

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

6 -oOo-

7 (Whereupon the following proceedings were held in open  
8 court in the presence of the jury:)

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

11 THE COURT: Good afternoon. Back on the  
12 record in People of the State of California versus  
13 John Yablonsky, who is here with his attorney,  
14 Dave Sanders. John Thomas is here along with his  
15 investigating officer, Detective Robert Alexander.  
16 Marta Kraemer is on the witness stand still under oath  
17 in cross-examination.

18 You may proceed.

19 MR. THOMAS: Thank you, your Honor.

20 BY MR. THOMAS:

21 Q I believe before we took the lunch break, we  
22 were talking about how you were in the room and you were  
23 still trying to figure out what you saw in the room the  
24 first time that you went in there.

25 Do you recall that?

26 A Yes.

27 Q You've explained to us that you saw Rita's  
28 dentures and you saw her wedding ring on the table and

1 then was there anything else that you noticed?

2 A I noticed she was lying on her back, and her  
3 leg was propped up.

4 Q As far as whether or not -- correct me if I'm  
5 wrong, I think before the lunch hour, you said that you  
6 couldn't remember whether or not she had clothing on?

7 A No, she did not have clothing on.

8 Q You remember that?

9 A Yes.

10 Q Now, as far as what you did once you went in  
11 the room the first time, was Daryl inside the room with  
12 you or was he at the door? Do you recall?

13 A No, he was out of the room at that time.

14 Q What did you do when you went in the room? Did  
15 you touch anything or --

16 A No.

17 Q Then you left the room?

18 A Yes.

19 Q What did you do once you left the room?

20 A I remember coming out to find Daryl. I don't  
21 remember where he was at that time. I believe he was  
22 standing right there in the hallway, and I remember  
23 telling him that somebody had been there; that there's  
24 no way she could have done that to herself.

25 Q So you knew it wasn't a suicide at that point?

26 A Correct.

27 Q Once you told Daryl that, what was the next  
28 thing that you did?

1           A     I remember hugging him in the hallway for a  
2 moment.  It's like everything happened so fast.

3           Q     Then after you hugged him, at some point did  
4 Daryl leave the house?  Did he tell you where he was  
5 going?

6           A     He was going to go find John Sullivan.

7           Q     Who was John Sullivan?  Did you know that  
8 person?

9           A     Yes, I did.

10          Q     How did you know John Sullivan?

11          A     He was a family friend.

12          Q     Did you go with Daryl to find John Sullivan?

13          A     No.

14          Q     What did you do once Daryl left?

15          A     He told me to stay there and call whoever I  
16 needed to call.

17          Q     Do you remember at that point -- you said  
18 earlier that the smell was overwhelming for you, and  
19 that was what you were concentrating on.  Was there a  
20 point after you left the room that you were able to  
21 notice other things that were unusual?

22          A     It was very hot.  It was very warm in the  
23 house.

24          Q     Did you find out or figure out why it was very  
25 warm in the house?

26          A     I think at the time I wasn't trying to figure  
27 out why it was warm.  I was more interested in trying to  
28 cool it off, like, turn the swamp cooler on or open a

1 door.

