

1 THE WITNESS: Try to exclude the person that  
2 I'm having a conversation with.

3 THE COURT: Yeah. He's not asking you about  
4 a conversation. Listen to the question. Start again.

5 THE WITNESS: Go ahead.

6 BY MR. THOMAS:

7 Q You noticed there was police cars outside  
8 Rita's house.

9 Do you recall what day that was?

10 A It was either -- I mean, it's been 26 years. I  
11 can't say the exact day that it was, but I know it  
12 was -- it was -- we had a lot of -- there was a lot of  
13 cars and everything. Then the next day, we noticed that  
14 there was -- the police were there, and that's when we  
15 thought -- I thought that I should go and talk to the  
16 police because I had saw something before, you know, the  
17 day before when I saw the police cars. We knew  
18 something was wrong -- I knew something was wrong. I'm  
19 sorry.

20 Q This interview that you had, it looks like it  
21 occurred sometime approximately September 26th of 1985?

22 A Yes.

23 Q The time that this interview occurred, the  
24 events were fresher in your memory at that point than  
25 they are today?

26 A That's correct.

27 Q You've had a chance to look over the police  
28 report containing your interview?

1 A Yes.

2 Q And during that interview, you described to  
3 Detective McCoy a few things.

4 Do you recall that?

5 A Yes.

6 Q What did you describe to Detective McCoy?

7 A That I saw a man hitchhiking that was between  
8 Rita Cobb's house going towards the Big Bear area  
9 hitchhiking that way. He was, like, around six feet  
10 tall, black hair, mustache, beard, and had jeans on.  
11 Then I also recall --

12 Q Let me stop you there. That's one thing that  
13 you told Detective McCoy?

14 A Yes.

15 Q Okay. And then you also told Detective McCoy  
16 about another thing; is that correct?

17 A Yes.

18 Q What was this other thing that you told  
19 Detective McCoy about?

20 A I saw a number of cars there before I seen the  
21 police there. I remember seeing a number of cars, and  
22 then I saw a Pinto car, silver.

23 Q I'm going to show you what's been marked  
24 Exhibit 1, and I'll bring it up there so that you can  
25 see it.

26 May I approach the witness?

27 THE COURT: You will -- you can.

28

1 BY MR. THOMAS:

2 Q Do you recognize what's depicted in Exhibit 1?

3 A Yes.

4 Q What's depicted in Exhibit 1?

5 A You see, that's Rita's house where she lived  
6 and her car in the garage there.

7 Q And you described that car to Detective McCoy  
8 as a Cadillac?

9 A Cadillac, yes.

10 Q What color would you say that car is?

11 A It's -- I don't have my glasses on. From what  
12 I can see --

13 MR. SANDERS: Objection, your Honor. The  
14 photograph speaks for itself if that's what she's  
15 using for identification.

16 THE COURT: Sustained.

17 BY MR. THOMAS:

18 Q Do you recall without looking at the photograph  
19 what color Rita's car was, her Cadillac was?

20 A I don't remember the color of her car. Looks  
21 like it was blue -- bluish.

22 Q As far as the day where you were describing  
23 this to Detective McCoy, do you recall telling  
24 Detective McCoy that it was either Friday night or  
25 Saturday night?

26 A Yes.

27 Q And you specifically remember another car being  
28 there?

1 A Yes.

2 Q What kind of car was that?

3 A A Ford Pinto.

4 Q Was this a Pinto station wagon or was it a  
5 regular --

6 A It was a car.

7 Q Okay. Do you recall what color that was?

8 A Silver.

9 Q As far as the color of the vehicle, do you  
10 recall what time you saw this?

11 A No.

12 Q Was it evening hours?

13 A No, I don't recall.

14 Q You just recall there was a silver Pinto?

15 A Because I had a conversation with the other  
16 person. That's why I recall it.

17 Q That conversation was with this person that you  
18 referred to as Tonya?

19 A Yes.

20 Q The color of the Pinto, would that be something  
21 that you were positive of back in 1985 or that you could  
22 be wrong on the color?

23 A It's like 25, 26 years ago. I know for sure it  
24 was a Pinto, and it was a car. I know that for sure.  
25 As far as the color, it's a possibility. You know, I  
26 mean, it's 26 years later.

