punishment at life imprisonment. Signed
13 J. M. Brown, Foreman."

14 THE COURT: Ladies and gentlemen, is this your verdict so say
15 you all?

16 (The jurors indicated in the affirmative.)

17 MR. WARBURTON: Your Honor, at this time, we'd like to ask
18 that the jury be polled.

19 THE COURT: All right, I was going to do that myself. As
20 the Clerk calls your names, ladies and gentlemen, indicate verbally
21 if you will, and maybe hold up your hands so we can identify you
22 and just indicate whether or not you agree with this verdict,
23 whether or not this is your verdict.

24 THE CLERK: Danny Branch.

25 MR. BRANCH: Yes, sir, agree.

26 THE CLERK: Myrtle Meredith?

1 MRS. MEREDITH: Yes, sir, I agree.

2 THE CLERK: Gary Holcomb?

3 MR. HOLCOMB: Yes, sir, agree.

4 THE CLERK: James Brown.

5 MR. BROWN: Yes, I agree.

6 THE CLERK: Rodney Carter.

7 MR. CARTER: Yes, I agree.

8 THE CLERK: Donald Cressell.

9 MR. CRESSELL: Yes, sir, I agree.

10 THE CLERK: Judy Minter?

11 MRS. MINTER: Yes, sir, I agree.

12 THE CLERK: Shirley Belcher.

13 MRS. BELCHER: Yes, sir, I agree.

14 THE CLERK: Kenneth Hancock?

15 MR. HANCOCK: Yes, sir, I agree.

16 THE CLERK: Harold Beamer.

17 MR. BEAMER: Yes, I agree.

18 THE CLERK: Virginia Morris.

19 MRS. MORRIS: Yes, sir, I agree.

20 THE CLERK: And Alene Compton?

21 MRS. COMPTON: Yes, sir, I agree.

22 THE COURT: All right, thank you, ladies and gentlemen,--let
23 me see the verdict form just one minute, please.

24 I thank you again ladies and gentlemen, very sincerely for
25 your work in this very important and tedious case. You are now
26 excused and you will not be recalled for some little while, if at

1 all, during this term of court. If we need you in an emergency
2 later on, we may call you, but it will be some time. I thank you
3 very much and you are excused, free to go.

4 (Thereupon the jury was discharged.)

THE COURT: All right, Mr. Lookabill.

5 MR. LOOKABILL: Your Honor, at this time, I'd like to make
6 a motion for the Court to set aside the verdict in this case as
7 contrary to the law and the evidence and as a basis for this
8 motion I would rely upon the same grounds stated in the motion to
9 strike at the conclusion of the Commonwealth's evidence.

10 THE COURT: Gentlemen, this case has been very carefully
11 considered and debated at each stage for the past eight days as
12 the issues arose. Counsel has very carefully argued these matters.
13 The Court has given careful consideration to each point as it was
14 raised and has made its rulings thereon. I'm of a mind to adhere
15 to my prior rulings and for that reason I must deny the motion to
16 set aside the verdict.

17 MR. LOOKABILL: In the way of another motion, Your Honor, I
18 would move that the Court order the Probation Officer of this Court
19 to prepare a presentence report prior to the entry of sentencing
20 in this case.

21 THE COURT: All right, that's a right, of course, that you
22 have. Were you going to respond?

23 MR. SHOCKLEY: Not that, Your Honor.

24 MR. LOOKABILL: Thirdly, Your Honor, I would like the Court
25 to please make a ruling regarding the status of a bond in this
26 case or the bond that is presently in existence as it would affect

1 an appeal of this case, and I am hereby giving the Court notice that
2 an appeal would be sought in this case.

3 THE COURT: All right, let's take these motions one at a
4 time.

5 First is a motion for a presentence investigation, that motion
6 is granted and the gentlemen of the Probation Officer are directed
7 to make the investigation. I don't know whether they are in the
8 room or not. I'll ask the Commonwealth's Attorney to get word to
9 them the first thing in the morning that they are to do this.

10 MR. SHOCKLEY: Yes, sir.

11 THE COURT: I would suggest December the 30th, I believe is
12 the date that we have some nonjury matters set.

13 MR. SHOCKLEY: I will not be here, sir.

14 THE COURT: You will not be here on the 30th of December?

15 MR. SHOCKLEY: No, sir, I will be here, beginning January
16 the 5th.

17 THE COURT: Step back in my room, please and bring my red appoint-
18 ment book. Now wait a minute, I don't know where it is. Gerry, you
19 go and see, it may be in my brief case or I may have put it in the
20 drawer.

21 MR. SHOCKLEY: Your Honor, as to the bond, I would, sir--

22 THE COURT: All right.

23 MR. SHOCKLEY: I would ask the Court to hold the defendant
24 without bond pending the disposition of any appeal. If the Court
25 is not of a mind to do that I would ask the Court to establish
26 a bond at least twice that what is now set. This is obviously

1 the maximum sentence. The jury thought very confidently of their
2 decision and of the punishment to be administered and despite the
3 love that Stephen Epperly may have for his parents, I would
4 seriously question his availability at such subsequent date.

