



1 MR. HENDRIX: The State calls Roger Farian.

2 ROGER WAYNE PARIAN WAS SWORN AS A WITNESS FOR THE STATE AND
3 TESTIFIED AS FOLLOWS:

4 DIRECT EXAMINATION BY MR. HENDRIX:

5 Q Sir, would you state your name and occupation for the
6 record, please?

7 A My name is Roger Wayne Farian. I'm employed by the State
8 of Georgia in their Bureau of Investigation, in their Division of
9 Forensic Sciences, which is the crime lab. I'm the director and a
10 microanalyst at the Savannah Branch of the state crime lab.

11 Q Would you tell the -- how long have you been employed
12 there, by the way?

13 A Just a little -- almost fifteen years now I've been with
14 the lab. I've been in Savannah about -- almost twelve years now.
15 I've been director for about nine years.

16 Q Would you tell the jury about your educational
17 background?

18 A Well, to become a microanalyst, you need a basic science
19 background and I have a bachelor of science in physics and a
20 master of science in physics, both from Georgia Tech.

21 Then you need to work in a crime lab and see the type of
22 evidence that law enforcement agencies need analyzed and you
23 attend special workshops. I've attended schools on microscopy,
24 how to use the microscope.

25 And as I say, law enforcement agencies need special

1 things, like hair comparisons, fibers, and that sort of thing.

2 And I've been trained particularly to identify spermatazoa in
3 suspected rape cases, things of that nature.

4 I trained at the main lab in Atlanta, Georgia under Dr.
5 Larry B. Howard for about three and a half years before I came to
6 Savannah.

7 Q Have you ever testified as an expert before?

8 A Yes, I have.

9 Q In which courts, sir?

10 A Which court?

11 Q Yes, sir.

12 MR. YEKEL: I'll stipulate to his qualifications, Your
13 Honor. I just wanted Roger to go ahead and give a little bit
14 of his background as far as the expert opinion.

15 THE COURT: Do you want him to testify as an expert in
16 his field?

17 MR. HENDRIX: Yes, sir. Your Honor, I'd like to qualify
18 him as an expert, not only in his field involving analyzing
19 spermatazoa, but also in comparisons as in hairs and so
20 forth.

21 THE COURT: All right, I'll allow him to testify. I
22 should explain to the members of the jury that ordinarily a
23 witness can only testify as to what he has seen or heard.
24 Experts can give their opinions based upon what they have
25 seen or observed.

1 I'll give you a more extensive Charge on this later,
2 but that's why they have to qualify them first before they're
3 allowed to give their opinions.

4 Q Mr. Parian, I'm going to show you what's been marked as
5 State's Exhibit Number 1 and ask if you can identify that for us,
6 please, sir.

7 A Yes, sir, I can. State's Exhibit Number 1 is what we
8 call at the lab a rape evidence envelope. This envelope has my
9 writing on it for Case Number S86-570, the number assigned to
10 victim Donna Givens. That's my personal mark.

11 This kit was received from Detective Julie Tolbert on
12 February 7th, 1986. It contains a cardboard slideholder and
13 inside that is two smeared microscope slides. It contains what we
14 call combings, pubic combings of the victim.

15 It has a plastic comb and some hair in there. This is
16 used to collect hair from a victim. A zip labeled known pubic
17 hair of the victim, containing hair, and a zip labeled known head
18 hair of the victim containing hair.

19 The only thing not in here today that was in it when I
20 received it on February 7th is a swab tube, is a plastic tube
21 containing two swabs, which I would keep in the freezer normally
22 at the laboratory, but in this case it was sent on to Atlanta for
23 serological examination.

24 Q Okay, sir, when you received that packet, had it been
25 disturbed in any way? Had the seal been broken?

1 A No, sir. It was sealed with surgical tape with writing
2 on it when I got it. It was intact when I received it.

3 Q All right, will you tell the jury about the results of
4 your investigation in this examination?

5 A I examined the microscope slides, stained them and looked
6 at them under the microscope, and determined that there were
7 spermatazoa, or sperm, present on those slides.

8 Then I looked at the hair in the envelope labeled pubic
9 combings to see if I could find any hair that I could distinguish
10 from the hair in the envelope labeled known pubic hair and I
11 couldn't find any hair in the combings that were distinguishable
12 from the known pubic hair of the victim, so it's probably all the
13 victim's hair.

