

SUPREME COURT OF THE STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA, )  
 )  
 PLAINTIFF-RESPONDENT, )  
 )  
 VS. )  
 )  
 REGIS DEON THOMAS, )  
 )  
 DEFENDANT-APPELLANT. )  
 \_\_\_\_\_ )

SUPERIOR COURT  
NO. BA075063

AUG 31 1985

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY  
HONORABLE EDWARD A. FERNS, JUDGE PRESIDING  
REPORTERS' TRANSCRIPT ON APPEAL

APPEARANCES:

FOR PLAINTIFF-RESPONDENT: DANIEL E. LUNGREN  
STATE ATTORNEY GENERAL  
300 SOUTH SPRING STREET  
NORTH TOWER, SUITE 5001  
LOS ANGELES, CA 90013

FOR DEFENDANT-APPELLANT: IN PROPRIA PERSONA

VOLUME 25 OF 33  
PAGES 3831 THROUGH 3918, INCLUSIVE

COPY

MARIANNE BRACCI, CSR #6168  
GEORGE W. SABIA, CSR #3336  
OFFICIAL REPORTERS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 106

HON. EDWARD A. FERNS, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA, )

PLAINTIFF, )

VS. )

REGIS THOMAS, )

DEFENDANT. )

NO. BA075063

VOL 25

**FILED**

APR 27 1995

EDWARD M. KNITZMAN,

BY P.R. HORTON, DEPUTY

REPORTERS' DAILY TRANSCRIPT

APRIL 25, 1995  
PAGES 3831 THROUGH 3918

APPEARANCES:

FOR THE PLAINTIFF:

GIL GARCETTI, DISTRICT ATTORNEY  
BY: MARK ARNOLD, DEPUTY  
18000 CRIMINAL COURTS BUILDING  
210 WEST TEMPLE STREET  
LOS ANGELES, CALIFORNIA 90012

FOR THE DEFENDANT:

JAY JAFFE, ATTORNEY AT LAW  
-AND-  
VICTORIA DOHERTY, ATTORNEY AT LAW  
SUITE 1200 WELLS FARGO BUILDING  
433 NORTH CAMDEN DRIVE  
BEVERLY HILLS, CALIFORNIA 90210

GEORGE W. SABIA, CSR #3336  
MARIANNE BRACCI, CSR #6168  
OFFICIAL REPORTERS

**ORIGINAL**

# I N D E X

INDEX FOR VOLUME 25

PAGES 3831 TO 3918

<u>DAY</u>	<u>DATE</u>	<u>SESSION</u>	<u>PAGE</u>	<u>VOL</u>
TUESDAY	APRIL 25, 1995	A.M.	3831	25
		P.M.	3868	25

## CHRONOLOGICAL INDEX OF WITNESSES

<u>DEFENSE WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VD</u>	<u>VOL</u>
BRANSCOMB, MARVIN EUGENE	3842	3854				25
BUMCROT, MICHAEL	3863	3868	3876			25
LAVIGNE, GISELE	3880	3884				25
HEROLD, LYNNE DENISE	3886	3897	3902	3904		25
(FURTHER)			3905			25

## INDEX OF EXHIBITS

<u>DEFENSE</u>	<u>EXHIBITS</u>	<u>FOR IDENTIFICATION</u>	<u>VOL</u>	<u>IN EVIDENCE</u>	<u>VOL</u>
LL	2 CRIME SCENE PHOTOS	3840	25	(FOR ID ONLY)	
MM	ENLARGEMENT OF KK	3844	25		
NN	ENLARGEMENT OF JJ	3847	25		
OO	FOUR PHOTOS	3887	25		
PP	FOUR PHOTOS	3889	25		

1           LOS ANGELES, CALIFORNIA; TUESDAY, APRIL 25, 1995

2                           1:45 P.M.

3       DEPARTMENT NO. 106

HON. EDWARD A. FERNS, JUDGE

4                           (APPEARANCES AS HERETOFORE NOTED.)

5  
6                           (THE FOLLOWING PROCEEDINGS WERE  
7                           HELD IN OPEN COURT OUTSIDE THE  
8                           PRESENCE OF THE JURY:)

9  
10           THE COURT:   ALL RIGHT.   RECALL THE CASE OF REGIS  
11   THOMAS.   MR. THOMAS IS PRESENT.   RESPECTIVE COUNSEL.  
12   DETECTIVES.   WE ARE OUT OF THE PRESENCE OF THE JURORS AND  
13   THE ALTERNATES.

14                       BEFORE WE BEGIN, SOMETHING HAPPENED  
15   YESTERDAY.   THE MANNEQUINS FELL OVER.

16                       WHAT HAPPENED, MR. ARNOLD, WHEN YOU CAME BACK  
17   YESTERDAY WITH THE EXHIBIT, PEOPLE'S 113, YOU DROPPED IT  
18   OFF, AND I WAS STANDING TALKING TO MR. JAFFE.   WE WERE  
19   DISCUSSING THE TRIAL DOWN THE HALL.

20                       THERE WAS A LOUD NOISE, AND I THOUGHT THAT  
21   THE -- I THOUGHT SOMETHING HAD FALLEN ON THE REPORTER WHO  
22   WAS THERE DOING A TRANSCRIPT, AND I ASKED HIM IF  
23   EVERYTHING WAS OKAY.   HE SAID YES.   SO I ASSUMED IT WAS  
24   THE JANITOR THAT HAD DROPPED A TRASH CAN OR SOMETHING DOWN  
25   THE HALL.

26                       SO WHEN I WENT INTO CHAMBERS, THE MANNEQUINS  
27   HAD FALLEN OVER, AND THE PROBES, TWO OF THE PROBES -- MORE  
28   THAN TWO HAVE BROKEN.

SO I DON'T KNOW HOW YOU WANT TO HANDLE THE  
SITUATION, WHETHER YOU WANT TO HAVE NEW PROBES MADE OR  
WHETHER YOU WANT THE -- SOMEBODY FROM THE CORONER'S OFFICE  
TO COME BACK AND RECONSTRUCT THEM, AND YOU AND MR. JAFFE  
CAN LOOK AT THEM OR WHAT THE SITUATION IS.

BUT I WAS RATHER SURPRISED WHEN I WENT IN AND  
SAW THEM. WE'LL TAKE THAT UP LATER.

MR. ARNOLD: DETECTIVE BUMCROT WILL GET ADDITIONAL  
RODS, AND I GUESS WE COULD JUST DUPLICATE WHAT'S IN THE  
PHOTOGRAPHS.

THE COURT: ALL RIGHT. BUT THEY -- THEY WERE WHERE  
THEY HAVE BEEN FOR THE LAST THREE OR FOUR DAYS, AND THEN  
THEY WENT DOWN.

MR. ARNOLD: JUDGE, THAT'S FINE. THINGS HAPPEN.  
THAT'S OKAY.

THE COURT: ALL RIGHT. ARE YOU READY TO PROCEED,  
MR. JAFFE?

MR. JAFFE: YES, YOUR HONOR.

THE COURT: ARE YOU READY MR. ARNOLD?

MR. ARNOLD: NO. MR. -- THERE WAS A REENACTMENT OF  
THE STOP. THE REENACTMENT WAS DONE ON MARCH 9TH WHERE  
THEY BROUGHT THE DEFENDANT'S VEHICLE BACK OUT IT THE  
SCENE. THEY BROUGHT A POLICE CAR OUT TO THE SCENE. THE  
WITNESSES WERE BROUGHT TO THE SCENE, AND THEY WERE ASKED  
QUESTIONS. THEY JUST <sup>WENT</sup> ~~WENT~~ OVER THE SCENE WITH THEM.

I'M SEEING FROM ONE OF MR. JAFFE'S EXHIBITS  
THAT HE WANTED TO -- HE HAS TWO OF THE PHOTOGRAPHS FROM  
THE REENACTMENT MOUNTED, AND THE PHOTOGRAPHS WERE OF A

POOR QUALITY.

YOU CAN TELL THAT EVERYTHING IN IT IS VERY DARK. IN FACT, A STREET LIGHT THAT IS DEPICTED IN THE PHOTOGRAPH IS JUST A -- JUST AGLOW.

I -- AND DETECTIVE BUMCROT LOOKED AT THE PHOTOGRAPHS AND SAID THAT THE LIGHTING AS DEPICTED IN THE PHOTOGRAPHS IS NOT ACCURATE. THAT ISN'T THE WAY THE LIGHTING APPEARED.

I AM MENTIONING THIS TO YOU BECAUSE I GUESS THIS IS THE -- BY WAY OF A 402 MOTION THAT I WOULD ASK THAT THESE PHOTOS NOT BE SHOWN OR NOT BE USED BECAUSE THE INITIAL FOUNDATION THAT THE LIGHTING IS INACCURATE WOULD MAKE THE ADMISSIBILITY -- WOULD MAKE INADMISSIBLE THE PHOTOGRAPHS. IN ADDITION, IT WOULD GIVE THE JURY A SCANS -- AN ASKANCE VIEW OF THE LIGHTING.

THE VARIOUS SHOTS -- THE TWO PHOTOGRAPHS THAT MR. JAFFE INTENDS TO UTILIZE ARE NOT VIEWS THAT ANY OF THE WITNESSES MADE AT ANY PARTICULAR POINT IN TIME THAT IS OF IMPORT.

AND, IN ADDITION, THE TESTIMONY HAS BEEN THAT THE HAMBURGER STAND DURING THE ~~INCIDENT~~ <sup>INCIDENT</sup> WAS CLOSED, WHEREAS WHEN THE PHOTOGRAPHS WERE TAKEN, IT APPEARS THE HAMBURGER STAND IS OPEN BECAUSE THERE'S A LOT OF BACK -- VERY BRIGHT FLUORESCENT BACK LIGHTING.

ALL I WOULD LIKE YOU TO DO IS JUST TAKE A LOOK AT THE PHOTOS AND PERHAPS, YOU KNOW, ASK --

THE COURT: JUST ONE SECOND.

MR. JAFFE, DO YOU WANT TO GIVE ME AN OFFER OF

1 PROOF BEFORE I LOOK AT THE PHOTOS, WHAT THE FUNCTION AND  
2 THE PURPOSE OF THEM ARE.

3 MR. JAFFE: YES, YOUR HONOR.

4 IN THE TOP PHOTOGRAPH IT APPEARS TO HAVE A  
5 SPOTLIGHT ON A PATROL VEHICLE, WHICH MY GUESS IS THAT THAT  
6 IS TO DUPLICATE THE RELATIVE POSITIONS OF THE SUSPECT  
7 VEHICLE AND THE OFFICERS' CAR.

8 WE HAVE A RENDERING, WHICH IS PEOPLE'S 36.  
9 AND MRS. GULLY TESTIFIED THAT THAT APPROXIMATES WHAT SHE  
10 OBSERVED, ALTHOUGH SHE COULD NOT MAKE OUT THE SUSPECT'S  
11 FACE, BUT SHE TESTIFIED ABOUT WHAT SHE REMEMBERED ABOUT  
12 THE HAIR.

13 IT'S MY OFFER OF PROOF THAT THE SPOTLIGHT WAS  
14 IN FACT SHINING AS WE HAVE EVIDENCE OF -- OF SHINING ON  
15 THE OFFICERS AND THE SUSPECT, AND THAT IF INDEED REGIS  
16 THOMAS WAS THE INDIVIDUAL AT THE BACK PORTION OF THAT  
17 TRUCK AND HIS HEAD WAS IN A POSITION WHERE MRS. GULLY  
18 COULD SEE THE HAIR -- WE HAVE A BOOKING PHOTOGRAPH FROM  
19 4-6-93 WHICH SHOWS JUST FROM THE FLASH OF A CAMERA THAT  
20 THERE IS -- HIS SKULL APPEARS TO BE SHINY.

21 AND I WANT TO ASK -- I WANT TO ESTABLISH THAT  
22 THAT WAS THE RELATIVE POSITIONS OF THE VEHICLES AND THAT  
23 MRS. GULLY MENTIONED NOTHING ABOUT SEEING A SHINY HEAD.

24 REGARDING THE BOTTOM PHOTOGRAPH, I AGREE WITH  
25 MR. ARNOLD THAT THE LIGHTS TO HERCULES HAMBURGERS WERE  
26 CLOSED WHICH WOULD MAKE IT EVEN DARKER.

27 SO THIS REPRESENTATION OF THE VEHICLE IN THE  
28 PHOTOGRAPH ACTUALLY INURES TO THE BENEFIT OF THE

1 PROSECUTION RATHER THAN TO THE DEFENDANT BECAUSE THE  
2 PHOTOGRAPH --

3 IF I MAY APPROACH THE COURT.

4 THE COURT: ALL RIGHT. LET ME SEE THEM.

5 MR. JAFFE: -- SHOWS THE CONDITION EVEN LIGHTER  
6 THAN IT WAS.

7 AND AS YOU CAN OBSERVE FROM THE PHOTOGRAPH,  
8 THE WINDOW TINTING IN THAT PHOTOGRAPH APPEARS TO BE  
9 SUBSTANTIALLY DIFFERENT THAN THE WINDOW TINTING IN  
10 PEOPLE'S 55, WHICH IS THE RENDERING WHERE ALICIA JORDAN  
11 INDICATES SHE COULD SEE THROUGH THE WINDOW.

12 THESE, BY THE WAY, ARE THEIR PHOTOGRAPHS, NOT  
13 MY PHOTOGRAPHS.

14 THE COURT: OKAY. NOW, I UNDERSTAND THE RELEVANCE  
15 IN YOUR OPINION OF THE PHOTOGRAPHS.

16 BUT THE FOUNDATION -- WHO IS GOING TO  
17 ESTABLISH THE FOUNDATION IN THE PHOTOGRAPHS?

18 MR. JAFFE: I GUESS IT WOULD BE DETECTIVE BUMCROT.  
19 HE WAS THERE WHEN THE PHOTOGRAPHS WERE TAKEN.

20 THE COURT: ALL RIGHT. AND TYPICALLY -- LET ME ASK  
21 THIS: WAS THERE ANY PARTICULAR CAMERA OR LIGHTING OR  
22 FLASH OR WHAT HAVE YOU?

23 DO EITHER OF YOU KNOW WHAT KIND OF CAMERA OR  
24 WHATEVER WAS USED?

25 I MEAN THERE'S A SITUATION -- OBVIOUSLY IN MY  
26 MIND THERE'S A DISTINCTION BETWEEN USING A CAMERA AND --  
27 OR USING A PHOTOGRAPH AND ASKING SOMEBODY IF IT DEPICTS  
28 THE LAYOUT OR WHAT HAVE YOU.



1                   AND MANY TIMES LAWYERS WILL AGREE THAT THE  
2 LIGHTING IS NOT ACCURATE. A PHOTOGRAPH -- A CAMERA LENS  
3 MAY NOT NECESSARILY TAKE THE -- OR HAVE THE SAME  
4 PERSPECTIVE AS THE HUMAN EYE.

5                   WHATEVER THE LIGHTING CONDITIONS WERE AS FAR  
6 AS THE FLASH OR NO FLASH OR WHATEVER, A LOT DEPENDS ON  
7 CAMERAS.

8                   I MEAN I'M NOT A CAMERA BUFF, BUT I KNOW  
9 PEOPLE THAT USE PROFESSIONAL -- QUOTE, UNQUOTE,  
10 PROFESSIONAL PHOTOGRAPHERS THAT USE THE PROPER LIGHTING  
11 CAN GET -- ILLUMINATE CERTAIN THINGS, WHEREAS IF I USE A  
12 FLASH I CANNOT ILLUMINATE IT. AND IT IS A MATTER OF  
13 CONDITIONS, QUOTE, UNQUOTE, THAT ARE OUT THERE.

14                  YOU KNOW, TWO NIGHTS AGO WITH THE WIND  
15 BLOWING, YOU COULD SEE EVERYTHING WITH THE MOON. LAST  
16 NIGHT I GO OUT AND THERE'S A CLOUD. YOU KNOW, I WOULD NOT  
17 HAVE KNOWN I WAS IN THE SAME BACK YARD EXCEPT IT WAS MY  
18 HOUSE. THAT'S MY CONCERN AT THIS PARTICULAR POINT.

19                  MR. JAFFE: OBVIOUSLY THESE PICTURES WERE NOT TAKEN  
20 WHEN THE VEHICLE WAS TRAVELING AT A SPEED GREATER THAN  
21 MRS. GULLY'S CAR. AND CERTAINLY PEOPLE'S 55 DOES NOT MAKE  
22 THAT REPRESENTATION.

23                  THE PEOPLE HAVE BEEN GIVEN ABUNDANT  
24 OPPORTUNITY TO SHOW THE JURY PEOPLE'S 55. AND IT WAS  
25 DISCLOSED TO THE COURT THAT THE PURPOSE WAS TO ASSIST  
26 ALICIA JORDAN IN HER TESTIMONY, THAT THAT RENDERING  
27 APPROXIMATED WHAT SHE OBSERVED.

28                  I THINK THAT THAT'S A BIT OF A STRETCH IN

1 VIEW OF THE FACT THAT YOU CAN HOLD A PHOTOGRAPH FOR AS --  
2 THE RENDERING AS LONG AS YOU WANT, AND THAT'S CERTAINLY  
3 NOT A MATTER OF ONE OR TWO SECONDS AS ALICIA JORDAN  
4 TESTIFIED.

5 BUT I THINK THERE'S INDEPENDENT RELEVANCE TO  
6 THESE PHOTOGRAPHS. I WOULD ASK THE COURT TO ALLOW ME TO  
7 USE BOTH.

8 THE FIRST -- THE TOP PHOTOGRAPH, IRRESPECTIVE  
9 OF THE REPRESENTATION OF THE WINDOWS ON THE SUSPECT  
10 VEHICLE, ARE RELATIVE POSITIONS OF THE CARS. AND THE FACT  
11 THAT THERE'S A SPOTLIGHT ON I THINK THAT HAS INDEPENDENT  
12 RELEVANCE.

13 THE COURT: WELL, AS I SAY, I MEAN IF YOU WANT  
14 TO -- WELL, LET ME SAY MY FEELINGS.

15 THE RENDERINGS -- THAT WAS WHY I ASKED  
16 YESTERDAY ABOUT WHAT THE PERSPECTIVE WAS AS FAR AS THE  
17 ADMISSIBILITY OF THE RENDERINGS, AND, YOU KNOW, THAT WAS  
18 WHY I LEFT IT REALLY IN THE HANDS AS FAR AS POSING  
19 OBJECTIONS OF YOU. AND THEN I WOULD MAKE CERTAIN RULINGS  
20 DEPENDING ON WHAT OBJECTIONS YOU POSED OR DID NOT POSE.

21 OBVIOUSLY THERE ARE TECHNICAL DECISIONS MADE  
22 IN TRYING CASES, AND YOU HAVE TRIED MANY CASES, AND THERE  
23 ARE TACTICAL DECISIONS.

24 ONE WITNESS IN THIS CASE TESTIFIED, MISS  
25 CREAR, THAT SHE COULDN'T SEE HOW MANY PEOPLE WERE IN THE  
26 CAB OF THAT TRUCK BECAUSE THE WINDOWS WERE SO TINTED.

27 NOW, RENDERING 36, WHICH IS -- IF THAT'S --  
28 NOT 36, BUT I THINK IT IS 55 THAT HAS THE PROFILE.

1 MR. JAFFE: RIGHT.

2 THE COURT: WHERE MISS JORDAN TALKED ABOUT THAT'S  
3 WHAT SHE SAW AS IT WENT BY. I MEAN --

4 MR. JAFFE: 55.

5 THE COURT: MY ANTICIPATION -- I SIT UP HERE AND  
6 OBVIOUSLY WATCH MANY CASES. MY ANTICIPATION IS THAT THERE  
7 IS AN INCONSISTENCY.

8 YOUR ARGUMENT WILL BE THAT THERE IS AN  
9 INCONSISTENCY IN WHAT THE TWO PEOPLE SAY, AND THAT THE  
10 PROFILE WAS -- I MEAN MISS JORDAN'S TESTIMONY WAS THAT  
11 THAT WAS THE PROFILE THAT SHE GOT AS THE TRUCK WENT BY.

12 THE PHOTOGRAPHS OF THE RECONSTRUCTION -- I  
13 MEAN IF YOU WANT TO PUT DETECTIVE BUMCROT ON OUT OF THE  
14 PRESENCE OF THE JURORS, AND I LISTEN TO WHAT HE HAS TO SAY  
15 FOR FOUNDATIONAL, AND THEN I'LL MAKE A RULING BASED ON  
16 THAT.

17 IF IT IS A SITUATION THAT YOU'VE GOT THE  
18 INFORMATION AS TO WHO TOOK THE PHOTOGRAPHS, WHICH  
19 PHOTOGRAPHER OR CRIMINALIST OR WHATEVER HE IS, ASSISTANT,  
20 AND THEY BRING HIM -- YOU KNOW, HAVE THEM CONTACT THEM AND  
21 BRING THEM OVER, AND I WILL HEAR FROM HIM TO MAKE A  
22 DETERMINATION.