5 THE COURT: You mean you think he would abscond.

6 MR. SHOCKLEY: Yes, sir, I'm not saying that he would, I'm
7 saying in my mind that's a very real possibility.

8 MR. LOOKABILL: Your Honor, in response to that, I would say
9 that having examined the bond in the court file, the bond of
10 \$50,000.00 which has been shown acceptable to the Court in the
11 past, the language of that bond says that it would continue until
12 such appeal time or any other proceedings, until a final disposi-
13 tion in this case is arrived at. I would suggest to the Court that
14 since that bond was set and since Mr. Epperly has been free on
15 bond, he has been available at all times. He has not attempted
16 to abscond and I see no reason, Your Honor, to in any way tamper
17 with that bond or increase it because there is no past history
18 in this case to indicate that there is any necessity for that.

19 THE COURT: Well, of course, the problem that the Court has
20 is that we are now confronted with an entirely different situation
21 from that with which we were confronted in a pretrial situation.
22 We now have a jury verdict of guilt. We are awaiting a presentence
23 report and then we will have a sentencing hearing. Section 19.2-319
24 apparently leaves these matters in the sound discretion of the
25 Court and provides that a writ of error from the Supreme Court shall
26 lie to any such judgment refusing bail or requiring excessive bail

1 so if whatever I do is unsatisfactory to the accused, you have a
2 right to seek immediate relief on that. I think it is apparent
3 that it would be inappropriate to continue bond in the present amount.
4 I think under these circumstances and in view of the fact that the
5 jury has returned the maximum sentence that I should decline bail,
6 and it is so ordered so the officers will take charge of the prisoner
7 and a presentence investigation is directed.

8 THE COURT: All right, is there anything else gentlemen
9 before we adjourn?

10 MR. WARBURTON: No, sir, Your Honor.

11 THE COURT: You may adjourn court.

12 (Thereupon Court was adjourned.)

13 (End of proceedings 12-16-80.)
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1 December 19, 1980
2 (Reporter sworn)

3 THE COURT: All right, let us go on the record in the case of
4 Commonwealth v. Epperly. Gentlemen, I've been advised that Mr.
5 Epperly wishes to withdraw his request for a presentence investi-
6 gation in this case, is that correct?

7 MR. WARBURTON: Yes, sir, it is; we addressed a letter to
8 the Court dated December 18, 1980, asking permission to withdraw
9 that request. The letter was received, I assume by the Judge
10 this morning and by the Clerk yesterday. I spoke with Your Honor
11 yesterday on the telephone.

12 THE COURT: I haven't seen the letter.

13 MR. WARBURTON: Mr. Atkinson, I'm sure has a copy in the
14 record.

15 THE COURT: Mr. Epperly, do you concur with this request?

16 MR. EPPERLY: Yes, sir, I do.

17 THE COURT: You understand that you have an absolute right to
18 have a presentence investigation if you desire one, do you?

19 MR. EPPERLY: Yes, sir.

20 THE COURT: And you want to waive that right, give it up?

21 MR. EPPERLY: Yes, sir.

22 THE COURT: All right. Yes, here's the letter in the file,
23 dated December 18, 1980. All right, it's ordered then that the
24 prior order of the Court directing a presentence investigation
25 be vacated. Now then, are you ready for sentencing?

26 MR. EPPERLY: Yes, sir.

1 THE COURT: If you would step forward please, Mr. Epperly.
 2 MR. WARBURTON: Your Honor, I have some motions to make and
 3 comments to make to the Court before proceeding to sentencing,
 4 if it please the Court.
 5 THE COURT: All right, come right around, and do that.
 6 MR. WARBURTON: If it please the Court, at the close of the
 7 Commonwealth's evidence on Tuesday, December 17, 1980, Mr. Looka-
 8 bill made a motion to strike the evidence and at which time I
 9 believe and will reassert that he made cognizant argument as to
 10 why the Court should strike the evidence. At the close of all
 11 the evidence in the case, we renewed that motion in a different
 12 form, at the closing arguments and after the jury returned a
 13 verdict of guilty in this case, we again asked the Court to set
 14 aside the verdict as being contrary to the law and the evidence.
 15 I will again at this time renew the argument that there has
 16 been shown no evidence, not a single shred from which one can infer
 17 premeditation in this prosecution and I will ask the Court at this
 18 time to strike the verdict of first degree murder upon those
 19 grounds.
 20 THE COURT: All right, thank you sir. Do you wish to respond
 21 Mr. Commonwealth's Attorney?
 22 MR. SHOCKLEY: Your Honor, as I have stated to the Court and
 23 in my closing argument, the facts and circumstances that were
 24 proved by the Commonwealth beyond a reasonable doubt would allow
 25 the jury to make reasonable inference that there had been a
 26 willful, deliberate and premeditated killing, and the very fact