14 Q To make a long story short, then, all the hair that you
15 obtained was the victim's hair; is that correct?

16 A Most likely. I can't distinguish them from the victim's,
17 so I would assume they're all victim's.

18 Q Okay, did you subsequently receive any other hair later
19 on?

20 A No, sir, not that I'm aware of.

21 Q Okay, you mentioned just a few minutes ago that you sent
22 some swabs to Atlanta. Do you know the results of those tests
23 done in Atlanta?

24 MR. YEKEL: Your Honor, I'm going to object to that. I
25 believe the only person that's going to be qualified to

1 testify to any results of any other scientific tests would be
2 the person who made those tests.

3 THE COURT: Sustained.

4 Q Sir, I'm going to show you what's been marked as State's
5 Exhibit Number 16 and State's Exhibit Number 9 and ask if you can
6 identify those.

7 A I can identify them. I can't tell you when I got them.
8 This was received and entered on case S87-280 and I didn't bring
9 my official report with me on that particular case number. I
10 received this evidence this year, 1987. It was our Case Number
11 280, two items in particular.

12 Q Maybe that will help refresh your memory.

13 A Yes. This is a copy of my official report Number 280.
14 On January 13th, it says I received from Detective Lundgren -- I
15 do recall these two items and I have my personal mark on them.
16 One of them is a manila envelope. It contains two Nuda brand
17 condom packages and I've marked one of them with my personal mark.

18 There was another manila envelope that contained this
19 plastic cup which contains a torn and empty Nuda brand condom
20 package. Again, this has my personal mark on it. The manila
21 envelope isn't here.

22 Q Did you receive a request from Detective Lundgren and
23 myself to compare those three items?

24 A Yes, I did.

25 Q And sir, would you tell the Court, what was the result of

1 your analysis and examination on these three items?

2 A A microscopic examination of the surfaces of the wrapper
3 of the condom reveals sufficient evidence, what we call fracture
4 line irregularity or tear, there's enough evidence in terms of
5 markings, printing, and other microscopic features, strings in the
6 plastic surface, to indicate that at least this piece of wrapper
7 in State's Exhibit Number 16, the condom wrapper, was once joined
8 physically as one piece with the unused Nuda brand condom in
9 State's Exhibit Number 9.

10 Q So at one time they were attached to each other; is that
11 what you're saying, sir?

12 A That's my opinion, yes, sir.

13 MR. HENDRIX: Thank you, sir. No further questions.

14 CROSS-EXAMINATION BY MR. YEKEL:

15 Q Mr. Parian, in reference to the examination you did
16 concerning spermatazoa, the results of that test were what, sir,
17 the results of your examination?

18 A What I did specifically was examine the smeared
19 microscope slides in State's Exhibit 1 and determined that
20 spermatazoa were present on those slides. That was the extent of
21 my testing for spermatazoa.

22 Q And that would only -- that conclusion would be that sex
23 had been by this female with someone else?

24 A You can definitely conclude that a male ejaculated and
25 I'm assuming those smears are made from the vagina of the victim

1 -- I don't know that personally. All I know personally is that
2 there's spermatazoa present on that slide.

3 But all the assumptions are a doctor prepared those
4 slides from the vagina of the victim, spermatazoa were there
5 present, that would indicate that a male had to ejaculate into the
6 vagina of the victim.

7 Q All right, Mr. Parian, now, spermatazoa -- I believe
8 that's the correct pronunciation -- has a tail, does it not?

9 A Yes, they do.

10 Q And what you observed on the slides, were their tails
11 intact?

12 A Yes, they were intact spermatazoa. They have heads, a
13 small body, and a tail about five times longer than the head.

14 Q The tail is five times longer? Is that what you were
15 saying?

16 A Approximately.

17 Q Okay, you have, through your expertise in this area of
18 microanalysis, etcetera, determined how long sperm would be in a
19 female, I guess, before the tail disintegrates or loses its tail,
20 et cetera?

21 A Not specifically. I have some experience. I have a
22 little knowledge of about how long you might expect to find
23 spermatazoa in the type of examination that's normally done, that
24 I see, this manila rape evidence. A doctor simply swabs the
25 vagina or cervix area of the victim and then smears glass

microscope slides and I've looked at many thousands of these.

