

1 Q Is that a restaurant?

2 A It was a restaurant and a motel. Art Bishop  
3 had just recently renovated it. He bought it then  
4 renovated it and had opened it. I stopped in for a bite  
5 to eat, and turns out as he and I spoke, turns out he  
6 was from New York and turned out to be just blocks from  
7 where I grew up.

8 Then he was asking me to stay and be his  
9 manager. I was a sales manager for an automobile agency  
10 down in Long Beach. It was an AMC dealer. Due to the  
11 gas crisis in '79, I came back out to the desert and  
12 planned to be here for a few days and stopping by there  
13 to grab lunch before heading back. Well, turned out, I  
14 got anchored here in the desert.

15 Q That's when you met Rita and you knew her until  
16 her death?

17 A Correct.

18 Q And you said that you heard about her death on  
19 Monday and you had seen her the Friday night before,  
20 three days before?

21 A Yes.

22 Q I believe that you're telling us you don't have  
23 a real good memory of that evening, but you remember  
24 some details?

25 A That Friday night?

26 Q Yes.

27 A There wasn't really a whole lot to remember.  
28 We sat around and talked.

1 Q Fran said that Joe Saunders was there that  
2 night.

3 Do you remember that?

4 A That would have been on Monday night.

5 Q She testified yesterday that he was there that  
6 Friday night at this gathering.

7 Do you remember that?

8 A Joe Saunders?

9 Q Joe Saunders.

10 A I don't remember him coming in.

11 Q You said you did remember Rita saying it's time  
12 to go home sometime around 10:00?

13 A Yes.

14 Q You do remember that you thought that Mr. Nash,  
15 Bruce Nash, either gave her a ride home or accompanied  
16 her home?

17 A Yes, I believe -- well, I know that he drove  
18 her home. Of course, Cynthia followed.

19 Q Did you see them get in the cars?

20 A I believe I did. I don't know what car  
21 Cynthia -- Bruce and Cynthia had come up in.

22 Q Besides the beer you had, did you share any of  
23 Ms. Cobb's bourbon?

24 A No, she did that solely.

25 Q Okay.

26 A Then she ran out and asked me if I had anything  
27 to drink. I said, would you like a beer.

28 Q Right. She declined and you looked around the

1 house and found some white lightning and let her have  
2 some of that?

3 A I knew I had that. I had gotten that from a  
4 fellow by the name of Ben Moritz (phonetic). He was an  
5 old timer around here and after doing a job for him, he  
6 gave me a jar of white lightning.

7 Q You didn't have any of that that night?

8 A Never.

9 Q And you and the prosecutor, you were trying to  
10 figure out the time.

11 You were not quite sure of the time she got  
12 there, but you said you did know it was after dark?

13 A Yes.

14 Q Okay. So you're -- you can't remember what the  
15 clock said, but you know it was dark when she got there?

16 A Right.

17 MR. SANDERS: Thank you, sir. No further  
18 questions.

19 THE WITNESS: I do think it was around 8:00.

20 MR. SANDERS: Okay. No further questions on  
21 cross, your Honor.

22 THE COURT: Mr. Thomas.

23 MR. THOMAS: No further questions.

24 THE COURT: May this witness be excused?

25 MR. THOMAS: Yes, your Honor.

26 MR. SANDERS: Yes, sir.

27 THE COURT: Thank you for being with us,  
28 Mr. Sullivan. You're excused. Call your next

1 witness, please.

2 MR. THOMAS: People would call  
3 Marshall Franey.

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

8 THE WITNESS: I do.

9 THE CLERK: Thank you. Please be seated.

10 THE BAILIFF: Please state your full name and  
11 spell it for the record.

12 THE WITNESS: Marshall Franey M-a-r-s-h-a-l-l  
13 F-r-a-n-e-y.

14 THE COURT: Good morning, Mr. Franey.

15 THE WITNESS: Good morning.

16 THE COURT: Your witness, Mr. Thomas.

17 MR. THOMAS: Thank you, your Honor.

18

19 **MARSHALL FRANNEY**, having been duly sworn,

20 testified as follows:

21 **DIRECT EXAMINATION**

22 BY MR. THOMAS:

23 Q Good morning, Mr. Franey.

24 A Good morning.

25 Q Are you retired?

26 A Yes, I am.

27 Q What did you do before you retired?

28 A I was the deputy coroner for the County of

1 San Bernardino.

2 Q How long were you a deputy coroner for the  
3 County of San Bernardino?

4 A 21 years.

5 Q Do you recall when you retired?

6 A 1997.

7 Q And in order to become a deputy coroner, did  
8 you have to receive any special type of training or  
9 education or anything?

