

1 (Whereupon the following proceedings were held at the
2 bench out of the hearing of Juror No. 12:)

3 MR. THOMAS: I was going to ask the Court if
4 the Court can ask if she goes back in the deliberation
5 room and the topic comes up as to whether or not
6 John Sullivan and Fran Sullivan --

7 THE COURT: That's different. I was going to
8 order her to have no conversation about this -- I
9 think what I will do is say to all the other jurors
10 that they should disregard anything they saw that had
11 nothing to do with the evidence in this case; that
12 there was some recognition between these two
13 individuals. They shouldn't speculation about what it
14 was, and I'll order her not to have any discussion
15 about this until deliberations are over and the
16 verdicts are reached.

17 Do you agree?

18 MR. SANDERS: I do.

19 MR. THOMAS: I agree.

20 (Whereupon the following proceedings were held in open
21 court in the presence of Juror Number 12 only:)

22 THE COURT: Okay. Juror Number 12, we're
23 satisfied. Now I'm going to do something that's going
24 to be just special for you. You're a special juror
25 now. I'm going to tell you that we don't want you to
26 talk to the other jurors about this at all.

27 JUROR NO. 12: Okay.

28 THE COURT: So when you go back to

1 deliberate, if they ask you what this was about, I may
2 say something like -- I think I will tell the jury --
3 the other jurors that the two of you recognized each
4 other, and you did not associate the names before.
5 That has nothing to do with this trial, and they
6 shouldn't form any opinion about it or let that enter
7 into their deliberations.

8 Counsel, does that sound right?

9 MR. THOMAS: Yes.

10 MR. SANDERS: Yes, sir.

11 THE COURT: I'm going to order that you're
12 not going to discuss anything about what transpired
13 here between the two of you, the recognition between
14 Ms. Sullivan and yourself. Don't have any talk about
15 that when you're back in the deliberation room. If
16 they want to know where did you recognize her from or
17 how did you know her, just say, I've been ordered not
18 to talk about that until the trial is over and
19 verdicts have been reached.

20 Can you do that?

21 JUROR NO. 12: Yes.

22 THE COURT: Okay. Fine. Let's bring the
23 other jurors back in.

24 (Whereupon the following proceedings were held in open
25 court in the presence of the jury:)

26 THE BAILIFF: Remain seated. Come to order.

27 Court is now in session. Would you like the witness
28 to take the stand?

1 THE COURT: You can get her ready.

2 Ladies and gentlemen, we're all here. You saw
3 that something took place the same time I saw something
4 that took place, and some of you that are seated most
5 closely to Juror Number 12 may have heard that she
6 mentioned to Pete that she recognized this witness as
7 someone she worked with before. We've had a
8 conversation with Juror Number 12, and we're satisfied
9 that it's not going to affect her ability to be a fair
10 and impartial juror. We're not going to have anymore
11 talk about that at all until this trial is over and you
12 can ask Juror Number 12 whatever you want to.

13 When you're back deliberating, if you're
14 evaluating trying to determine how much of someone's
15 testimony that you believe, we're not going to talk
16 about prior experience of Juror Number 12 with any
17 particular witness. We're going to talk about the
18 impressions that you gathered during the entire trial
19 relying on all of the evidence that you have heard to
20 determine what the facts are.

21 Anyone feel differently?

22 Let's bring Ms. Sullivan back in. Sometimes we
23 have exciting and unexpected things that happen in
24 trials. We're moving on along. We've had Ms. Sullivan
25 state and spell her name; is that correct?

26 THE CLERK: Correct.

27 THE COURT: You go by Fran sometimes instead
28 of Francesca; right?

1 THE WITNESS: Francesca.

2 THE COURT: So Sullivan's not a very uncommon
3 name. Someone might have heard the name
4 Francesca Sullivan and not associated it with you.
5 Mr. Sanders has a member of his law firm who shares
6 the name of John Sullivan with your husband so...

7 THE WITNESS: Ex-husband.

8 THE COURT: Okay. So there we go.
9 Mr. Thomas, your witness.

10 MR. THOMAS: Thank you, your Honor.

11

12 **FRANCESCA SULLIVAN**, having been duly sworn,

13 testified as follows:

14

DIRECT EXAMINATION

15 BY MR. THOMAS:

16 Q Good afternoon, Ms. Sullivan. Back in 1985,
17 specifically around September of -- September of 1985,
18 did you go by the last name of Drake?