27 Q As far as anybody in the area of the Pinto or  
28 Rita's Cadillac, did you see anybody outside?

1 A No.

2 Q Do you recall the Cadillac? Was it in the  
3 garage? Outside?

4 A No, I don't recall.

5 MR. THOMAS: Nothing further.

6 THE COURT: Mr. Sanders, you may inquire.

7 MR. SANDERS: Thank you, your Honor.

8 **CROSS-EXAMINATION**

9 BY MR. SANDERS:

10 Q Good afternoon, Ms. Flagg.

11 A Good afternoon.

12 Q Have you seen a copy of the police report that  
13 has your statement?

14 A Yes.

15 Q Were you able to read over that?

16 A Yes.

17 Q When you read over that, do you remember that  
18 that's what you said or could you remember?

19 A The part -- the only thing I was questioning  
20 myself was more on the hitchhiker, but cars I kind of  
21 like, so our neighbor had a Pinto car. I do remember  
22 the car. As far as the hitchhiker, I surely couldn't  
23 identify him today.

24 Q Okay. So let me understand, I believe that you  
25 said that you lived up Highway 18 from Rita, Ms. Cobb?

26 A Yes.

27 Q And can you see her house from where you live?

28 A No.

1 Q So when you saw these things, it was because  
2 you were driving by?

3 A That's correct.

4 Q All right. And you mentioned a person by the  
5 name of Tonya.

6 A Yes.

7 Q Who is Tonya?

8 A Tonya Carloni (phonetic). She owns Wolf  
9 Mountain Sanctuary. She knows a lot of people in  
10 Lucerne, and she had mentioned Rita must have somebody  
11 over.

12 Q Ma'am.

13 A I'm just saying. That's how I remember it.

14 Q Okay. I can't ask you what someone else said.

15 A Yes, that's how I remember it though.

16 Q I'm just trying -- you said that Tonya was  
17 someone that was riding with you at the time?

18 A Yes.

19 Q Were you going up the hill towards  
20 Wolf Mountain?

21 A Yes.

22 Q Were you going towards Wolf Mountain?

23 A Coming back to our home.

24 Q Okay.

25 A Yeah.

26 Q And I think I heard you say that you saw  
27 several cars at Rita's house.

28 Then the next day is when you saw the police

1 activity?

2 A Yes.

3 Q So this time that you're driving up the  
4 mountain with Tonya, was the day before you saw the  
5 police activity?

6 A Yes.

7 Q All right. And I believe that the first thing  
8 you said to the police was that as you were driving up  
9 towards Wolf Mountain, you saw a hitchhiker going passed  
10 Ms. Cobb's residence?

11 A Yes.

12 Q All right. And you gave that description to  
13 the police?

14 A Yes.

15 Q And then I believe you said that you also saw  
16 several cars parked in front of her house?

17 A Yes.

18 Q And by several, did you mean three or four or  
19 six or seven or another number?

20 A It's been a long time, but I would -- I don't  
21 think six or seven would be in my head. It would be a  
22 lesser amount like three or four.

23 Q Did three or four include the Cadillac?

24 A No.

25 Q Three or four besides the Cadillac?

26 A Yes.

27 Q Do you remember the make or model of any of the  
28 other cars?

1 A No.

2 Q When you were interviewed, you may not remember  
3 this because, like you said, it was a long time ago --

4 A Um-hmm.

5 Q -- but when you were interviewed, you told this  
6 officer that you saw several cars; is that your words?

7 A Yes.

8 Q Okay. And then did the officer ask you was one  
9 of them a Pinto?

10 A No, not at all.

11 Q Okay.

12 A Not at all. Didn't know anything about that.  
13 He didn't mention it. I mentioned it.

14 Q That was the only make or model other than the  
15 Cadillac you can remember?

16 A Yes.

17 Q So the other three or four cars that were  
18 there, you don't remember their makes or models?

19 A No.

20 Q All right. Now, when the -- when the  
21 prosecutor just asked you that question, he asked you in  
22 this way, did you see these things on Friday or Saturday  
23 evening, but in your report you said just Friday or  
24 Saturday.