On many of them, I do have a record, but I -- of course, I don't know. All I know is how long it's been from the alleged incident to the time the doctor did his examination. I have collected some data on that time and I'll tell you the results of that- - -

Q How long can sperm be present in the female vagina for the doctor to be able to collect it?

A My experience would indicate that I would not probably expect to find them after about sixteen hours. Other people have found them in a longer period of time but I don't have any evidence of that, the way this examination is done, although it's possible, and some people have reported their presence up to seventy-two hours. That's very rare.

Q So personally, you feel that it's possible to have them sixteen hours; is that correct?

A If it's more than sixteen hours, I probably wouldn't find it, although it's possible.

Q Okay, and that's when we talk about intact spermatazoa; correct?

A That's correct.

Q And you said you have knowledge through research and through other publications, et cetera, that you're familiar with, correct, Dr. Parian, that it has up to seventy-two hours been documented; correct?

1 A It's Mr. Parian and yes, there's a lot of conflicting
2 information in the literature, how they're -- the ways that
3 they're collected. Some people wash the vagina of the victim,
4 centrifuge it, and look very carefully for it and they find them
5 at extended periods of time.

6 Q So your conclusion would be upon reviewing those smears
7 that a male had ejaculated into this female, or according to
8 whatever is on those slides; correct?

9 A My conclusion would be the spermatazoa are present on the
10 slide. My assumption would be yes.

11 Q Okay, and it could be up to sixteen hours previous;
12 correct?

13 A That's possible.

14 MR. YEKEL: That's all the questions I have.

15 MR. LEWIS: Just a few questions.

16 CROSS-EXAMINATION BY MR. LEWIS:

17 Q I believe you also did some lab work on what's called the
18 pubic combings.

19 A Yes, sir.

20 Q What is the purpose of that?

21 A The purpose of combing the victim's pubic area is try to
22 recover any hairs that may be entangled with the victim's pubic
23 hair that are not the victim's and assuming that could be a
24 suspect pubic hair. That's the purpose of it.

25 Q Is that a common occurrence that that happens?

1 A Not common, but it does happen. I guess maybe ten
2 percent of the cases I recover a hair that's not the victim's.
3 Most of the time, I don't.

4 Q In this case you did not.

5 A In this case I did not.

6 Q You talked about -- specifically referring to the report
7 on the suspect, Douglas Echols -- do you have that report in front
8 of you?

9 A Yes, sir.

10 Q On Page 2 of that report, you indicate the donor to be of
11 secretor status.

12 MR. HENDRIX: Excuse me?

13 MR. YEKEL: I don't think he's able to testify to that.

14 MR. HENDRIX: Your Honor, if they're going to refer to
15 portions of the lab report which we could not get out on
16 direct, we're going to have the same objection.

17 THE COURT: All right.

18 MR. LEWIS: Sir, I'll withdraw that question. It's been
19 pointed that there are additional names; that he may not have
20 performed this specific test.

21 Q Again, I believe it was your testimony concerning the
22 life span of the spermatazoa that it could remain in the vaginal
23 fluid up to seventy-two hours, more normally less than that?

24 A I've seen reports of that. I don't have personal- - -

25 Q How about your knowledge? How long is the longest you've

1 ever- - -

2 A My personal knowledge is less than sixteen hours.

3 Q Okay, you've never seen any longer in your fifteen years?

4 A Not that I'm positive, no, I have not, that I'm aware of.

5 The sixteen hours is an estimate based upon cases. I've seen one
6 that long. You don't find many at that time with the way these
7 normally are collected, with the swabs and the smear. But I'm not
8 aware of any that I have seen longer than that. I may have and
9 just don't know it.

10 Q Have you seen any done by other methods?

11 A Pardon me?

12 Q Other than the swab and the smear, are there other
13 methods?

14 A There are other methods, actually aspirating, washing the
15 vagina of the victim, collecting the fluid with the washing, and
16 that can be examined. That's done occasionally, but not too
17 often.

18 Q Okay, and is that method more exact?

19 A Yes. There's more chance of recovering something in that
20 method than there would be with swabbings since you don't hit
21 every area with swabbing.

22 MR. LEWIS: All right, thank you.

23 MR. HENDRIX: Thank you, Mr. Parian.

24 (NOTE: The witness withdrew.)