19 A Yes, I did.

20 Q And at that point were you dating who is now
21 your ex-husband, John Sullivan?

22 A Yes.

23 Q And then I'm going to show you a photograph,
24 put it up on the screen there. I'll bring it up to you
25 at the witness stand.

26 May I approach the witness?

27 THE COURT: Yes.

28

1 BY MR. THOMAS:

2 Q Exhibit 35. Do you recognize the person
3 depicted in Exhibit 35?

4 A Yes, I do.

5 Q Who is that?

6 A Rita Cobb.

7 Q And as far as Rita Cobb was concerned, how did
8 you know her?

9 A I knew her through my ex-husband. He was
10 friends with her, and I met her through him.

11 Q Okay. And how long prior to September of 1985
12 did you know Rita?

13 A Probably couple of years.

14 Q And I assume that you and John would hang out
15 with Rita?

16 A Occasionally, yes.

17 Q Do you recall learning that Rita had been
18 murdered?

19 A Yes, I do.

20 Q And do you recall just prior to her being
21 murdered the last time that you saw her?

22 A Yes.

23 Q When was that?

24 A I believe it was a Friday night. It was a
25 couple of nights before. She was up at John's and my
26 place.

27 Q Then as far as the time that she was up there,
28 you said it was Friday?

1 A I believe it was.

2 Q Okay. And was it nighttime? Daytime?

3 A Nighttime.

4 Q Prior to her going over to -- was it your and
5 John's place or just John's place?

6 A He was caretaking the place, and I was living
7 with him at the time.

8 Q Prior to her arriving at that location, did you
9 meet up with her prior to that?

10 A Not that I can recall.

11 Q Okay. Do you recall there being a pistachio
12 farm around this area?

13 A That's where we were staying, Mini Springs
14 Pistachio Farm. There was another one next door to us.

15 Q So were there several different structures on
16 that, I guess it would be a ranch?

17 A Where I was living?

18 Q Yes.

19 A Yes.

20 Q Were there other people living there?

21 A No. The owners would come up occasionally, and
22 they would -- for a weekend or sometimes when it was
23 time to pick pistachios, they would come and stay at the
24 main house. We stayed in a guest cabin.

25 Q When's the time period for picking pistachios?

26 A September.

27 Q And then as far as that evening, do you recall
28 what time Rita arrived?

1 A No, I don't.

2 Q If you had to estimate, would it be early
3 evening? Late evening? It wasn't 11:00 at night; was
4 it?

5 A No, probably not 11:00 at night. I'd be
6 guessing. It would be a guess but probably 7:00, 8:00.
7 That's a guess. I really don't recall.

8 Q When she came over, what did you guys do?

9 A We were getting together. People were
10 drinking. It was a get-together-type thing.

11 Q Do you recall who else was over there?

12 A My ex-husband. I believe there was another man
13 there named Joe and other than that I really don't
14 recall. I'm sure there were other people, but I don't
15 recall.

16 Q This was just like a social get-together of
17 some sort?

18 A Right.

19 Q As far as Rita was concerned, did you and Rita
20 ever go pick pistachios that night?

21 A That night?

22 Q Yeah.

23 A I doubt it. I don't recall specifically, but I
24 doubt it.

25 Q Do you recall what time Rita left the residence
26 that evening?

27 A Again, specifically, I'd say later in the
28 evening, more like 10:00, 11:00ish. That's my

1 recollection.

2 Q Do you recall being interviewed by a deputy
3 soon after you learned that Rita had been murdered?

4 A I don't recall it. I know when I talked to
5 Detective Alexander, he had the statement and I recall
6 from that, I guess, that I did talk to him, but
7 specifically I don't recall.

8 Q The events of that Friday evening were more
9 fresh in your mind when you spoke to that deputy?

10 A More fresh in my mind at that point?

11 Q Than today.

12 A Yes, definitely.

13 Q In that statement, did you see where you told
14 the deputy that she left at approximately 11:30 that
15 night?

16 A It's been a couple years since I read that
17 statement. I don't recall.

18 Q Would looking at the statement help?

19 A Yes.

20 MR. THOMAS: May I approach?

21 THE COURT: Yes.

22 BY MR. THOMAS:

23 Q I'm directing your attention to the second to
24 the last paragraph. If you can just read the first
25 three sentences, just read them to yourself.