1 that the defendant admitted that he had tried to have sexual inter-
 2 course with this young woman, the fact that we knew that she would
 3 not be the type to enter into such an agreement, the fact that the
 4 body was hidden, the fact that there was blood spread in two rooms
 5 of the house, the third room is probably where blood was carried
 6 in the clean-up process, the very type of blood, the small specks
 7 was indicative of some sort of force used and repeated blows and
 8 I think from all the physical evidence and the actions of the
 9 defendant subsequent to the murder, I think it was reasonable for
 10 the jury to conclude that he willfully, deliberately and with pre-
 11 meditation killed this young woman even though, admittedly the
 12 intent to kill was formed probably at the cabin and not at some
 13 previous location and, of course, the jury was instructed that
 14 premeditation could be conceived in just a second so I think there
 15 was reasonable evidence or sufficient evidence for the jury to
 16 reasonable conclude or reasonable infer that premeditation was
 17 present.

18 THE COURT: All right, gentlemen, as I have heretofore stated,
 19 I think this along with the other points that have been raised by
 20 defense counsel presented issues for the jury and I shall adhere
 21 to that ruling and deny the motion.

22 MR. WARBURTON: We, of course, except to that ruling, Your
 23 Honor.

24 The defendant in this action does not desire to put on any
 25 testimonial evidence as to sentencing. However, Your Honor, I
 26 would like to take this opportunity to speak very briefly as to

1 my thoughts on sentencing in this matter.

2 First of all, I believe that actions of jurors, one particular
3 juror with specificity after this verdict was rendered, the speed
4 with which the jury returned the verdict, the obvious intent of
5 the question addressed to the Court when they were in deliberation
6 shows without a doubt in my mind that this was a runaway jury.
7 The comment of Mr. Ronald Carter, a juror in this matter, made
8 to the press the day of the jury deliberation indicates to me,
9 and I hope to the Court, that the only issue in front of that
10 jury when they retired was how to give our client the maximum
11 sentence possible and how to word it so that it had the effect of
12 incarcerating our client for the maximum time. I would urge upon
13 the Court that this indicates a jury that did not take its respon-
14 sibility seriously, did not keep an open mind to the end of the
15 trial and was indeed and in fact a runaway jury bent on retribution
16 rather than justice.

17 In addition, although the Court has rescinded its order for
18 a presentence report, I believe that that report would have shown,
19 and I don't believe Mr. Shockley can contradict me, Mr. Epperly
20 has not been convicted of any criminal act in his entire life.
21 He has several traffic infractions on his record. Mr. Epperly
22 cooperated fully with the state police and the Radford City police.
23 His activities since the date of this alleged incident have never
24 indicated a desire to harm anyone, rather they show that he has
25 attempted to help everyone involved in this investigation and pro-
26 secution until he became a suspect and the depth of his feeling

1 that he needed to help in this matter went as far as helping John
2 Hall and Diana Hall every time he was called upon to help. I
3 would urge the Court again that the evidence, despite the Court's
4 ruling that it supports a verdict of first degree, is, if it is
5 there, very weak, and I would urge upon the Court that sentencing
6 in a different mode from that recommended by the jury be accomplished
7 in this case.

8 Thank you, Your Honor.

9 MR. SHOCKLEY: Your Honor, I would agree with the majority
10 of statements offered by Mr. Warburton. I would be the first to
11 acknowledge that Mr. Epperly was cooperative whenever he was
12 called upon. We came to the police station at least until such
13 time as he had employed or consulted counsel. He never tried to
14 run. He went to Ohio apparently for his own safety. I would con-
15 cur that he has at least to this date been cooperative with law
16 enforcement authorities. However, while he may have no criminal
17 convictions, we do know of the two rape charges. There was an
18 assault charge lodged against him by a family member at one time
19 and I can assure you that from our investigation and in talking
20 with various people and if the Probation Officer was to do the same
21 thing, I think that an investigative report would show various
22 propensities to violence, particularly with women and I do believe
23 that this young man is sick. I think he has some deep seated
24 emotional problems that he is not willing to recognize and I think
25 that he has had problems before and I think that it's almost a
26 certainty that if he were out again that he would have these very