25 You didn't use the word evening; did you?

26 A No, I wasn't --

27 Q Is that because your best recollection is you  
28 went by there in the daytime?



1           A     Yeah, I didn't know what time of day it was. I  
2     don't remember the time of day 26 years ago.

3           Q     Could it have been morning, noon or --

4           A     Yes, that's correct.

5           Q     -- or afternoon?

6           A     That's correct.

7           MR. SANDERS: Thank you, ma'am. Nothing  
8     further on cross-examination.

9           THE COURT: Redirect.

10                           **REDIRECT EXAMINATION**

11     BY MR. THOMAS:

12           Q     Do you recall what -- where you were coming  
13     from when you went by Rita's house?

14           A     The market. We always go down to the market.

15           Q     When you say we always go down to the market,  
16     you're talking about yourself and Tonya?

17           A     Yes.

18           Q     Did then -- as far as your trips to the market,  
19     was there a specific time that would occur?

20           A     No.

21           Q     Would you go sometimes really late at night?

22           A     If we were hungry. It was to get food.

23           Q     Okay. And so there were times you would go  
24     during the daytime. There were times you would go  
25     during the nighttime.

26                    You can't narrow it down based on when you went  
27     to the market?

28           A     No, I can't. I'm sorry.

1 MR. THOMAS: Nothing further.

2 THE COURT: Cross.

3 MR. SANDERS: No, sir. Thank you.

4 THE COURT: May Ms. Flagg be excused?

5 MR. THOMAS: Yes.

6 MR. SANDERS: Yes, your Honor.

7 THE COURT: Thanks for being with us,  
8 Ms. Flagg. You're excused. That means you can go or  
9 stay, whichever you'd like.

10 THE WITNESS: Thank you.

11 THE COURT: Call your next witness.

12 MR. THOMAS: People call Roger McCoy.

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

15 THE CLERK: You do solemnly state that the  
16 evidence you shall give in the matter pending before  
17 this Court shall be the truth, the whole truth, and  
18 nothing but the truth, so help you God?

19 THE WITNESS: I do.

20 THE CLERK: Thank you. Please be seated.

21 THE BAILIFF: Please state your full name and  
22 spell it for the record.

23 THE WITNESS: Roger T. McCoy R-o-g-e-r  
24 M-c-C-o-y.

25 THE COURT: Hello.

26 THE WITNESS: Hello.

27 THE COURT: Mr. McCoy, I don't know if I  
28 remember seeing you before, but you look familiar.

1 THE WITNESS: Well, been a long time I've  
2 been around.

3 THE COURT: Your witness, Mr. Thomas.

4 MR. THOMAS: Thank you, your Honor.

5

6 **ROGER McCOY**, having been duly sworn,  
7 testified as follows:

8

**DIRECT EXAMINATION**

9

BY MR. THOMAS:

10 Q Good afternoon, Mr. McCoy.

11 A Hello.

12 Q At some point did you work for the  
13 San Bernardino County Sheriff's Department?

14 A Yes.

15 Q How long did you work for the San Bernardino  
16 County Sheriff's Department?

17 A I was employed with them for 22 years.

18 Q And do you recall the year that you retired?

19 A 2000.

20 Q Was there a rank that you retired?

21 A Sergeant.

22 Q And at some point did you spend any of your  
23 22 years with the San Bernardino County Sheriff's  
24 Department as a homicide investigator?

25 A Yes.

26 Q Do you recall the years that you spent as a  
27 homicide investigator?

28 A From 1984 to '86.

1 Q So it was approximately two years, a little  
2 over two years?

3 A Little bit over two years.

4 Q And as far as your time in homicide, was there  
5 a method or way that it would be determined who was  
6 going to go out to which homicide scenes?

7 A Generally depends on who had the duty at the  
8 time. There were four teams, and the duty was rotated  
9 through the teams. If Team 1 was already on a case,  
10 Team 2 picked it up and on down the line through Team 4.

11 Q How many people were part of each team that  
12 you're talking about?

13 A Four detectives and a sergeant.

14 Q And the team that you were apart of, who was  
15 all part of that team?

16 A Dave Baker was the sergeant in charge of it.  
17 Gary Woods -- it's hard because they -- we rotated  
18 through all the teams. I'm trying to keep track of who  
19 was on the specific teams at a specific time.  
20 Gary Woods was there. Let's see who else was on that  
21 one. I think -- I'm trying to remember. Pepper was on  
22 there.

23 Q Do you recall who the sergeant of the team was?

24 A Baker.

25 Q And then, so it was Woods, yourself, and then  
26 there were two other people?

27 A Yes.

28 Q Was Peterson part of your team?

1           A     It's entirely possible because, like I said, we  
2 did not stay in the homogenized team. Depending on who  
3 was in court or sick or whatever, you got pulled from  
4 one team to another, and the only thing that stayed  
5 consistent was the sergeant.

