

1 VICTORVILLE, CALIFORNIA; JANUARY 24, 2011;
2 DEPARTMENT NO. V-2 HONORABLE JOHN M. TOMBERLIN, JUDGE
3 A.M. SESSION
4 (Appearances as heretofore mentioned.)
5 (Shawna Manning, Official Reporter, CSR No. 12827.)

6 -oOo-

7 (Whereupon the following proceedings were held outside
8 the presence of the jury:)

9 THE BAILIFF: Remain seated. Come to order.
10 Court is now in session.

11 THE COURT: Back on the record in the case of
12 People of the State of California versus John Henry
13 Yablonsky without the jury. Mr. Yablonsky's here with
14 Mr. Sanders. Mr. Thomas is here for the People.

15 What is it?

16 MR. THOMAS: Good morning, your Honor. A
17 couple things that we need to put on the record that I
18 was going to put on the record last week but the Court
19 needed to leave. There is another case that happened
20 about two months prior to this where a 63-year-old
21 woman was raped and murdered.

22 THE COURT: We did talk about this some. Is
23 this going to have to do with your opening statement
24 first thing this morning?

25 MR. THOMAS: I don't want to forget about it.
26 It will be quick.

27 THE COURT: I have a jury waiting.

28 MR. THOMAS: I know. Then we have to do

1 another motion regarding --

2 THE COURT: If you're not going to mention
3 this in the opening statement, let's talk about this
4 other murder later.

5 MR. THOMAS: Okay.

6 THE COURT: I don't see why we have to worry
7 about forgetting about it. What's the name of the
8 person?

9 MR. THOMAS: Helen Brooks.

10 THE COURT: What other motion?

11 MR. THOMAS: Then I know Mr. Sanders made a
12 motion last week to have the witnesses excluded from
13 the courtroom prior to their testimony. 1102.6 of the
14 Penal Code --

15 THE COURT: He made a motion to have them
16 excluded period --

17 MR. SANDERS: Right.

18 THE COURT: -- is what he actually moved.
19 Now, the evidence code section?

20 MR. THOMAS: Penal Code Section 1102.6.

21 THE COURT: 1102.6. Did you show that to
22 Mr. Sanders?

23 MR. THOMAS: I know that he's aware -- if you
24 want to look at this --

25 THE COURT: Go ahead.

26 MR. THOMAS: Under that section, it allows
27 two members of the victim's family to be present
28 during the court proceedings. The Court has

1 discretion as to whether or not to exclude them, but
2 as far as the statute goes, there has to be a hearing
3 and the victim's family members are allowed to speak
4 at that hearing. The Court has to go through a
5 weighing or balancing process.

6 In order to speed that up, the People's
7 position on it is we are requesting they be allowed in
8 after opening statements are done and they have gotten
9 up on the stand and testified, and that way there can be
10 no issues as far as the defendant's right to a fair
11 trial because they've already testified by the time
12 they're allowed back into the courtroom.

13 THE COURT: You don't have a problem with
14 that; do you?

15 MR. SANDERS: I don't.

16 THE COURT: That's fine. That's what -- the
17 way you stated it the first time was that he made a
18 motion to exclude them until they testify. That's
19 usually something that happens, and you don't call
20 them before -- excuse me, you don't have them sitting
21 here while you call other witnesses. If they're not
22 going to be here until after they testify, that solves
23 any problems.

24 MR. THOMAS: They're going to be the first
25 two witnesses that I call.

26 MR. SANDERS: They'll be able to stay after
27 they have testified.

28 THE COURT: After what?

1 MR. SANDERS: After they have testified.

2 THE COURT: Right. As far as I'm concerned,
3 there's no reason they shouldn't be here during the
4 opening statement.

5 What are they going to testify to? The fact
6 that she's dead?

7 MR. THOMAS: There's stuff.

8 THE COURT: Is it really going to be an
9 issue, in any event, Mr. Sanders?

10 MR. SANDERS: It's possible that there is,
11 your Honor.

12 MR. THOMAS: I don't want that to be an
13 issue.

14 THE COURT: Then we'll spend no more time on
15 it. Please bring the jury.

16 MR. THOMAS: Can I have five minutes to set
17 up?

18 THE COURT: You can, of course. I'm going to
19 give you that time, but I don't know why you weren't
20 here five minutes ago to set up because the jury was
21 told to be here at 9:00. You were here when I told
22 them to be here at 9:00. It seems that this is not
23 paying much attention to common courtesy that this
24 Court feels it owes the jury. I can't pay the jury
25 that common courtesy without your cooperation.

26 MR. THOMAS: I apologize.

27 (Whereupon there was a
28 pause in proceedings.)