1 same problems. He has shown a pattern of aggressivemenss with
2 women, violence to women, violence to members of his family, and
3 these things would come out in a presentence report so I think
4 Mr. Epperly needs some psychiatirc help. I just wish that he
5 would acknowledge that he needed psychiatric help because apparently
6 he does not think that he does need it, because I'm convinced
7 beyond any doubt that he's a very sick individual, maybe not insane
8 as such, but I think that he needs some help and I think he needs
9 some counseling for sometime and I don't know what else a pre-
10 sentence report would reflect. I know that he comes from a pretty
11 good family. His mother has been a very nice woman, very cooperative
12 with the investigation of this case. HShe is a good woman, a very
13 religious woman, but this individual, Mr. Warburton said tht he
14 would help John and Diana Hall. I would disagree with that very
15 strongly. He did get with John Hall, I believe, on Thursday,
16 July the 3rd or possibly it was Friday, July the 4th, with Bill
17 Cranwell. They rode around in Mr. Cranwell's car for sometime
18 and I know for a fact that Mr. Hall asked Stephen Epperly point
19 blank, "Did you do anything to my daughter; did you hurt my daughter?"
20 and Mr. Epperly said, "No." We have asked Mr. Epperly repeatedly
21 the location of the body. He insists that he didn't kill her,
22 he doesn't know where it is, and I think from the evidence pro-
23 duced in Court and other evidence that was not, I think the Court
24 knows that that's not the truth. It infuriates me to think that
25 there has been such a pretty young girl whose life has been taken
26 at such prime in her life by someone who was just angry because

1 he was rebuffed in a sexual encounter and I think it's a very sad
2 thing, but the saddest thing about it is that this young girl
3 has not been found. This young man knows where she is and won't
4 tell us and for that reason I think the sentence was most just and
5 appropriate.

6 THE COURT: Gentlemen, of course, you are aware that in
7 Virginia judges are very reluctant to disturb jury verdicts. It's
8 rarely done. In an appropriate case, of course, it can be done.
9 In this case I see no justification for disturbing the jury verdict
10 and this motion is denied.

11 All right, gentlemen, is there anything further.

12 MR. WARBURTON: No, sir, not as far as sentencing.

13 THE COURT: Now, Mr. Epperly, if you would step around please,
14 sir.

15 (The defendant comes before the bar of the Court.)

16 THE COURT: Mr. Epperly, is there anything further that you
17 would like to say to the Court prior to sentencing?

18 MR. EPPERLY: Well, Judge, I don't know if I should get into
19 this now but--

20 THE COURT: I wouldn't discuss your merits of your case or
21 any points that you have in mind on appeal or anything like that,
22 but I just wondered if you had any general statements that you
23 wished to make.

24 MR. EPPERLY: Can I say anything about the trial right now or
25 should I save that.

26 THE COURT: Well, maybe you should consult your attorneys

1 before you commit yourself to anything.

2 MR. EPPERLY: Judge, it's been my opinion, and it's been a
3 strong opinion, from the onset of this case that there is no way
4 possible that I could receive a fair trial in Pulaski or any of
5 the surrounding counties because of the massive publicity in
6 the television and the newspaper and on the radio. Plus I know
7 many people in the county because I live in Radford and have known
8 many people around the area in many different facets. The gossip
9 and talk and through my attorneys I requested many times that we
10 not have this trial here. I do not feel like I received a just
11 trial due to the jury's being submitted to outside influences, and
12 these are strong influences. I will note that many times, I would
13 say 8, 9 or 10 times this has been on the front page of the Roanoke
14 Times. There have been many other articles in the paper, in the
15 Southwest Times, in the Radford News Journal. In the surrounding
16 counties it's always been on the front page. Also the local
17 television stations, it's been the first story many times. It's
18 been on the television being the first story. It's been the number
19 one story in this area, also on the radio. I don't think there is
20 any possible way that in this section of Virginia that I could get
21 a fair trial. Since this ordeal has started we have received, my
22 family and myself have received phone calls from Tennessee, Kentucky,
23 West Virginia, the Washington D.C. area, Richmond area and Tide-
24 water area, that this case, they've read about it and heard about
25 me and recognized who it was, and I think it would be rough to get
26 a fair trial anywhere in the State of Virginia, but especially

1 here and I would just like the Court to know that I do not feel
2 that I have received a fair trial due to this massive publicity
3 because if I may state one thing. I think a juror, like they
4 said many times from this witness stand, "I think I can be fair."
5 Well, you know, it's a lot difference when a person says, "I think."
6 They either can or they can't and the subconscious of an individual.
7 Consciously we think we can, but subconsciously I would like to
8 note--I don't know if the juror said this, but he was quoted in
9 the Roanoke Times, Mr. Rodney Carter. He said, "Sunday morning when
10 we went out to church, I looked down and and saw a stain," and
11 he instantly thought blood stain and if he has just barely--he
12 said he turned off the radio several times. If he just caught some-
13 thing on the radio or any other jurors did or talked to someone,
14 I don't think that there was any way that there was not bias in-
15 volved in the jurors and for that reason Judge I do not think I
16 received a fair trial.