23 BUT TRULY A LOT -- YOU KNOW, I DON'T THINK  
24 THAT IF MISS JORDAN WAS HERE, MISS GULLY WERE HERE OR  
25 DE'MORYEA POLIDORE WAS HERE TO SAY THAT THIS IS WHAT I SAW  
26 OR THIS IS WHAT I DID NOT SEE, OR THE LIGHTING ISN'T  
27 ACCURATE IN THIS OR WHAT HAVE YOU -- OR IS ACCURATE, THAT  
28 WOULD BE SOMETHING ELSE.

1                   BUT AT THIS PARTICULAR TIME, I WANT TO HEAR  
2 DETECTIVE BUMCROT TESTIFY ON THE FOUNDATION, AND THEN I  
3 CAN MAKE A DETERMINATION THERE.

4                   BUT TRULY I DON'T THINK THERE'S -- IF THE  
5 PURPOSE OF THESE IS TO SHOW WHAT LIGHTING AND THE EFFECT  
6 THE SPOTLIGHT HAS, I DON'T THINK THAT THERE'S A PROPER  
7 FOUNDATION.

8                   SO THAT'S -- AND OBVIOUSLY IF YOU NEED SOME  
9 TIME TO GET THE APPROPRIATE PERSON HERE FOR THE PURPOSES  
10 OF THE 402, I WILL GIVE YOU THAT.

11                  MR. JAFFE: MAY I HAVE A MOMENT.

12                  THE COURT: YES.

13

14                               (PAUSE IN THE PROCEEDINGS.)

15

16                  MR. JAFFE: THEN I'LL WITHDRAW IT, YOUR HONOR.

17                  THE COURT: ALL RIGHT. DO YOU WANT TO TAKE IT?

18                  MR. JAFFE: YES.

19                  THE COURT: ALL RIGHT. YOU HAVE NOT MARKED THEM  
20 YET?

21                  MR. JAFFE: NO.

22                  THE COURT: ALL RIGHT. ARE YOU READY TO PROCEED  
23 OTHERWISE?

24                  MR. JAFFE: YES. LET'S SEE IF THERE'S ANY OTHER  
25 ISSUES.

26                               ALL RIGHT. I'M READY. I WILL CALL DETECTIVE  
27 BRANSCOMB FIRST AND THEN DETECTIVE BUMCROT AND THEN THE  
28 CRIMINALISTS.

1 (COUNSEL AND DETECTIVE BRANSCOMB CONFER  
2 SOTTO VOCE.)  
3

4 THE COURT: YOU KNOW, WHILE THE TWO OF YOU WERE  
5 TALKING -- THE THREE OF YOU WERE TALKING, I WAS THINKING  
6 ABOUT THE EXHIBIT.

7 JUST FOR CLARITY ON THE RECORD I THINK IT  
8 SHOULD BE MARKED.

9 MR. JAFFE: ALL RIGHT.

10 THE COURT: BECAUSE I MADE A RULING AND THEN YOU  
11 WITHDREW IT AS A RESULT OF MY RULING. SO WHY DON'T WE  
12 MARK THAT LL.

13  
14 (MARKED FOR I.D.: = DEFT'S. LL, TWO CRIME  
15 SCENE PHOTOGRAPHS)  
16

17 MR. JAFFE: ALL RIGHT. I WILL CALL DETECTIVE  
18 BRANSCOMB.

19 THE COURT: ARE YOU READY THEN?

20 MR. JAFFE: I'M READY.

21 THE COURT: ARE YOU READY, MR. ARNOLD?

22 MR. ARNOLD: YES, YOUR HONOR.

23 THE COURT: ALL RIGHT. LET'S BRING THE JURORS OUT,  
24 PLEASE.

25

26

27

28

1 (THE JURORS ENTERED THE  
2 COURTROOM AND THE FOLLOWING  
3 PROCEEDINGS WERE HELD:)

4  
5 THE COURT: ALL RIGHT. GOOD AFTERNOON, LADIES AND  
6 GENTLEMEN.

7 THE JURY (COLLECTIVELY): GOOD AFTERNOON.

8 THE COURT: THE RECORD SHOULD REFLECT THAT THE  
9 JURORS AND THE ALTERNATES ARE NOW PRESENT.

10 MR. JAFFE, DO YOU WANT TO CALL YOUR NEXT  
11 WITNESS.

12 MR. JAFFE: YES. THANK YOU. DETECTIVE BRANSCOMB.

13  
14 MARVIN EUGENE BRANSCOMB,  
15 CALLED AS A WITNESS BY THE DEFENDANT, WAS SWORN AND  
16 TESTIFIED AS FOLLOWS:

17 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE  
18 TESTIMONY YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE  
19 THIS COURT SHALL BE THE TRUTH, THE WHOLE TRUTH, AND  
20 NOTHING BUT THE TRUTH, SO HELP YOU GOD.

21 THE WITNESS: I DO.

22 THE CLERK: PLEASE BE SEATED, SIR.

23 SIR, WOULD YOU PLEASE STATE AND SPELL YOUR  
24 FULL NAME FOR THE COURT RECORD.

25 THE WITNESS: MARVIN EUGENE BRANSCOMB.  
26 B-R-A-N-S-C-O-M-B.

27 THE COURT: ALL RIGHT. GO AHEAD, MR. JAFFE.

28 MR. JAFFE: THANK YOU.

## DIRECT EXAMINATION

BY MR. JAFFE:

Q. GOOD AFTERNOON, DETECTIVE BRANSCOMB.

A. GOOD AFTERNOON.

Q. DETECTIVE BRANSCOMB, JUST PUT THIS AERIAL PHOTO BACK UP ON THE BOARD. I THINK IT'S W -- H. DEFENSE H.

I THINK IT WAS YESTERDAY OR THE DAY BEFORE YESTERDAY, OFFICER METCALF DREW A RED LINE WHICH WOULD BE THE MOST DIRECT ROUTE FROM CULVER TO 137TH AND GRANDEE.

DO YOU RECALL THAT?

A. YES.

Q. ALL RIGHT. ON THIS ENLARGED THOMAS GUIDE, I HAVE A YELLOW DOT HERE AND ANOTHER YELLOW DOT THERE.

THE COURT: WHICH EXHIBIT IS THAT?

MR. JAFFE: THIS IS W.

THE COURT: ALL RIGHT.

Q. BY MR. JAFFE: YOU HEARD WE WERE TALKING ABOUT CALLS TO WILLOWBROOK AND CALLS TO I THINK WAS 910 OR 900 NORTH CULVER?

A. YES.

Q. IS THIS THE APPROXIMATE LOCATION OF 900 CULVER, AND IS THIS THE APPROXIMATE LOCATION OF THE WILLOWBROOK LOCATION, KEEPING IN MIND THIS IS ROSECRANS AVENUE?

A. YES.

MR. JAFFE: ALL RIGHT. IF I COULD JUST PUT THE DETECTIVE'S INITIALS THERE.

1 THE COURT: OKAY. ALL RIGHT. AND THEN 1 AND 2.

2 MR. JAFFE: MB-1 WILL BE CULVER, AND MB-2 WILL BE  
3 WILLOWBROOK.

4 THE COURT: ALL RIGHT.

5 MR. JAFFE: THANK YOU.

6 Q. THIS RED DOT HERE -- YOU SEE HERE'S HATCHWAY  
7 AND DRAWING A LINE TO PAULSEN.

8 WOULD THAT BE PAULSEN AND HATCHWAY?

9 A. YES.

10 MR. JAFFE: ALL RIGHT. WHY DON'T I -- JUST FOR  
11 CONSISTENCY SAKE, WHY DON'T WE TAKE OFF THIS RED DOT AND  
12 PUT THE YELLOW.

13 AND I'LL PUT AN MB-3, YOUR HONOR.

14 THE COURT: ALL RIGHT. FOR PAULSEN AND HATCHWAY?

15 MR. JAFFE: YES.

16 THE COURT: ALL RIGHT.

17 Q. BY MR. JAFFE: NOW, ON THE AERIAL PHOTOGRAPH  
18 THAT WE HAVE HERE, THE NORTHERNMOST STREET ON THE AERIAL  
19 PHOTOGRAPH IS WEST 136TH STREET; IS THAT CORRECT?

20 A. IT LOOKS TO BE SO.

21 Q. ALL RIGHT. NOW, THERE WAS SOME DISCUSSION I  
22 BELIEVE YESTERDAY ABOUT A STREET NAMED STOCKWELL.

23 DO YOU REMEMBER THAT?

24 A. YES.

25 Q. NOW, IS STOCKWELL NORTH OF 136?

26 A. I BELIEVE IT IS, YES.

27 Q. ALL RIGHT. AND WOULD IT ASSIST YOU TO LOOK  
28 AT THE ENLARGED THOMAS GUIDE?



1 A. YES. YES, THE STREET IS NORTH.

2 Q. OKAY. AND IS IT THE FIRST STREET, ONE STREET  
3 NORTH OF 136TH?

4 A. IT MIGHT BE TWO. IT MIGHT BE TWO.

5 Q. OKAY. SO IF I WERE TO PLACE THIS BLUE DOT UP  
6 HERE AT THE VERY TOP AND DRAW AN ARROW NORTH, THAT WOULD  
7 BE STOCKWELL.

8 IF I COULD JUST WRITE IN "STOCKWELL" WITH THE  
9 COURT'S --

10 THE COURT: ALL RIGHT. AND YOU ARE DOING THAT ON  
11 DEFENDANT'S H?

12 MR. JAFFE: YES. AND THAT WOULD BE MB-4.

13 THE COURT: ALL RIGHT.

14 Q. BY MR. JAFFE: AND THEN, FINALLY, ROSECRANS  
15 AND WILMINGTON. I'LL PUT A BLUE DOT RIGHT IN THE  
16 INTERSECTION.

17 THAT'S THE INTERSECTION?

18 A. RIGHT.

19 MR. JAFFE: ALL RIGHT. I'LL WRITE MB-5.

20 YOUR HONOR, I HAVE ANOTHER EXHIBIT I WOULD  
21 LIKE TO BE MARKED NEXT IN ORDER.

22 THE COURT: ALL RIGHT. THAT WILL BE DEFENDANT'S  
23 MM.

24

25 (MARKED FOR I.D.: = DEFT'S. MM, ENLARGEMENT OF  
26 KK.)

27

28 THE COURT: LADIES AND GENTLEMEN, JUST SO YOU DON'T

1 THINK WE SKIPPED SOMETHING, WE -- I HANDLE SOMETHING OUT  
2 OF YOUR PRESENCE, AND THERE'S ANOTHER EXHIBIT MARKED.

3 MR. JAFFE: IS THAT DOUBLE MM, YOUR HONOR?

4 THE COURT: YES.

5 Q. BY MR. JAFFE: DETECTIVE BRANSCOMB, I HAVE  
6 HERE AN ENLARGED POSTER OF A PREVIOUSLY MARKED EXHIBIT,  
7 THAT EXHIBIT BEING THE COMPUTER PRINTOUT FOR THE -- FOR  
8 THE UNIT Z-3 WHICH WAS OFFICER BURRELL'S AND OFFICER  
9 MACDONALD'S LOG.

10 A. YES.

11 MR. JAFFE: WHAT NUMBER WAS THAT? KK?

12 MS. DOHERTY: KK.

13 THE COURT: RIGHT.

14 Q. BY MR. JAFFE: ALL RIGHT. DO YOU SEE ALL OF  
15 THESE COMPUTERIZED NOTATIONS?

16 A. YES.

17 Q. TAKING -- GOING FROM THE TOP TO THE BOTTOM,  
18 THE TOP -- THE DATE IS ALL CONSISTENT.

19 THAT'S FEBRUARY 22, 1993; CORRECT?

20 A. YES.

21 Q. THE TIME INDICATES VARIOUS ACTIVITIES AT  
22 THOSE PARTICULAR TIMES; CORRECT?

23 A. YES.

24 Q. AND THE ACTION, COULD YOU TELL US WHAT THE  
25 ACTION MEANS?

26 A. WELL, TO MY RECOLLECTION THE -- THE -- IT'S  
27 BEEN TEN YEARS SINCE I'VE BEEN IN THE FIELD.

28 BUT THE 8 WOULD MEAN LIKE THEY CLEARED THAT

1 CALL.

2 AND THE A WOULD MEAN LIKE THEY WERE ASSIGNED  
3 THAT CALL.

4 AND THEN IF THEY WERE ASSIGNED TO ASSIST  
5 ANOTHER UNIT, THEN THEY WOULD BE DETAILED TO ASSIST  
6 ANOTHER UNIT.

7 AND THE CO WOULD BE LIKE THEY CLEARED A CALL.  
8 AND A 7 WOULD BE LIKE THEY'RE ARRIVED AT A  
9 LOCATION.

10 Q. OKAY. OR THE 7 MEAN CHANGE OF STATUS? IN  
11 OTHER WORDS, THEY ARE GOING FROM A CLEARED LOCATION TO  
12 ANOTHER LOCATION?

13 A. YES, BUT WHEN I WAS IN THE FIELD, IT WAS LIKE  
14 1097 OR 1098 OR THAT KIND OF THING. THEY ARE JUST  
15 USING -- IN THE COMMUNICATION CENTER THEY ARE JUST USING  
16 JUST THE LAST DIGIT.

17 Q. OKAY. AND THE CALL "WPNS," WHAT DOES THAT  
18 STAND FOR?

19 A. IT STANDS FOR WEAPONS CALL.

20 Q. AND "SUSP"?

21 A. IT COULD BE EITHER SUSPICIOUS PERSON OR SOME  
22 TYPE OF SUSPECT.

23 Q. ALL RIGHT. THANK YOU.

24 THE NEXT ITEM, YOUR HONOR, I HAVE I WOULD  
25 LIKE MARKED IS NN.

26 THE COURT: ALL RIGHT.

27

28

1 (MARKED FOR I.D.: = DEFT'S. NN, ENLARGEMENT  
2 OF JJ.)  
3

4 Q. BY MR. JAFFE: AGAIN, THIS IS AN ENLARGED  
5 COPY -- BY THE WAY, BEFORE WE GET TO NN, ON MM THIS IS A  
6 LOG WHICH IS GENERATED -- COMPUTER LOG WHICH IS GENERATED  
7 BY THE STATION; CORRECT?

8 A. YES.

9 Q. SO THAT THESE ITEMS ON THIS PARTICULAR  
10 EXHIBIT MM ARE GENERATED AT THE STATION AND REFLECT WHAT  
11 ACTIVITY IS DONE BY THE DISPATCHER?

12 A. YES.

13 Q. THANK YOU.

14 NOW, ON THIS PARTICULAR EXHIBIT, MM, WHICH IS  
15 UNIT Z-3, THAT'S OFFICER BURRELL AND MACDONALD, HAVE YOU  
16 BEEN ABLE TO LOCATE A COMPUTER PRINTOUT FOR OFFICER  
17 METCALF'S ACTIVITIES ON THAT EVENING?

18 A. NO.

19 Q. AND WHEN DID YOU FIRST ATTEMPT TO SEARCH  
20 THAT?

21 A. I DID SEVERAL MONTHS AGO.

22 Q. AND APPROXIMATELY APRIL 5, DURING THE COURSE  
23 OF THIS TRIAL, DID YOU HAPPEN TO SEE OFFICER METCALF'S  
24 LOG, WHICH IS MARKED AS PEOPLE'S 61?

25 A. YES.

26 Q. AND IS THAT THE FIRST TIME THAT YOU SAW HIS  
27 LOG?

28 A. NO, I'VE SEEN IT BEFORE.

1 Q. BUT YOU HAVE NOT BEEN ABLE TO LOCATE A  
2 COMPUTERIZED LOG FOR OFFICER METCALF'S ACTIVITIES ON THE  
3 EVENING OF FEBRUARY 22ND, HAVE YOU?

4 A. THAT'S CORRECT.

5 Q. THANK YOU.

6 THE NEXT ITEM THAT I HAVE IS NN.

7 THIS IS AN ENLARGED COPY OF THE LOG FOR  
8 OFFICER BURRELL AND MACDONALD ON FEBRUARY 22, 1993.

9 AND I WOULD LIKE TO DRAW YOUR ATTENTION TO  
10 THE LAST ENTRY -- THE SECOND TO THE LAST ENTRY ON THIS  
11 LOG, WHICH IS AN ADDRESS ON MAHALO; CORRECT?

12 A. CORRECT.

13 Q. AND INDICATING THAT THE TIME ENDED WAS 10:30,  
14 2230 HOURS?

15 A. YES.

16 Q. NOW, ON THIS LOG IT APPEARS AS THOUGH THE  
17 LAST ENTRY WOULD BE 900 NORTH CULVER, WHICH WAS THE DOT,  
18 IF YOU WILL, THAT WE MARKED JUST BRIEFLY; CORRECT?

19 A. YES.

20 Q. THE TIME ENDED WAS 2305 OR 11:05 HOURS;  
21 CORRECT?

22 A. RIGHT.

23 Q. THANK YOU.

24 THERE HAS BEEN SOME DISCUSSION EARLIER IN THE  
25 TRIAL REGARDING TIRE SKIDS OR TIRE MARKS WHICH WERE  
26 OBSERVED AT THE CRIME SCENE.

27 DO YOU RECALL THAT?

28 A. YES.

1 Q. ALL RIGHT. WERE ANY PHOTOGRAPHS TAKEN OF  
2 THOSE TIRE MARKS?

3 A. THEY SHOULD HAVE BEEN. I WASN'T ALLOWED INTO  
4 THE CRIME SCENE. THAT WAS HANDLED BY THE CRIMINALIST FROM  
5 THE SHERIFF'S DEPARTMENT AND DETECTIVE DOBBIN.

6 Q. TO YOUR KNOWLEDGE HAD YOU SEEN ANY  
7 PHOTOGRAPHS WHICH DEPICT ANY TIRE TRACKS OR TIRE SKID  
8 MARKS AT THE LOCATION?

9 A. I HAVE NOT SEEN THEM.

10 Q. YOU HAVE NOT SEEN THEM?

11 A. NO.

12 Q. AND TO YOUR KNOWLEDGE -- ALL RIGHT.

13 TO YOUR KNOWLEDGE HAD THERE BEEN ANY TESTS TO  
14 DETERMINE WHETHER OR NOT THE -- DID YOU SEE ANY TIRE  
15 TRACKS OR TIRE SKIDS --

16 A. YES.

17 Q. -- AT THE LOCATION?

18 A. YES.

19 Q. WAS ANY SCIENTIFIC TEST DONE TO COMPARE THE  
20 TIRE SKIDS OR TIRE TRACKS THAT WERE AT THE SCENE WITH THE  
21 WIDTH OR THE TYPE OF TIRES THAT ARE ON REGIS THOMAS'  
22 TRUCK?

23 A. NOT TO MY KNOWLEDGE.

24 Q. IN CONNECTION WITH YOUR INVESTIGATION, YOU  
25 ARE ALSO AWARE THAT MR. LEE, WHO WAS THE INDIVIDUAL WHO  
26 WAS RUNNING THE SHELL GAS STATION AT CENTRAL AND IMPERIAL,  
27 INDICATED THAT THERE WAS SOME TIRES SQUEALING AROUND ONE  
28 OF THE BOOTHS AT THE SHELL STATION?

1 A. YES.

2 Q. DID YOU HAPPEN TO, OR UNDER YOUR DIRECTION,  
3 CONDUCT ANY INVESTIGATION TO SEE IF THERE WERE ANY TIRE  
4 TRACKS AT THE SHELL STATION?

5 A. NO.

6 Q. ON FEBRUARY 22, 1993, WERE THERE ANY  
7 WARRANTS, OUTSTANDING WARRANTS FOR REGIS THOMAS?

8 MR. ARNOLD: OBJECTION, HEARSAY.

9 THE COURT: I'LL SUSTAIN IT.

10 MR. JAFFE: ALL RIGHT.

11 THE WITNESS: I DON'T HAVE ANY --

12 THE COURT: YOU DON'T HAVE TO ANSWER THAT.

13 MR. JAFFE: MAY WE APPROACH, YOUR HONOR?

14 THE COURT: YES.

15 MR. JAFFE: THANK YOU.

16

17 (THE FOLLOWING PROCEEDINGS WERE HELD

18 AT THE BENCH:)

19

20 MR. JAFFE: IF WE ARE CALLING FOR A POSITIVE  
21 ANSWER, I WOULD SAY IT IS HEARSAY. BUT IF HE'S NOT AWARE  
22 OF ANY WARRANTS, THEN I DON'T THINK IT WOULD CALL FOR  
23 HEARSAY. IT WOULD BE A NEGATIVE.