1 (Whereupon the following proceedings were held in open
2 court in the presence of the jury:)

3 THE BAILIFF: Remain seated. Come to order.
4 Court is now in session.

5 THE COURT: Good morning, everyone. I hope
6 you all had a nice weekend. Welcome back to
7 Department 2 where we're going to continue now with
8 the trial. This is the phase of the trial that's
9 called the People's case in chief. We're going to
10 start with the opening statements of the attorneys.

11 Mr. Thomas, I know, will make one. Mr. Thomas
12 is here for the People along with Detective Alexander,
13 his investigating officer. Mr. Sanders may make an
14 opening statement, but as I explained before during jury
15 selection and also during instructions that I started
16 off with, because Mr. Yablonsky -- who's present along
17 with Mr. Sanders -- is presumed innocent, he doesn't
18 have to prove to you that he's not guilty. Mr. Sanders
19 may make an opening statement, but he may not. It will
20 be up to him to decide if he wants to make one. If he
21 does, it will be at this time or at the end of the
22 People's case in chief.

23 Mr. Thomas, you may proceed.

24 (Whereupon opening statements commenced, were reported,
25 but are not transcribed herein.)

26 (Whereupon the following proceedings were held in open
27 court in the presence of the jury:)

28 THE COURT: Call your first witness.

1 MR. THOMAS: The People call Daryl Kraemer.

2 THE CLERK: You do solemnly state that the
3 evidence you shall give in the matter pending before
4 this Court shall be the truth, the whole truth, and
5 nothing but the truth, so help you God?

6 THE WITNESS: I do.

7 THE CLERK: Thank you. Please be seated.

8 THE BAILIFF: Slide yourself forward. Speak
9 directly towards the microphone. Keep your voice up,
10 please. Please state your full name and spell it for
11 the record.

12 THE WITNESS: Daryl B. Kraemer D-a-r-y-l
13 B-r-e-n-t K-r-a-e-m-e-r.

14 THE COURT: Good morning, Mr. Kraemer.

15 THE WITNESS: Good morning.

16 THE COURT: Your witness, Mr. Thomas.

17 MR. THOMAS: Thank you, your Honor.

18

19 **DARYL KRAEMER**, having been duly sworn,

20 testified as follows:

21 **DIRECT EXAMINATION**

22 BY MR. THOMAS:

23 Q Before we get started, I wanted to go over a
24 conviction you suffered in 1992 for a felony.

25 Do you recall that?

26 A Yes, I do.

27 Q It was for possession of a controlled substance
28 or substances with intent to manufacture

1 methamphetamine; is that correct?

2 A That's correct.

3 Q Violation of Health and Safety 11338, and you
4 were convicted of a felony in that case?

5 A Yes, I was.

6 Q That was here in the San Bernardino courts?

7 A Yes.

8 Q Then you were also sentenced to three years
9 state prison?

10 A Yes.

11 Q That's your only conviction that you've
12 suffered?

13 A Yes.

14 Q In this particular case, I'm going to show you
15 a photograph.

16 May I approach the witness, your Honor?

17 THE COURT: You may.

18 BY MR. THOMAS:

19 Q I'm going to show you a photograph. It's been
20 marked Exhibit 35. It's up on the screen.

21 Do you recognize that person?

22 (Whereupon Exhibit 35 was marked
23 for identification.)

24 THE WITNESS: Yes, I do.

25 BY MR. THOMAS:

26 Q Who is that?

27 A This was my mother, Rita Cobb.

28 Q Do you recall your mother's birthday?

1 A February 23rd, I believe, 1930.

2 Q So at the time that your mom was murdered, she
3 was 55 years old?

4 A Yes.

5 Q Take us to the time period just before you
6 found out your mom was murdered. What was your
7 relationship like with your mom at that point?

8 A We had a good relationship. We were the
9 only -- it was her and I. We were originally from
10 Canada. We were the only ones that had each other here.
11 I have no brothers or sisters. We had our good times.
12 We had our bad times, but we always stayed in contact.
13 If we had an argument, sometimes we wouldn't see each
14 other for a little while. Then it would blow over, and
15 we'd get back together. I lived with her a period of
16 time.

17 Q And had you been over to her residence on
18 several occasions?

19 A Yes.

20 Q I'll show you an exhibit that's been marked
21 Exhibit 1.

22 Do you recognize that?

23 (Whereupon Exhibit 1 was marked
24 for identification.)

25 THE WITNESS: I recognize it as the house.

26 BY MR. THOMAS:

27 Q That's the house your mom, Rita, lived in?

28 A Yes.

1 Q And then if you notice, I'm going to point it
2 out with a laser pointer, there appears to be a garage
3 on the right-hand corner of the photograph.