17 THE COURT: Well, you have very eloquently stated your position
18 on that matter, and I understand it. That's why we went to such
19 lengths in trying desparately to impanel an impartial jury, examining
20 them one at a time over a period of two days, excusing some 30 or
21 40 of them or whatever the number was. I was satisfied that we had
22 impanelled a good jury, one that would look at the evidence and try
23 the case on the evidence but I fully understand your feeling about
24 that.

25 THE COURT: All right, is there any reason why I should not
26 pronounce sentence at this time?

1 MR. EPPERLY: No, sir.

2 THE COURT: I understood that you wanted an early sentencing,
3 is that correct?

4 MR. EPPERLY: Yes, sir.

5 THE COURT: So you could go ahead with your appeal?

6 MR. EPPERLY: Yes, sir.

7 THE COURT: All right. It's the judgment of the Court then in
8 conformity with the jury verdict that you be found guilty of first
9 degree murder and that you be sentenced to confinement in the
10 State Penitentiary for a term of your natural life.

11 Now I have mentioned the appeal and, of course, this has
12 been mentioned from time to time in past days in Court. It is a
13 fact is it not that you do wish to seek an appeal?

14 MR. EPPERLY: Yes, sir.

15 THE COURT: All right, now what about the lawyers to represent
16 you on that appeal?

17 MR. WARBURTON: If it please the Court we have one matter to
18 take up before we get to the other matters, I've spoken with you
19 about which is the issue of bond. Mr. Lookabill would like to
20 speak to that first and then I have the other papers to present
21 to the Court.

22 THE COURT: All right, you may be seated if you wish to
23 Mr. Epperly.

24 MR. EPPERLY: Judge, may I speak on this bond issue, too, before
25 you decide?

26 THE COURT: Well, let Mr. Lookabill speak and then you may.

1 MR. LOOKABILL: Your Honor, I know that the Court has ruled
2 on the question of bond pending appeal. I would just make reference
3 to the Code section to which the Court referred on Tuesday. I
4 believe it says that the Court shall set the bond, a reasonable
5 bond, if the circumstances were such as to permit it. We do have
6 today a motion, a notice of appeal, which will be filed with the
7 Clerk if it has not already been done. I believe it has to be
8 filed immediately hereafter.

9 THE COURT: Just in that connection the order hasn't been
10 entered yet.

11 MR. LOOKABILL: Yes, sir, Mr. Warburton has in his possession
12 the--

13 THE COURT: I believe maybe you shouldn't--I don't know that
14 it makes any difference but maybe you shouldn't file that until--

15 MR. LOOKABILL: The order is entered.

16 THE COURT: --the final order is entered, but I don't know,
17 it may not make a bit of difference. I just thought I'd call that
18 to your attention.

19 MR. LOOKABILL: Yes, sir. Well, at any rate we have made
20 note of the Court that the defendant desires to appeal his verdict
21 in this case and we feel that--Mr. Shockley and Mr. Warburton have
22 already discussed the fact that Mr. Epperly has never attempted
23 to abscond, that he has close ties with his family, that the bond
24 to date has been quite adequate and we feel that there will be
25 nothing, no reason to indicate that it would not be proper to set
26 a bond for whatever amount the Court deems reasonable for him to be

1 out free until such a time as a decision is made upon his appeal,
2 whether or not an appeal is granted by a three-judge panel. I
3 believe the Court has already heard convincing arguments from
4 Mr. Shockley and Mr. Terwilliger as far as the background situation
5 and I will just say that I feel that there is no reason to date
6 that I know of and that the Court should be aware of that would not
7 permit such a bond to be set and allow him to stay out of jail
8 until such time as an appeal is completed in this case.

9 THE COURT: Now, you may remain seated Mr. Epperly and add
10 anything that you wish to there.

11 MR. EPPERLY: Well, Judge, I would hope that the Court would
12 look at, you know--I know that this is a very serious charge,
13 probably the most serious charge that you can have against an
14 individual and I realize that and I realize the Court has the
15 responsibility to the community and to the Court itself, but from
16 the onset of this ordeal back in July, I cooperated with the police,
17 I talked with many state troopers. I was a suspect and then I became
18 the number one suspect and I stayed in Radford and I told the
19 police anytime they wanted to arrest me, just to call me and that
20 I would come down, that I just wanted a little time with my parents.
21 On or about July the 9th I moved to Roanoke, Virginia, to stay in
22 the area. I was receiving counsel from an attorney in Roanoke.
23 The State Police, at that point, shortly after were given my phone
24 number in Roanoke. I told them if they wanted to call me there or
25 call my attorney, they could get in touch with me there with my
26 attorney, with my parents, with myself at that residence, that