25 MR. HENDRIX: Could we approach the Bench for a minute, Your

1 Honor?

2 (NOTE: The following transpired at the Bench out of
3 the hearing of the jury:)

4 MR. HENDRIX: Your Honor, our next witness is going to be
5 Corporal Roy. I don't know how long he's going to take. I just
6 have a few questions to qualify him as a witness and then let him
7 give his opinion as to the fingerprint.

8 I can be done with direct in five minutes. Our next
9 witness is going to be Detective Lundgren, he'll be up two hours,
10 so I know we'll want to do that tomorrow.

11 THE COURT: Either that, or just stop at a quarter of five
12 and start up tomorrow.

13 MR. YEKEL: We can probably stretch Roy out for another ten
14 minutes.

15 MR. HENDRIX: Well, I didn't know how long you would
16 cross-examine. If you want to stipulate as to his expertise in
17 analyzing fingerprints- - -

18 THE COURT: Well, let's just go as far as we can go today and
19 then stop.

20 MR. HENDRIX: Thank you.

21 (NOTE: The Bench conference ended.)

22 MR. HENDRIX: The State will call Corporal Roy, Savannah
23 Police Department.
24
25

1 OFFICER ROBERT E. ROY WAS SWORN AS A WITNESS FOR THE STATE
2 AND TESTIFIED AS FOLLOWS:

3 DIRECT EXAMINATION BY MR. HENDRIX:

4 Q Sir, would you please state your name and occupation for
5 the record?

6 A Corporal Robert E. Roy. I work with Savannah Police
7 Department ID Unit.

8 Q Would you briefly tell the Court about the nature of your
9 work?

10 A I do latent fingerprint comparison work; that is,
11 fingerprints obtained from various crime scenes, attempt to
12 identify them to a suspect.

13 Q So you match fingerprints, knowns with latents; is that
14 correct?

15 A That's correct.

16 Q How long have you been doing this kind of work?

17 A Since 1979.

18 Q Have you had, on occasion, identified people by comparing
19 the latent prints to the inked prints?

20 A Yes, I have.

21 Q Can you recall how many times?

22 A Around four hundred different cases.

23 Q Have you had occasion to testify as an expert concerning
24 your ability to match fingerprints?

25 A Yes, sir. I've testified as an expert in Federal Court,

1 Chatham County Superior Court, Recorder's Court of Chatham County,
2 Juvenile Court of Chatham County, Effingham County and Bulloch
3 County.

4 Q Would you tell us about your educational background, sir?

5 A I received formal training at the Georgia Police Academy
6 which was conducted by the FBI. I've worked hands on since 1979
7 with accepted experts in the field. I have previously been a
8 member of different professional organizations regarding
9 fingerprint science. I try to stay abreast of new developments in
10 fingerprint science, as well.

11 MR. HENDRIX: At this time, I'd like to qualify Corporal
12 Roy as an expert in his field.

13 THE COURT: Any objection?

14 MR. YEKEL: No objection, Your Honor.

15 MR. LEWIS: No objection.

16 THE COURT: All right, he can testify in that field.

17 Q Corporal Roy, will you explain what a latent fingerprint
18 is?

19 A Yes. If you'll look at the skin on your hands, you'll
20 notice it's somewhat different from the skin on the rest of your
21 body insomuch as it's not smooth, it's ridged, kind of like
22 corrugated cardboard.

23 Those raised lines on your hands are called ridges and
24 along those ridges are sweat pores which almost continually exude
25 perspiration, salts, fats, different things like that.

1 When you touch a particular object, you transfer the
2 shape of those lines to the object in the form of an oil, much
3 like a rubber ink stamp, except using oil instead of ink.

4 Q And what is an inked fingerprint, sir?

5 A Keeping in mind also the ridges, the raised areas, black
6 printer's ink generally is placed on a flat surface such as glass
7 or smooth tin. The fingers are then rolled across that.

8 The ink adheres only to those raised lines or the ridges
9 and they're rolled onto a fingerprint card and it leaves, there
10 again, like a rubber stamp, the impression of the fingerprint.

11 Q Are there any different distinguishing characteristics in
12 fingerprints?

13 A Yes, there are.

14 Q Would you tell us a few of them?

15 A There's what are called ridge characteristics. If I
16 might use the blackboard- - -

17 Q Please do.

18 A (At board) The lines I spoke of, rather than just being
19 straight lines, some of them, for instance, in the middle of the
20 fingerprint would -- two of the lines might go like this all the
21 way across the fingerprint, one might stop in the middle of it.