4 Do you see that?

5 A Yes, I do.

6 Q Okay. Do you also see the car that -- what
7 appears to be a vehicle inside the garage?

8 A Yes.

9 Q Is that your mom's vehicle?

10 A Yes, I believe it was her Cadillac.

11 Q Was that the only vehicle that she owned at the
12 time back in 1985?

13 A As I recall, she maybe had a Jeep, an old
14 armory Jeep.

15 Q I think I have that in one of the photographs.
16 Let me pull that up. I'm going to show you what has
17 been marked Exhibit 8.

18 Looking at Exhibit 8, do you see what appears
19 to be a Jeep just to the right of center of the
20 photograph?

21 (Whereupon Exhibit 8 was marked
22 for identification.)

23 THE WITNESS: Yes.

24 BY MR. THOMAS:

25 Q Is that the Jeep that you're talking about?

26 A Yes.

27 Q I'm going to show you another photograph that's
28 been marked Exhibit 2. It might be better for me to

1 bring it up there.

2 May I approach the witness?

3 (Whereupon Exhibit 2 was marked
4 for identification.)

5 THE COURT: You may.

6 BY MR. THOMAS:

7 Q Looking at Exhibit 2, do you notice to the
8 right and behind the main house there appears to be
9 another structure? Do you see that?

10 A Yes.

11 Q And using the laser pointer to point to that
12 structure, is that a second house kind of?

13 A Yes, it was a guest house.

14 Q Back in 1985 when Rita was murdered, did you
15 know if anybody was staying in this guest house?

16 A At that time, no, I don't recall anybody
17 staying there.

18 Q Show you another photograph that's been marked
19 Exhibit 9.

20 Do you recognize this photograph?

21 (Whereupon Exhibit 9 was marked
22 for identification.)

23 THE WITNESS: I recognize it as the guest
24 house.

25 BY MR. THOMAS:

26 Q Is that the front? Rear? From what you can
27 recall.

28 A The part -- that would be the side view. This

1 would be the back, and that would be the front.

2 Q There's a laser pointer up there. Maybe you
3 can use that laser pointer to explain to the jury where
4 the front would be on there.

5 A The front would be on the other side of this.
6 I believe this was a water heater. The front would be
7 around the side there. This was the sliding side door
8 that would face the, I believe it would be the east.

9 Q Just for the record, you used the laser pointer
10 to direct the jury's attention to the right-hand side of
11 the photograph, and on the other side of that right-hand
12 side is where you're indicating that the front of the
13 guest house would have been?

14 A Correct, around that side.

15 Q Okay. Prior to you finding -- prior to you
16 going over to your mom's house and finding your mom's
17 body, when was the last time that you saw your mother?

18 A I believe it was a month, month and a half.

19 Q Had you spoken to your mother prior to that?

20 A Prior to the month and a half?

21 Q During that month and a half that --

22 A I don't recall speaking to her between that
23 month and a half up until the time she was murdered.

24 Q And then as far as any phone calls, did you
25 receive any phone calls from your mother prior to her
26 murder?

27 A I believe over the years, what stays in my
28 mind, there was -- I had a message on an answering

1 machine stating she needed to talk to me. She was
2 worried about something or worried about somebody. I
3 don't recall exactly what it was, but I believe -- it
4 might have been that I talked to her, but what stays in
5 my mind all this time is that there was something on an
6 answering machine.

7 Q And you recall being interviewed by
8 Detective Tuttle (phonetic) back in -- on September 23rd
9 of 1985?

10 A Yes.

11 Q Okay. And this interview took place after you
12 had located your -- or found your mom's body in the
13 residence?

14 A Yes.

15 Q And during that interview -- have you had a
16 chance to look over that interview?

17 A Yes, I have.

18 Q And during that interview, did you ever mention
19 to -- or is it in there that you ever mentioned getting
20 that message?

21 A No.

22 Q So this is something that you're remembering
23 years later?

24 A Yes. It was years later. That's like a
25 concern of why I wanted to talk to her that weekend.

26 Q Okay. Did you attempt to talk to her that
27 weekend prior to September 23rd of 1985?

28 A From what I recall, I was attempting to call

1 her Friday, Saturday -- at least Saturday and Sunday.
2 When there was no answer at her home, I called her work
3 on Monday or called her work on Monday, and she hadn't
4 appeared -- come to work that day.