24 THE COURT: WELL, I THINK BASICALLY WHAT YOU ARE  
25 TRYING TO ELICIT AND WHAT WOULD PROBABLY HAVE TO BE DONE  
26 IS YOU HAVE ACCESS TO THE COMPUTER. I MEAN IT'S SIMILAR  
27 TO IF THE D.A. OR YOU WANT TO BRING IN A DOCUMENT. YOU  
28 HAVE TO HAVE A CERTIFIED COPY OF IT TO BRING IT BEFORE THE

1 JURY. THERE COULD BE A SEARCH DONE AND THERE IS NO SEARCH  
2 DOCUMENT. DO YOU SEE WHAT I'M SAYING?

3 MR. JAFFE: I SEE. CAN I ASK HIM WHETHER OR NOT HE  
4 CHECKED, AND IF THERE WAS A --

5 THE COURT: WAS THERE ANY OUTSTANDING WARRANTS TO  
6 YOUR KNOWLEDGE FOR HIM?

7 MR. ARNOLD: NO. AND I'LL TELL YOU -- NO. NO, NOT  
8 TO MY KNOWLEDGE.

9 THE COURT: OKAY. AND THE PURPOSE -- DO YOU WANT  
10 TO GIVE ME AN OFFER FOR ELICITING IT, THE RELEVANCE?

11 MR. JAFFE: YES, THE OFFER IS THAT THE DRIVER OF  
12 THE CAR THAT THEY BELIEVED WAS REGIS THOMAS, THAT WOULD  
13 PROVIDE A MOTIVE THAT THERE WAS A WARRANT OUTSTANDING FOR  
14 HIM FOR SOME OTHER CRIME AND THAT HE HAD COMMITTED THE  
15 CRIME TO AVOID APPREHENSION ON A WARRANT.

16 THE COURT: I'LL PERMIT YOU TO ASK THE QUESTION IF  
17 HE RAN -- IF HE WAS AWARE OF ANY -- IF HE RAN HIM FOR --  
18 WELL, LET'S JUST BRING HIM OVER.

19 MR. JAFFE: BEFORE -- I DON'T WANT TO OPEN UP A  
20 PANDORA'S BOX. IF THE DISTRICT ATTORNEY THINKS THAT HE IS  
21 GOING TO BE ABLE TO GO INTO, WELL, YOU KNOW, WAS HE ON  
22 PROBATION FOR THIS OR PROBATION FOR THAT --

23 THE COURT: THE THING IS I THINK THE RELEVANCE IS  
24 REALLY A STRETCH. HE'S NOT OBJECTING TO IT, BUT I THINK  
25 THAT IT BECOMES --

26 MR. JAFFE: OKAY.

27

28



1 (THE FOLLOWING PROCEEDINGS WERE  
2 HELD IN OPEN COURT IN THE PRESENCE  
3 OF THE JURY:)  
4

5 Q. BY MR. JAFFE: DETECTIVE BRANSCOMB, WHAT TIME  
6 DID YOU ARRIVE AT THE CRIME SCENE?

7 A. PROBABLY ABOUT TEN MINUTES TO MIDNIGHT.

8 Q. AND WHEN YOU ARRIVED -- I WOULD LIKE TO SHOW  
9 YOU A PHOTOGRAPH WHICH HAS PREVIOUSLY BEEN MARKED AS  
10 DEFENSE Z.

11 IN THE LEFT-HAND CORNER OF THAT EXHIBIT IS  
12 THAT HERCULES BURGERS?

13 A. YES.

14 Q. AND THE LIGHTS APPEAR TO BE OFF IN THE  
15 PHOTOGRAPH?

16 A. YES.

17 Q. CORRECT?

18 WERE THE LIGHTS -- TO YOUR KNOWLEDGE, WERE  
19 THE LIGHTS OFF OF HERCULES BURGERS AT APPROXIMATELY 11:15?

20 OF YOUR OWN KNOWLEDGE, DO YOU KNOW WHETHER  
21 HERCULES BURGERS WAS OPEN OR NOT?

22 A. I DON'T KNOW.

23 MR. JAFFE: MR. ARNOLD, WILL YOU STIPULATE THAT AT  
24 APPROXIMATELY 11:14 P.M. ON THE EVENING OF FEBRUARY 22,  
25 1993, AN ESTABLISHMENT KNOWN AS HERCULES BURGERS WHICH IS  
26 JUST ADJACENT TO THE CRIME SCENE WAS CLOSED, AND THERE  
27 WERE NO ARTIFICIAL LIGHTS ILLUMINATING THAT LOCATION?

28 MR. ARNOLD: YES.

1 THE COURT: ALL RIGHT. YOU HAVE TO ACCEPT THAT,  
2 LADIES AND GENTLEMEN.

3 Q. BY MR. JAFFE: WHEN YOU INTERVIEWED DE'MORYEA  
4 POLIDORE, DID HE EVER TELL YOU THAT THE SUSPECT HAD A QUO  
5 VADIS HAIRCUT?

6 A. NO.

7 Q. DID HE EVER TELL YOU THAT THE SUSPECT HAD A  
8 MUSCULAR BUILD?

9 A. NO.

10 Q. WHEN YOU INTERVIEWED MRS. GULLY, DID SHE EVER  
11 TELL YOU THAT THE VEHICLE DID NOT HAVE DAYTONS?

12 A. NO.

13 Q. DID YOU EVER REQUEST A HAIR SAMPLE FROM REGIS  
14 THOMAS?

15 A. NO.

16 MR. JAFFE: I HAVE NO FURTHER QUESTIONS. THANK  
17 YOU.

18 THE COURT: LET ME JUST SEE COUNSEL AT THE SIDEBAR  
19 FOR ONE THING BEFORE WE BEGIN YOUR CROSS.

20  
21 (THE FOLLOWING PROCEEDINGS WERE HELD  
22 AT THE BENCH:)

23  
24 THE COURT: I DID NOT ARTICULATE MY THOUGHTS THAT  
25 WELL ON THE WARRANT. REALLY, WHERE IT WOULD BE RELEVANT  
26 IS, ONE, IF THE OFFICERS HAD MADE AN INQUIRY OF A WARRANT,  
27 WHETHER IT WAS SOMETHING ON A LOG THAT SHOWED THEY HAD RAN  
28 FOR A WARRANT.

1 I THINK THAT THAT WOULD MAKE IT RELEVANT.  
2 OTHER THAN THAT, I WOULD PROBABLY SUSTAIN MY OWN  
3 OBJECTION.

4 MR. JAFFE: I TOLD MR. ARNOLD THAT IN TERMS OF  
5 PRIOR INCONSISTENT STATEMENTS THAT I WAS GOING TO BE VERY  
6 SPECIFIC AND LIMITED BOTH AS TO DETECTIVE BRANSCOMB AND  
7 DETECTIVE BUMCROT, THAT I WAS NOT GOING TO RELITIGATE  
8 THOSE AREAS THAT I ALREADY GOT THE WITNESSES TO SAY THAT  
9 THEY DID IN FACT SAY SOMETHING DIFFERENT WHEN I PLAYED THE  
10 TAPE.

11 THE COURT: I UNDERSTAND.

12 MR. JAFFE: SO WE HAVE AN UNDERSTANDING THAT THAT'S  
13 THE WAY IT WOULD BE; CORRECT?

14 MR. ARNOLD: YES, I UNDERSTAND.

15 THE COURT: ALL RIGHT.

16  
17 (THE FOLLOWING PROCEEDINGS WERE  
18 HELD IN OPEN COURT IN THE PRESENCE  
19 OF THE JURY:)

20  
21 THE COURT: ALL RIGHT. MR. ARNOLD, CROSS-EXAMINE.

22  
23 CROSS-EXAMINATION

24 BY MR. ARNOLD:

25 Q. DETECTIVE BRANSCOMB, CAN YOU ESTIMATE THE  
26 AMOUNT OF TIME THAT YOU INTERVIEWED DE'MORYEA POLIDORE ON  
27 FEBRUARY -- I GUESS THAT WOULD BE FEBRUARY 27TH --

28 A. 27TH.

1 Q. -- OF 1993?

2 A. PROBABLY ABOUT 30 MINUTES OR SO.

3 Q. NOW, YOU HAVE TESTIFIED THAT DE'MORYEA  
4 POLIDORE DID NOT DESCRIBE THE SUSPECT'S HAIR AS A QUO  
5 VADIS?

6 A. CORRECT.

7 Q. DID YOU ASK HIM TO DESCRIBE THE SUSPECT'S  
8 HAIR?

9 A. NO.

10 Q. YOU HAVE TESTIFIED THAT THE -- THAT DE'MORYEA  
11 DID NOT DESCRIBE THE -- I BELIEVE THE BODY STYLE -- YOU  
12 TESTIFIED THAT DE'MORYEA POLIDORE DID NOT ASK YOU --  
13 EXCUSE ME -- DID NOT TELL YOU BACK ON -- I'LL GET IT OUT  
14 ONE OF THESE DAYS.

15 YOU TESTIFIED THAT DE'MORYEA POLIDORE DID NOT  
16 TELL YOU ON FEBRUARY 27TH OF 1993 THAT THE SUSPECT WAS  
17 MUSCULAR.

18 A. NO, HE DIDN'T.

19 Q. AND THAT'S A TRUE STATEMENT, ISN'T IT?

20 A. YES.

21 Q. DID YOU ASK HIM TO DESCRIBE THE BODY STYLE?

22 A. NO, WE DID NOT.

23 Q. AT ANY TIME IN YOUR DISCUSSIONS WITH  
24 DE'MORYEA POLIDORE, DID HE EVER TELL YOU THAT THE  
25 HAIRSTYLE OF THE SUSPECT WAS ANYTHING OTHER THAN SHORT?

26 DID HE EVER VOLUNTEER THE GUY HAD A  
27 JHERI-CURL OR ANYTHING LIKE THAT?

28 A. NO.

1 Q. DID DE'MORYEA POLIDORE EVER STATE TO YOU THAT  
2 THE BODY -- THAT THE BUILD OF THE SUSPECT WAS ANYTHING  
3 OTHER THAN MUSCULAR?

4 A. NO.

5 Q. WHY IS IT THAT YOU DID NOT SPECIFICALLY ASK  
6 DE'MORYEA POLIDORE ON FEBRUARY 27TH OF 1993 TO DESCRIBE  
7 THE HAIR AND TO DESCRIBE THE MUSCULATURE, IF ANY, OF THE  
8 SUSPECT?

9 A. WHEN WE CAME IN CONTACT WITH DE'MORYEA, HE  
10 WAS 12 YEARS OLD. WE FELT THAT HE WAS SLIGHTLY IMMATURE,  
11 AND HE WAS A LITTLE BIT TRAUMATIZED.

12 WE FELT THAT WE WOULD ASK HIM A MINIMUM  
13 AMOUNT OF QUESTIONS AND GET MOST OF THE INFORMATION FROM  
14 HIS MOM AND FROM ALICIA JORDAN.

15 Q. NOW, YOU HAVE TESTIFIED THAT MRS. GULLY NEVER  
16 TOLD YOU THAT THE TRUCK HAD DAYTON -- THE TRUCK DID NOT  
17 HAVE DAYTON WHEELS?

18 A. YES.

19 Q. AND THAT'S A TRUE STATEMENT; SHE NEVER TOLD  
20 YOU THAT?

21 A. CORRECT.

22 Q. DID YOU EVER ASK HER DID THE TRUCK HAVE  
23 DAYTON WHEELS?

24 A. NO, WE DID NOT.

25 Q. WOULD YOU SAY THAT MORE QUESTIONS WERE ASKED  
26 OF DE'MORYEA POLIDORE HERE IN THE COURTROOM THAN COMPARED  
27 TO YOUR INTERVIEW WITH HIM ON FEBRUARY 27TH WHEN HE WAS 12  
28 YEARS OLD?

1 A. DEFINITELY HERE IN THE COURTROOM.

2 Q. SAME QUESTION FOR MRS. GULLY.

3 WAS SHE ASKED MORE QUESTIONS AND MORE POINTED  
4 QUESTIONS, MORE QUESTIONS CALLING FOR MORE SPECIFICITY  
5 HERE IN THE COURTROOM OR WHEN YOU INTERVIEWED HER ON  
6 FEBRUARY 27TH OF 1993?

7 A. HERE IN THE COURTROOM.

8 Q. NOW, MR. JAFFE WAS ASKING YOU ABOUT STOCKWELL  
9 STREET, AND YOU SAID THAT'S THE FIRST STREET NORTH OF  
10 136TH STREET I BELIEVE. I BELIEVE --

11 A. IT'S ONE OR TWO STREETS NORTH.

12 Q. NOW, IF IT WOULD BE -- IF STOCKWELL IS THE  
13 FIRST STREET NORTH OF 136TH, THEN WOULD STOCKWELL BE THE  
14 EQUIVALENT OF 135TH?

15 A. COULD YOU SAY THAT AGAIN.

16 Q. YES. IF STOCKWELL IS ONE STREET NORTH OF  
17 136TH, WOULD STOCKWELL THEN BE THE EQUIVALENT OF 135TH?

18 A. YEAH, IF THAT WAS TRUE, YEAH.

19 Q. AND ROSECRANS, IS THAT THE EQUIVALENT OF  
20 143RD STREET?

21 A. YEAH, IT COULD BE, YES.

22 Q. WELL --

23 A. WELL --

24 Q. WELL, IF YOU DON'T KNOW.

25 A. I KNOW THAT 145TH STREET IS SOUTH OF -- SOUTH  
26 OF ROSECRANS. SO IT COULD BE. IT COULD NOT BE.

27 I HAVEN'T BEEN OUT ON PATROL AND CHECKED  
28 THOSE THINGS OUT IN AWHILE. SO IT COULD BE.

1 THE COURT: YOU ARE LOOKING AT DEFENDANT'S W RIGHT  
2 NOW?

3 MR. ARNOLD: YES.

4 Q. OKAY. DETECTIVE, COULD YOU APPROACH THE --  
5 DEFENSE WHAT, YOUR HONOR? I'M SORRY.

6 THE COURT: W.

7 Q. BY MR. ARNOLD: LET ME JUST BRING YOUR  
8 ATTENTION TO -- GEE, I JUST SAW IT AND I LOST IT. OKAY.  
9 HERE.

10 YOU SEE WHERE IT SAYS 139TH STREET?

11 A. YES.

12 Q. WHAT IS THE NEXT STREET SOUTH?

13 A. CRESSEY.

14 Q. SO THAT WOULD BE THE EQUIVALENT OF 140TH?

15 A. YES.

16 Q. NEXT STREET SOUTH OF CRESSEY IS?

17 A. PLUM.

18 Q. THAT WOULD BE THE EQUIVALENT OF 141ST STREET?

19 A. YES.

20 Q. NEXT STREET SOUTH IS CHERRY?

21 A. CHERRY.

22 Q. THAT WOULD BE THE EQUIVALENT OF?

23 A. 142ND.

24 Q. NEXT STREET SOUTH OF CHERRY?

25 A. ROSECRANS.

26 Q. WOULD BE THE EQUIVALENT OF 143RD?

27 A. OKAY.

28 Q. IS THAT CORRECT?

1 A. YES.

2 Q. ALL RIGHT. SO THE DIFFERENCE -- THE DISTANCE  
3 BETWEEN STOCKWELL AND ROSECRANS WOULD BE THE DISTANCE  
4 BETWEEN THE EQUIVALENT OF 135TH STREET AND 143RD STREET OR  
5 EIGHT BLOCKS?

6 A. OKAY.

7 Q. CORRECT?

8 A. YES.

9 Q. WHAT IS -- IN YOUR EXPERIENCE IN THE WORK IN  
10 COMPTON, THE CITY OF COMPTON, AT APPROXIMATELY 11:15 AT  
11 NIGHT, WHAT ARE TRAFFIC CONDITIONS ON WILMINGTON.

12 WOULD YOU DESCRIBE THEM AS LIGHT? HEAVY?  
13 MEDIUM?

14 A. AT THAT TIME OF NIGHT? LIGHT.

15 Q. YES.

16 SO THEORETICALLY A POLICE CAR COULD GO AS  
17 FAST OR AS SLOW AS IT WANTED TO GENERALLY?

18 A. YES, YES.

19 Q. NOW, MR. JAFFE ALSO ASKED YOU -- CAN YOU TELL  
20 US HOW FAR IS 137TH AND GRANDEE FROM ROSECRANS AND DWIGHT?

21 A. PROBABLY A LITTLE LESS THAN A QUARTER OF A  
22 MILE I GUESS.

23 Q. LESS THAN ONE FOURTH OF A MILE?

24 A. PROBABLY.

25 Q. NOW, THE TOP CALL ON THE LOG -- AND THIS IS  
26 MM I BELIEVE, DEFENSE MM. THIS IS THE COMPUTER GENERATED  
27 LOG OF OFFICERS BURRELL AND MACDONALD.

28 THE LAST ENTRY IS THAT WEAPONS CALL AT 137TH



1 AND GRANDEE?

2 A. YES.

3 Q. AND I BELIEVE YOU JUST TESTIFIED THAT'S ABOUT  
4 HOW FAR FROM ROSECRANS AND DWIGHT?

5 A. A QUARTER OF A MILE OR LESS.

6 Q. YOU MENTIONED THAT 8, THE NUMBER 8, THAT'S  
7 THE CALL BEING CLEARED?

8 A. YES.

9 Q. DO YOU KNOW HOW THAT CALL GOT CLEARED ON  
10 THEIR LOG?

11 A. THE DISPATCHER -- THE COMMUNICATION CENTER  
12 WOULD HAVE DONE THAT ONE.

13 Q. THE COMMUNICATION CENTER DID THAT?

14 A. YES.

15 Q. DO YOU KNOW WHY OR WHEN?

16 A. SOMETIME AFTER THE SHOOTING INCIDENT. THAT  
17 CALL REMAINED OPEN BECAUSE THE OFFICERS WERE DOWN, AND THE  
18 ONLY PEOPLE THAT COULD HAVE CLEARED IT WOULD HAVE BEEN THE  
19 COMMUNICATIONS CENTER UNLESS SOMEBODY ELSE COULD HAVE  
20 RESPONDED TO HANDLE IT. AND I DON'T KNOW THAT ANYBODY  
21 DID.

22 Q. WHEN A UNIT -- WHEN A POLICE UNIT CLEARS A  
23 CALL, DO THEY DO IT OVER THE RADIO?

24 A. YES.

25 Q. DO THEY CALL IT INTO THE DISPATCHER, AND THEN  
26 THE DISPATCHER DOES SOMETHING WITH THE COMPUTER?

27 A. YES.

28 Q. SO THEN IT'S NOT THE -- IT'S NOT THE POLICE

1 OFFICER HIMSELF THAT IS CLEARING THE CALL, IT IS HIM  
2 CALLING IT IN TO THE DISPATCHER, AND THE DISPATCHER IN THE  
3 DISPATCH CENTER, HE IS THE ONE -- OR HE OR SHE IS THE ONE  
4 THAT ACTUALLY INPUTS THE COMPUTER TO CLEAR THE CALL?

5 A. YES.

6 Q. IS THAT CORRECT?

7 A. YES.

8 Q. AND IT'S YOUR TESTIMONY THIS WAS DONE  
9 SOMETIME LATER?

10 A. YES.

11 Q. CAN THE DISPATCHER CONTROL THE TIME AS TO  
12 WHAT TIME A CALL IS CLEARED? LIKE SEE THE 2314?

13 A. YES.

14 Q. THAT'S FOURTEEN MINUTES AFTER 11:00?

15 A. YES.

16 Q. SAY THE DISPATCHER DECIDES TO CLEAR THE CALL  
17 AT 4:00 IN THE MORNING. CAN THEY MAKE AN ENTRY OF 2314?

18 A. I'M SURE THEY CAN.

19 Q. BUT YOU KNOW FOR A FACT THAT THAT CALL WAS  
20 CLEARED AFTER THE SHOOTING HAD OCCURRED?

21 A. I TALKED TO THE DISPATCHER, AND SHE DID THAT.  
22 SHE CLEARED THAT CALL.

23 Q. ARE THE COMPUTERIZED LOGS KEPT FOR A  
24 PARTICULAR LENGTH OF TIME?

25 A. NORMALLY 120 DAYS.

26 Q. NOW, THE Z-3'S COMPUTERIZED LOGS, THAT WAS  
27 KEPT OBVIOUSLY LONGER THAN 120 DAYS; RIGHT?

28 A. YES.

1 Q. ANY PARTICULAR REASON WHY?

2 A. THE NATURE OF THE CALL AND THE INVESTIGATION.

3 Q. BECAUSE THEY ARE THE ONES THAT GOT KILLED  
4 THAT NIGHT?

5 A. YES.

6 MR. ARNOLD: THANK YOU, DETECTIVE BRANSCOMB.

7 THE COURT: ANYTHING, MR. JAFFE?

8 MR. JAFFE: I HAVE NO FURTHER QUESTIONS.

9 THE COURT: ALL RIGHT. DETECTIVE, YOU CAN STEP  
10 DOWN. THANK YOU.

11 NEXT WITNESS, PLEASE.

12 MR. JAFFE: DETECTIVE BUMCROT.

13 THE COURT: DETECTIVE, COME ON UP AND FACE THE  
14 COURT CLERK, PLEASE.

15

16 MICHAEL BUMCROT,  
17 CALLED AS A WITNESS BY THE DEFENDANT, WAS SWORN AND  
18 TESTIFIED AS FOLLOWS:

19 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE  
20 TESTIMONY YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE  
21 THIS COURT SHALL BE THE TRUTH, THE WHOLE TRUTH, AND  
22 NOTHING BUT THE TRUTH, SO HELP YOU GOD.