1 I was, you know, I was cooperating at this time, still talking
2 with the State Police and I stayed in the Roanoke area until, I
3 believe, it was August 4th or August 5th. At that point in time
4 I left for safety reasons and I went to Ohio. All this time,
5 Judge, I was under no bond whatsoever by the Court. When I went
6 to Ohio I was up there with a friend, no one knew me and I think
7 later on the State Police found out where I was, but at that point
8 in time I was under no bond. I stayed from August 5th until about
9 September the 4th or 5th. My attorney or counsel in Roanoke re-
10 commended that I come back to this area because the Grand Jury
11 was going to meet on September the 8th, Monday and he said if they
12 indicted me, you know, that I should be close because I had cooperated
13 and so I came back from Ohio at that point in time and was in the
14 Roanoke area when I was arrested and that, that's July, August and
15 part of September, Judge, that I was the number one suspect.
16 Everybody was, you know, looking at me as the aspect and knew that
17 I was probably going to be arrested at some point in time. I was
18 under no bond and I think Mr. Shockley can tell you I spoke with
19 him many times and other officers and I told them anytime they
20 wanted me, that they could come and get me. So they arrested
21 me in Roanoke and after that you set a bond of \$50,000.00. After
22 awhile my parents put up what they thought was a \$50,000.00 bond.
23 Mr. Shockley found that it was encumbered and it wadn't quite
24 \$40,000.00. I had other members of the family put up extra pro-
25 perty, property bond to secure this \$50,000.00. While I was out
26 on bond, Judge I stayed at home. I never went out in public. The

1 only time I went out was to go hunting with my brother and a friend.
2 and I stayed right here and I had no problems with the bond and
3 I would request the Court--I know that you are going to have to
4 raise my bond if you grant a bond whatsoever, but if you go over
5 \$75,000.00, Judge it'll be just like not having a bond because I
6 don't see anyway possible that my parents, family or friends could
7 raise anything over \$75,000.00. Like I say, I know this is a heavy
8 charge, but I will ask the Court to set a bond of \$75,000.00
9 where I can obtain that. _____ (Unintelligible) That's not even
10 guaranteed, but I have cooperated and I will continue to cooperate,
11 but I will beg the Court Judge that I would like to spend Christmas
12 with my family and if you could possible, if you all could possibly
13 work that out, I would appreciate it very much.

14 THE COURT: All right, thank you, sir.

15 MR. SHOCKLEY: May I comment, please.

16 THE COURT: Yes, sir.

17 MR. SHOCKLEY: Your honor, Mr. Epperly, as he stated on about
18 July 9th or 10th, consulted Mr. Lawrence, attorney in Roanoke, who
19 had represented him on one of his previous rape charges. I talked
20 to Mr. Lawrence on the phone several times, made offers to Mr.
21 Lawrence to plea bargain in return for the body. I assume, or I
22 can only assume that Mr. Lawrence conveyed some of these ideas to
23 Mr. Epperly. I know Mr. Lawrence expressed to me confidence that
24 if he were employed, he would have no problem in an acquittal.

25 I've talked to Mr. Warburton in that vein and I know Mr.
26 Warburton expressed to me some weeks ago that he was confident that

1 he would secure an acquittal fo this individual.

2 My point is that I would be inclined to believe that any
3 attorneys with whom Mr. Epperly consulted gave him confidence in
4 the very fact that there was no body and consequently how would
5 the state prove that a death had occurred. That being the case,
6 I'm sure Mr. Epperly was confident in coming in and standing
7 trial, thinking that this is duck soup. You know, I'll get my
8 acquittal and be back out on the street. Well he wasn't quite
9 so lucky and I suspect that if he were turned loose now that he
10 would be inclined to make himself scarce. I know that if I had
11 been sentenced and standing here before you to life imprisonment
12 and if I were released on the streets, parents or no parents, I'd
13 be gone. No matter how I'd try to repay my parents, but I would
14 not go to prison for life and as far as his cooperation with the
15 police, I will say that he came to them anytime they requested.
16 He talked to them most anytime at least until the time he secured
17 counsel in Roanoke. However, as you know, from the conviction
18 and the evidence in the case, when he talked to them, all he gave
19 them was a bunch of lies. We've requested, I've sat, I've pleaded
20 with Mr. Epperly before he was ever charged. I said, "My primary
21 concern is getting Gina Hall's body. My secondary concern is
22 prosecuting you." I told him that we could deal on most favorable
23 terms if the body was returned to us so that this girl could be
24 properly buried. At no time did he ever indicate that he was
25 willing to do so, insisting that he never killed her, didn't know
26 where her body was and, of course, from all the other evidence at

1 hand the jury of twelve people was convinced beyond any reasonable
2 doubt that he did know where she was. As far as Christmas, I can
3 only say that Gina Hall is not going to be home with her parents,
4 why should Stephen Epperly.