5 Q That's the reason that you eventually went over
6 to your mom's residence on September 23rd of 1985?

7 A Yes.

8 Q Do you recall approximately what time you went
9 over to the residence?

10 A I believe it was in the morning. It was
11 approximately 11:30 in the morning I arrived there.

12 Q Okay. When you arrived. Do you recall what
13 vehicle you were driving?

14 A I believe we had a Monte Carlo.

15 Q When you say we had a Monte Carlo, who's the we
16 that you're speaking about?

17 A At the time it was my -- my present wife,
18 Marta Kraemer.

19 Q Was she your wife at that time?

20 A No.

21 Q You were boyfriend/girlfriend?

22 A Boyfriend/girlfriend living together.

23 Q So when you showed up at the residence, where
24 exactly did you park at the residence?

25 A I recall parking behind her car that was parked
26 in the garage -- parked in her garage.

27 Q I'm going to show you what has been marked
28 Exhibit 3.

1 Is that about the location where you parked
2 your Monte Carlo?

3 (Whereupon Exhibit 3 was marked
4 for identification.)

5 THE WITNESS: Yes.

6 BY MR. THOMAS:

7 Q It would have been directly -- would it have
8 been directly behind your mom's Cadillac?

9 A I recall being in the driveway, in this area.

10 Q Okay. If you can orientate us, how far away is
11 the house from the main road?

12 A Well, the property was five acres, and the
13 house sat directly at the back of the five acres.

14 Q And then as far as the address of the house, do
15 you recall the address?

16 A Something to the effect of 25435 Highway 18, I
17 believe it was.

18 Q That's in Lucerne?

19 A In Lucerne Valley, yes.

20 Q That's within the county of San Bernardino?

21 A Yes.

22 Q How long had your mom been living there at that
23 residence?

24 A From what I can recall, approximately 1978.

25 Q Was she living there alone as far as you knew?

26 A She was living there with her husband at the
27 time, Jim Cobb.

28 Q Now, fast forward to 1985, was she living there

1 alone or was Jim still living there?

2 A She was living there alone. From what I
3 recall, he died in approximately 1981, 1980.

4 Q So you go to the house. Did you think it was
5 unusual at all that the garage door was open and the car
6 was in the garage?

7 A Well, I thought it was -- it seemed normal that
8 the garage door was open. Sometimes she would close it.
9 From what I can recall, it was open if she was going to
10 be home.

11 Q Okay. So the fact that the garage door was
12 open and her car was in there, that didn't throw up any
13 red flags or anything like that?

14 A No.

15 Q So as far as the garage goes, how did you enter
16 the house?

17 A We entered the house through the door that was
18 right here in the garage that led into the kitchen area.

19 Q I'm going to show you a photograph that's been
20 marked Exhibit 4.

21 Do you recognize the -- what's depicted in
22 Exhibit 4?

23 (Whereupon Exhibit 4 was marked
24 for identification.)

25 THE WITNESS: Yes.

26 BY MR. THOMAS:

27 Q What is that?

28 A That would be the door that entered into the

1 side of the house through the kitchen.

2 Q That's your mom's car that's in the bottom
3 right-hand corner of the photograph?

4 A Yes.

5 Q You were using the laser pointer to point to a
6 door in the center of the photograph?

7 A Yes.

8 Q So when you entered the door, was it closed?
9 Open?

10 A It was closed.

11 Q Do you recall if it was locked? Unlocked?

12 A I don't recall if it was locked or unlocked.
13 From what I recall, it was unlocked.

14 Q Do you recall telling the detectives back in
15 1985 that you don't know if the door was locked or
16 unlocked, but you used your key to enter the residence?

17 A Yes, after reviewing that, yes.

18 Q And your memory of events would have been more
19 fresh in your mind back in 1985, specifically
20 September 23rd of 1985?

21 MR. SANDERS: Objection, your Honor.
22 Leading.

23 THE COURT: It's foundational. It's
24 overruled.

25 BY MR. THOMAS:

26 Q Specifically, September 23rd of 1985, than they
27 are today; right?

28 A Yes, my memory would be better then, yes.

1 Q Okay. So you enter the house. What, if
2 anything, did you observe or hear?

3 A When we went into the house I noticed all the
4 drapes were closed.

5 Q Let's stop right there. You noticed all the
6 drapes were closed. Was that unusual?

7 A Yes, we found that unusual.

8 Q Okay. And why is that?

9 A Because my mother always left the drapes open,
10 the curtains open. She enjoyed the view. Just kind
11 of -- the way she lived. She didn't make a habit of
12 closing curtains before she went to bed.