23 THE WITNESS: I DO.

24 THE CLERK: PLEASE BE SEATED, SIR.

25 SIR, WOULD YOU PLEASE STATE AND SPELL YOUR  
26 FULL NAME FOR THE COURT RECORD.

27 THE WITNESS: MICHAEL BUMCROT. B-U-M-C-R-O-T.

28 THE COURT: ALL RIGHT. MR. JAFFE.

1 MR. JAFFE: THANK YOU.

2

3

DIRECT EXAMINATION

4 BY MR. JAFFE:

5 Q. DETECTIVE BUMCROT, THE DATE OF REGIS THOMAS'  
6 SURRENDER TO THE LOS ANGELES COUNTY SHERIFF'S DEPARTMENT  
7 AND THE COMPTON POLICE DEPARTMENT WAS THAT APRIL 6, 1993?

8 A. YES, SIR.

9 Q. WERE YOU PRESENT AT THE TIME WHEN HE  
10 SURRENDERED TO CUSTODY?

11 A. NOT AT THAT TIME, NO.

12 Q. DID YOU SEE HIM THAT DAY?

13 A. YES.

14 Q. THAT WAS AFTER HE WAS BOOKED?

15 A. YES.

16 Q. I HAVE A PHOTOGRAPH WHICH HAS PREVIOUSLY BEEN  
17 MARKED AS DEFENSE Q.

18 DOES THAT APPEAR TO BE THE WAY IN WHICH REGIS  
19 THOMAS APPEARED THAT DAY ON 4-6-93?

20 A. I BELIEVE SO.

21 MR. JAFFE: MAY I HAVE JUST A MOMENT.

22 THE COURT: SURE.

23

24 (DEFENSE COUNSEL AND DETECTIVE BRANSCOMB  
25 CONFER SOTTO VOCE)

26

27 Q. BY MR. JAFFE: WHEN YOU SPOKE TO CALVIN  
28 COOKSEY ON THE 2ND -- YOU SPOKE TO HIM ON THE 2ND OF

1 APRIL?

2 A. YES, SIR.

3 Q. WAS THERE ANY DISCUSSION AT ALL ABOUT THE  
4 COMEDY CLUB THAT EVENING?

5 A. THERE WAS A DISCUSSION REGARDING THE COMEDY  
6 CLUB AT SOME POINT. I DON'T RECALL IF IT WAS THE 2ND OR  
7 NOT.

8 Q. IN THE TAPED INTERVIEW THAT -- THERE'S A  
9 TRANSCRIPT OF THE TAPED INTERVIEW OF APRIL 2, 1993?

10 A. YES.

11 Q. AND THAT INTERVIEW WAS VIDEO TAPED; RIGHT?

12 A. YES, SIR.

13 Q. AND IT WAS YOU, DETECTIVE ROBINSON WHO WAS  
14 PRESENT?

15 A. YES.

16 Q. AT ANY POINT IN THAT VIDEO-TAPED INTERVIEW IS  
17 THERE ANY MENTION OF THE COMEDY CLUB?

18 A. I DON'T RECALL. LIKE I SAID, IT WAS BROUGHT  
19 UP SOMETIME DURING OUR DISCUSSION WITH MR. COOKSEY. I  
20 DON'T RECALL IF IT WAS DURING THAT TAPE RECORDING OR NOT.

21 Q. DURING THE TAPE RECORDING, YOU WERE --  
22 WEREN'T YOU INQUIRING OF HIM OF HIS WHEREABOUTS ON  
23 FEBRUARY 22ND JUST TO GET -- NOT THAT YOU WERE ACCUSING  
24 HIM, BUT JUST TO GET SOME KIND OF A FRAME OF REFERENCE AS  
25 TO WHAT THE DAYS THAT HE WAS TALKING ABOUT?

26 A. I BELIEVE THAT WAS DISCUSSED, YES.

27 Q. AND DIDN'T HE -- THERE WAS SOME DISCUSSION  
28 ABOUT HIM BEING AT THE BOBBY BROWN CONCERT?

1           A.       I RECALL HIM STATING THAT HE WAS AT A BOBBY  
2 BROWN CONCERT THE LAST NIGHT I BELIEVE THAT BOBBY BROWN  
3 WAS IN TOWN, BUT THAT THE NIGHT OF THE INCIDENT HE WAS AT  
4 THE COMEDY CLUB. I BELIEVE THAT'S THE WAY HE PUT IT TO  
5 US.

6           Q.       BUT THERE'S NO REPORT ABOUT THAT, IS THERE,  
7 THAT HE SAID HE WAS AT THE COMEDY CLUB?

8                    MEANING THAT THERE'S NO REPORT THAT HE SAID  
9 HE WAS AT THE COMEDY CLUB WHEN YOU INTERVIEWED HIM ON  
10 APRIL 2ND?

11          A.       I DON'T KNOW IF IT'S IN A REPORT OR NOT.

12          Q.       WELL, YOU DON'T HAVE ANY KNOWLEDGE THAT IT IS  
13 IN A REPORT, OR YOU HAVE NOT SEEN IT IN A REPORT?

14          A.       WELL, I KNOW THAT IT'S IN OUR NOTES. I DON'T  
15 KNOW IF IT MADE IT TO A POLICE REPORT OR NOT.

16          Q.       BUT WHEN YOU WERE TALKING TO CALVIN COOKSEY  
17 ABOUT THE BOBBY BROWN CONCERT, WAS IT YOUR IMPRESSION THAT  
18 HE WAS TRYING TO FIX THE TIME WHERE HE WAS ON THE NIGHT OF  
19 THE HOMICIDES?

20                    IS THAT WHY HE MENTIONED -- OTHERWISE, WHY  
21 WOULD YOU BE CONCERNED WITH THE BOBBY BROWN CONCERT?

22          MR. ARNOLD: SPECULATION.

23          THE COURT: IT'S A COMPOUND QUESTION.

24          MR. JAFFE: IT IS. IT IS.

25          THE COURT: WHY DON'T YOU REPHRASE THE QUESTION.

26          Q.       BY MR. JAFFE: THE DISCUSSION ABOUT THE BOBBY  
27 BROWN CONCERT ON 4-2-93, WAS IT YOUR UNDERSTANDING THAT  
28 MR. COOKSEY WAS TRYING TO DESCRIBE TO YOU WHERE HE WAS

1 FEBRUARY 22ND?

2 A. WELL, HAVING JUST GONE THROUGH MY NOTES LAST  
3 NIGHT, MY NOTES ARE FRESHER IN MY MIND THAN THE APRIL THE  
4 2ND INTERVIEW.

5 AND IN MY NOTES -- OR MY PARTNER'S NOTES  
6 ACTUALLY, IT STATES THAT HE WAS AT THE BOBBY BROWN CONCERT  
7 THE LAST NIGHT BOBBY BROWN WAS IN TOWN, BUT ON APRIL -- OR  
8 FEBRUARY 22ND HE WAS AT THE COMEDY CLUB.

9 Q. ALL RIGHT. NOW, DO YOUR NOTES REFLECT THAT  
10 THAT'S WHAT HE TOLD YOU ON THE 2ND OF APRIL, OR DID HE  
11 TELL YOU THAT AT A DIFFERENT TIME?

12 A. I DON'T KNOW.

13 Q. BUT IT IS YOUR RECOLLECTION HAVING VIEWED THE  
14 VIDEO TAPE THAT HE IS ONLY TALKING ABOUT THE BOBBY BROWN  
15 CONCERT AND NOT THE COMEDY CLUB?

16 A. I BELIEVE. I HAVE NOT SEEN THE VIDEO TAPE IN  
17 SOME TIME, BUT I BELIEVE THAT'S TRUE.

18 Q. ON APRIL 20, 1993, DID YOU SHOW ALICIA JORDAN  
19 PHOTOGRAPHS?

20 A. YES.

21 Q. AND WAS REGIS THOMAS' PHOTOGRAPH CONTAINED  
22 WITHIN THAT GROUP OF PHOTOGRAPHS?

23 A. YES.

24 Q. ON JULY 10, 1993, DID ALICIA JORDAN TELL YOU  
25 THAT THE WINDOWS OF THE TRUCK WERE TOO DARK SO THAT SHE  
26 COULD NOT SEE?

27 A. I DON'T RECALL IF THOSE WERE HER SPECIFIC  
28 WORDS.

1 MR. ARNOLD: WHAT WAS THE DATE? I'M SORRY.

2 THE COURT: JULY 10.

3 Q. BY MR. JAFFE: I WOULD LIKE TO SHOW YOU A  
4 COPY OF THE REPORT. I BELIEVE IT IS FROM 7-10-93. IT'S A  
5 COMPTON POLICE DEPARTMENT REPORT. SEE IF THAT REFRESHES  
6 YOUR RECOLLECTION.

7 DOES THAT REFRESH YOUR RECOLLECTION WHETHER  
8 ALICIA JORDAN -- WHAT SHE STATED IN CONNECTION WITH THE  
9 TINTING OF THE WINDOWS?

10 A. NO, THAT -- BECAUSE THAT'S A COMPTON REPORT,  
11 I MIGHT NOT HAVE BEEN PRESENT.

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28



1 MR. JAFFE: YOUR HONOR, IF I CAN JUST HAVE A  
2 MOMENT.

3 THE COURT: ALL RIGHT.

4 MR. JAFFE: I HAVE NO FURTHER QUESTIONS OF  
5 DETECTIVE BUMCROT AT THIS TIME.

6 THE COURT: ALL RIGHT.

7 MR. ARNOLD, DO YOU HAVE ANYTHING?

8 MR. ARNOLD: YES.

9  
10 CROSS-EXAMINATION

11 BY MR. ARNOLD:

12 Q. DETECTIVE BUMCROT, WHEN YOU SHOWED THE  
13 PHOTOGRAPHS TO ALICIA JORDAN ON APRIL 20, 1993, WHERE  
14 WAS THAT?

15 A. I BELIEVE IT WAS CALLED THE COVENANT HOUSE  
16 IN HOLLYWOOD.

17 Q. WOULD YOU DESCRIBE HER DEMEANOR AT THAT  
18 TIME?

19 MR. JAFFE: YOUR HONOR, MAY WE APPROACH, PLEASE?

20 THE COURT: YES.

21

22 (THE FOLLOWING PROCEEDINGS WERE HELD  
23 AT THE BENCH:)

24

25 MR. JAFFE: YOUR HONOR, I ASKED A VERY SPECIFIC  
26 QUESTION AND THAT WAS, "DID YOU SHOW HER PHOTOGRAPHS?"

27 I DID NOT GO INTO WHETHER SHE MADE AN  
28 IDENTIFICATION OR WHETHER SHE DID NOT MAKE AN

1 IDENTIFICATION, AND THAT WAS THE REASON I DID NOT ASK  
2 HIM DID SHE IDENTIFY ANYONE.

3 ALICIA JORDAN SAID SPECIFICALLY SHE WAS NOT  
4 SHOWN ANY PHOTOGRAPHS, SO I USED THIS OFFICER TO IMPEACH  
5 HER AS TO THAT SINGLE ISSUE.

6 THE COURT: DID SHE SAY -- AND I HAVEN'T READ  
7 IT -- BUT DID SHE SAY SHE WOULDN'T LOOK AT ANY OR --

8 MR. JAFFE: NO, SHE DIDN'T. SHE SAYS, "I WAS NOT  
9 SHOWN ANY PHOTOGRAPHS."

10 THE COURT: I TELL YOU WHAT I'M GOING TO DO IS,  
11 I'M GOING TO DEFER RULING ON THE OBJECTION. I MEAN  
12 BUMCROT IS GOING TO BE AROUND, AND I'LL LOOK IT UP SO I  
13 CAN SPECIFICALLY SEE.

14 MR. ARNOLD: CAN I ASK HIM DID SHE LOOK DOWN AT  
15 THE PHOTOGRAPHS?

16 THE COURT: I WANT TO SEE. I WILL PERMIT SOME  
17 QUESTIONING ONCE I SEE WHAT IT WAS, BECAUSE IF IT'S THAT  
18 SPECIFIC THAT SHE SAYS, "HE NEVER SHOWED ME ANY  
19 PHOTOGRAPHS."

20 MR. JAFFE: SHE SAYS, "I WOULD HAVE MADE AN  
21 IDENTIFICATION HAD I SEEN ANY PHOTOGRAPHS."

22 SHE ALSO SAID THAT --

23 THE COURT: I WANT TO READ IT, AND WHAT WE'LL DO  
24 IS, YOU CAN GO INTO OTHER AREAS, AND I'LL LET YOU RECALL  
25 BUMCROT AT THE APPROPRIATE TIME IF IT'S RELEVANT.

26 MR. ARNOLD: I HAVE A FEELING HE'S GOING TO REST  
27 TODAY.

28 THE COURT: IT'S ALL RIGHT. IF HE RESTS TODAY,

1 THE JURORS ARE GOING TO COME BACK, AND IF HE RESTS,  
2 WE'LL TAKE UP REBUTTAL OR ALL I NEED IS SOME TIME TO  
3 LOOK AT IT AND YOU CAN PUT BUMCROT ON.

4 MR. ARNOLD: WHY DON'T WE TAKE A RECESS NOW.

5 CAN I ASK HIM NOW, "DID SHE APPEAR TO LOOK  
6 DOWN"?

7 THE COURT: I WANTED TO LOOK AT THE TRANSCRIPT TO  
8 SEE WHAT HAPPENED IN THAT PORTION OF HER TESTIMONY,  
9 BECAUSE I DON'T WANT TO PRECLUDE YOU FROM ASKING  
10 QUESTIONS IF THEY'RE RELEVANT.

11 THAT IS WHY I WANT TO LOOK AT IT.

12 MR. ARNOLD: WOULD YOU AGREE WHETHER SHE APPEARED  
13 TO LOOK AT THE PHOTOS AT LEAST NOW IS WITHIN PROPER  
14 CROSS-EXAMINATION?

15 THE COURT: YOUR QUESTION WAS?

16 MR. JAFFE: MY QUESTION WAS, "DID YOU SHOW HER  
17 ANY PHOTOGRAPHS?"

18 HE SAID, YES, HE DID. HE DID SHOW HER  
19 PHOTOGRAPHS.

20 THE COURT: I WILL PERMIT YOU TO ASK, DID SHE  
21 LOOK AT ANY? JUST THAT ONE QUESTION.

22 MR. ARNOLD: WAS IT INSIDE OR OUTSIDE?

23 THE COURT: YOU MEAN WHERE IT HAPPENED?

24 MR. ARNOLD: YES, INSIDE THE HOUSE, OUTSIDE THE  
25 ROOM. IN THE ROOM, DID HE PUT THE PHOTOS ON THE TABLE?

26 DID HE HAND IT TO THEM?

27 THE COURT: NO, BECAUSE I WANT TO LOOK AT THE  
28 TRANSCRIPT. I WANT TO SEE SPECIFICALLY.

1 MR. ARNOLD: I'LL ASK THE ONE QUESTION THEN.

2 THE COURT: ALL RIGHT.

3  
4 (PROCEEDINGS HELD IN OPEN COURT IN THE  
5 PRESENCE OF THE JURY:)

6  
7 Q. BY MR. ARNOLD: DETECTIVE BUMCROT, WHEN YOU  
8 SHOWED THE PHOTOS TO ALICIA JORDAN ON APRIL THE 20TH OF  
9 1993 IN HOLLYWOOD, DID SHE LOOK AT THE PHOTOS?

10 A. NO.

11 Q. NOW, IN YOUR DEALINGS WITH ALICIA JORDAN  
12 WHICH I ASSUME BEGAN YOUR ONSET OF BECOMING INVOLVED  
13 WITH THIS CASE --

14 MR. JAFFE: YOUR HONOR, MAY WE APPROACH?

15 THE COURT: I'LL SUSTAIN THE OBJECTION AT THIS  
16 POINT BASED ON THE RULING.

17 I WANT TO READ SOMETHING AND THEN I'LL LET  
18 YOU RECALL THE DETECTIVE AT THE APPROPRIATE TIME.

19 MR. ARNOLD: ALL RIGHT.

20 THERE IS A QUESTION I WANT TO ASK. THEN I  
21 WOULD LIKE SOME GUIDANCE FROM THE COURT, SO IF I CAN'T  
22 ASK IT.

23 THE COURT: OKAY.

24  
25 (THE FOLLOWING PROCEEDINGS WERE HELD  
26 AT THE BENCH:)

27  
28 THE COURT: GO AHEAD.

1 MR. ARNOLD: THE FIRST TIME SHE WAS CORROBORATIVE  
2 WAS WHEN SHE WAS CALLED AS A PRELIMINARY HEARING  
3 WITNESS.

4 THE COURT: HERE IS THE SITUATION. THE REASON I  
5 WANT TO READ THE TRANSCRIPT OF HER -- I MEAN I READ IT  
6 ALL WITH THE FOCUS OF THE RENDERINGS THE LAST TIME I  
7 READ THE TRANSCRIPT.

8 REALLY ALL THAT, IF THAT IS ALL IN THERE,  
9 THEN I'M GOING TO PRECLUDE YOU FROM BRINGING IT UP  
10 BECAUSE IT'S NOT WITHIN THE SCOPE FOR THE LIMITED  
11 PURPOSE THAT THE DETECTIVE IS ON THE STAND. IT'S  
12 ALREADY IN FRONT OF THE JURY.

13 IF, IN FACT, IT'S SOMETHING THAT WAS NOT  
14 ELICITED AND, IN FACT, WOULD BE RELEVANT TO THE FACT  
15 THAT SHE SAYS, ONE IS, SHE SAYS SHE DIDN'T LOOK AT THEM  
16 OR SHE WASN'T SHOWN THEM.

17 IF I READ THE TRANSCRIPT AND THERE IS AN  
18 INTERPRETATION THAT IT COULD BE THAT SHE REFUSED TO LOOK  
19 AT THEM AND THEREFORE WASN'T SHOWN THEM, THEN I MAY  
20 PERMIT YOU TO GO INTO WHEN SHE APPEARED TO BE  
21 COOPERATIVE AND UNCOOPERATIVE.

22 MR. ARNOLD: SO THE ANSWER IS THAT I CANNOT ASK  
23 IT?

24 THE COURT: RIGHT.

25 MR. JAFFE: BUT ONCE THE COURT READS THE  
26 TRANSCRIPT, I DON'T THINK THERE WILL BE ANY  
27 INTERPRETATION THAT -- WELL --

28 THE COURT: WE'LL SEE.

1 MR. ARNOLD: SHE MENTIONS IT A COUPLE OF TIMES SO  
2 IF YOU'RE GOING TO LOOK AT IT.

3 THE COURT: I'M GOING TO READ ALL HER TESTIMONY.

4 MR. ARNOLD: OKAY.

5  
6 (THE FOLLOWING PROCEEDINGS WERE  
7 HELD IN OPEN COURT IN THE PRESENCE  
8 OF THE JURY:)

9  
10 THE COURT: GO AHEAD.

11 Q. BY MR. ARNOLD: DETECTIVE BUMCROT, I'M  
12 SHOWING YOU DEFENSE Q.

13 DO YOU RECOGNIZE THAT AS BEING A BOOKING  
14 PHOTOGRAPH OF MR. THOMAS?

15 A. YES, I DO.

16 Q. DO YOU KNOW WHERE THAT PHOTOGRAPH WAS  
17 TAKEN?

18 A. IT APPEARS TO BE TAKEN AT CENTRAL JAIL.

19 Q. ARE BOOKING PHOTOS TAKEN AS A MATTER OF  
20 COURSE WHEN AN INMATE OR A PRISONER ARRIVES AT MEN'S  
21 CENTRAL JAIL?

22 A. YES.

23 Q. HAVE YOU BEEN PRESENT WHEN BOOKING PHOTOS  
24 HAVE BEEN TAKEN?

25 A. YES.

26 Q. THE CAMERA, DOES IT HAVE ANY TYPE OF LIGHT  
27 ATTACHED TO IT SUCH THAT THE PERSON WHOSE PHOTOGRAPH IS  
28 BEING TAKEN IS ILLUMINATED?

1 A. I BELIEVE SO.

2 Q. WHAT KIND OF LIGHT?

3 A. FLASH.

4 Q. IT'S A FLASH?

5 A. I BELIEVE SO.

6 Q. HAVE YOU SEEN THE FLASH GO OFF?

7 A. YES.

8 Q. IS IT BRIGHT?

9 A. YES.

10 Q. IS THE FLASH, IS IT ABOVE THE HEAD OF THE  
11 PERSON OR I SHOULD SAY IS IT ABOVE THE CAMERA?

12 A. YES.

13 Q. SLIDING DOWN ON THE SUSPECT?

14 A. YES.

15 Q. DO YOU KNOW IF IT'S ONE FLASH OR IS IT MORE  
16 THAN ONE FLASH?

17 A. I BELIEVE -- I BELIEVE THERE'S TWO. I  
18 BELIEVE THERE IS ONE ON EITHER SIDE.

19 Q. AND DO THEY BOTH FLASH AT THE SAME TIME?

20 A. I BELIEVE SO.

21 Q. AND IS THIS THE TYPE OF FLASH THAT IF  
22 YOU'RE LOOKING AT IT AND IT FLASHES, THEN ALL YOU SEE IS  
23 A BLUE DOT AFTER AWHILE?