6           Q     Okay. And then approximately how many homicide  
7 scenes had you -- or did you go to during your time as a  
8 deputy sheriff with San Bernardino County?

9           A     As a deputy sheriff or as a homicide  
10 investigator?

11          Q     Specifically, as a deputy sheriff first?

12          A     I'd have to guess 20.

13          Q     And then as a homicide detective, I'm guessing  
14 that was most of those 20 were as a homicide detective?

15          A     Well, yeah, I would think the majority of them.

16          Q     Do you recall responding to a scene at the  
17 address of 35435 Highway 18 in Lucerne Valley, county of  
18 San Bernardino?

19          A     Yes.

20          Q     And specifically back on September 23rd of  
21 1985?

22          A     Yes.

23          Q     Do you recall approximately what time you  
24 arrived at the scene?

25          A     If I can refer to my notes, it would tell me  
26 that.

27          Q     The notes you're referring to are the reports  
28 that were produced in this case?

1 A Correct.

2 Q Would that refresh your recollection?

3 A Yes.

4 MR. THOMAS: May the witness do so?

5 THE COURT: Yes.

6 THE WITNESS: We arrived at approximately  
7 1422 hours on 9/23 of '85.

8 BY MR. THOMAS:

9 Q And 1422 for those of us that don't know  
10 military time, that would be 2:22?

11 A Correct.

12 Q In the afternoon?

13 A In the afternoon.

14 Q I'm going to show you some photographs. First  
15 I'll show you Exhibit 1.

16 May I approach the witness?

17 THE COURT: You may.

18 BY MR. THOMAS:

19 Q Show you what has been marked Exhibit 1, do you  
20 recognize that photograph?

21 A Yes.

22 Q What does that photograph depict?

23 A That's the front yard portion of the victim's  
24 residence.

25 Q Showing you another photograph that's been  
26 marked Exhibit 2, do you recognize what that photograph  
27 depicts?

28 A Appears to be the side of her residence.

1 Q Show you another photograph that's been marked  
2 Exhibit 3, do you recognize what that photograph  
3 depicts?

4 A The victim's garage and her vehicle.

5 Q As far as your assignment, and -- I forgot to  
6 ask this earlier, when you go out to homicide scenes,  
7 are certain people assigned certain assignments to do at  
8 the scene?

9 A Yes.

10 Q What was your assignment?

11 A I was to do the crime scene.

12 Q When you say you were to do the crime scene,  
13 what does that mean?

14 A Basically, you try to locate physically with  
15 measurements, the size of the building, where it's  
16 located in the building, where the victim is located,  
17 any evidence that you may observe or that's located,  
18 that type of thing.

19 Q Okay. And I'm going to show you an exhibit  
20 that's been marked Exhibit 39.

21 Did you do a crime scene -- what they call a  
22 crime scene diagram in this case?

23 A Yes, I did.

24 Q Looking up at the screen there, Exhibit 39's up  
25 there.

26 Is that the crime scene diagram that you  
27 prepared regarding the case of Rita Cobb?

28 A Yes.

1 Q And I notice on the diagram there's several  
2 what appear to be measurements.

3 Do you see those?

4 A Yes.

5 Q Were those measurements taken by you?

6 A Yes.

7 Q And then as far as orientation goes, can you  
8 give us some sort of orientation where north and south  
9 is? Is that written on the diagram?

10 A It's written on the diagram. Using a compass,  
11 we try to get a general direction of where everything's  
12 located using a compass as a starting point as a  
13 reference.

14 Q You did that in this particular case?

15 A Yes.

16 Q And you put the directions up there in the  
17 bottom right-hand corner of Exhibit 39?

18 A Yes.

19 Q Can you describe to us what was the practice  
20 back in 1985 as far as when you show up at one of these  
21 homicide scenes?

22 You discuss who's going to do what?

23 When does somebody go inside the house and  
24 start looking around?

25 A Generally, the sergeant who's in charge of the  
26 team will decide you're scene, you're interviews, you're  
27 whatever, whatever is appropriate for the incident. I  
28 don't know that he uses any particular criteria to



1 choose it. It's just you're it.