10 A I had pre-training prior to the coroner's  
11 office. I was a funeral director/embalmer. Then I  
12 entered the coroner's office, and we went through  
13 classes with the coroner's office.

14 Q How long were you a funeral director?

15 A 20 years.

16 Q Just make sure that you wait until I'm done  
17 with the question before you answer because the court  
18 reporter is trying to take down all the answers and  
19 questions.

20 A Right.

21 Q So back in -- strike that. As far as the  
22 deputy coroner is concerned, what are some of the duties  
23 that you had?

24 A We go to the scene, and we gather whatever  
25 information there that is necessary that we feel, and we  
26 determine if an autopsy is needed, and we will send the  
27 body to the morgue for an autopsy by our forensic  
28 pathologist.

1 Q So you're familiar with certain terms, such as,  
2 lividity as it's used in your occupation?

3 A Yes, sir.

4 Q Okay. What does lividity refer to?

5 A It's blood settling in the body and it turns  
6 purplish in color or dark after awhile.

7 Q And then as far as lividity is concerned, when  
8 you say blood settling in the body, are you referring to  
9 the location and gravity?

10 A Yes, sir, it would be gravity. Blood will flow  
11 to the lowest part of the body after the death.

12 Q So if a person -- let's say a person's on their  
13 back, you would expect to see lividity appearing on  
14 their back?

15 A Yes, but not completely. If there's any  
16 pressure spot from the body lying there in that one  
17 spot, there may be no lividity in that area, but the  
18 other areas where there's no pressure, then you will  
19 find the lividity.

20 Q So some of the factors that go into it are the  
21 surface that the body is on?

22 A I'm sorry?

23 Q Some of the -- one of the other factors that  
24 might go into this would be the surface that the body is  
25 lying on?

26 A Yes.

27 Q So if the body is lying on a water bed versus  
28 concrete, there might be a difference?

1 A There could be a difference, yes.

2 Q Okay. Do you recall -- do you know of the term  
3 demarcation?

4 A Demarcation?

5 Q Yeah.

6 A Reference -- not -- what are you getting at on  
7 this?

8 Q As far as the body's concerned, is that  
9 something that you just explained as far as demarcation  
10 goes?

11 A Yes.

12 Q Okay. Do you recall back in September,  
13 specifically September 23rd of 1985, where you were  
14 working?

15 A Yes, I was.

16 Q And did you respond to a crime scene in  
17 Lucerne Valley involving a victim by the name of  
18 Rita Cobb?

19 A Yes.

20 Q And do you recall responding to a residence  
21 there?

22 A Yes, I do.

23 Q Do you recall where Ms. Cobb's body was  
24 located?

25 A She was located in the bedroom of her  
26 residence.

27 Q And do you recall what time approximately you  
28 arrived at the residence?

1 A I arrived there about 11:30.

2 Q And then I'm sure there's a certain procedure  
3 that you have to go through before you remove the body  
4 from the residence; is that correct?

5 A Yes, sir.

6 Q So you can't just show up there and then remove  
7 the body from the residence?

8 A No.

9 Q You have to let the homicide investigators  
10 conduct their investigation, and then once they're done,  
11 that's when you're permitted to recover the body?

12 A I do. When I arrived at the scene, there were  
13 deputy sheriffs already there.

14 Q Do you recall the position that Ms. Cobb was  
15 lying in?

16 A Yes, she was lying on a king-sized bed on her  
17 back.

18 Q Do you recall -- do you recall if it was a  
19 water bed?

20 A I don't recall if it was a water bed or not.  
21 No, I do not.

22 Q And was there anything else about her  
23 appearance that drew your attention?

24 A Well, the body was completely nude. The -- she  
25 was laying sort of on an angle on the bed. Her left leg  
26 was off to the left side of the bed. The legs were  
27 spread wide apart. The right leg was bent at the knee  
28 in an upward position and outward from the body.