22 Some of them, rather than being one line, they break into
23 two, which is called a bifurcation. Other types are what are
24 called enclosures; they make a loop within the fingerprint. They
25 do those sort of things throughout the fingerprint. That is the

1 characteristics of them.

2 Q Okay, sir, how do you compare the prints from a latent
3 print and the prints from an inked print for comparison purposes?

4 A Initially, you would locate one of those ridge
5 characteristics; for instance, the bifurcation, and note its
6 location in a fingerprint, either the latent or the inked, then
7 find that same ridge characteristic in a suspect print and it
8 would have to be, there again, in the same location in both the
9 inked print and the latent print.

10 You would find that one, then a second one, on up to, in
11 my case I use ten to make an identification, ten of those ridge
12 characteristics common to both the latent and the inked, and share
13 a unit relationship to either other within the print. Beyond that
14 -- in other words, if you had a bifurcation in the print and then
15 you had another one two ridges down in the latent print, it would
16 also have to be two ridges down in the inked print.

17 Q So you use ten points of identification?

18 A That's correct, sir.

19 Q All right, is it possible for two different people to
20 have the same ten points of identification?

21 A I have never found that to be true.

22 Q All right, sir, do you have the latent print? And the
23 inked print? (Pause)

24 MR. HENDRIX: Could we approach the Bench?

25 (NOTE: The following transpired at the bench out of

1 the hearing of the jury:)

2 MR. HENDRIX: Your Honor, he's masked the criminal
3 charges on this card; however, if you take the time to take
4 it apart, the present charge is -- well, there's other
5 charges on the back. If it's agreeable with you all, we
6 could staple this thing enough to where people could not look
7 inside. That is the fingerprint card.

8 THE COURT: All right, do that or tape it.

9 MR. YEKEL: I want the date masked also.

10 MR. HENDRIX: Okay, we can do that.

11 MR. YEKEL: If you'll mask that date and then staple it
12 together so nobody- - -

13 MR. HENDRIX: We'll do that before the jury gets it.

14 MR. YEKEL: Right.

15 (NOTE: The Bench conference ended.)

16 MR. HENDRIX CONTINUES:

17 Q Sir, I'm going to show you what's been marked as State's
18 Exhibit Number 23 and ask if you can identify what that is, sir.

19 A Yes, sir. This is the inked fingerprint card bearing the
20 name of Samuel Harold Scott, which I used.

21 Q Okay, sir. Again, an inked fingerprint is what, sir?

22 A The printer's ink is, there again, rolled across a smooth
23 surface, the finger then rolled onto that ink and it's transferred
24 onto the fingerprint card. They are named and numbered. That is,
25 the number one box is the right thumb, the number two box is the

1 right index, so forth and so on. Each one has a number to show
2 which finger it is and also it's named.

3 Q All right, sir, where are those cards maintained?

4 A In the ID office at Savannah Police Department.

5 Q Are they maintained under your custody and control?

6 A They are.

7 Q Are they kept in the regular course of business?

8 A Yes, they are.

9 Q And that's part of your office duties, is to keep and
10 have custody over these cards; is that correct?

11 A That's correct.

12 Q So that card has been under your custody and control ever
13 since it was put in the office, was it not?

14 A Yes, sir.

15 Q All right, sir, I'm going to ask you if you can identify
16 what's been marked as State's Exhibit Number 24.

17 A These are Savannah Police Department latent print backing
18 cards bearing an address of 2816 Arctic Street, which I used in a
19 comparison of fingerprints.

20 Q All right, sir, were you able to make a comparison on any
21 of the fingerprints taken from Arctic Street?

22 A Yes, sir, I was.

23 Q Would you tell us the results of your analysis?

24 A I was able to identify the right thumb of one Samuel
25 Harold Scott to a latent print marked Saturday Evening Post glass.

1 Q So the print you took off the glass belonged to Samuel
2 Scott; is that correct?

3 A The print which Officer Gardner took off the glass.

4 Q Okay, sir. In those groups of latents that were taken by
5 Officer Gardner, I believe there's more than just one.

6 A Yes, sir; there's numerous lifts.

7 Q All right, were you able to identify any of those other
8 latent prints?

9 A No, sir.

10 Q Is there any reason why they weren't compared with
11 anything?

12 A I looked through them in reference to the defendants but
13 was unable to identify them with the exception of the one.