2 Q Okay. And you were it for the crime scene?

3 A I was it.

4 Q And then as far as these photographs that I'm  
5 showing you, when are these photographs taken?

6 A During the course of the investigation while we  
7 were on the scene.

8 Q I'm going to show you another photograph that's  
9 been marked Exhibit 4.

10 Do you recognize that photograph?

11 A Only as much as it appears to be the interior  
12 of the garage.

13 Q That's the -- in the bottom right-hand corner  
14 of the photograph looks -- what appears to be a  
15 Cadillac?

16 A Right.

17 Q That's the same car that you see in the other  
18 photographs?

19 A Yes.

20 Q Show you what has been marked Exhibit 5, do you  
21 recognize this photograph?

22 (Whereupon Exhibit 5 was marked  
23 for identification.)

24 THE WITNESS: Yes. That's the back of her  
25 house, the back of the victim's home.

26 BY MR. THOMAS:

27 Q And looking at, I believe it's Exhibit -- were  
28 there two separate residences on that property?

1 A I do not recall that.

2 Q Show you what has been marked Exhibit 2, do you  
3 see the other building in the rear there?

4 A I do.

5 Q Okay. Was that a detached type of structure  
6 that possibly could hold people in there?

7 MR. SANDERS: What photo are we looking at?

8 MR. THOMAS: We're looking at a different one  
9 right now. He has Exhibit 2 up there.

10 Do you see it in Exhibit 2?

11 THE WITNESS: Yes. I do not recall that  
12 building being there, but obviously it was. It's in  
13 the photograph.

14 BY MR. THOMAS:

15 Q Okay. Show you what has been marked Exhibit 6,  
16 in Exhibit 6, can you see the other building that I was  
17 taking to you about?

18 (Whereupon Exhibit 6 was marked  
19 for identification.)

20 THE WITNESS: I believe I can -- yes. Yes.

21 BY MR. THOMAS:

22 Q Did you do any investigation in that particular  
23 building that you can recall?

24 A I cannot recall other than it was there. We  
25 looked at it, but there was no investigative leads that  
26 we could find in that building. I'm assuming because it  
27 was there. I don't remember the building being there  
28 so...

1           Q     Show you what has been marked Exhibit 7, do you  
2 recognize that?

3                     (Whereupon Exhibit 7 was marked  
4                     for identification.)

5           THE WITNESS:  No, I do not.

6 BY MR. THOMAS:

7           Q     Now, as far as Exhibit 7, if you look at the  
8 previous exhibit, Exhibit 6, can you see what appears to  
9 be a metal-type container?

10          A     Yes.

11          Q     Did you see that in both of the photographs?

12          A     Yes.

13          Q     As far as that metal type of container, you can  
14 see that it's from Exhibit 6 next to what appears to be  
15 the smaller residence or the smaller structure on the  
16 property.

17          A     Yes, yes.

18          Q     Okay.  So looking at Exhibit 7, do you have any  
19 idea what you're looking at as far as the main residence  
20 is concerned?

21          A     Well, in judging what I'm looking at, I'm  
22 assuming you have a water tank with a structure in front  
23 of what I'm assuming -- what appears to be the main  
24 residence or main structure ahead of it deeper into the  
25 picture.

26          Q     Okay.  Then I'm going to show you Exhibit 8.  
27 Do you recall seeing a Jeep at any point on the  
28 property?

1 A I do not, no.

2 Q So as far as the exterior of the property, was  
3 that one of the things that you were assigned to do or  
4 were you assigned to do the interior portion of it?

5 A The interior.

6 Q As far as the exterior portion of the  
7 residence, you were never out there to take measurements  
8 or anything?

9 A We found some tire tracks on the outside of the  
10 residence, but I did not go around the entire structure.

11 Q Since we're speaking of tire tracks, I'm going  
12 to show you an exhibit. It's been marked Exhibit 21.

13 Do you recognize that?

14 (Whereupon Exhibit 21 was marked  
15 for identification.)

16 THE WITNESS: Well, only in as much as it's  
17 tire prints in the dirt. Specifically, I could not  
18 tell you where that was located, but we did take  
19 measurements of tracks that were out in front of the  
20 house and in the general area.

21 BY MR. THOMAS:

22 Q As far as those tire tracks are concerned, you  
23 put that in your report?

24 A I did.

25 Q Would looking at your report refresh your  
26 recollection as to where those tire tracks were?

27 A I think so.

28 Q Specifically, Page 3 of your report underneath