1 Q I'm going to show you some photographs. I'll  
2 bring up the exhibit so that you can see it. Show you  
3 what's been marked Exhibit 13.

4 A Yes.

5 Q What does Exhibit 13 depict?

6 A Position in which I just explained to you that  
7 she was in.

8 Q And that's a true and accurate photograph of  
9 that position that you just explained?

10 A Yes, it is.

11 Q I'm going to show you another photograph that's  
12 been marked Exhibit 33.

13 Do you recognize that photograph?

14 A Yes, I do.

15 Q And what does that photograph depict?

16 A The decedent laying on the bed in the same  
17 position with a pair of white walking shorts over her  
18 face.

19 Q Do you recall whether or not those white  
20 walking shorts were in her mouth or not?

21 A No. There was tissue paper on her mouth --  
22 tissue paper in her mouth and these white shorts were  
23 lying over her face. Whether they were stuffed in the  
24 mouth or not, that I do not recall right now if they  
25 were.

26 Q Do you recall whether or not the body was in  
27 some condition of bloating?

28 A Oh, yes, yeah.

1 Q What does that refer to?

2 A Well, decomposition. Putrification had set in,  
3 and the body was bloated. There was fluids emanating  
4 from the nostrils, sides of the mouth, running down the  
5 side of the face, which were consistent with the  
6 location of the body.

7 Q So when you say consistent with the location of  
8 the body, you're referring to that the body hadn't been  
9 moved after death?

10 A That's correct.

11 Q Okay. And then as far as the condition of the  
12 body as you saw it, based on your training and  
13 experience both as a funeral director and as a deputy  
14 coroner, do you have any opinion as to how long that  
15 body had been there for?

16 A Well, at least two days.

17 Q And --

18 A Two days, three days, could have been a longer  
19 period of time.

20 Q That was a Monday you went over there, the  
21 23rd?

22 A Right now I couldn't tell you what day it was.  
23 I don't know.

24 Q Let's say hypothetically she was killed on the  
25 evening of September 20th, early morning hours of  
26 September 21st, would the condition of the body as you  
27 saw it be consistent with her being killed at that  
28 period of time?

1 A Yes, it would be.

2 Q What are some of the factors that go into how  
3 quickly a body decomposes?

4 A The temperature, of course, heat.

5 Q Is that the biggest factor?

6 A Yes, of course.

7 Q When you say the temperature, what are you  
8 referring to?

9 MR. SANDERS: Objection, your Honor. He was  
10 never given the opportunity to finish the answer.

11 THE COURT: Yeah. Mr. Thomas, I believe  
12 you're stepping on your witness's lines. Let him  
13 finish the answer before you ask another question.

14 BY MR. THOMAS:

15 Q Were you finished with your answer?

16 A Where are we? Let's start over again.

17 Q What are some of the factors?

18 A Pertaining to?

19 Q How a body decomposes.

20 A Well, when the body starts to decompose, you  
21 get the odor from the body. You'll have skin slip.  
22 You'll have water blisters about the body. The body  
23 usually turns dark in color. A lot of times you'll have  
24 gas emanating from the mouth and the nose.

25 Q Okay. Would a person's tongue start protruding  
26 also?

27 A Yes, yeah.

28 Q If something was stuffed in a person's mouth,

1 would it essentially make its way out of the mouth?

2 A Yes, it would. Yes, it would. As a matter of  
3 fact, her dentures were protruding out of her mouth. I  
4 feel that was from the gases, also, the bloating of the  
5 body.

6 Q As far as the rate at which a body decomposes,  
7 you said one of the factors is temperature; correct?

8 A Yes.

9 Q Okay. And as far as temperature, is -- what  
10 are you referring to as heat? Cold?

11 A Heat and cold. In other words, putrification,  
12 the hotter it is, the quicker the body is going to  
13 decompose.

14 Q If somebody were to turn on a heater in a  
15 residence in the summertime, let's say the outside  
16 temperature is around 80 degrees and the heater is  
17 turned on inside the house on top of that, would that  
18 hasten the process of decomposition?