2 Q What did you do to see if you can cool off the  
3 house?

4 A I tried to -- I opened the door. I don't  
5 remember the exact order that I did it in. It was a  
6 long time ago.

7 Q Do you remember whether or not you opened up  
8 the drapes?

9 A I did.

10 Q Do you remember opening up any windows or other  
11 doors other than the ones that you've already mentioned?

12 A I tried to open only the one in Rita's room and  
13 it did not open.

14 Q Were there drapes in Rita's room?

15 A Yes.

16 Q Do you recall whether or not those drapes were  
17 open? Shut?

18 A I tried to move the drapes aside -- I don't  
19 recall.

20 Q Okay. So you tried to cool off the house by  
21 opening the doors.

22 Did you at some point turn on the swamp cooler?

23 A Yes.

24 Q At any point did you notice that the heater was  
25 on?

26 A I think Daryl was the one that noticed the  
27 heater was turned on.

28 Q That wasn't something you did?

1 A No.

2 Q As far as you turn on the swamp cooler, did you  
3 make any attempts at this point to call for help?

4 A Yes.

5 Q What attempts did you make to call for help?

6 A I remember dialing zero, and I got a busy  
7 signal, so I dialed 9-1-1.

8 Q Did somebody answer when you dialed 9-1-1?

9 A Yes.

10 Q Yes. At that point were you able to talk to  
11 somebody and explain what was happening?

12 A Yes.

13 Q At that point Daryl's already left I assume?

14 A Yes.

15 Q So you're on the phone with the 9-1-1 person.  
16 Did they tell you that help was on the way?

17 A Yes.

18 Q How soon after you first entered the residence  
19 did you call 9-1-1?

20 A I don't recall. Everything seemed to happen so  
21 fast, and it was so long ago.

22 Q If you had to estimate, would it be a period of  
23 minutes? Hours?

24 A Minutes.

25 Q It wasn't seconds?

26 A I would say minutes. You could tell she was  
27 already deceased.

28 Q Okay. And then at some point when you called

1 9-1-1 or after you called 9-1-1, did Daryl come back?

2 A Yes.

3 Q Were you still on the phone when Daryl came  
4 back? Do you recall?

5 A I don't believe I was on the phone still.

6 Q Were you inside the house? Outside the --  
7 Rita's house when Daryl came back?

8 A I think I met him on the porch.

9 Q When you met him on the porch, did you hear him  
10 pulling up to the driveway and you went out to the porch  
11 area or do you recall how this happened or were you  
12 standing outside waiting for Daryl to come back?

13 A I don't recall.

14 Q Once he came back, did you and Daryl go back  
15 inside the house, either of you? Do you recall doing  
16 any of that?

17 A I don't recall.

18 Q Then at some point medical help came to the  
19 residence I assume?

20 A Yes.

21 Q When they came to the residence, do you recall  
22 what you did, if anything? If you can't remember, you  
23 can't remember.

24 A It was a long time ago, John.

25 Q Do you recall telling -- prior to the medical  
26 help arriving, did you pull the car out from the  
27 driveway area? Do you recall that?

28 A Did I pull the car out?

1 Q Yeah.

2 A I believe that they told me on the phone to put  
3 the car down on Highway 18 so they could find -- so they  
4 could find the residence.

5 Q So you personally moved the Monte Carlo after  
6 Daryl got back from going to John Sullivan's place?

7 A I do recall that now that you mention that.

8 Q And then do you recall telling ^Detective Matt  
9 back in 1985 that when the paramedics arrived they  
10 entered the residence through the front door going to  
11 the victim?

12 A Yes.

13 Q Once they arrived, did you ever go back inside  
14 the house that day?

15 A I think they said to stay out of the house.

16 Q You followed their orders and stayed out of the  
17 house?

18 A I think I proceeded to go in, but Daryl said  
19 not to go in, and the sheriff's office said to stay out  
20 of the house.

21 Q At some point did -- after -- I assume the  
22 sheriff's department showed up at the scene?

23 A Yes.

24 Q -- is that correct? And at some point after  
25 all the personnel, the sheriff, the paramedics, after  
26 they all left the scene, did you go look around the  
27 house at any point?

28 A Can you repeat the question?

1 Q When you -- when the sheriff's department,  
2 paramedics, left Rita's house, did you and Daryl go  
3 inside the house afterwards at some point?

4 A At some point, yes.

5 Q Do you recall if it was that day or some later  
6 day that you actually went inside the house?

7 A Yes.

8 Q Was it that day or --

9 A Later in the evening, yes.

10 Q Okay. Did you ever look at Rita's car at some  
11 point?

12 A Yes.

13 Q What, if anything, did you find in Rita's car?

14 A There was a bag of pistachios in the backseat  
15 of her car.

16 Q Do you recall where the car keys for Rita's car  
17 were?

18 A I found them on the desk by the phone.

19 Q I'm going to show you a photograph that's been  
20 marked Exhibit 29.

21 May I approach the witness?

22 THE COURT: You may.

23 BY MR. THOMAS:

24 Q Show you what has been marked Exhibit 29, do  
25 you recognize this?

26 (Whereupon Exhibit 29 was marked  
27 for identification.)