13 Q So as far as the drapes go, was there anything
14 else that you noticed when you walked into the house?

15 A The first thing was the odor.

16 Q Okay. And this odor that you're speaking of,
17 what did it smell like?

18 A Well, it smelled like the septic tank backing
19 up or something dead.

20 Q Okay. And so that was unusual?

21 A Yes.

22 Q Was there anything else that you noticed when
23 you walked in?

24 A It was very hot, hot room -- the house was very
25 hot.

26 Q This is sometime middle/late September. Do you
27 recall if it was hot outside that day?

28 A The temperature at that time was -- it was like

1 summer. It was very warm.

2 Q Okay. So are we talking like 80 degrees or
3 higher?

4 A Yeah, at least 80 degrees, yes.

5 Q Okay. And then as far as inside the house, did
6 your mom have some air conditioning or some way to cool
7 down the house?

8 A Yes.

9 Q And what was the method that she used?

10 A Swamp cooler.

11 Q Okay. Did you at any point check if the swamp
12 cooler was on or whether or not it was malfunctioning?

13 A The swamp cooler was not on.

14 Q Did you check anything regarding the heat
15 because you said it was really hot? Was it hotter than
16 outside or --

17 A Yes, it was hotter than outside. The heater
18 was on.

19 Q So you actually checked the heater and saw that
20 it was on?

21 A Yes, we had to turn the heater down.

22 Q And when you say we had to, you're referring to
23 Marta?

24 A Correct.

25 Q Okay. When you went inside the house, were you
26 together at that point?

27 A Yes, one -- I believe I was probably the first
28 one to go through, and she was right behind me.

1 Q Okay. Nobody else was with you at that point?

2 A No.

3 Q And then I notice in your interview back in
4 1985 with Detective Tuttle that there was no mention of
5 the heat being on.

6 Did you see that in the report?

7 A Yes.

8 Q Was that something that you told
9 Detective Tuttle back in 1985?

10 A No, it wasn't.

11 Q Okay. That's something you still remember as
12 being in the house?

13 A I remember that this whole time.

14 Q As far as the details that you gave
15 Detective Tuttle, did you give him every single detail
16 when you were interviewed?

17 A Every detail I could remember at that time. I
18 was pretty much in a state of shock.

19 Q You said you were in a state of shock. That's
20 because you discovered your mom's body that same day?
21 In fact, hours before you were interviewed, you
22 discovered your mom's body?

23 A Yes.

24 Q So you walk in. You notice the heat's on. Is
25 that something that you do prior to walking -- or you
26 turn off the heat prior to walking around the house
27 looking for your mom?

28 A We didn't even -- from what I recall, we didn't

1 do that. That was done after we saw her body.

2 Q Okay. When you entered the house, did you call
3 out for your mom?

4 A I don't recall calling out. I recall pretty
5 much walking straight into the -- into the bedroom.

6 Q When you walked in towards the bedroom -- let
7 me see if I can pull up a -- I'm going to show you
8 what's been marked Exhibit 39.

9 May I approach the witness?

10 THE COURT: You may.

11 BY MR. THOMAS:

12 Q Showing you what has been marked Exhibit 39, do
13 you see the door that you entered in Exhibit 39?

14 (Whereupon Exhibit 39 was marked
15 for identification.)

16 THE WITNESS: Yes, it was that door.

17 BY MR. THOMAS:

18 Q You're pointing to a door at the bottom
19 right-hand corner of the exhibit?

20 A Right, from the garage.

21 Q Okay. It's a door leading from the -- what's
22 marked garage to the main residence?

23 A Correct.

24 Q Okay. And then as far as the path that you
25 took to get to your mother's bedroom, what path did you
26 take? Maybe you can use the laser pointer to --

27 A Walked through the kitchen, made a right-hand
28 turn and straight into her bedroom this way.

1 Q You're indicating with the laser pointer you
2 walked, I believe it would be, to the east from the
3 garage. If you look at the bottom of the exhibit, there
4 appears to be north, south, west, east.

5 Do you see that?

6 A Right.

7 Q So you're walking east from the garage area.
8 Then at some point you walk south down that hallway in
9 the center of the exhibit, and then your mother's
10 bedroom is in the right-hand -- upper right-hand corner
11 of the exhibit; is that correct?

12 A Correct.

13 Q So as far as the path that you took, where's
14 the heater and the swamp cooler at?

15 A The swamp cooler would have been -- I believe
16 this area in the living room. The swamp cooler was -- I
17 believe that was probably the swamp cooler.

18 Q You're pointing to a box just outside the
19 portion of the residence in the upper left-hand corner
20 of Exhibit 39; is that correct?