5 THE COURT: Well, gentlemen, of course, the complexion of
6 any case changes after a conviction. Assuming that Mr. Epperly
7 was cooperative prior to the commencement of the trial--and I'm
8 sure he was cooperative with the police officers--still now he
9 stands convicted of a heinous offense and I realize he insists
10 that he's not guilty, but the jury has found him guilty and I have
11 affirmed that verdict so that's the posture of the case at the
12 moment. It's--we have to consider not only the question of what
13 he's done in the past, but we have to consider what he might now
14 do in light of the fact that he stands convicted and sentenced to
15 the State Penitentiary for life. We also--I don't think I can
16 ignore the comments made by the Commonwealth's Attorney about the
17 defendant's history. I've been told that he's been prosecuted
18 twice for rape and that or something approaching that^{apparently} was involved
19 in this case and although Mr. Epperly may have the very best of
20 intentions--and I don't question those as he sits here today--I
21 don't know what he might do if he were out and confronted with a
22 situation that might trigger this same kind of response again.
23 It is indeed a responsible decision that I have to make, an impor-
24 tant one and I think it's in the public interest that bail be
25 denied and I shall adhere to my previous ruling on this point.

26 All right, gentlemen, does this bring us to the question of

1 obtaining new counsel?

2 MR. LOOKABILL: Your Honor, would the Court be entering an
3 order today, the final order in the case, signing the order?

4 THE COURT: I don't know whether we can get it ready. You
5 see we have to have a series of orders, one for each day. Whether
6 we can get them all ready, maybe we can. What do you think, Miss
7 Williams. You haven't started on any of them yet.

8 MISS WILLIAMS: I don't have my notes.

9 THE COURT: Well, we'd have to get back to Wytheville. I
10 doubt if we'd be finished today.

11 MR. LOOKABILL: Probably be sometime next week.

12 THE COURT: But we'll get it done the early part of next
13 week.

14 MR. WARBURTON: If it please the Court, Mr. Lookabill and I
15 have a motion to make, a copy of which has been hand delivered to
16 Mr. Shockley just moments ago. In conformance with our feelings
17 and also in conformance with the feelings of our client, Mr.
18 Epperly, we respectfully ask the Court to relieve us of any further
19 duties as his attorneys in this case. I have also prepared an
20 order for the Court's consideration, ordering that we be relieved
21 of any further duties, representation of the defendant in this
22 matter, allowing the Court to appoint someone else for the purposes
23 of appealing, Your Honor.

24 THE COURT: All right, Mr. Epperly, how do you feel about this
25 request?

26 MR. EPPERLY: Well, Judge, I have to be honest in facing the

1 rest of my life. I like Mr. Lookabill very much and I like Mr.
2 Warburton but I do not think that I was any place close to adequate
3 counsel. Many things that I asked to be done before the trial were
4 not done and as I, I gave you a letter this past Monday asking you
5 to stop the trial because I was not ready, adequately prepared for
6 this trial and I would like for other counsel--I will say I have
7 enjoyed working with Mr. Warburton and Mr. Lookabill, but I just
8 don't think things were handled in the proper perspective.

9 THE COURT: So you joint in their motions that they be relieved
10 as counsel?

11 MR. EPPERLY: Yes, sir.

12 THE COURT: Insofar as the appeal is concerned?

13 MR. EPPERLY: Yes, sir.

14 THE COURT: Now, do you think you are going to be in a position
15 to employ your own attorney? on the appeal?

16 MR. EPPERLY: No, sir, not at this time.

17 THE COURT: So you want the Court to appoint someone else to
18 represent you on the appeal?

19 MR. EPPERLY: Yes, sir, I hope the Court will consider the
20 charge and the conviction and I hope will appoint someone who has had
21 previous experience at being a criminal lawyer.

22 THE COURT: Well, we have several gentlemen seated right here
23 today who fit that description.

24 I'm going to ask Mr. Eley and Mr. Jenkins if they won't
25 jointly represent you on this appeal. They are both experienced
26 in criminal law and I don't know that I'm really justified in

1 appointing two lawyers, but on the theory that two heads are better
2 than one, I'm going to do that and ask these gentlemen if they
3 won't represent you and then they can work together and help each
4 other.

5 MR. JENKINS: Your Honor, if Mr. Epperly has no objection,
6 I will be happy to comply with the Court's request and represent
7 Mr. Epperly on the appeal.

8 THE COURT: All right, Mr. Eley?

9 MR. ELEY: Your Honor, I would like to have an opportunity to
10 talk with Mr. Epperly about this matter to see what the nature
11 of his appeal is, etc. I think this would be a proper way for
12 me to proceed and advise the Court if that's proper with the
13 Court.

14 THE COURT: Well,--

15 MR. ELEY: --duty to the Court, certainly, but I think that
16 would be the proper, I would like to know the nature of his
17 appeal. I'm apprised of some legal items of the appeal already,
18 mostly through talk around the courthouse and this type of thing,
19 but also an opportunity to consult with Mr. Jenkins, I think would
20 be beneficial to counsel.