26 A Okay.

27 Q Did you see in that statement where you told
28 the deputy that it was 11:30 when Rita left the

1 residence?

2 A Yes, I do.

3 Q Okay. And if you told that to the deputy,
4 would that have been accurate at that time?

5 A I assume so, yes.

6 Q You wouldn't have tried to mislead the deputy
7 or anything like that?

8 A No, I wouldn't have.

9 Q Okay. Do you know a person by the name of
10 Bruce Nash?

11 A I do.

12 Q Who is that?

13 A He's my brother.

14 Q Okay. Do you recall if Bruce was there that
15 night?

16 A I don't recall.

17 MR. THOMAS: I don't have anything further at
18 this point.

19 THE COURT: Mr. Sanders.

20 MR. SANDERS: Thank you, your Honor.

21 **CROSS-EXAMINATION**

22 BY MR. SANDERS:

23 Q If Bruce Nash said he was there that night,
24 that wouldn't surprise you though?

25 A Not at all.

26 Q And his wife also?

27 A His girlfriend.

28 Q Or girlfriend.

1 A Cynthia?

2 Q Right.

3 A If he said that, then I'm sure that that's what
4 happened.

5 Q You say you can remember you and John being
6 there, and you remember Rita being there and a guy named
7 Joe?

8 A Right.

9 Q Do you remember Joe's last name?

10 A I don't know.

11 Q Was it Joe Saunders?

12 A That sounds familiar.

13 Q Was Joe Saunders someone that regularly came
14 and visited?

15 A He had recently moved to the area, and he had
16 been to our house a few times.

17 Q You said everybody was drinking; is that
18 correct?

19 A I think it was a get-together, and we were
20 drinking, yes.

21 Q Do you remember what you were drinking?

22 A Probably beer.

23 Q Okay. If -- if someone said you were drinking
24 bourbon or white lightning, would that refresh your
25 recollection?

26 A I don't know. No, not particularly.
27 Generally, if I have something to drink, it's beer. So
28 25 years ago, I don't recall.

1 Q Okay. All right. You weren't keeping track of
2 what everyone else was drinking?

3 A No.

4 MR. SANDERS: Excuse me. Just a moment. No
5 further questions. Thank you, your Honor.

6 THE COURT: Redirect.

7 MR. THOMAS: Nothing else, your Honor.

8 THE COURT: Okay. May Ms. Sullivan be
9 excused?

10 MR. SANDERS: Yes, your Honor.

11 MR. THOMAS: Yes, your Honor.

12 THE COURT: Thank you for being with us.
13 You're excused. That was your last witness for the
14 day; is that correct?

15 MR. THOMAS: Yes, your Honor.

16 THE COURT: Well, what do I have tomorrow
17 morning?

18 THE CLERK: Nothing.

19 THE COURT: Ladies and gentlemen, we're going
20 to apologize. Mr. Thomas did not have enough
21 witnesses to keep us busy all day long.

22 You sure you don't want to put
23 Detective Alexander on?

24 MR. THOMAS: We're going to have to wait to
25 put him on.

26 THE COURT: Okay. We will try and make sure
27 that we don't stop too early again, but we will be
28 done for the rest of the day. We'll start back

1 tomorrow morning at 9:00. Ladies and gentlemen,
2 you're admonished that it is your duty not to converse
3 among yourselves or with anyone else about any matter
4 connected with this case nor form or express an
5 opinion on it until it's submitted to you.

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

8 THE COURT: All right. The jurors are gone.
9 Mr. Thomas, are you going to have enough people to
10 fill up the day tomorrow?

11 MR. THOMAS: Depending how long they go.
12 Just so the Court knows, this can be off the record as
13 far as scheduling.

14 THE COURT: I want to make sure that you
15 have extra people here. I don't mind if we don't get
16 to someone.

17 MR. THOMAS: That's what I was going to
18 explain to you. As far as tomorrow, I have
19 John Sullivan coming in. I have Marshall Franey, who
20 was the deputy coroner. Dr. Bill Saukel and
21 Bruce Nash. Those are going to be the four witnesses
22 I have.