21 A Correct. I'm assuming that's the swamp cooler.

22 Q Then the room that's on the interior of the
23 residence that you described as being a living room
24 area?

25 A Living room area there.

26 Q Where's the heater?

27 A From what I recall, it was -- I believe it
28 would have been this area.

1 Q So it would have been in the hallway area?

2 A From what I recall.

3 Q Okay. And it would have been just north of
4 your mother's bedroom?

5 A Yes.

6 Q So once you get to the bedroom -- prior to
7 getting there, did you notice if anything was disturbed
8 in any way like somebody had been ransacking the
9 residence at some point or did everything appear to be
10 normal to you?

11 A Everything appeared to be normal from what I
12 can recall.

13 Q So you get to your mother's bedroom. What do
14 you see when you get to your mother's bedroom?

15 A I see my mother lying on the bed. From what I
16 recall, leg propped up. I went pretty much into shock
17 at that period of time. It's been really hard for me to
18 visualize what I saw then.

19 Q Did you notice whether or not your mother had
20 any clothing on?

21 A No, I don't remember her having any clothing
22 on.

23 Q Then other than that, was there anything else
24 that you could remember about your mother's body?

25 A Not other than she was laying there, and I saw
26 her dead, appeared to be dead for a period of time. I
27 just pretty much basically went into shock, just broke
28 down.

1 Q When you say you broke down, are you talking
2 about crying?

3 A Crying.

4 Q Did you go into the bedroom at any point to
5 actually see if your mother had a pulse or anything like
6 that?

7 A No, I -- no.

8 Q So you saw her about from the doorway?

9 A I believe I went into the room.

10 Q Did it appear that the room had been ransacked
11 in any way that you can recall?

12 A At that time, no, it didn't appear to be
13 ransacked that I can recall at that point.

14 Q Let me ask you this: Did you touch anything or
15 touch your mom's body?

16 A No, I don't believe I touched her body, no.

17 Q At that point when you saw your mom's body, was
18 Marta there with you?

19 A She was behind me, I believe.

20 Q And then what did you do at that point?

21 A I broke down, and I screamed. I screamed, and
22 I believe, oh, no, she's done it. She's killed herself.

23 Q And as far as your belief that she killed
24 herself, that wasn't based on what you saw at the scene;
25 right?

26 A No.

27 Q That was a belief that you had based on your
28 experiences with your mom?

1 A Yes, because she'd been so lonely and
2 despondent.

3 Q As far as you said you broke down, you
4 screamed, what did you do at that point after?

5 A From what I can recall, I ran out of the
6 residence. From what I can recall, I looked up in the
7 sky and just yelled out, why. That's the -- at that
8 point I was in a state of panic. A lot of things have
9 been blacked out in my mind about that.

10 Q Is it fair to say that a lot of emotions were
11 going through you at that point?

12 A Extremely.

13 Q You were extremely emotional?

14 A Oh, extremely.

15 Q What was Marta doing at that point if you can
16 recall?

17 A Then it was the point that I believe that she
18 had gone in and seen, and at some point -- I don't
19 recall how everything went. She attempted to open up
20 the window because the smell was so overwhelming.

21 Q Did you notice if the windows were opened?
22 Closed?

23 A From what I recall, the windows were closed.

24 Q So you run outside. Does Marta run outside
25 with you?

26 A From what I can recall, I told her to call --
27 call the sheriff's department. Call somebody.

28 Q And at that point you had no idea that your mom

1 had been murdered?

2 A At that point, no.

3 Q And so you call -- or you tell Marta, call the
4 sheriff's department. Call somebody.

5 What did you do at that point?

6 A Well, almost to that point, she came out and --
7 from what I can recall, she came out and said something
8 to the effect that, it's more than that. It appears
9 that somebody's been here.

10 Myself, what I had done is my first thought was
11 having her call somebody, and the first person I could
12 think of is I wanted to go to John Sullivan's house.

13 Q Who is John Sullivan?

14 A John Sullivan is a very close personal family
15 friend, and he -- my mom would associate with him and
16 his wife quite often. He would come down, had for many
17 years, at least the past five years, would come down and
18 help fix the house if she needs something done or -- and
19 he was just the first person I could think of. I jumped
20 in my car, and I was just despondent, and I don't even
21 remember driving up there, but I got in my car and
22 backed out of the driveway, drove around the driveway
23 and drove up to his house.

24 Q Where's his house in relation to your mom's
25 house?

26 A It was a couple miles up the road at a place
27 called Mini Springs Ranch.

28 Q As far as that drive, is it a dirt road? Paved

1 road?