21 THE COURT: Well, I shall appoint Mr. Jenkins, then and I
22 shall tentatively appoint Mr. Eley and--

23 MR. EPPERLY: Judge, may I ask a question?

24 THE COURT: Yes, sir.

25 MR. EPPERLY: I hate to interrupt you. Are Mr. Jenkins and
26 Mr. Eley in the same practice?

1 THE COURT: No, Mr. Jenkins--you mean in the same office?

2 MR. EPPERLY: Yes, sir.

3 THE COURT: No, Mr. Jenkins is in Radford, practices by him-
4 self with a partner and Mr. Eley is in a law firm here in Pulaski.

5 MR. EPPERLY: Did you say that you were going to let us con-
6 fer with each other before--

7 THE COURT: Well, I said I'm appointing Mr. Jenkins definitely
8 because he had already accepted the responsibility. Mr. Eley
9 wants to talk to you and your lawyers a little bit before he
10 indicates to the Court whether or not he would be willing to
11 accept the employment. Of course, I could go ahead and appoint
12 any lawyer I want to whether they are happy with the appointment
13 or not, but I don't want to do that. I want to appoint somebody
14 who's willing to take the case and go forward with it and do the
15 very best they can with it.

16 MR. JENKINS: Your Honor, _____ (inaudible) take an appeal,
17 is that correct Mr. Epperly?

18 MR. EPPERLY: Yes, sir.

19 MR. JENKINS: I am not sure, Your Honor. I would have to
20 read the transcripts and so would other counsel _____
21 (inaudible). I understand Mr. Epperly wants it done as quickly as
22 possible. I just wonder when the transcript--

23 THE COURT: It's going to take some time as everybody knows.
24 It's going to take a long time. No way anybody can type up this
25 record in just a few days. But in the meantime you gentlemen could
26 be--that's where you are going to get most of your information

1 anyway is talking to Mr. Epperly and his attorneys. I think you
2 can find out from them everything that happened in the case anyway
3 almost verbatim. They have capacious notes and then the court
4 reporter has already started working on the record. She will get
5 it up just as quickly as she can.

6 All right, I'm going to fill in the blank in this order
7 appoint Mr. Jenkins and then we can enter another order later as
8 to Mr. Eley, if that become necessary.

9 MR. WARBURTON: Mr. Lookabill and I both pledge as much
10 effort as we can put forth in helping Mr. Jenkins and anyone else
11 who works with him on the appeal in this matter.

12 THE COURT: I knew you would do that. I want to thank counsel
13 for representing the defendant in this very difficult case as
14 court-appointed counsel. They discharged the highest responsibi-
15 lity that a lawyer has, one of the highest when they accept a
16 case for practically no compensation and work as an officer of the
17 Court to try to represent a defendant in a criminal case. In this
18 case as in other cases, the defendant when he's disappointed
19 feels that he hasn't received adequate representation. This is not
20 unique to this case so I don't take this as any reflection upon
21 the ability or integrity of Mr. Lookabill and Mr. Warburton, and
22 I thank these gentlemen for accepting this appointment and doing
23 the best that they could with the case.

24 All right gentlemen, is there anything further?

25 MR. WARBURTON: No, sir.

26 THE COURT: If not, that concludes this matter. Now, Mr.--

1 we'll go off the record.

2 (End of proceedings 12-19-80.)

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END OF PROCEEDINGS

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NOTICE

I, Elinor E. Williams, Court Reporter, do hereby certify that the evidence in the foregoing case was recorded electronically by me and has been duly transcribed by me, all of said proceedings having been heard before the Honorable R. William Arthur, Judge of the Twenty-seventh Judicial Circuit Court in Pulaski County, Virginia, on December 10, 11, 12, 15, 16 and 19, 1980.

I further certify that on this 5th day of March, 1981, I delivered the original and two copies of this transcript to the Clerk of the Circuit Court of Pulaski County.

Elinor E. Williams
Court Reporter

CERTIFICATE

I, Elinor E. Williams, Court Reporter, whose name is signed to the foregoing notice certify that I delivered a copy of said notice to Everett P. Shockley, Esq., attorney for the Commonwealth, Pulaski County, Virginia, and that I mailed copies thereof to Max Jenkins, Esq. and R. Keith Neely, Esq., counsel for Stephen Matteson Epperly, on the 5th day of March, 1981.

In Witness Whereof, I have hereunto affixed my signature on this 5th day of March, 1981.

Elinor E. Williams
Court Reporter

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CLERK'S CERTIFICATE

I, Gerry J. Atkinson, Clerk of the Circuit Court of Pulaski County, Virginia, do hereby certify that the foregoing stenographic copy and report of the testimony and other incidents of the trial in the case of Commonwealth v. Stephen Matteson Epperly, Defendant, was filed with me as Clerk of said Court on the day of March, 1981.

Clerk of the Circuit Court of
Pulaski County, Virginia