28 THE WITNESS: Yes.



1 BY MR. THOMAS:

2 Q There's a set of keys in the exhibit. Are  
3 those Rita's keys, if you know?

4 A They appear to be, yes.

5 Q And those were in the desk area that you spoke  
6 about earlier this morning?

7 A Yes.

8 Q Do you recall the day that you were -- or that  
9 you found Rita's body, do you recall a radio being on?

10 A Yes.

11 Q And is that something that you recall telling  
12 the detectives back in 1985 or is that something that  
13 you recalled earlier in 2009 when you were again  
14 interviewed by Detective Alexander?

15 A In 2009.

16 Q As far as your interview with the detectives  
17 back in 1985, could you describe to us your emotional  
18 state when you were being interviewed?

19 A In 2009?

20 Q In 1985.

21 A In 1985, my emotional state?

22 Q Yes.

23 A I was very upset.

24 Q Would it be fair to say that you weren't  
25 focused in on all the details that you were giving to  
26 the police officer or the detective that was  
27 interviewing you?

28 A That would be correct.

1 Q Fair to characterize that during that interview  
2 you were in a state of shock?

3 A Very much so.

4 Q This interview occurred approximately less than  
5 two hours after you had found the body?

6 A Yes.

7 Q As far as this radio being on, tell us about  
8 what you remember about the radio.

9 A I had to turn the radio down in order to make  
10 the phone call.

11 Q Was it playing loud or was it just on?

12 A It was loud enough that I needed to turn it  
13 down in order to make the phone call.

14 Q Do you recall where the radio was?

15 A It was in the living room.

16 Q Now, as far as Rita was concerned and her  
17 clothing, you're familiar with the room she was found  
18 in, her bedroom?

19 A As far as?

20 Q Had you been in there before?

21 A A couple of times.

22 Q And you were in there afterwards; right?

23 A After that day?

24 Q Yeah.

25 A Yes.

26 Q How would you characterize the clothing  
27 situation? Were her clothes spread all over the room or  
28 were they nicely hung? How would you characterize the

1 room?

2 A They were nicely hung. I mean, it didn't look  
3 like there had been things, like, they had been strung  
4 all over the place like there had been an altercation of  
5 any type.

6 MR. THOMAS: I have nothing further at this  
7 point.

8 THE COURT: Cross.

9 MR. SANDERS: Thank you, your Honor.

10 **CROSS-EXAMINATION**

11 BY MR. SANDERS:

12 Q Good afternoon, Ms. Kraemer.

13 A Good afternoon.

14 Q I think you said you had known Ms. Cobb four  
15 years before her death?

16 THE COURT: Move the microphone in front of  
17 your face, please.

18 BY MR. SANDERS:

19 Q Had you known Ms. Cobb for about four years  
20 before her death; is that correct?

21 A Yes, sir.

22 Q Had you met her before you met Daryl? The  
23 reason I ask is I was under the impression that she had  
24 been married to your former father-in-law?

25 A That is correct. She had been married to my  
26 former father-in-law, but I had not met her until I met  
27 Daryl.

28 Q Okay. What was your former father-in-law's

1 name?

2 A Paul Simon, Sr.

3 Q Paul Simon, Sr. That was not the one that she  
4 was married to that died in 1979?

5 A I don't know what year -- I don't know which  
6 one you're referring to.

7 Q Okay. Daryl had said that she had been married  
8 to somebody and that he passed away in, like, 1979, and  
9 he lived at that house.

10 A That would probably be Mr. Cobb.

11 Q That was Mr. Cobb. Okay. You didn't know her  
12 when she was married to Mr. Simon?

13 A No.

14 Q When you said that you and Daryl had been  
15 trying all weekend to call her, was that you trying to  
16 call her or Daryl trying to call her?

17 A Daryl.

18 Q You didn't try to call her yourself?

19 A No.

20 Q All right. And the district attorney asked you  
21 were you trying to call her on Friday.

22 Do you know if Daryl was trying to call her on  
23 Friday the 20th?

24 A I don't recall.

25 Q You don't know what time it was he was trying  
26 to call her on Saturday?

27 A I don't recall the times.

28 Q So you and Mr. Kraemer get over there and you

1 park and you go in the back door. I'm going to call the  
2 garage door the back door.