24 A. PROBABLY, YES.

25 Q. SO IT'S PRETTY BRIGHT?

26 A. YES.

27 Q. HAVE YOU EVER SEEN A -- WHEN YOU WERE  
28 DISCUSSING WITH COOKSEY ABOUT WHERE HE WAS, DID HE

1 EXHIBIT TO YOU A SPECIFIC KNOWLEDGE OF DATES, LIKE WHERE  
2 HE WAS ON FEBRUARY 21, FEBRUARY 22 OR WAS NOT REALLY  
3 COGNIZANT WHERE HE WAS ON SPECIFIC DATES IN FEBRUARY?

4 A. HE WASN'T UP ON THE DATES VERY WELL.

5 Q. HOW WAS IT THEN THAT HE WAS ABLE TO FIX  
6 CERTAIN TIMES SUCH THAT HE SAID HE WAS AT BOBBY BROWN  
7 THE LAST TIME HE WAS ON HIS LAST NIGHT OR WHATEVER HE  
8 SAID ABOUT BOBBY BROWN?

9 A. I BELIEVE THAT HE BROUGHT UP THE BOBBY  
10 BROWN CONCERT WHEN HE WAS DISCUSSING THAT HE WANTED TO  
11 BORROW MR. THOMAS' TRUCK AT ONE TIME.

12 Q. DO YOU RECALL DURING THE DISCUSSIONS ON  
13 APRIL THE 2ND WHEN MR. COOKSEY WAS TALKING ABOUT WANTING  
14 TO GO TO THE CONCERT THAT HE WAS REFERRING TO FRIDAY OR  
15 SATURDAY NIGHT?

16 A. I BELIEVE IT WAS THE WEEKEND, YES.

17 Q. AND THE NIGHT OF FEBRUARY THE 22ND, THE  
18 NIGHT THE OFFICERS WERE KILLED, WHAT NIGHT OF THE WEEK  
19 WAS THAT?

20 A. MONDAY.

21 MR. ARNOLD: THANK YOU, DETECTIVE BUMCROT.  
22  
23  
24  
25  
26  
27  
28



## REDIRECT EXAMINATION

BY MR. JAFFE:

Q. IN THAT SAME DISCUSSION WITH MR. COOKSEY TRYING TO FIX THE POINT IN TIME, HE SAYS THAT THE NEXT DAY HE GOT THE INFORMATION FROM REGIS THOMAS, MEANING THE NEXT DAY AFTER THE BOBBY BROWN CONCERT.

DIDN'T HE SAY THAT?

A. AS I RECALL FROM MY NOTES, IT WAS THE NEXT DAY AFTER THE COMEDY CLUB THAT HE HAD GOTTEN THAT.

Q. THAT IS NOT IN THE VIDEOTAPE, IS IT?

A. I DON'T KNOW. I HAVEN'T SEEN THE VIDEOTAPE IN A LONG TIME.

MR. JAFFE: MAY WE JUST HAVE A MOMENT?

THE COURT: DO YOU WANT ME TO TAKE A BREAK?

MR. ARNOLD: THAT WOULD BE GOOD.

THE COURT: I TELL YOU WHAT, DETECTIVE. CAN YOU STEP DOWN.

LADIES AND GENTLEMEN, WE'LL TAKE THE AFTERNOON BREAK UNTIL 3:00 O'CLOCK. DON'T TALK ABOUT THE CASE OR FORM OR EXPRESS ANY OPINION. WE'LL START AT 3:00.

THANK YOU.

(RECESS.)

THE COURT: RECALLING THE CASE OF REGIS THOMAS, MR. THOMAS IS PRESENT WITH RESPECTIVE COUNSEL AND DETECTIVES. WE'RE OUT OF THE PRESENCE OF THE JURORS.

1 MR. JAFFE: I'M GOING TO WITHDRAW THE QUESTION  
2 CONCERNING THE COMEDY CLUB ON 4-2-93 AND THEN I WILL  
3 HAVE NO FURTHER QUESTIONS OF THE DETECTIVE.

4 THE COURT: IS THERE ANYTHING ELSE OF DETECTIVE  
5 BUMCROT, MR. ARNOLD? I'M NOT SUGGESTING.

6 MR. ARNOLD: I'M JUST GOING TO ASK HIM ONE  
7 QUESTION.

8 MR. JAFFE: AND WHAT MIGHT THAT BE?

9 MR. ARNOLD: WELL, IT'S --

10 THE COURT: I'M NOT SUGGESTING YOU ASK ANOTHER  
11 QUESTION.

12 MR. JAFFE: WHY DON'T I OBJECT NOW BEFORE YOU ASK  
13 THE QUESTION.

14 THE COURT: WHAT IS IT GOING TO BE, THE AREA?

15 MR. ARNOLD: WAS COOKSEY EVER A SUSPECT?

16 MR. JAFFE: AND I OBJECT.

17 THE COURT: I'LL SUSTAIN THAT. HAVE A SEAT.

18 ALL RIGHT.

19 MR. ARNOLD: NEVER MIND.

20 THE COURT: OKAY. LET'S STAY ON THE FACTS OF THE  
21 CASE RATHER THAN --

22 MR. JAFFE: THAT IS WHY I'M NOT CALLING ALL THE  
23 OTHER PEOPLE.

24 MY NEXT WITNESS IS GISELE LAVIGNE.

25 MR. ARNOLD: DID YOU READ THE TRANSCRIPT?

26 THE COURT: NO. I CAN READ QUICKLY, BUT I  
27 COULDN'T READ -- I MEAN I'M LOOKING THROUGH IT. I GOT  
28 THE TRANSCRIPTS FROM THE REPORTERS, BUT I DIDN'T GET TO

1 THAT POINT YET.

2 ARE YOU READY FOR THE JURORS?

3 MR. JAFFE: YES.

4  
5 (RECESS.)

6  
7 THE COURT: ALL RIGHT.

8 RECALLING REGIS THOMAS, MR. THOMAS IS  
9 PRESENT WITH RESPECTIVE COUNSEL AND THE DETECTIVES.

10 DID YOU GET THE GUN?

11 MR. JAFFE: YES.

12 THE COURT: ARE YOU READY?

13 MR. JAFFE: I AM, YOUR HONOR. THANK YOU.

14 THE COURT: ARE YOU READY, MR. ARNOLD?

15 MR. ARNOLD: YES, YOUR HONOR.

16 THE COURT: ALL RIGHT.

17 LET'S BRING THE JURORS OUT.

18  
19 (THE FOLLOWING PROCEEDINGS WERE  
20 HELD IN OPEN COURT IN THE PRESENCE  
21 OF THE JURY:)

22  
23 THE COURT: ALL RIGHT.

24 THE RECORD SHOULD REFLECT THE JURORS AND  
25 ALTERNATES ARE NOW PRESENT.

26 MR. JAFFE, YOUR NEXT WITNESS.

27 MR. JAFFE: THANK YOU VERY MUCH, YOUR HONOR.

28 GISELE LAVIGNE.

1 THE COURT: CAN YOU COME UP, MA'AM. STAND BEHIND  
2 THE COURT REPORTER AND FACE THE COURT CLERK, PLEASE.  
3

4 GISELE LAVIGNE,  
5 CALLED AS A WITNESS BY THE DEFENSE, WAS SWORN AND  
6 TESTIFIED AS FOLLOWS:

7 THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

8 YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY  
9 YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT  
10 SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE  
11 TRUTH, SO HELP YOU GOD.

12 THE WITNESS: I DO.

13 THE CLERK: PLEASE BE SEATED, MA'AM.

14 MA'AM, COULD I GET YOU TO PLEASE STATE AND  
15 SPELL YOUR FULL NAME FOR THE COURT RECORD.

16 THE WITNESS: GISELE LAVIGNE. G-I-S-E-L-E,  
17 L-A-V-I-G-N-E.

18 THE COURT: ALL RIGHT, MA'AM.

19 EACH OF THE ATTORNEYS ARE GOING TO ASK YOU  
20 QUESTIONS. PLEASE ANSWER THEIR QUESTIONS OUT LOUD AND  
21 DIRECTLY.

22 IF THEY ASK YOU A QUESTION THAT IS  
23 CONFUSING OR AMBIGUOUS, LET ME KNOW AND I'LL HAVE THEM  
24 REPHRASE IT, ALL RIGHT? THANK YOU.

25 GO AHEAD.  
26  
27  
28

## DIRECT EXAMINATION

BY MR. JAFFE:

Q. GOOD AFTERNOON.

A. GOOD AFTERNOON.

Q. HOW ARE YOU EMPLOYED?

A. I'M EMPLOYED AS A SENIOR CRIMINALIST BY THE  
LOS ANGELES COUNTY SHERIFF'S DEPARTMENT.

Q. AND HOW LONG HAVE YOU BEEN SO EMPLOYED?

A. TWELVE-AND-A-HALF YEARS.

Q. COULD YOU PLEASE TELL US BRIEFLY WHAT YOUR  
BACKGROUND AND TRAINING AND EXPERIENCE IS?

A. I HAVE A BACHELOR OF ARTS DEGREE IN BIOLOGY  
FROM CALIFORNIA STATE UNIVERSITY AT FULLERTON WITH A  
MINOR IN CHEMISTRY. I HAVE APPROXIMATELY 45 UNITS OF  
POST GRADUATE WORK IN CRIMINALISTICS FROM CALIFORNIA  
STATE UNIVERSITY AT LOS ANGELES.

SINCE JOINING THE SHERIFF'S DEPARTMENT, I  
WAS SENT TO A TRAINING CLASS THROUGH THE FBI ACADEMY FOR  
TWO WEEKS IN BIOCHEMICAL METHODS OF BLOODSTAIN ANALYSIS  
IN WHICH I RECEIVED THREE UNITS IN THE UNIVERSITY OF  
VIRGINIA.

I HAVE ALSO ATTENDED CLASSES THROUGH THE  
CALIFORNIA CRIMINALISTICS WHICH IS THE TEACHING ARM OF  
THE DEPARTMENT OF JUSTICE LABORATORIES HERE IN THE STATE  
OF CALIFORNIA.

I HAVE ALSO BEEN TO WORKSHOPS AND TRAINING  
SESSIONS THROUGH THE AMERICAN RED CROSS IN ABO TYPING,  
RH AND OTHER DISCREPANCIES.

1 Q. HAVE YOU PREVIOUSLY QUALIFIED AS AN EXPERT  
2 CRIMINALIST IN THE SUPERIOR COURT OF LOS ANGELES COUNTY?

3 A. YES, I HAVE.

4 Q. COULD YOU JUST TELL US BRIEFLY WHAT A  
5 CRIMINALIST IS AND WHAT A CRIMINALIST DOES?

6 A. A CRIMINALIST SUPPLIES ONE WHO ANALYZES  
7 EVIDENCE, THE SCIENTIFIC ANALYSIS OF EVIDENCE THAT IS  
8 CONNECTED TO CRIME SCENES. WE ARE INVOLVED IN GOING OUT  
9 TO CRIME SCENES AND COLLECTING EVIDENCE, AND WE  
10 SUBSEQUENTLY ANALYZE IT FOR ANY POTENTIAL EVIDENTIARY  
11 VALUE, AND WE PREPARE REPORTS AND SUBSEQUENTLY TESTIFY  
12 IN COURT.

13 Q. IN THIS PARTICULAR CASE PURSUANT TO A  
14 REQUEST, DID YOU HAPPEN TO EXAMINE SOME EVIDENCE?

15 A. YES, I DID.

16 MR. JAFFE: MAY I APPROACH, YOUR HONOR?

17 THE COURT: YES.

18 Q. BY MR. JAFFE: I HAVE PEOPLE'S 32, A  
19 SIGSAUER WEAPON CHECKED BY THE BAILIFF AND IT IS NOT  
20 LOADED.

21 AND MS. LAVIGNE, I'M SHOWING YOU PEOPLE'S  
22 32 AND ASK YOU, DO YOU RECOGNIZE THAT FIREARM?

23 A. MAY I CHECK IT AGAINST THE SERIAL NUMBERS  
24 OF MY NOTES?

25 Q. PLEASE.

26 A. YES, IT IS THE SAME ONE THAT I EXAMINED.

27 Q. AND WHAT TESTS HAVE YOU PERFORMED ON THAT  
28 FIREARM?

1           A.       I PERFORMED A PRESUMPTIVE TEST FOR BLOOD ON  
2 IT.

3           Q.       AND PRESUMPTIVE TEST FOR BLOOD, WERE YOU  
4 ATTEMPTING TO DETERMINE WHETHER OR NOT THERE WAS BLOOD  
5 ON THAT GUN AT SOME POINT IN TIME?

6           A.       YES, I DID.

7           Q.       WHAT DID THE RESULTS OF YOUR TESTS SHOW?

8           A.       I WAS NOT ABLE TO DETECT BLOOD ON THIS  
9 PARTICULAR WEAPON.

10          Q.       NOW, HAVING NOT BEEN ABLE TO DETECT BLOOD  
11 AND WHAT DATE DID YOU DO THE TEST?

12          A.       I PERFORMED THIS EXAMINATION ON APRIL 2ND,  
13 1993.

14          Q.       IS THERE ANY WAY FOR YOU TO DETERMINE AS AN  
15 EXPERT WHETHER OR NOT THERE WAS BLOOD ON THAT GUN  
16 PERHAPS SIX WEEKS BEFORE YOU TESTED IT?

17          A.       NO, THERE IS NOT.

18          Q.       AND IS THAT BECAUSE THE GUN COULD HAVE GONE  
19 THROUGH VERY DIFFERENT HANDS AND THERE COULD HAVE BEEN A  
20 VARIETY OF FACTORS WHICH COULD HAVE AFFECTED THAT  
21 WEAPON, WHETHER OR NOT BLOOD EXISTED AT ANY TIME?

22          A.       THAT IS CORRECT.

23          Q.       DID YOU ALSO MICROSCOPICALLY EXAMINE THE  
24 GUN FOR ANYTHING ELSE?

25          A.       I DIDN'T HAVE TO DO A MICROSCOPIC  
26 EXAMINATION. I COULD VISUALLY SEE A HAIR THAT WAS IN  
27 THE SITE.

28          Q.       WHERE WAS THE HAIR?

1 A. IT WAS ATTACHED RIGHT HERE TO THE SITE.

2 THE COURT: CAN YOU HOLD THAT UP SO THE JURORS  
3 CAN SEE WHAT YOU'RE POINTING TO?

4 THE WITNESS: IT WAS CAUGHT IN THE FRONT SITE,  
5 RIGHT THERE.

6 Q. BY MR. JAFFE: CAUGHT IN THE FRONT SITE?

7 A. YES.

8 THE COURT: SHE HAS INDICATED WHAT THE FRONT SITE  
9 OF THE WEAPON WAS.

10 Q. BY MR. JAFFE: WAS THAT HAIR APPROXIMATELY  
11 11 MILLIMETERS?

12 A. I DID NOT MEASURE THAT HAIR.

13 Q. WHAT DID YOU DO WITH THAT HAIR?

14 A. I PLACED IT IN AN ENVELOPE AND TRANSPORTED  
15 IT TO A SECTION THAT HAVE PEOPLE THAT ANALYZE HAIRS.

16 Q. WAS THAT FOR FURTHER ANALYSIS BY LYNNE  
17 HEROLD?

18 A. YES.

19 Q. DO YOU WORK WITH DENNIS FUNG?

20 A. NO, I DO NOT.

21 Q. YOU CAN NOW TELL HIM YOU HAVE THE SHORTEST  
22 PERIOD OF TIME ON THE WITNESS STAND.

23 NO FURTHER QUESTIONS.

24 THE COURT: MR. ARNOLD.

25

26

27

28



## CROSS-EXAMINATION

BY MR. ARNOLD:

Q. MS. LAVIGNE, IF THERE IS BLOOD ON A GUN, I  
ASSUME THE BLOOD CAN BE REMOVED FROM VARIOUS SURFACES  
COMING IN CONTACT WITH IT?

A. YES, IT CAN BE.

Q. LIKE HANDS TOUCHING IT?

A. HANDS TOUCHING IT. BEING WASHED. ANY  
NUMBER OF INCIDENTS CAN REMOVE BLOOD OFF OF A GUN.

Q. PUTTING IT IN A BAG, IF THE SURFACE OF THE  
BAG RUBS AGAINST IT?

A. THAT IS CORRECT.

Q. PULLING IT OUT OF A BAG, THE SURFACE BEING  
RUBBED AGAINST IT?

A. THAT IS CORRECT.

Q. BEING STUCK IN A WAISTBAND, ANYTHING LIKE  
THAT WOULD REMOVE BLOOD?

A. YES.

MR. ARNOLD: THANK YOU, MA'AM.

THE COURT: ALL RIGHT.

MR. JAFFE: NO FURTHER QUESTIONS.

THE COURT: THANK YOU, MA'AM. YOU'RE FREE TO GO.

MR. JAFFE: LYNNE HEROLD IS MY NEXT WITNESS.

THE COURT: MA'AM, CAN YOU COME AROUND, STAND  
BEHIND THE COURT REPORTER AND FACE THE COURT CLERK,  
PLEASE.

1                   LYNNE DENISE HEROLD,  
2 CALLED AS A WITNESS BY THE DEFENSE, WAS SWORN AND  
3 TESTIFIED AS FOLLOWS:

4           THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

5                   YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY  
6 YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT  
7 SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE  
8 TRUTH, SO HELP YOU GOD.

9           THE WITNESS: YES, I DO.

10          THE CLERK: BE SEATED, MA'AM.

11                   MA'AM, COULD I GET YOU TO PULL THE  
12 MICROPHONE UNDER YOUR CHIN SO WE CAN ALL HEAR YOU.

13                   CAN I GET YOU TO PLEASE STATE AND SPELL  
14 YOUR NAME FOR THE RECORD.

15           THE WITNESS: LYNNE DENISE HEROLD. L-Y-N-N-E,  
16 D-E-N-I-S-E, H-E-R-O-L-D.

17          THE COURT: ALL RIGHT, MA'AM.

18                   EACH OF THE ATTORNEYS IS GOING TO ASK YOU  
19 QUESTIONS. PLEASE ANSWER THEIR QUESTIONS OUT LOUD SO  
20 THE JURORS CAN HEAR THE ANSWERS.

21                   IF ANY OF THE QUESTIONS THAT ARE ASKED OF  
22 YOU ARE CONFUSING OR AMBIGUOUS, LET ME KNOW AND I'LL  
23 HAVE THEM REPHRASE IT.

24           THE WITNESS: YES, SIR.

25          THE COURT: THANK YOU.

26                   GO AHEAD.

27  
28

## DIRECT EXAMINATION

BY MR. JAFFE:

Q. GOOD AFTERNOON.

BY WHOM ARE YOU EMPLOYED?

A. I'M CURRENTLY EMPLOYED BY THE LOS ANGELES COUNTY SHERIFF'S DEPARTMENT ASSIGNED TO SCIENTIFIC SERVICES BUREAU.

Q. AND FOR HOW LONG HAVE YOU BEEN EMPLOYED?

A. I HAVE BEEN WITH THE COUNTY SINCE 1982. I HAVE BEEN SPECIFICALLY WITH THE SHERIFF'S SINCE 1989.

Q. ARE YOU A CRIMINALIST?

A. YES, I AM.

Q. HOW LONG HAVE YOU PREVIOUSLY TESTIFIED AS AN EXPERT AS A CRIMINALIST IN THE SUPERIOR COURT OF LOS ANGELES COUNTY?

A. YES, I HAVE.

Q. AND HOW MANY TIMES?

A. I HAVE NOT COUNTED. I HAVE BEEN A CRIMINALIST TESTIFYING IN COURT SINCE 1982.

Q. GENERALLY YOU TESTIFY IN BEHALF OF THE PEOPLE OF THE STATE OF CALIFORNIA, THE PROSECUTION?

A. I AM GENERALLY CALLED TO COURT MOST OFTEN BY THE PROSECUTION, BUT I HAVE BEEN CALLED BY THE DEFENSE PREVIOUSLY.

Q. IN THIS PARTICULAR CASE, AS A RESULT OF A REQUEST, DID YOU CONDUCT AN INVESTIGATION ON MARCH 6TH, 1993?

A. YES, I DID.

1 Q. AND WAS THAT AT THE REQUEST OF THE LOS  
2 ANGELES COUNTY SHERIFF'S DEPARTMENT?

3 A. YES, IT WAS.

4 MR. JAFFE: YOUR HONOR, I HAVE A GROUP OF  
5 PHOTOGRAPHS THAT I WOULD LIKE TO BE MARKED AS NEXT IN  
6 ORDER.

7 THE COURT: THEY WILL BE DOUBLE O.

8 MR. JAFFE: THE GROUP OF PHOTOGRAPHS, DOUBLE O,  
9 I'LL MARK IT ON THE BACK.

10 Q. I'M SHOWING YOU A GROUP OF PHOTOGRAPHS.  
11 ARE THESE THE GROUP OF PHOTOGRAPHS?  
12 DO YOU RECOGNIZE WHAT THESE PHOTOGRAPHS  
13 DEPICT?