14 Q Okay, sir. So they could have belonged to somebody else;
15 is that correct?

16 A That's correct, sir.

17 MR. HENDRIX: That's all the questions I have. Thank you,
18 sir.

19 CROSS-EXAMINATION BY MR. YEKEL:

20 Q I just have a couple, Corporal Roy. Did you have the
21 known fingerprints of Donna Givens?

22 A Yes, sir, I did.

23 Q Did you compare those?

24 A Yes, sir.

25 Q You compared the known prints of Donna Givens to all

1 these latents; is that correct?

2 A That's correct, sir.

3 Q And were not able to effect a match on any of them; is
4 that correct?

5 A With the exception of the one I mentioned -- you mean to
6 her?

7 Q I'm speaking of Ms. Givens.

8 A No, sir; I did not identify any as being hers.

9 Q But you did look at them with her in mind.

10 A Yes, sir, I did.

11 Q (Pause) How many people did you use to -- or how many
12 known prints did you work with, Corporal Roy, in trying to
13 identify or eliminate people?

14 A How many people's prints did I compare?

15 Q Yes, sir.

16 A Three.

17 Q Mr. Scott, Mr. Echols, Ms. Givens?

18 A That's correct.

19 Q And out of that, the only match was Mr. Scott on the
20 Saturday Evening Post glass; right?

21 A That's correct, sir.

22 MR. YEKEL: Thank you. That's all the questions I have.

23 CROSS-EXAMINATION BY MR. LEWIS:

24 Q Did you have any comparison of prints taken from Mr.
25 Echols' vehicle?

1 A No, sir, I did not.

2 Q Did you have any comparison of prints taken from the
3 doorknob of the house at 2916 Arctic Street?

4 A None of the latent lifts indicated they were from a
5 doorknob; no, sir.

6 MR. LEWIS: Thank you.

7 MR. HENDRIX: Your Honor, at this time the State would like
8 to tender State's Exhibit Number 24 and 23 into evidence.

9 MR. YEKEL: 23 is the known?

10 MR. HENDRIX: 23 is the known; 24 is the- - -

11 MR. YEKEL: Can we approach the Bench?

12 (NOTE: The following transpired at the Bench out of
13 the hearing of the jury:)

14 MR. YEKEL: I don't think I have an objection, I really
15 don't, but is this -- this is R.E. Jordan?

16 MR. HENDRIX: Uh-huh.

17 MR. YEKEL: With the sheriff's department?

18 MR. HENDRIX: Uh-huh.

19 MR. YEKEL: It is a sheriff department ID card?

20 MR. HENDRIX: That's a business record kept in the ordinary
21 course of business at Savannah Police Department. It's a business
22 record and comes within that exception of the hearsay rule.

23 MR. YEKEL: Okay, that's how you're going to try to get it
24 in? All right.

25 (NOTE: The Bench conference ended.)

1 THE COURT: I'll allow the exhibits. You're excused now,
2 sir.

3 (NOTE: The witness withdrew.)

4 THE COURT: We're going to have to stop in ten minutes today,
5 at quarter of five. Is this next witness your last witness?

6 MR. HENDRIX: Yes, sir.

7 THE COURT: That's going to be a long witness.

8 MR. HENDRIX: Yes, sir.

9 THE COURT: Will take an hour or two.

10 MR. HENDRIX: Yes.

11 THE COURT: So what I'm going to do, rather than get into
12 that and have to stop in ten minutes, is just excuse you today.
13 We'll start again tomorrow at ten o'clock.

14 Now, this case has been covered by the news, press, today
15 and there will be an article in the paper. Please do not read it.
16 I'm not sure that there'll be anything on TV or radio, but don't
17 look at it or listen to it, if that's the case.

18 And the other instructions that I gave you yesterday will
19 go with you tonight. This is an intelligent jury, so I don't need
20 to repeat them now. See you tomorrow morning promptly at ten
21 o'clock.

22 (NOTE: The evening recess was taken at four
23 thirty-five p.m. and the proceedings resumed on March 25
24 at ten o'clock a.m. outside the jury's presence as
25 follows:)