23 Then my last witness, which will have to be on
24 Thursday is Detective Alexander. The reason it has to
25 be on Thursday is I need to wait for Mr. Sanders to take
26 out any redactions that he has in the recording because
27 that's what I was going to play on Thursday, and at that
28 point the People would rest. So we're well ahead of

1 schedule.

2 THE COURT: Can those redactions -- I am not
3 sure why the redactions cannot be done before
4 Thursday.

5 MR. THOMAS: Because Mr. Sanders has to look
6 at them. Then I need to make the redactions.

7 MR. SANDERS: I can do those tonight.

8 MR. THOMAS: Then I can get it done tomorrow.
9 I'll do that when I get home tomorrow night.

10 THE COURT: You don't have a secretary to do
11 that?

12 MR. THOMAS: No. I have to do it because I
13 have to ensure that everything's taken out that needs
14 to be taken out. I don't want to leave that up to
15 somebody else.

16 THE COURT: All right. Do you have jury
17 instructions?

18 MR. THOMAS: I'll have those for you by
19 Thursday.

20 THE COURT: Do you know how I like them?

21 MR. THOMAS: I have no idea. Last time I did
22 a trial in here --

23 THE COURT: How about Wednesday? Don't you
24 have the instructions ready? Here's what I want you
25 to do. If you can't do it by tomorrow, that's
26 understandable. I'd like to start working on them
27 myself. What I'd like you to do is give me -- you
28 know that piece of paper that you have, the checklist?

1 If you get me your checklist and just check them for
2 me and bring them over to me.

3 MR. THOMAS: Okay. So the Court does the
4 jury instructions?

5 THE COURT: I'll do the instructions, and
6 I'll meet with both of you, and we'll talk about the
7 special instructions that anybody wants or any
8 objections. Some of them we don't know yet, but I'll
9 pull them up on the computer and probably project them
10 on the screen at the time that I instruct the jury.

11 All you have to do is just don't give me a
12 whole checklist with whatever it is, 30 pages. Just
13 grab the ones that you think apply, check those. And
14 obviously you're going to include murder, the rape
15 instructions, and the murder instruction. So that's
16 going to be -- that's going to be it.

17 It doesn't have to be first thing tomorrow.
18 Mr. Sanders, you can think about whatever specific
19 instructions, any particular ones you want to ask to
20 have.

21 Have a good evening. See you tomorrow morning
22 at 9:00. Be here early if there's anything to discuss
23 before the jury.

24 (Whereupon proceedings in the above-entitled
25 matter were concluded for the day.)

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27

28

1 VICTORVILLE, CALIFORNIA; JANUARY 26, 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 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 morning, ladies and
12 gentlemen. I just noticed we have an empty seat.

13 (Whereupon there was a
14 pause in proceedings.)

15 THE COURT: Back on the record in People of
16 the State of California versus John Yablonsky who is
17 here with his attorney, David Sanders. John Thomas is
18 here for the People along with Detective Rob
19 Alexander, his investigating officer.

20 What are we going to do now, counsel? I
21 suppose the issue is how much do we have to do this
22 morning? Should we wait another 15 minutes? I saw no
23 reason to leave the jurors standing out in the hallway.
24 They may as well be sitting in here. Do we think there
25 was potential for miscommunication? Everybody else got
26 the idea they're supposed to be here at 9:00.

27 Do you want to venture -- somebody want to
28 approach and chat? What do you want to do?

1 MR. THOMAS: We can approach?

2 MR. SANDERS: That will be fine.

3 (Whereupon a bench conference was held
4 off the record.)

5 THE COURT: All right. So we've stalled long
6 enough that all of our jurors are now here, and we're
7 going to continue with the People's case in chief.

8 Mr. Thomas, call your next witness.

9 MR. THOMAS: People would call Bruce Nash.

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

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

16 THE WITNESS: I do.

17 THE CLERK: Thank you. Please be seated.

18 THE BAILIFF: Please state your full name and
19 spell it for the record.

20 THE WITNESS: Bruce Nash B-r-u-c-e N-a-s-h.

21 THE COURT: Good morning, Mr. Nash.

22 THE WITNESS: Good morning.

23 THE COURT: Your witness, Mr. Thomas.

24 MR. THOMAS: Thank you, your Honor.

25

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27

28

1 **BRUCE NASH**, having been duly sworn,
2 testified as follows:

3 **DIRECT EXAMINATION**

4 BY MR. THOMAS:

5 Q Good morning, Mr. Nash. Do you have a sister?

6 A Yes.

7 Q What's her name?

8 A Francesca Sullivan.

9 Q And I'm going to ask you about a photograph.
10 I'm going to show you Exhibit -- may I approach the
11 witness?

12 THE COURT: You may.

13 BY MR. THOMAS:

14 Q I'm going to show you what's been marked
15 Exhibit 35.

16 Do you recognize the person depicted in this
17 photograph?

18 A Yes, that's Rita Cobb.

19 Q How did you know Rita?

20 A She was a friend.

21 Q How long had you known her prior to her death?

22 A Probably about three or four years.

23 Q Do you recall how you originally met Rita?

24 A I believe I met her up at my brother-in-law's,
25 John Sullivan, house up on Mini Springs Ranch up on
26 Highway 18.

27 Q I assume John Sullivan was married to your
28 sister, Francesca?

1 A I don't believe at the time he was but shortly
2 thereafter.

3 Q Okay. And then as far as Rita was concerned,
4 at some point you learned Rita had been murdered?

5 A Yes.

6 Q Do you recall what date you learned that?

7 A I don't know the date. It was a Monday. My
8 sister and John Sullivan and I went to Victorville,
9 like, shopping on Monday. It was a Monday, and when we
10 came back, we saw a bunch of cars at Rita's house, and
11 we stopped. That's when I found out she had been
12 murdered.

13 Q When you stopped, did you -- was an interview
14 conducted with you at some point?

15 A Yes.

16 Q That was by one of the sheriff's detectives or
17 deputies?

18 A I believe so. I don't remember his name.

19 Q Would you looking at a report of that interview
20 refresh your recollection as to the date?

21 A Okay. It was Monday, 9/23/85.

22 Q Did that refresh your recollection?

23 A Yes.

24 Q So you find out Monday, September 23rd, 1985
25 that Rita was murdered.

26 When was the last time that you saw Rita prior
27 to that?

28 A We saw her Friday night.

1 Q And then do you recall where you saw her on
2 Friday night?

3 A It was at John Sullivan's house.

4 Q Okay. Were you familiar with where Rita lived?

5 A Yes.

6 Q And how far away was Rita's house from
7 John Sullivan's house?

8 A She lived probably a mile to a mile and a half
9 farther down 18 going towards Lucerne, I guess, going in
10 a westerly direction.

11 Q I'm going to show you a photograph that's been
12 marked Exhibit 1.

13 Do you recognize what's depicted in that
14 photograph?

15 A It looks like Rita's house.

16 Q And then if you notice on the photograph on the
17 upper right-hand corner of the photograph, there appears
18 to be a garage and inside the garage is a car.

19 A Yes.

20 Q Are you familiar with whose car that is?

21 A I believe it looks like Rita's. She had a
22 Cadillac. I remember that.

23 Q And then that Friday night when you saw Rita
24 over at John Sullivan's house, who else was present if
25 you can recall?

26 A My sister Fran Sullivan, John Sullivan, I was,
27 and Cynthia Hooper (phonetic) and Rita.

28 Q Who was Cynthia?

1 A My girlfriend at the time.

2 Q Was it just the five of you?

3 A Yes.

4 Q Do you recall what time you arrived at
5 John Sullivan's house?

6 A That's kind of hazy. My best guess would be
7 around 5:30 and 6:30.

8 Q Do you recall telling the detectives that you
9 arrived there at about 7:30, 7:45?

10 A No, I don't, but that's very possible.

11 Q And the events that happened that Friday night
12 in 1985, they were more fresh in your memory when you
13 were interviewed by the police than they are today?

14 A Of course, yes.

15 Q And there would be no reason for you to tell
16 the police something that wasn't true?

17 A No.

18 Q As far as arriving there, was everybody there
19 when you got there?

20 A I'm not sure about that. Cynthia and I came
21 together, and I'm not sure if everybody was already
22 there or if people showed up later. I'm not sure.

23 Q Do you recall what if -- what you guys were
24 doing that Friday evening?

25 A Just to get together I believe. I believe John
26 and my sister Fran and Rita were drinking some hard
27 liquor.

28 Q When you say hard liquor, what type of liquor?