14 A. YES, I DO.

15 Q. ON MARCH 6TH, DID YOU GO TO A LOCATION?

16 A. YES. IN FACT, THAT IS MYSELF SITTING IN  
17 THE MIDDLE OF THAT PICTURE.

18 Q. IS THIS THE MARCH 6TH DATE OR IS THIS THE  
19 MARCH 12TH DATE?

20 THERE IS ANOTHER GROUP OF PHOTOS THAT I  
21 HAVE, FOUR SEPARATE PHOTOS SHOWING A RED CURB.

22 A. THE GROUP OF PHOTOS THAT YOU HAVE ON THE  
23 BOARD CURRENTLY REFLECT THE MARCH 6TH DATE.

24 Q. LET ME PUT THEM UP HERE THEN.

25 AND WHERE IS THIS LOCATION WHICH IS  
26 DEPICTED IN DOUBLE O, DEFENSE DOUBLE O?

27 A. IT IS IN THE CITY OF COMPTON ON THE NORTH  
28 SIDE OF ROSECRANS BOULEVARD. I HAD RECORDED IT AS

1        APPROXIMATELY 188 FEET EAST OF THE INTERSECTION WITH  
2        TAJUATA AVENUE. I BELIEVE IT'S PRONOUNCED TAJUATA.

3            Q.        WHAT I WOULD LIKE TO DO, WITH THE COURT'S  
4        PERMISSION, MAY I NUMBER THEM ONE, TWO, THREE AND FOUR,  
5        YOUR HONOR?

6            THE COURT: ALL RIGHT.

7            MR. JAFFE: THE LEFT PHOTOGRAPH WILL BE ONE; TWO  
8        ON THE RIGHT SIDE, UPPER RIGHT CORNER; THREE, LOWER  
9        LEFT; FOUR, LOWER RIGHT.

10          THE COURT: ALL RIGHT.

11          Q.        BY MR. JAFFE: ON MARCH 6TH, 1993, CAN YOU  
12        TELL US WHAT EXAMINATION YOU MADE WHICH IS REFLECTED IN  
13        THE PHOTOGRAPHS DEFENSE DOUBLE O?

14          A.        MY ATTENTION WAS DIRECTED TO THAT  
15        PARTICULAR AREA OF THE CURB ON ROSECRANS BY THE HOMICIDE  
16        DETECTIVES.

17                    I WAS ASKED TO EXAMINE THAT CURB FOR ANY  
18        INDICATION OF CONTACT BY A VEHICLE WITH THE CURB. I  
19        FOUND AT LEAST ONE SUCH AREA, AND I HAVE IN THESE  
20        PICTURES PLACED THE TAPE MEASURE ALONG THE CURB ASKING  
21        THE PHOTOGRAPHER TO RECORD POSITIONS OF WHERE THAT  
22        CONTACT APPEARED TO OCCUR.

23                    PICTURE NUMBER ONE IS JUST AN OVERVIEW OF  
24        THE AREA. IT ACTUALLY IS TAKEN BY THE PHOTOGRAPHER  
25        WHILE I WAS WORKING.

26          Q.        DOES PICTURE TWO AND THREE AND FOUR REFLECT  
27        THE TRANSFER?

28          A.        IT APPEARS AS A SWIPE MARK TO ME ON THE

1 SIDE OF THE CURB.

2 Q. ALL RIGHT.

3 AS A RESULT OF YOUR EXAMINATION, DID YOU  
4 TAKE SOME SAMPLES?

5 A. YES, I DID.

6 Q. I HAVE ANOTHER GROUP OF PHOTOGRAPHS, YOUR  
7 HONOR.

8 THE COURT: DO YOU WANT THOSE MARKED DOUBLE P?

9 MR. JAFFE: YES, AND MAY I ALSO NUMBER THEM IN  
10 THE SAME MANNER, YOUR HONOR?

11 THE COURT: ALL RIGHT.

12 MR. JAFFE: ONE, UPPER LEFT; TWO, UPPER RIGHT;  
13 THREE, LOWER LEFT; AND FOUR, LOWER RIGHT.

14 Q. MS. HEROLD, I'M SHOWING YOU THESE  
15 PHOTOGRAPHS NOW WHICH HAVE BEEN MARKED AS DEFENSE DOUBLE  
16 P.

17 IS THAT YOU IN PHOTOGRAPH FOUR?

18 A. YES, GRACEFULLY.

19 Q. ALL RIGHT.

20 COULD YOU TELL US WHAT YOU DID ON MARCH  
21 12TH?

22 A. ON MARCH 12TH, I WAS BACK IN THE CITY OF  
23 COMPTON ON ROSECRANS BOULEVARD ALONG THE SAME CURB BUT  
24 FURTHER EAST IN AN AREA ADJACENT TO A FIRE STATION, AND  
25 I WAS ASKED TO EXAMINE THAT PART OF THE CURB FOR THE  
26 POSSIBILITY OF ANY TRANSFER MATERIALS.

27 THE PICTURES SIMPLY SHOW THE PROCESS OF  
28 THAT EXAMINATION.

1 Q. AND DID YOU TAKE SAMPLES?

2 A. YES, I DID.

3 Q. YOU TOOK ONE CEMENT SAMPLE AND FOUR PAINT  
4 SAMPLES?

5 A. I TOOK ONE CEMENT SAMPLE AND FOUR PAINT  
6 SAMPLES, YES.

7 Q. NOW, ON APRIL THE 7TH, DID YOU CONDUCT A  
8 FURTHER EXAMINATION?

9 A. ON APRIL 7TH, 1993, I CONDUCTED ANOTHER  
10 EXAMINATION AT THE REQUEST OF HOMICIDE BUREAU.

11 Q. AND DID YOU EXAMINE A VEHICLE WITH THE  
12 LICENSE PLATE NUMBER 4J88557?

13 A. YES, I DID.

14 Q. AND IF I COULD PLACE THIS ON THE BOARD,  
15 PEOPLE'S 24.

16 DO YOU RECOGNIZE THAT VEHICLE IF I SHOW IT  
17 TO YOU?

18 A. I AM FAMILIAR WITH THE PICTURE IN THE UPPER  
19 RIGHT-HAND-SIDE, LEFT-HAND SIDE DEPICTING ON YOUR  
20 PERSPECTIVE AND THE BOTTOM ONE. I AM NOT FAMILIAR WITH  
21 THE OTHER PICTURE ON THE TOP.

22 MR. JAFFE: THE OTHER PICTURE ON THE TOP APPEARS  
23 TO BE THE PHOTOGRAPH -- FOR THE RECORD, IF COUNSEL WILL  
24 STIPULATE THAT WAS TAKEN OF REGIS THOMAS' TRUCK AT THE  
25 BEACON STREET ADDRESS.

26 MR. ARNOLD: ALL THREE PHOTOGRAPHS REPRESENT  
27 REGIS THOMAS' TRUCK.

28 MR. JAFFE: ALL RIGHT.

1 Q. WITH RESPECT TO THE EXAMINATION THAT YOU  
2 DID IN THIS CASE, DID YOU MAKE A DETERMINATION WHETHER  
3 THERE IS ANY RELATIONSHIP BETWEEN THE RED TRUCK AND THE  
4 CURB DAMAGE THAT YOU OBSERVED ON MARCH 6TH AND MARCH  
5 12TH?

6 A. I CAN'T REALLY ANSWER THAT YES OR NO AS YOU  
7 ASKED IT.

8 Q. THAT WAS A BAD QUESTION. LET ME ASK YOU IT  
9 AGAIN.

10 IN RESPECT TO THE VEHICLE, DID YOU OBSERVE  
11 THE UNDER CARRIAGE OF THE VEHICLE?

12 A. YES, I DID.

13 Q. AND DID YOU MAKE SOME FINDING WITH RESPECT  
14 TO THE UNDER CARRIAGE OF THE VEHICLE?

15 A. I LOOKED AT THE UNDER CARRIAGE OF THE  
16 VEHICLE, AND I SAW NO INDICATION THAT THERE WAS ANY TYPE  
17 OF DAMAGE OR DISRUPTION THAT WOULD BE CAUSED PERHAPS BY  
18 IT RUNNING OVER A CURB AND COMING IN CONTACT WITH THE  
19 CURB.

20 I DIDN'T FIND ANYTHING TO COLLECT AS  
21 EVIDENCE INDICATING SUCH A COLLISION.

22 Q. DID YOU ALSO MAKE SOME FINDING WITH  
23 RESPECT -- DID YOU OBSERVE THE WHEEL RIMS OF THE RED  
24 CHEVROLET TRUCK?

25 A. YES, I DID.

26 Q. DID YOU MAKE SOME FINDING IN RESPECT TO THE  
27 WHEEL RIMS AS IT RELATED TO YOUR EXAMINATION OF THE CURB  
28 ON MARCH 6TH?



1 A. YES.

2 Q. WHAT WAS THAT?

3 A. I EXAMINED ALL THE WHEEL RIMS, AND I FOUND,  
4 AS I WORDED IT IN MY REPORT, ONLY MINOR DAMAGE. THAT  
5 WAS NOT SIGNIFICANT DAMAGE THAT WOULD BE CONSISTENT WITH  
6 HAVING TRANSFERRED METAL ONTO A CURB SUCH AS ON  
7 ROSECRANS BOULEVARD.

8 Q. AND FINALLY -- YOUR HONOR, MAY I APPROACH  
9 FOR JUST ONE MOMENT WITH MR. ARNOLD?

10 THE COURT: YES.

11

12 (THE FOLLOWING PROCEEDINGS WERE HELD  
13 AT THE BENCH:)

14

15 MR. JAFFE: THE LAST QUESTION I WANTED TO ASK IS  
16 THAT SHE FOUND NO BLOODSTAINS OBSERVED IN THE PASSENGER  
17 COMPARTMENT IN THE TRUCK, THE EXTERIOR PORTIONS OF THE  
18 TRUCK OR THE UNDER CARRIAGE OF THE TRACK CLOSEST TO THE  
19 EXTERIOR OF THE VEHICLE.

20 THERE WERE SOME STAINS IN THE BED PORTION  
21 OR THE BACK PORTION OF THE VEHICLE, BUT SHE COULD NOT  
22 DETERMINE WHETHER THEY WERE HUMAN OR ANIMAL.

23 NOW, I DON'T KNOW IF MR. ARNOLD HAD  
24 INTENDED TO ASK HER THOSE QUESTIONS, BUT I WOULD OBJECT,  
25 AND SO I WANT TO GET SOME KIND OF A RULING FROM THE  
26 COURT BECAUSE I DIDN'T WANT TO GO INTO ANY BLOOD IF THE  
27 COURT WERE TO ALLOW THAT.

28 BUT I THINK IT WOULD BE SPECULATIVE. I

1 DON'T KNOW IF MR. ARNOLD INTENDED TO ASK THAT.

2 MR. ARNOLD: OF COURSE.

3 THE COURT: I THINK IF YOU ASK ABOUT WHETHER SHE  
4 MADE ANY OBSERVATIONS OF BLOOD ANYWHERE, HE CAN  
5 FOLLOW-UP WITH THE OTHER.

6 MR. JAFFE: OKAY. THEN I WON'T ASK IT.

7 THE COURT: OTHERWISE IT'S RELEVANT.

8  
9 (THE FOLLOWING PROCEEDINGS WERE  
10 HELD IN OPEN COURT IN THE PRESENCE  
11 OF THE JURY:)

12  
13 Q. BY MR. JAFFE: FOLLOWING YOUR EXAMINATION  
14 OF THAT RED TRUCK, DID YOU CONDUCT AN EXAMINATION,  
15 FURTHER EXAMINATION IN THIS CASE REGARDING A HAIR WHICH  
16 HAD BEEN REMOVED FROM A FIREARM?

17 A. YES.

18 Q. AND IS THAT THE HAIR THAT HAD BEEN REMOVED  
19 BY GISELE LAVIGNE FROM THE FIREARM THAT SHE EXAMINED?

20 A. YES.

21 Q. AND HOW BIG OR HOW LARGE WAS THAT HAIR THAT  
22 YOU EXAMINED?

23 A. I RECORDED THE HAIR FRAGMENT. IT IS NOT A  
24 COMPLETE HAIR, A FRAGMENT AS BEING 11 MILLIMETERS LONG.

25 Q. AND IN TERMS OF 11 MILLIMETERS LONG, I HAVE  
26 A STAPLE IN THE LEFT CORNER OF THIS PIECE OF PAPER.

27 HOW BIG WOULD 11 MILLIMETERS BE?

28 A. IT'S APPROXIMATELY HALF THE LENGTH OF WHAT

1 YOU WOULD SEE AS A STAPLE. I'M SORRY. I DO IT IN  
2 MILLIMETERS BECAUSE I'M A SCIENTIST AND I DIDN'T  
3 CALCULATE IT INTO INCHES.

4 Q. I DON'T HAVE A RULER.

5 PERHAPS THREE-EIGHTS OF AN INCH, PERHAPS  
6 SOMETHING OF THAT NATURE?

7 A. I'M SORRY. I CAN'T DO INCHES. IF SOMEONE  
8 HAS A RULER.

9 Q. ELEVEN MILLIMETERS?

10 A. ELEVEN MILLIMETERS. ABOUT HALF THE LENGTH  
11 OF A STAPLE.

12 Q. WERE YOU PROVIDED A SAMPLE OF HAIR OF  
13 OFFICER MACDONALD AND OFFICER BURRELL FOR ANALYSIS?

14 A. I WAS PROVIDED A SAMPLE OF HEAD HAIR FROM  
15 THE TWO OFFICERS.

16 Q. AND WERE YOU ABLE TO COMPARE THE HEAD HAIR  
17 OF EACH OF THE OFFICERS TO THE HEAD HAIR -- OR STRIKE  
18 THAT. THE HEAD HAIR OF EACH OF THE OFFICERS TO THE HAIR  
19 THAT WAS TAKEN FROM THE SITE OF THE GUN?

20 A. YES.

21 Q. AND WERE YOU ABLE TO FORM A FINDING AT ALL  
22 IN RESPECT TO THE HAIR?

23 A. YES.

24 Q. WHAT FINDING?

25 A. THE HAIR FRAGMENT FROM THE SITE OF THE GUN  
26 WAS NOT SIMILAR TO THE HEAD HAIR OF EITHER OF THE SAMPLE  
27 STANDARDS THAT I WAS SUBMITTED FROM BURRELL OR  
28 MACDONALD.

1 Q. WAS ANY HAIR SAMPLE -- WERE YOU PROVIDED  
2 ANY HAIR SAMPLE FROM A PERSON KNOWN AS REGIS THOMAS?

3 A. I WAS SUBMITTED A PUBIC HAIR SAMPLE AND  
4 WITHOUT CHECKING THROUGH MY NOTES, I DO NOT RECALL IF I  
5 WAS GIVEN A HEAD HAIR SAMPLE OR NOT.

6 MR. JAFFE: COUNSEL, WILL YOU STIPULATE THAT NO  
7 HEAD HAIR SAMPLE WAS PROVIDED FOR ANALYSIS?

8 MR. ARNOLD: YES.

9 THE COURT: YOU HAVE TO ACCEPT THAT, LADIES AND  
10 GENTLEMEN. NO HEAD HAIR SAMPLE WAS PROVIDED FOR  
11 ANALYSIS.

12 Q. BY MR. JAFFE: I HAVE AN AERIAL MAP WHICH  
13 HAS BEEN MARKED AS DEFENSE H, AND WITH THE COURT'S  
14 PERMISSION, IF YOU CAN JUST STEP DOWN FOR A MOMENT.

15 THE COURT: ALL RIGHT. GO AHEAD.

16 Q. BY MR. JAFFE: THERE IS AN INDICATION, A  
17 TYPED INDICATION HERE. IT SAYS 3-12-93 CURB TEST AND  
18 FIRE STATION ADJACENT TO THAT.

19 DOES THAT LOCATION ACCURATELY REFLECT THE  
20 LOCATION WHERE YOU PERFORMED THE CURB TEST ON 3-12-93?

21 A. NO.

22 Q. WHERE WOULD THE TEST BE?

23 A. THE RED CURB THAT I LOOKED AT ADJACENT TO  
24 THE FIRE STATION WAS IN THIS LOCATION.

25 Q. COULD YOU, IF YOU COULD PUT YOUR INITIALS.  
26 WHY DON'T I GET ONE OF THESE LITTLE STICKERS.

27 DO YOU PREFER ANY COLOR? I'LL USE THE  
28 GREEN ONE.

1 WHERE WAS IT?

2 A. SEE, WELL, YOU SORT OF GOT IT -- SEE THIS  
3 DRIVEWAY?

4 Q. YES.

5 A. IT WAS THE RED CURB ADJACENT TO THE  
6 DRIVEWAY.

7 Q. SO IF I DREW AN ARROW THIS WAY?

8 A. THAT IS APPROXIMATELY IT.

9 Q. ALL RIGHT.

10 AND IF I COULD, WITH THE COURT'S  
11 PERMISSION, JUST PUT THE LETTERS LH.

12 THE COURT: ALL RIGHT.

13 Q. BY MR. JAFFE: THAT WAS THE CURB TEST ON  
14 WHICH DATE?

15 A. THE 12TH.

16 THE COURT: MARCH 12TH, I BELIEVE.

17 Q. BY MR. JAFFE: 3-12, AND THE TEST ON 3-6,  
18 IS THAT SHOWN ON THIS AERIAL MAP?

19 A. IT WAS ALONG THE SAME CURB, APPROXIMATELY  
20 IN THIS AREA, 188 FEET EAST OF THIS INTERSECTION.

21 Q. SO APPROXIMATELY HERE?

22 A. ROUGHLY BECAUSE I HAVE NEVER SEEN THIS  
23 BEFORE, SO I'M NOT SURE WHICH.

24 Q. THERE IT SAYS CURB TEST 3-6-93, AND THERE  
25 IS AN ARROW POINTING THERE.

26 IS THAT THERE OR FURTHER TO THE LEFT?

27 A. I CAN'T TELL BECAUSE I HAVE NEVER SEEN THIS  
28 BEFORE, SO I NEVER SEEN THIS BEFORE LIKE TO COUNT THE

1 HOUSES DOWN OR SOMETHING. IT'S ROUGHLY IN THAT AREA.

2 Q. WELL, JUST IF WE CAN, PUT LH AND THEN APPX  
3 FOR APPROXIMATE AREA FOR 3-6-93; IS THAT RIGHT?

4 A. APPROXIMATELY.

5 Q. APPROXIMATELY?

6 A. YES.

7 MR. JAFFE: THANK YOU VERY MUCH.

8 I HAVE NO FURTHER QUESTIONS.

9 THE COURT: MR. ARNOLD.

10 MR. ARNOLD: THANK YOU.

11  
12 CROSS-EXAMINATION

13 BY MR. ARNOLD:

14 Q. MS. HEROLD, WHEN YOU EXAMINED THE HAIR,  
15 WERE YOU ABLE TO DETERMINE WHETHER IT WAS A HAIR, A  
16 COMPLETE HAIR OR WERE THERE PORTIONS LACKING?

17 A. IT WAS NOT A COMPLETE HAIR.

18 Q. WHAT PARTS WERE MISSING?

19 A. GIVE ME A MOMENT TO FIND MY SPECIFIC HAND  
20 NOTES ON THE HAIR. I'M MISSING A REPORT HERE. JUST A  
21 MINUTE.

22 THE COURT: MR. ARNOLD MIGHT BE ABLE TO PROVIDE  
23 YOU WITH A COPY.

24 THE WITNESS: IT'S IN THIS STACK HERE SOMEWHERE.

25 THIS IS A COPY OF MY REPORT. I HAVE  
26 RECORDED IT AS DAMAGED HAIR SHAFT THAT HAD NO ROOT OR  
27 TIP PRESENT.

28 IN OTHER WORDS, IF YOU LOOK ALONG THE

1 LENGTH OF A HAIR, YOU HAVE AN END, THAT IS THE FREE END  
2 YOU CALL THE TIP. YOU HAVE THE ROOT. THAT IS THE PART  
3 THAT IS EMBEDDED IN YOUR SKIN, AND BOTH OF THOSE PARTS  
4 WERE MISSING.

5 SO WE HAD A FRAGMENT THAT WAS FROM SOME  
6 PLACE IN BETWEEN.

7 Q. BY MR. ARNOLD: NOW, THE ROOT AND THE TIP  
8 THAT YOU SAY IS MISSING, DO THOSE PORTIONS OF HAIR HAVE  
9 SOME COMPARISON VALUE FOR YOU WHEN YOU ARE EXAMINING A  
10 HAIR?