3 A That's fine.

4 Q We're on the same page?

5 A Yes.

6 Q You walk through the kitchen and set down your  
7 cigarettes; is that correct?

8 A Correct.

9 Q Did you ever smoke a cigarette in the house  
10 that day?

11 A I don't recall.

12 Q Okay. Then you heard Daryl, and you also went  
13 in the bedroom; is that correct?

14 A Yes.

15 Q Do you remember how much time you spent in the  
16 bedroom that first time before you went out?

17 A Seconds.

18 Q All right. And then I believe you said Daryl  
19 went off to go to Mr. Sullivan's house?

20 A Correct.

21 Q He told you he was going to do that?

22 A Yes.

23 Q All right. And did he give you any  
24 instructions when he left like, call the cops, or  
25 something like that?

26 A Yes.

27 Q And you had a cell phone?

28 A No, back then there was no cell phones.

1 Q Okay. What phone did you use then?

2 A The house phone.

3 Q It was working?

4 A Yes.

5 Q You didn't have any trouble getting through?

6 A No.

7 Q Then you said that there was another point when  
8 you went into the bedroom; is that correct?

9 A Yes.

10 Q And how long were you in the bedroom the second  
11 time?

12 A Probably a matter of seconds.

13 Q Is that because you were trying to open the  
14 window?

15 A Yes.

16 Q And it wouldn't open?

17 A That's correct. The odor was so intense. You  
18 could not stand to be there very long at all.

19 Q Then you came out?

20 A That's correct.

21 Q And you didn't go back in there a third time?

22 A No, sir.

23 Q Okay. So everything that you observed in that  
24 bedroom, you observed in one of those two visits which  
25 were each for a very few seconds?

26 A Correct.

27 Q I'm interested in a statement that you told the  
28 prosecutor.

1           You said when you looked at her, you felt she  
2 could not have done this; correct?

3           A     That's correct.

4           Q     And do you remember what it was that you saw  
5 that made you feel that way?

6           A     Like I said, it's a bit -- I think I blocked a  
7 lot of things out since then, but I remember seeing her  
8 dentures on the pillow.

9           Q     Yes.

10          A     The way she was lying there with her nude body,  
11 and the way she was positioned with her leg up and she  
12 was twice her normal size.

13          Q     Was it -- I didn't mean to cut you off. Were  
14 you finished?

15          A     No. There was -- there was -- just appeared to  
16 me that somebody had been there, and I didn't feel that  
17 she could have done that to herself.

18          Q     Thank you. The -- the -- the other question I  
19 had on that was: Did you see any particular wound or  
20 anything like that that made you feel that way?

21          A     The way that she was positioned, it made me  
22 feel like somebody had had sex with her to be quite  
23 frank.

24          Q     All right. When you said you opened the  
25 drapes, which drapes were you referring to?

26          A     The front drapes to the house.

27          Q     Those are the ones that are right there by the  
28 dining room table?

1 A That's correct.

2 Q I noticed that in that photograph of your  
3 cigarettes and Slurpee cup, the drapes are open.

4 Is that because you had opened them?

5 A Yes.

6 Q I believe that you said that when the police  
7 were finished doing what they were doing, it was later  
8 in the evening; is that right?

9 A Well, they quickly interviewed me because I had  
10 my son I needed to pick up back where I lived in Phelan.

11 Q I see. Then you went to Phelan and came back?

12 A I left Daryl sitting down at the highway.

13 Q Okay. So you had to go back and get Daryl?

14 A No, I had to go back and get our son in Phelan.

15 Q I'm sorry. After you got your son in Phelan,  
16 did you then go back out to Lucerne Valley to pick up  
17 Daryl?

18 A Yes.

19 Q And is that when you went into the house later  
20 that evening?

21 A Yes.

22 Q Okay. And you were discussing with the  
23 prosecutor here that you then looked through the  
24 Cadillac also?

25 A I don't know if it was that night or not.

26 Q Could have been a different time?

27 A I don't recollect.

28 Q Do you ever recall seeing my client in 1985?



1 A No.

2 Q Did you ever meet Mr. George Yablonsky back in  
3 '82, '83, '84 or '85?

4 A Myself, no.

5 Q So you had never socialized with Mr. George  
6 Yablonsky at any time that you can recall?

7 A Myself, no.

8 Q I believe you told the police that -- the  
9 police asked you of people that had had contact with  
10 Ms. Cobb; is that correct?