2 A It was a paved road back out on Highway 18
3 towards Big Bear.

4 Q Is it just right off the highway, or do you
5 have to take other side roads?

6 A No. It's pretty much right off the highway.

7 Q So it's kind of like your mom's house?

8 A Right, correct.

9 Q That's about three miles up the road you said?

10 A Approximately.

11 Q So did Marta go with you at that point?

12 A No.

13 Q So you take off. Does she even know where
14 you're going? Did you tell her, I'm going to
15 John Sullivan's?

16 A I told her, I got to find John. I got to go
17 get John. I got to go get John.

18 Q And you said the reason you went to go get John
19 is because John's a close family friend of your mom's?

20 A Yes.

21 Q Did it occur to you at any point during the --
22 this whole incident that there could still be somebody
23 inside the house or was that something that didn't even
24 cross your mind?

25 A Didn't even cross my mind other than just went
26 crazy in shock.

27 Q And then you go over to John Sullivan's house.
28 What did you do over at John Sullivan's once you get

1 there?

2 A He's not home. From what I recall, I was
3 yelling in his yard, still looking up at the sky going,
4 why, and I jump back in the car and went back to the
5 house, which seemed like minutes to me.

6 Q I assume during this time period, you were
7 crying at this point?

8 A Oh, yes.

9 Q You go back to the house. This time where do
10 you park the car when you get back?

11 A From what I recall, I parked in the same
12 location, behind her Cadillac.

13 Q And then once you parked the car, did you go
14 back in the residence? What did you do?

15 A Yes, went back inside the residence.

16 Q Where was Marta at this point?

17 A I don't recall where she was at. I recall
18 asking her if she called, you know, the authorities, and
19 she had called the fire department -- she said the fire
20 department was on their way. I don't recall exact
21 statements.

22 Q Then when you go back inside the house, did you
23 go back to the bedroom area where you discovered your
24 mom's body?

25 A I don't recall. I might have gone back in and
26 looked again. It's hard for me to recall exactly what I
27 did in what order.

28 Q Then let me ask the question I did before. At

1 this point did you ever touch your mom's body the second
2 time when you were at the house?

3 A I don't believe I ever touched her body.

4 Q Did you notice anything about her body the
5 second time that you went into the room that you didn't
6 notice the first time?

7 A Not that I can recall.

8 Q And based on your personalty, would that be
9 something that you would have done or something that you
10 wouldn't want to even do or think about?

11 A About touching her?

12 Q Touching her or looking at her body?

13 A I would have wanted to reach out and hold her,
14 but the visual of her decomposing, dead, she appeared to
15 be days -- it just -- it just -- I just couldn't do it.

16 Q Then as far as the windows, do you recall when
17 you went back to the residence if the windows were open
18 at this point?

19 A I believe maybe Marta had tried to open up a
20 window. I remember trying to open up windows. We
21 opened up a curtain, but the smell was so bad that
22 that's what -- we naturally did that.

23 Q And then you turned the heat off before you
24 left for John Sullivan's house?

25 A I don't recall if it was then or after I got
26 back. I don't recall.

27 Q Okay. But at some point you do recall?

28 A At some point I do recall, yes, we did that.

1 Q Do you recall a radio being on at any point?

2 A I vaguely recall talking with my wife that --
3 that, yeah, the radio was on very loud in the living
4 room and she had to turn it off in order to make phone
5 calls.

6 Q But that's something that you specifically
7 don't have any recollection of, yeah, I remember for
8 sure that the radio was on?

9 A Myself, I don't recall.

10 Q Is that something that Marta recalls?

11 A Yes.

12 Q As far as the swamp cooler being off and the
13 heater being on, that's something that you specifically
14 recall?

15 A I don't recall which manner we did. I believe
16 we started doing that after -- after we -- were making
17 some of the phone calls before anybody arrived.

18 Q Had you ever been over to your mom's place
19 during the summer months where she had the heater on at
20 any point?

21 A In the summertime, at that time, no.

22 Q That's because it's hot outside?

23 A It was hot out.

24 Q When you entered your mother's bedroom the
25 second time that you were at that house, after you went
26 over to John Sullivan's, did you notice anything about
27 the room or the house that you thought, this is strange
28 or unusual?

1 A No, didn't -- didn't -- didn't appear that
2 there was a fight or anything disturbed from what I can
3 recall.

4 Q You didn't see anything that caused you to
5 believe that the house had been ransacked at some point?

6 A No.

7 Q Were there any items of value that you saw just
8 laying out in the open?

9 A I believe we saw -- my wife recalls more than I
10 do. Her purse was there. Her car keys were there. I
11 believe she had a ring that was there.

12 Q Show you a photograph that's been marked
13 Exhibit 10.

14 May I approach the witness?

15 THE COURT: You may.

16 BY MR. THOMAS:

17 Q Show you Exhibit 10. It's also up on the
18 screen.

19 Do you recognize that?

20 (Whereupon Exhibit 10 was marked
21 for identification.)