11 A. YES.

12 Q. WHAT IS THE SIGNIFICANCE OF THE ROOT AND/OR  
13 THE TIP?

14 A. IN GENERAL, WHEN YOU'RE DOING A HAIR  
15 COMPARISON, UNLESS THERE IS AN IMMEDIATE OBVIOUS  
16 DIFFERENCE, SUCH AS YOU'RE TRYING TO COMPARE A BLOND  
17 HAIR TO A BROWN HAIR AND YOU CAN SEE IMMEDIATELY IT'S  
18 DIFFICULT TO DO A PROPER COMPARISON, YOU NEED AN ENTIRE  
19 LENGTH OF HAIR OR A SIGNIFICANT LENGTH OF HAIR TO LOOK  
20 AT BECAUSE THE MICROSCOPIC FEATURES CHANGE OVER THE  
21 LENGTHS.

22 IDEALLY YOU WANT THE ENTIRE HAIR BECAUSE  
23 YOU ARE LOOKING AT ABOUT 20 MICROSCOPIC FEATURES FROM  
24 THE ROOT TO THE TIP. HOW THEY OCCUR, WHAT PATTERN  
25 THEY'RE IN, AND HOW THEY CHANGE OVER THE LENGTH.

26 Q. SO THE ROOT AND THE TIP, THAT ALLOWS YOU TO  
27 MAKE A DETERMINATION AS TO WHETHER A PARTICULAR HAIR  
28 CAME FROM A PARTICULAR PERSON'S HEAD OR AT LEAST ASSIST

1 YOU IN THAT DETERMINATION?

2 A. YES. YES.

3 Q. SO YOU DIDN'T HAVE THAT IN THIS CASE?

4 A. I HAD A VERY RELATIVELY SMALL FRAGMENT OF  
5 HAIR THAT IS NOT USABLE FOR A FULL COMPARISON.

6 Q. FROM YOUR EXAMINATION OF THAT HAIR FRAGMENT  
7 THAT YOU DID HAVE, WERE YOU ABLE TO MAKE A DETERMINATION  
8 AS TO WHETHER IT WOULD BE MORE CONSISTENT WITH A HEAD  
9 HAIR OR A BODY HAIR OR PERHAPS A PUBIC HAIR?

10 A. NO. IT WAS SO SMALL THAT I COULD NOT MAKE  
11 THAT DETERMINATION.

12 Q. COULD YOU TELL WHAT COLOR IT WAS?

13 IN OTHER WORDS, WOULD IT HAVE COME FROM A  
14 BLACK HAIRED PERSON OR A BLOND HAIRED PERSON?

15 A. TO THE LAY PERSON, I WOULD DESCRIBE IT AS  
16 DARK BROWN TO BLACK.

17 Q. AND YOU COULD NOT TELL WHETHER IT WAS A  
18 HEAD HAIR, EITHER?

19 A. NO, I COULD NOT.

20 Q. WERE YOU ABLE TO TELL BASED ON YOUR  
21 EXAMINATION, COULD YOU TELL THE ETHNICITY OF WHATEVER  
22 PERSON MAY HAVE LEFT THAT HAIR?

23 A. NO.

24 Q. ALL YOU COULD TELL US IS -- ARE YOU ABLE TO  
25 TELL WHETHER IT WAS HUMAN HAIR?

26 A. YES, IT IS HUMAN, AND I WOULD HAVE TO SAY  
27 WITH RESPECT TO THE ETHNICITY, I COULD ELIMINATE ON THE  
28 BASIS OF WHAT I COULD SEE, A FEW THINGS.



1                   FOR EXAMPLE, IT'S NOT A RED HAIR. IT'S NOT  
2 A LIGHT BROWN HAIR. SO YOU CAN ELIMINATE A CERTAIN  
3 CLASS OF THE POPULATION, BUT THERE WAS NOT ENOUGH  
4 INFORMATION THERE THAT I COULD POINT TO A VERY  
5 RESTRICTED CLASS OF PEOPLE AT ALL.

6           Q.       SO YOU HAVE GOT A PIECE OF A HAIR FRAGMENT  
7 FROM A DARK BROWN OR BLACK HAired PERSON AND YOU REALLY  
8 CAN'T SAY ANYTHING MORE THAN THAT EVEN WHERE THE HAIR  
9 CAME FROM ON THE DONOR?

10          A.       CORRECT.

11          Q.       WHEN YOU WERE OUT THERE ON ROSECRANS  
12 PERFORMING YOUR TESTS, DID YOU NOTICE, WAS ROSECRANS, IS  
13 THAT A ONE LANE STREET OR MULTIPLE LANE STREET?

14          A.       MULTIPLE LANES.

15          Q.       DID YOU NOTICE WERE THERE A SIGNIFICANT  
16 NUMBER OF SCRATCH MARKS AND TIRE MARKS ALONG THE CURB?

17          A.       THERE WERE MORE THAN ONE APPARENT SWIPE  
18 MARKS ALONG THE CURB FROM THE DISTANCE OF THE FIRE  
19 STATION TO TAJAUTA AVENUE.

20          Q.       THEORETICALLY IF A VEHICLE IS DRIVING ALONG  
21 AND JUST SKIMS THE CURB WITH THE TIRE, THAT WOULDN'T  
22 GOUGE OUT A PIECE OF CONCRETE, WOULD IT, DO YOU THINK?

23          MR. JAFFE: OBJECTION. THAT CALLS FOR  
24 SPECULATION. BEYOND THIS WITNESS'S EXPERTISE.

25          THE COURT: IF YOU REPHRASE THE QUESTION. SHE  
26 WAS TALKING ABOUT CONSISTENCY OR INCONSISTENCY I THINK  
27 WAS HER LANGUAGE WHEN SHE WAS TESTIFYING.

28          Q.       BY MR. ARNOLD: WOULD YOU EXPECT

1 MS. HEROLD, IF A VEHICLE JUST SKIMMED, BRUSHED UP  
2 AGAINST THE CURB WHILE DRIVING ALONG WITH THE TIRE,  
3 WOULD YOU EXPECT IT TO KNOCK OUT THE PIECE OF CONCRETE?

4 MR. JAFFE: YOUR HONOR, I'M GOING TO OBJECT.

5 THE COURT: SUSTAINED.

6 Q. BY MR. ARNOLD: DID YOU OBSERVE ANY TIRE  
7 MARKS OR ANY BLACK RUBBER MARKS OR TIRE MARKS ON THE  
8 CURB THAT DID NOT HAVE ANY CHUNKS OF CONCRETE GOUGED  
9 OUT?

10 A. YES, INCLUDING THE ONE I HAD PHOTOGRAPHED.  
11 THERE WAS NO CHUNK OF CONCRETE GOUGED OUT. THERE WAS A  
12 DEPOSITION OF A BLACK COLORED MATERIAL AND A METAL THAT  
13 WAS STREAKED ON TOP OF THE CONCRETE. THERE WAS NOT A  
14 MISSING PIECE OF CURB.

15 Q. I WOULD ASSUME THEN THERE IS NO WAY TO  
16 DETERMINE WHEN THESE VARIOUS MARKS AND SCRATCHES AND  
17 GOUGES OCCURRED; ISN'T THAT TRUE?

18 A. IN THIS PARTICULAR CASE, ALONG THAT CURB IT  
19 IS A PUBLIC ACCESS THOROUGHFARE. THERE WAS OBVIOUSLY  
20 MORE THAN ONE SWIPE ALONG THE LENGTH OF THAT CURB THAT I  
21 EXAMINED. I COULD NOT TIME WHEN THOSE OCCURRED.

22 Q. IT COULD HAVE HAPPENED FIVE MINUTES BEFORE  
23 YOU GOT THERE OR TWO YEARS BEFORE YOU GOT THERE; TRUE?

24 A. YES.

25 Q. WOULD THAT BE A FAIR STATEMENT?

26 A. YES.

27 Q. AND I ASSUME THEN THAT IF A PARTICULAR  
28 VEHICLE VEERS TOWARD A CURB BUT DOESN'T HIT IT, THERE IS

1 NOT GOING TO BE ANY TRANSFER OF RUBBER OR METAL?

2 WOULD THAT BE A FAIR STATEMENT?

3 MR. JAFFE: THAT IS ARGUMENTATIVE. IF IT DIDN'T  
4 TOUCH THE CURB, HOW COULD IT LEAVE?

5 THE COURT: WELL, I'LL LET HER ANSWER THE  
6 QUESTION. OVERRULED. GO AHEAD.

7 DO YOU UNDERSTAND THE QUESTION?

8 THE WITNESS: YES, I DO.

9 BY DEFINITION, TO HAVE A TRANSFER OCCUR AS  
10 I VIEW A TRANSFER, YOU MUST HAVE IN THIS CASE CONTACT  
11 BETWEEN TWO OBJECTS SUCH AS A TIRE CONTACTING THE CURB.

12 OBVIOUSLY IF THE TIRE DOES NOT CONTACT THE  
13 CURB, YOU WILL NOT HAVE A TRANSFER OF TIRE MATERIAL TO  
14 THE CURB OR CURB MATERIAL TO THE TIRE.

15 MR. ARNOLD: THANK YOU, MS. HEROLD.

16  
17 REDIRECT EXAMINATION

18 BY MR. JAFFE:

19 Q. ONE DOES NOT HAVE TO BE AN EXPERT TO FIGURE  
20 OUT IF A TIRE DOESN'T HIT A CURB, THERE IS NOT GOING TO  
21 BE A TRANSFER; RIGHT?

22 YOU DON'T HAVE TO ANSWER THAT.

23 A. THERE IS AN ANSWER TO THAT. SOMETIMES YOU  
24 DO BECAUSE YOU'RE TALKING ABOUT DIFFERENT LEVELS OF  
25 OBSERVATION, WHETHER YOU SEE A TRANSFER BY EYE OR SOME  
26 OTHER MICROSCOPIC TYPE OF TRANSFER.

27 Q. THE OTHER QUESTION IS, IS THERE A  
28 DIFFERENCE BETWEEN MAKING A FULL COMPARISON OF HAIRS AND

1 HAVING A SAMPLE OF HAIR SO THAT YOU CAN RULE OUT AN  
2 INDIVIDUAL?

3 A. NO, THERE ISN'T. IN ORDER TO WHEN YOU DO  
4 HAIR COMPARISON, YOU HAVE A SERIES OF FEATURES THAT  
5 YOU'RE LOOKING AT. YOU START WITH MICRO -- I'M SORRY --  
6 MACROSCOPIC FEATURES, AND IF ALL THOSE FEATURES AGREE  
7 AND THERE IS NO SIGNIFICANT DIFFERENCE, YOU MOVE ONTO  
8 THE NEXT STEP OF COMPARISON.

9 IT IS MORE A PROCESS OF LOOKING FOR A  
10 SIGNIFICANT DIFFERENCE, AND AT THE POINT WHERE YOU HIT A  
11 SIGNIFICANT DIFFERENCE THAT WOULD ALLOW AN ELIMINATION,  
12 YOU CEASE THE EXAMINATION.

13 Q. IN THIS CASE, EVEN THOUGH YOU DID NOT HAVE  
14 THE ROOT AND THE TIP OF THAT ONE HAIR, YOU WERE ABLE TO  
15 FIND THAT THE CHARACTERISTICS OF THAT HAIR WERE  
16 DIFFERENT THAN THE CHARACTERISTICS OF THE HAIR OF  
17 OFFICERS MACDONALD AND BURRELL, THOUGH?

18 A. YES, I FOUND SIGNIFICANT DIFFERENCES THAT  
19 WOULD ALLOW ME TO EXCLUDE THAT AS BEING THE SOURCE OF  
20 THE HAIR REMOVED FROM THE WEAPON.

21 Q. AND SO IF YOU ARE PROVIDED A SAMPLE OF  
22 HAIR, FOR INSTANCE, MR. THOMAS OR ANYONE ELSE, YOU COULD  
23 TAKE THAT SAMPLE, COMPARE IT TO THE SAMPLE THAT CAME OFF  
24 OF THE GUN AND EITHER EXCLUDE OR INCLUDE HIM AS A  
25 POSSIBILITY, COULD YOU NOT?

26 A. TO A CERTAIN EXTENT, IN THIS CASE BECAUSE  
27 THE HAIR FRAGMENT IS SO SMALL, YOU REACH A POINT IN THE  
28 COMPARISON IN THE PROCESS WHERE YOU'RE GOING STEP BY

1 STEP SCIENTIFICALLY, THAT YOU CANNOT GO BEYOND THAT  
2 BECAUSE YOU DO NOT HAVE AN ENTIRE HAIR OR A LARGE ENOUGH  
3 PIECE OF HAIR TO WORK WITH.

4 Q. WHAT YOU'RE SAYING, THOUGH, IS THAT THE  
5 HAIR SAMPLE THAT YOU HAVE WHICH HAS NO TIP OR ROOT,  
6 BEING ELEVEN MILLIMETERS MAY NOT BE SUFFICIENT FOR A  
7 FULL COMPARISON OF A SAMPLE; RIGHT?

8 A. THAT IS CORRECT.

9 Q. BUT YOU MAY HAVE A SAMPLE OF HAIR THAT YOU  
10 CAN COMPARE TO THE ELEVEN MILLIMETER HAIR THAT YOU HAVE  
11 AND BE ABLE TO RULE OUT THE SAMPLE?

12 A. YES, THAT IS CORRECT.

13 MR. JAFFE: I HAVE NO FURTHER QUESTIONS.

14 THE COURT: ANYTHING, MR. ARNOLD?

15  
16 RECROSS-EXAMINATION

17 BY MR. ARNOLD:

18 Q. IS THAT THE WAY YOU WERE ABLE TO RULE OUT  
19 OFFICER'S MACDONALD AND BURRELL?

20 A. YES.

21 Q. WERE YOU ABLE TO RULE OUT THE PUBIC HAIR OF  
22 REGIS THOMAS?

23 A. NO.

24 MR. ARNOLD: NO FURTHER QUESTIONS.

25 THE COURT: ALL RIGHT.  
26  
27  
28

## FURTHER REDIRECT EXAMINATION

BY MR. JAFFE:

Q. WERE YOU EVER ABLE TO PROVIDE A HAIR SAMPLE  
OF REGIS THOMAS?

A. TO THE BEST OF MY RECOLLECTION --

MR. JAFFE: I ALREADY ASKED HER THAT AND WE  
STIPULATED.

THE COURT: ALL RIGHT.

MR. JAFFE: I HAVE NO FURTHER QUESTIONS.

THE COURT: THANK YOU, MA'AM. YOU CAN STEP DOWN.  
YOU'RE FREE TO GO.

ANY OTHER WITNESSES AT THIS TIME?

MR. JAFFE: YOUR HONOR, I HAVE A STIPULATION.

THE COURT: OKAY. JUST A SECOND. WAIT UNTIL THE  
WITNESS, MS. HEROLD, PACKS UP.

THANK YOU, MA'AM.

MR. ARNOLD, THERE IS YOUR PAGE OF THE  
REPORT.

ALL RIGHT.

DO YOU HAVE A STIPULATION?

LADIES AND GENTLEMEN, AGAIN THE LAWYERS  
HAVE GOT A STIPULATION.

MR. JAFFE: COUNSEL, WILL YOU STIPULATE THAT  
LIEUTENANT REGGIE WRIGHT WAS CALLED, DULY SWORN AND  
TESTIFIED THAT ON JULY 10TH, 1993, HE HAD A DISCUSSION  
WITH ALICIA JORDAN, AND ALICIA JORDAN STATED THAT SHE  
COULD NOT GET A GOOD LOOK AT THE DRIVER BECAUSE THE  
WINDOWS WERE TINTED?

1 MR. ARNOLD: I WILL STIPULATE THAT THAT IS WHAT  
2 ALICIA JORDAN SAID TO LIEUTENANT WRIGHT BACK ON JULY  
3 10TH OF 1993, YES.

4 THE COURT: ALL RIGHT.

5 YOU HAVE TO ACCEPT THAT, LADIES AND  
6 GENTLEMEN, THAT IF THE LIEUTENANT WAS CALLED, HE WOULD  
7 TESTIFY TO THAT.

8 MR. JAFFE: PENDING THE RECEIPT OF EVIDENCE, YOUR  
9 HONOR.

10 THE COURT: ALL RIGHT.

11 LET ME SEE YOU AT SIDEBAR.

12  
13 (THE FOLLOWING PROCEEDINGS WERE HELD  
14 AT THE BENCH:)

15  
16 THE COURT: WHAT IS YOUR SITUATION ON REBUTTAL?

17 ARE YOU GOING TO HAVE REBUTTAL OR NOT?

18 WHAT I'M REALLY FOCUSING ON IS WHETHER TO  
19 BRING THE JURORS BACK.

20 MR. ARNOLD: I DON'T FEEL IT'S NECESSARY TO CALL  
21 ANYBODY.

22 THE COURT: ALL RIGHT.

23 HERE IS WHAT MY INTENTION IS.

24 MR. ARNOLD: BEFORE YOU GO ON, THERE ARE A NUMBER  
25 OF PIECES OF MR. JAFFE'S EVIDENCE THAT I'M GOING TO  
26 OBJECT TO SOME PHOTOS AND DIFFERENT THINGS.

27 THE COURT: HERE IS MY INTENTION. I WAS GOING TO  
28 TAKE THE DAY OFF TOMORROW WITH THE JURORS SO THAT I CAN

1 HEAR THE OBJECTIONS AND HEAR THOSE IN THE MORNING, AND I  
2 WILL GIVE YOU AN OPPORTUNITY TO SIT DOWN AND GO OVER  
3 JURY INSTRUCTIONS, AND THEN I WOULD HEAR FROM YOU AGAIN  
4 AS FAR AS ARGUMENTS ON THE LESSER OR NO LESSER.

5 HOW LONG DO YOU THINK YOUR ARGUMENT WILL  
6 BE? I MEAN I'M NOT GOING TO HOLD YOU TO IT.

7 MR. ARNOLD: GOSH, IT'S REALLY HARD TO SAY. AN  
8 HOUR FIFTEEN. AN HOUR. MAYBE A LITTLE MORE. I HAVE  
9 NEVER ARGUED OVER AN HOUR AND FIVE MINUTES, AND I WILL  
10 SAY I'LL PROBABLY GO A LITTLE LONGER IN THIS CASE.

11 I HAVE NEVER DONE LONGER THAN AN HOUR AND  
12 FIVE MINUTES. MAYBE A LITTLE LONGER THAN THAT.

13 THE COURT: WELL, HERE IS WHAT I SUGGEST, AND I  
14 PREINSTRUCT. MY SUGGESTION IS THAT WE HAVE THE JURORS  
15 RETURN AT 1:30 ON THURSDAY.

16 MR. ARNOLD: FOR WHAT?

17 THE COURT: FOR INSTRUCTION AND ARGUMENT.

18 MR. JAFFE: WELL, YOU MUST HAVE A REASON FOR  
19 THAT.

20 THE COURT: RIGHT.

21 MR. JAFFE: CAN YOU TELL ME WHAT THE REASON IS?

22 THE COURT: MY REASON IS, I DON'T THINK THAT  
23 YOU'RE GOING TO WALK IN HERE TOMORROW, HAVE THE  
24 INSTRUCTIONS READY TO GO AND WHAT HAVE YOU. I THINK  
25 THAT IT'S GOING TO GO IN STAGES.

26 MR. JAFFE: WELL, WE TALKED ABOUT THAT AND  
27 ORIGINALLY WE WERE THINKING IF WE ARGUED ON FRIDAY, WE  
28 COULDN'T FINISH.



1 I DIDN'T WANT THAT BECAUSE I DIDN'T WANT  
2 THEM TO HAVE THE WHOLE WEEKEND TO COME BACK AND HEAR  
3 HIM. MAYBE THAT IS WHY YOU'RE SAYING THURSDAY.

4 WHAT I THINK WE CAN DO, REALLY IF WE SET  
5 ASIDE ONE DAY, I THINK WE COULD FINISH IN ONE DAY, IF HE  
6 GOES FOR AN HOUR.

7 THE COURT: THE REASON I'M SAYING THURSDAY IS  
8 BECAUSE I WOULD INSTRUCT ON THURSDAY, AND THAT USUALLY  
9 TAKES ABOUT AN HOUR AND FIFTEEN MINUTES. HE DOES HIS  
10 OPENING ARGUMENT, AND THEN ON FRIDAY, YOU ARGUE AND THEN  
11 HE DOES HIS REBUTTAL.

12 MR. JAFFE: WELL, AND THEY HAVE THE FULL NIGHT TO  
13 THINK ABOUT WHAT HE SAID THURSDAY NIGHT.

14 THE COURT: WELL, I MEAN I'LL BRING THEM IN. I  
15 MEAN I REALLY THINK ON THIS PARTICULAR CASE, I MEAN I  
16 KNOW THAT THEY HAD A NIGHT TO THINK ABOUT IT, BUT TRULY  
17 ON THIS PARTICULAR CASE, THEY HAVE TAKEN A LOT OF TIME  
18 ON THE EVIDENCE.

19 I MEAN THERE ARE SOME D.A.S ON A CASE LIKE  
20 THIS THAT WOULD ARGUE ON A CASE FOR THREE, FOUR OR FIVE  
21 HOURS.

22 MR. JAFFE: YOU KNOW SOMETHING. I THINK I TRUST  
23 THE COURT'S JUDGMENT, AND I THINK THAT IS A GOOD IDEA.  
24 I THINK THAT IS A GOOD IDEA.