11 A Yes.

12 Q You told them about a boyfriend she had named  
13 Fred?

14 A Yes.

15 Q I believe you also said she was dating a guy  
16 from the country club?

17 A Yes, I said that. She told me she had a couple  
18 of drinks with a guy from the country club.

19 MR. THOMAS: Objection. Calls for hearsay.  
20 Move to strike.

21 THE COURT: Sustained. It will be stricken.

22 BY MR. SANDERS:

23 Q Were you -- were you aware of any other persons  
24 that she had been seeing, let's say, six months before  
25 her death?

26 MR. THOMAS: Objection. Relevance.

27 THE COURT: Sustained.

28

1 MR. SANDERS: Nothing further. Thank you,  
2 your Honor.

3 THE COURT: Cross -- I mean, redirect.

4 MR. THOMAS: Nothing further, your Honor.

5 THE COURT: May this witness be excused?

6 MR. SANDERS: Remain on call please.

7 THE COURT: Subject to recall.

8 MR. SANDERS: Thank you.

9 THE COURT: That's fine. Ms. Kraemer, the  
10 attorneys have agreed that, though you're subject to  
11 recall, you may remain in the courtroom for the  
12 remainder of the trial. I will order that you don't  
13 speak to anyone. I know you're here with your  
14 husband. Do not speak to him about your testimony  
15 today. You may speak to anybody you want to after the  
16 trial is over, but until a verdict has been reached,  
17 you may speak to no one unless it's either the  
18 investigating officer for one of the attorneys or one  
19 of the attorneys themselves. Is that okay?

20 THE WITNESS: Thank you.

21 THE COURT: Do you agree?

22 THE WITNESS: Yes.

23 THE COURT: Please have a seat. Call your  
24 next witness.

25 MR. THOMAS: People call Diane Flagg.

26 THE BAILIFF: Remain standing. Raise your  
27 right hand and face the clerk to be sworn.

28 THE CLERK: You do solemnly state that the

1 evidence you shall give in the matter pending before  
2 this Court shall be the truth, the whole truth, and  
3 nothing but the truth, so help you God?

4 THE WITNESS: Yes, I do.

5 THE CLERK: Thank you. Please be seated.

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

10 THE WITNESS: Diane Flagg D-i-a-n-e, also  
11 Marie M-a-r-i-e, Flagg F-l-a-g-g.

12 THE COURT: Good afternoon, Ms. Flagg.

13 THE WITNESS: Good afternoon.

14 THE COURT: You know, you've got a nice full  
15 voice. You don't have to worry about speaking into  
16 that microphone.

17 THE WITNESS: Good. It makes me feel more  
18 comfortable when I don't.

19 THE COURT: Just keep your voice up.

20 THE WITNESS: I am.

21 THE COURT: Your witness.

22 MR. THOMAS: Thank you, your Honor.

23

24 **DIANE FLAGG**, having been duly sworn,

25 testified as follows:

26 **DIRECT EXAMINATION**

27 BY MR. THOMAS:

28 Q Back in September of 1985, where were you

1 living?

2 A At 7520 Fairlane in Lucerne Valley at  
3 Wolf Mountain Sanctuary.

4 Q And as far as that sanctuary goes, in relation  
5 to Highway 18, where is that?

6 A It's a little bit closer -- it's on the way to  
7 Big Bear, little bit closer than where Rita Cobb's house  
8 was.

9 Q The sanctuary is a little bit closer  
10 to Big Bear than Rita Cobb's place?

11 A Correct.

12 Q You knew a person by the name of Rita Cobb?

13 A Yes, I did. I knew of her.

14 Q And at some point were you interviewed by a  
15 Detective Roger McCoy from the San Bernardino County  
16 Sheriff's Department?

17 A Yes, I was.

18 Q And what was the purpose of that interview?

19 A Well, we actually -- Tonya and I were noticing  
20 that there was a lot of police officers over at Rita's  
21 house, and we noticed -- we had a conversation like the  
22 day before that we had seen --

23 MR. SANDERS: Objection, your Honor. The  
24 answer is nonresponsive, and I'd ask that the witness  
25 only speak for herself.

26 THE COURT: That's sustained. In other  
27 words, you were mentioning a we. I don't know that  
28 there's any reason for that so at this point --