22 THE WITNESS: Yeah, I recognize it as a ring.

23 BY MR. THOMAS:

24 Q Do you recognize the ring itself?

25 A Well, I recognize it as the ring. I believe my
26 wife wears it now.

27 Q As far as that particular ring, it's on top of
28 what appears to be a table of some sort.

1 Do you see that?

2 A Yes.

3 Q Would that be one of the night stands or night
4 tables next to the bed?

5 A Yes, I believe it was.

6 Q At any point either the first time or the
7 second time when you were going through the house, did
8 you notice if any of the windows, doors, or any opening
9 from the outside were forced open or pried open?

10 A No.

11 Q So you didn't notice any of that?

12 A No. There was nothing -- everything was
13 unlocked.

14 Q Was it unusual for your mom to keep everything
15 unlocked?

16 A Yes, she made a habit of that, not locking the
17 place up.

18 Q Were there any times where she would lock the
19 place up?

20 A When she would leave, go to work, go to town.

21 Q But if she was home, it was not unusual for her
22 to leave everything unlocked?

23 A No, that was not unusual.

24 Q Did your mom have any animals or pets?

25 A Yes, she had a dog.

26 Q Let me ask you about the dog. Was the dog
27 present when you arrived there the first time?

28 A From what I recall, he was there running around

1 outside.

2 Q When you say outside, where are we talking
3 about? Here. I'll put the diagram back up, Exhibit 39.
4 Okay.

5 Looking at that exhibit, Exhibit 39, where was
6 the dog in relation to the residence?

7 A Up in the front porch area where he usually
8 was -- if he was around, he'd be on the front porch by
9 the front door.

10 Q So when you drove up, you saw him on the front
11 porch area?

12 A Yeah, then he would get up, come out barking.

13 Q Okay. And were you familiar with your mother's
14 practices as far as if the dog was allowed inside the
15 house or where the dog was kept during the night hours
16 or anything like that?

17 A She, from what I recall, had the habit of
18 leaving the dog in the house when she was home at night.

19 Q Then when would the dog be outside?

20 A When she went to work or went to town or went
21 somewhere.

22 Q So when you go back inside the house, you go to
23 your mother's bedroom. You look in. What do you do
24 after that?

25 A From what I can recall, I picked up a phone. I
26 asked her if she called.

27 Q When you say you asked her, are you talking
28 about Marta?

1 A Right. If she called the authorities, anybody.
2 She said, yes, she called the fire -- the fire
3 department, or the fire department was on their way.
4 She talked to the -- maybe the sheriff's department. I
5 don't recall exactly how it went down, but I remember
6 then I called -- called them myself and told them what
7 was happening.

8 From what I recall, is that the dispatcher told
9 me to -- asked me if I touched anything. I said, yeah,
10 we opened windows. They said don't touch anything else
11 and get out of the house. That's what we did.

12 Q All right. And you've already explained to us
13 your demeanor as far as you being extremely emotional at
14 that point.

15 Could you describe Marta's demeanor for us?

16 A I think she was holding it together better than
17 I was.

18 Q Was she crying?

19 A Yeah, we were both crying.

20 Q But as far as the emotional aspect, you would
21 characterize yourself as being more emotional than Marta
22 was?

23 A Oh, yes, yes.

24 Q And then -- so you get off the phone. Was it
25 the sheriff's department or you don't remember?

26 A I don't recall.

27 Q And they tell you you have to get out of the
28 house. At that point did you follow what they told you

1 and leave the residence?

2 A Yes. I yelled to Marta to get out of the
3 residence. They told us not to touch anything, to get
4 out. That's what I recall.

5 Q Do you recall how you exited the residence?

6 A I don't recall if we went out the front door or
7 it could have been the garage. I don't recall.

8 Q Just for the record, you pointed to the door
9 that's in the bottom left-hand corner of Exhibit 39.

10 That's the front door that you were pointing
11 to?

12 A Right. I don't recall which door.

13 Q That leads into the living room area?

14 A Yes, this was the living room area.

15 Q Okay. So approximately, if you had to
16 estimate, how long -- or how much time did you spend in
17 the house the first time that you were in there?

18 A Before I --

19 Q Before you went over to John Sullivan's?

20 A -- John Sullivan's. I don't recall. It was
21 seemed like minutes. I just don't recall it.

22 Q Would you estimate that it would be about the
23 same amount of time you spent the second time that you
24 went inside the residence?

25 A I would estimate probably the same. Probably
26 the same.

27 Q Then as far as you leaving the residence,
28 what's the next thing that happened while you're outside