25 THE COURT: BECAUSE I DON'T WANT TO BRING THEM IN  
26 AND THEN THEY'RE SITTING THERE. WE'RE PUSHING TO GET  
27 THEM TO GRIND, TO RUSH THROUGH THE INSTRUCTIONS AND WHAT  
28 HAVE YOU AND INVARIABLY, AND IT HAPPENED IN THE LAST

1 CASE.

2 WE THOUGHT WE HAD THEM WORKED OUT. AS I'M  
3 SITTING UP THERE READING THEM, THE LANGUAGE ISN'T RIGHT.  
4 THEN I'M CALLING THE LAWYERS UP AND CHANGING IT AND THAT  
5 TYPE OF THING.

6 MR. ARNOLD: I'M ASKING THAT YOU NOT DO IT FOR  
7 THE FOLLOWING REASON:

8 WHEN I GIVE MY PITCH, MR. JAFFE IS GOING TO  
9 BE ABLE TO HAVE ALL NIGHT TO PICK THE THING APART AND  
10 THEN FOR MY REBUTTAL ARGUMENT, I HAVE TO JUMP IN AFTER  
11 AND THAT GIVES AN UNFAIR DISADVANTAGE TO MR. JAFFE.

12 IN ADDITION, I'M HAVING A FLIP CHART.

13 THE COURT: I TELL YOU WHAT WE'LL DO. IF YOU'RE  
14 BOTH CONCERNED ABOUT THAT, THURSDAY AFTERNOON I'LL  
15 INSTRUCT THEM WHAT THE LAW IS AND WE'LL START ON FRIDAY  
16 AT 9:00 O'CLOCK.

17 MR. JAFFE: LET'S FLIP A COIN.

18 THE COURT: I'LL DO THAT.

19 MR. ARNOLD: MY PRIMARY CONCERN IS THIS FLIP  
20 CHART. I'M STILL PUTTING THE STUFF INTO A COMPUTER AND  
21 THEN I HAVE TO HAVE OUR GRAPHICS PEOPLE MAKE IT INTO A  
22 FLIP CHART.

23 MR. JAFFE: WAIT A SECOND. HOW CAN I PICK APART  
24 ANYTHING THAT MR. ARNOLD SAYS? I SAID THAT FACETIOUSLY.

25 THE COURT: I THINK THE BOTH OF YOU ALREADY  
26 BASICALLY KNOW WHAT YOU'RE GOING TO ARGUE, AND I MEAN  
27 BECAUSE THAT IS WHY YOU ASK THE QUESTIONS YOU DO.

28 THAT IS WHAT WE'LL DO. I'LL HAVE THEM BACK

1 THURSDAY. I'LL MAKE A RULING. I HAVEN'T FINISHED  
2 PETERSON'S TESTIMONY ABOUT WHAT YOU ASKED ME YESTERDAY  
3 AND THEN I'LL MAKE A RULING ON THAT, AND I'LL MAKE A  
4 RULING ON WHAT YOU CAN ASK BUMCROT ABOUT ALICIA JORDAN  
5 TOMORROW AND WE'LL BRING THE JURORS BACK THURSDAY.

6 MR. JAFFE: WELL --

7 THE COURT: TELL ME WHAT YOUR CONCERNS ARE.

8 MR. JAFFE: I JUST -- THIS THING WITH BUMCROT.

9 THE COURT: LET ME TELL YOU, AND THAT IS WHY, THE  
10 RESPONSE WAS, "NO, NOT THAT I REMEMBER," OR SOMETHING TO  
11 THAT EFFECT. SO THAT IS WHY I WANT TO READ IT IN  
12 CONTEXT BECAUSE REALLY IF IT'S, "NO, NOT THAT I  
13 REMEMBER," SHE SAYS IT'S NOT THE SAME THING AS, "NO, HE  
14 DEFINITELY DIDN'T SHOW ME ANYTHING."

15 MR. JAFFE: NO. THERE WAS ONE POINT IN THE  
16 TRANSCRIPT WHERE SHE SAYS, "I DIDN'T SEE ANY," AND I  
17 ASKED HER, "IF YOU WOULD HAVE SEEN IT, WOULD YOU HAVE  
18 IDENTIFIED HIM?" AND SHE SAID, "YES."

19 THE COURT: I HAVEN'T GOTTEN TO THAT POINT. THAT  
20 IS WHY I WANT TO SIT AND READ IT. I KNOW EVERYBODY IS  
21 CONCERNED ABOUT IT HIGHLIGHTS. THEY HAVE BEEN HERE FOR  
22 FIVE WEEKS.

23 MR. JAFFE: THE OTHER THING IS ON THIS ARGUMENT  
24 BECAUSE I WASN'T A HUNDRED PERCENT CLEAR YESTERDAY ON  
25 THIS ADKINS THING, YOU KNOW, I GAVE IT SOME THOUGHT.

26 I'M NOT TAKING ADVANTAGE OF ANY HEARSAY  
27 RULING. IT'S AS IF THE PEOPLE JUST HAVE AN UNAVAILABLE  
28 WITNESS. IT'S THE EXACT SAME THING BECAUSE I WOULDN'T

1 HAVE OBJECTED IF THE QUESTION WEREN'T ASKED.

2 THE COURT: I'M READING IT, AND I'LL GIVE YOU MY  
3 PRELIMINARY THOUGHTS IS, THE FACTS ARE THE FACTS. I WAS  
4 THINKING ABOUT THIS WHEN I WAS OUT TODAY FOR A WALK.

5 THERE PROBABLY IS A DOUBLE STANDARD. THAT  
6 IS THAT THE DEFENSE HAS A POSITION OR AN OBLIGATION TO  
7 ARGUE THE FACTS AND THE REASONABLE INFERENCES. I DON'T  
8 THINK THAT A PROSECUTOR NECESSARILY CAN ARGUE SOMETHING  
9 THAT HE OR SHE DOES NOT KNOW IS ABSOLUTE, THAT IS TRUE.

10 I THINK THAT THERE IS A DIFFERENCE. I  
11 MEAN, AND THIS IS JUST A THOUGHT. I'M STILL THINKING  
12 ABOUT IT. I KNOW, MR. ARNOLD, BY THE LOOK ON YOUR FACE,  
13 BUT THOSE ARE THE FACTS OF LIFE AROUND THIS BUILDING.

14 I MEAN I WAS THINKING TO MYSELF THE  
15 REALITIES ARE IF I PRECLUDED IT, DEFENSE COUNSEL FROM  
16 ARGUING THINGS THAT REALLY AREN'T ACCURATE, WE COULD CUT  
17 OUT 80 PERCENT OF THE ARGUMENTS IN THE BUILDING AND THAT  
18 IS JUST MY TENTATIVE, AND MY TENTATIVE, SO YOU DON'T  
19 PASS OUT ON ME.

20 MR. ARNOLD: I'M DOING MY BEST NOT TO PASS OUT.

21 THE COURT: I MAY LET YOU ASK BUMCROT SOME  
22 FOLLOW-UP QUESTIONS OF WHAT I HAVE SEEN SO FAR.

23 MR. JAFFE: THE LAST THING, THEORETICALLY, ALONG  
24 THE SAME LINES THAT YOU'RE TALKING ABOUT DOUBLE  
25 STANDARD, IF A DEFENSE LAWYER KNOWS AS A GIVEN THAT A  
26 WITNESS IS ACCURATE IN THEIR IDENTIFICATION, IT'S STILL  
27 THE OBLIGATION OF THE DEFENSE LAWYER TO TRY TO IMPEACH  
28 THAT IDENTIFICATION EVEN. SO THERE IS IN A SENSE OF A

1 DOUBLE STANDARD.

2 THE COURT: AS CHARLIE ENGLISH ONCE SAID TO ME  
3 WHEN I WAS TRYING A CASE WITH HIM, MY JOB IS TO MAKE  
4 PEOPLE THAT ARE TRYING TO TELL THE TRUTH LOOK LIKE  
5 THEY'RE LYING. IT'S UNFORTUNATE.

6 BUT ON THE OTHER HAND, AND I'M THINKING  
7 ABOUT IT BECAUSE I'M READING THE TRANSCRIPT. HE MAY --  
8 MR. ARNOLD MAY BE ABLE TO REBUT YOU IN NEBULOUS TERMS.  
9 THAT IS THERE WAS A DELAY OF TWO TO THREE DAYS. WE  
10 DON'T KNOW WHAT HAPPENED INSIDE THAT APARTMENT AS  
11 OPPOSED TO --

12 MR. ARNOLD: PLUS HE SPEAKS WITH CHAPPELL AND  
13 THEN THE INVESTIGATION FOCUSES INSIDE.

14 MR. JAFFE: NO, THAT --

15 THE COURT: BUT I'M CONCERNED ABOUT -- I'M STILL  
16 THINKING ABOUT -- I THINK THERE IS REBUTTAL. OBVIOUSLY  
17 THERE IS CERTAIN THINGS THAT YOU CAN OR CANNOT SAY. I  
18 MEAN YOU CANNOT STAND UP AND SAY, "WE DON'T KNOW. MAYBE  
19 MR. CHAPPELL FLUSHED IT DOWN THE TOILET."

20 I'LL TELL THEM 1:30 ON THURSDAY.

21 MR. JAFFE: ON ARGUMENT --

22 THE COURT: WE'LL TAKE CARE OF IT.

23 MR. ARNOLD: IF THE INVESTIGATION FIRST FOCUSES  
24 OUTSIDE AND THEN THEY TALK WITH ANDRE CHAPPELL AND IT  
25 GOES TO THE INSIDE, WHY CAN'T I ARGUE THE INFERENCES OF  
26 THAT?

27 MR. JAFFE: YOU CAN ARGUE WHERE THE SHOOTING  
28 OCCURRED. THAT IS FINE.

1 THE COURT: BUT THEN YOU CAN'T AS TO WHAT THE  
2 INFORMATION WAS. AND TRULY WHEN I WAS THINKING ABOUT  
3 IT, REALLY AS A PROSECUTOR, IT'S AN UNFAIR DOUBLE  
4 STANDARD, BUT THERE IS ALWAYS A DOUBLE STANDARD EVEN  
5 BEFORE THE DISCOVERY STARTED.

6 THESE ARE NOT LEVEL PLAYING FIELDS.

7 MR. ARNOLD: WHAT IS SO HYPOCRITICAL, WE ALL KNOW  
8 BASED ON WHAT CHAPPELL SAYS THAT HE THREW ONE SHELL  
9 CASING OUTSIDE AND HE FLUSHED THE OTHER ONE.

10 MR. JAFFE: WE DON'T KNOW THAT.

11 THE COURT: LET'S FINISH WITH THE JURORS.

12 MR. JAFFE: DO YOU WANT ME --

13 THE COURT: I'LL TELL THEM.

14  
15 (THE FOLLOWING PROCEEDINGS WERE  
16 HELD IN OPEN COURT IN THE PRESENCE  
17 OF THE JURY:)

18  
19 THE COURT: IT IS PROBABLY THE MOST ANIMATED YOU  
20 HAVE SEEN US AT THE SIDEBAR, LADIES AND GENTLEMEN,  
21 BECAUSE WE'RE CLOSE TO THE END OF THE EVIDENCE.

22 ALL RIGHT, LADIES AND GENTLEMEN.

23 ONE OF THE JURORS THERE HAD A QUESTION TO  
24 MY CLERK AND I'LL ANSWER THE QUESTION. I BELIEVE IT HAD  
25 TO DO WITH, "WHEN YOU WENT TO THE BREAK, DETECTIVE  
26 BUMCROT WAS ON THE WITNESS STAND. WHEN YOU CAME BACK,  
27 HE WAS NO LONGER ON THE WITNESS STAND."

28 IT WAS THERE WERE NO FURTHER QUESTIONS BY

1 EITHER LAWYERS. THAT WAS WHAT IT WAS AT THAT PARTICULAR  
2 TIME. RATHER THAN HAVE HIM COME UP IN FRONT OF YOU AND  
3 THEN EXCUSE HIM, HE JUST REMAINED AT THE TABLE.

4 ALL RIGHT. WHERE WE ARE IN THE CASE AT  
5 THIS PARTICULAR TIME IS, THE LAWYERS HAVE TO DISCUSS THE  
6 DEFENSE EXHIBITS WITH ME AND PENDING THE RECEIPT OF THE  
7 EXHIBITS, THE DEFENSE IS GOING TO REST.

8 THERE MAY BE SOME LIMITED TESTIMONY ON  
9 BEHALF OF ONE OF THE PROSECUTION WITNESSES OR THERE MAY  
10 NOT BE.

11 AT THIS POINT, I DON'T KNOW, BUT AS FAR AS  
12 SCHEDULING IS CONCERNED, THE LAWYERS FEEL THAT TOMORROW  
13 WE'LL GO OVER THE EXHIBITS AND WE'LL GO OVER JURY  
14 INSTRUCTIONS.

15 WE'RE GOING TO HAVE YOU BACK THURSDAY AT  
16 1:30 WHICH IS THE 27TH, AND IF THERE IS EVIDENCE, YOU'LL  
17 HEAR IT AT THAT TIME. IF THERE IS NOT, YOU WILL HEAR ME  
18 READ THE JURY INSTRUCTIONS TO YOU. THEN WE WILL START  
19 FRIDAY MORNING WITH THE ARGUMENT.

20 NOW, WHAT THE LAWYERS ARE BOTH CONCERNED  
21 ABOUT IS THAT IF I BREAK UP THE ARGUMENT, ONE MAY GET TO  
22 THINK OVERNIGHT ABOUT WHAT THE OTHER ONE SAID, AND  
23 THEREFORE, IT WOULD BE MORE PREPARED OR AT LEAST HAVE A  
24 LONGER TIME TO ANALYZE.

25 I PERSONALLY DON'T THINK THAT IS GOING TO  
26 HAPPEN, BUT I THINK THAT BOTH OF THEM PROBABLY ALREADY  
27 KNOW WHAT THEY'RE GOING TO ALREADY TELL YOU, BUT THAT IS  
28 JUST THEY FEEL MORE COMFORTABLE THAT WAY, SO THAT IS HOW

1 WE'LL DO IT.

2 YOU'LL HEAR THE JURY INSTRUCTIONS ON  
3 THURSDAY. FRIDAY THE LAWYERS WILL ARGUE TO YOU OR AS A  
4 LAWYER I USED TO TRY CASES WITH SAID LAWYERS DON'T  
5 ARGUE, THEY JUST DISCUSS THE FACTS AND THE LAW. AND  
6 THEN DEPENDING ON WHERE THEY ARE, IF IT IS LIKE 3:00  
7 O'CLOCK IN THE AFTERNOON, I'LL PROBABLY HAVE YOU GO BACK  
8 INTO THE JURY ROOM, PICK A FOREPERSON AND THEN GO HOME.

9 IF THEY'RE FINISHED BY NOON, THEN I'LL HAVE  
10 YOU START YOUR DELIBERATIONS IN THE AFTERNOON. JUST SO  
11 YOU KNOW, WHEN JURORS DELIBERATE, I HAVE YOU COME IN AT  
12 9:00 AND YOU GO HOME AT 4:00. SO THAT IS THE TIME FRAME  
13 FOR YOU BECAUSE WE NO LONGER NEED ALL THE WITNESSES OR  
14 EVERYBODY PRESENT OR WHAT HAVE YOU.

15 SO TOMORROW YOU WON'T BE HERE. SO YOU GO  
16 TO WORK TOMORROW. YOU WILL BE HERE THURSDAY, THE 27TH  
17 AT 1:30. AND THE REASON I'M TELLING YOU 1:30, IF I TOLD  
18 YOU 10:00 O'CLOCK, SOMETHING WOULD COME UP. NONE OF  
19 THIS EVER GOES EXACTLY HOW WE ANTICIPATE.

20 THE LAST CASE I HAD, THE PRINTER, THE  
21 MACHINE STARTED -- ONE OF THE LAWYERS TOOK THE SET OF  
22 INSTRUCTIONS UPSTAIRS TO PHOTOCOPY AND THEN THE MACHINE  
23 STARTED EATING THEM OR WHAT HAVE YOU, SO IT BECAME A  
24 PROBLEM.

25 SO IT WILL BE 1:30 ON THURSDAY WHICH IS THE  
26 27TH OF APRIL. DON'T TALK ABOUT THE CASE OR FORM OR  
27 EXPRESS ANY OPINION ABOUT THE CASE, AND HAVE A PLEASANT  
28 EVENING AND A SAFE DRIVE HOME AND WE'LL SEE YOU ON



1 THURSDAY.

2 THANK YOU VERY MUCH.

3  
4 (THE FOLLOWING PROCEEDINGS WERE  
5 HELD IN OPEN COURT OUTSIDE THE  
6 PRESENCE OF THE JURY:)

7  
8 THE COURT: ALL RIGHT.

9 THE RECORD SHOULD REFLECT THAT THE JURORS  
10 AND ALTERNATES HAVE LEFT THE COURTROOM.

11 WHAT TIME DO YOU WANT TO COME TOMORROW?

12 MR. ARNOLD: 9:00 O'CLOCK IS FINE.

13 THE COURT: WELL, I WANT YOU TO BE READY. IF YOU  
14 WANT TO COME AT 9:00 AND YOU'RE READY ON THE ARGUMENTS  
15 OF THE EXHIBITS, I'LL RULE ON THAT AND THEN YOU TWO CAN  
16 MEET ON THE JURY INSTRUCTIONS AND BRING THEM BACK IN THE  
17 AFTERNOON.

18 OR DO YOU WANT TO MEET AND THEN COME DOWN  
19 AND HANDLE EVERYTHING?

20 MR. JAFFE: WHY DON'T WE DO THAT. THAT WAY WE'LL  
21 GO OVER THE EXHIBITS THAT HE'S GOING TO OBJECT TO.  
22 WE'LL GO OVER JURY INSTRUCTIONS AND THEN WE'LL MEET.  
23 THAT IS BETTER.

24 MR. ARNOLD: SURE.

25 MR. JAFFE: UNLESS YOU JUST LOVE COMING HERE  
26 FIRST THING IN THE MORNING.

27 MR. ARNOLD: I DO LOVE COMING HERE BUT I GUESS I  
28 WILL SACRIFICE AND FOREGO AND COME A LITTLE LATER.

1 THE COURT: WHAT TIME DO YOU WANT TO COME DOWN  
2 HERE?

3 I TELL YOU WHAT. WHY DON'T WE TENTATIVELY  
4 SAY 10:30, AND IF WE'RE HAVING PROBLEMS WITH THE  
5 INSTRUCTIONS, CALL. WE'LL HAVE MR. THOMAS HERE. WE'LL  
6 KEEP HIM HERE, AND IF WE DO IT IN THE AFTERNOON, WE WILL  
7 DO IT IN THE AFTERNOON, WHATEVER.

8 MR. ARNOLD: I HAVE ALREADY PULLED THE WHOLE SET  
9 AND FUNNY YOU MENTIONED THE XEROX MACHINE. I STARTED  
10 MAKING A COPY FOR YOU AND FOR MR. JAFFE AND THE XEROX  
11 MACHINE STARTED EATING THE PAGES. SO I FIGURED I'LL LET  
12 THE SECRETARIES USE IT.

13 THE COURT: IT MUST BE THE SAME ONE THAT  
14 MR. RAMSEYER USED IN THE LAST TRIAL BECAUSE THAT IS WHAT  
15 HAPPENED.

16 MR. ARNOLD: COULD BE.

17 THE COURT: ALL RIGHT.

18 THEN WE'LL BE IN RECESS AND AS FAR AS  
19 REALLY TRULY FURTHER PROCEEDINGS IN THE CASE, IT WON'T  
20 BE UNTIL 1:30, AND THAT IS MORE FOR YOUR BENEFIT,  
21 MS. MACDONALD. 1:30 IS WHEN, IF I PERMIT DETECTIVE  
22 BUMCROT TO ANSWER MORE QUESTIONS, HE'LL TAKE THE STAND.  
23 I READ THE JURY INSTRUCTIONS, THEN THE LAWYERS AREN'T  
24 GOING TO ARGUE UNTIL FRIDAY.

25 MR. JAFFE: THEN TOMORROW WILL YOU GIVE US YOUR  
26 INDICATION ON THOSE TWO OUTSTANDING MATTERS?

27 THE COURT: RIGHT. I HAVE GOT THE TRANSCRIPTS.

28 MR. JAFFE: OKAY.

1 THE COURT: IT WAS THE TWO THAT WE SPOKE ABOUT.

2 MR. JAFFE: RIGHT.

3 THE COURT: AT THE SIDEBAR.

4 MR. ARNOLD: YOU'RE TALKING ABOUT WHETHER WE CAN  
5 ASK BUMCROT ABOUT JORDAN'S UNCOOPERATIVENESS AND THEN  
6 THE OTHER THING IS ABOUT --

7 THE COURT: THE INFERENCE OF THE ONE CASING.

8 ALL RIGHT.

9 WE'LL BE IN RECESS.

10

11 (AT 4:10 P.M., AN ADJOURNMENT WAS TAKEN  
12 UNTIL WEDNESDAY, APRIL 26, 1995 AT 10:30  
13 A.M.)

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28