19 A Yes, it would.

20 Q Other than temperature, are there other factors  
21 that hasten the decomposition process?

22 A Not that I can think of right now.

23 Q Do you recall -- you mentioned something about  
24 white tissue.

25 Do you recall if that was actually in her mouth  
26 or outside her mouth?

27 A It could have been -- it was on her lips, on  
28 her mouth, is what was on there, and when I rolled the

6

6

6

1 body over, it had fallen off to one side. Whether it  
2 was actually protruding within the mouth, I'm not too  
3 sure. It had the appearance that it did.

4 Q Going back to Exhibit 33, I'm going to put it  
5 back up on the screen real quick. I want to point out  
6 something about Exhibit 33. If you notice, the right  
7 leg is bent at the knee.

8 A Yes, I do.

9 Q Do you see there's what appears to be some  
10 discoloration around the knee area?

11 A Yes.

12 Q What, if anything, would that indicate to you?

13 MR. SANDERS: Objection, your Honor. Lack of  
14 expertise. Foundation. He's not a doctor.

15 THE COURT: The objection is overruled.

16 BY MR. THOMAS:

17 Q What, if anything, would that indicate to you?

18 A It could be lividity or it could be an injury.

19 Q Okay.

20 A It could be a bruise from markings of a hand or  
21 anything.

22 Q So as far as you're concerned, without doing an  
23 autopsy, you wouldn't be able to make a determination by  
24 looking at the photograph?

25 A I would leave that up to the forensic  
26 pathologist just to determine what it was.

27 Q Okay. When you arrived, you observed the  
28 location of the victim as far as -- before you removed

1 the victim from the residence, is there anything that  
2 you do prior to the removal of the body?

3 A Well, I examined the body at the time in which  
4 is the process that we're going through.

5 Q You've described --

6 A Um-hmm.

7 Q -- what you observed?

8 A The position of the body. We rolled the body  
9 over to look at the back side and see any injuries to  
10 the back.

11 Q Did you observe anything around the victim's  
12 neck?

13 A Yes, I did.

14 Q What was that?

15 A It was a wire coat hanger wrapped, appeared to  
16 be tightly, around the neck.

17 Q I'm going to show you a photograph that's been  
18 marked Exhibit 16.

19 Can you tell us what's depicted in Exhibit 16?

20 A Um-hmm.

21 Q What do you see in Exhibit 16?

22 A See the victim's head, the tissue paper on her  
23 mouth. This picture was taken after the white shorts  
24 were removed from over the face.

25 Q You were the one that removed the white shorts  
26 from her face or was it one of the other --

27 A It could have been myself or the homicide  
28 detective. I'm not sure.

1 Q This picture was taken after the white shorts  
2 were removed?

3 A Yes.

4 Q Then as far as the photograph, can you describe  
5 to us how this hanger was twisted around the victim's  
6 neck?

7 A Well, it was twisted around in a knot towards  
8 her left side of the body where you could see the wire  
9 twisted in that position. I did not disturb the body  
10 too much as far as this is concerned because I wanted  
11 the body to go to the morgue with that wiring right  
12 there without being disturbed.

13 Q Then as far as the wiring, you said it was  
14 twisted to the left side of the victim's neck?

15 A Yes.

16 Q Was there a handle or something that somebody  
17 could pull to tighten it?

18 A It looked to me like it was the end of the  
19 hanger.

20 Q The part that hangs on the rack?

21 A Yes, sir.

22 Q Okay. And then you talked about you rolled the  
23 body; is that correct?

24 A Yes.

25 Q I'm going to show you a photograph that's been  
26 marked Exhibit 34.

27 Could you describe what Exhibit 34 shows?

28 A Yeah. That shows myself, of course, my arms in



1 which I'm rolling the body over to her left side.

2 Q Okay. And then --

3 A Sheriff's deputy taking pictures of her at that  
4 time.

5 Q And then as far as the roll was concerned and  
6 the photograph, you see what appears to be the  
7 discoloration on the victim's right side.

8 Do you see that?

9 A Yes, sir.

10 Q Okay. Is that what you referred to as lividity  
11 before?

12 A Lividity and decomposition also and also fluid  
13 blisters or watery blisters we call them.

14 Q Then at that point after the body is rolled,  
15 what are you looking for as far as when you roll the  
16 body? Are you looking for anything specific?

17 A Any other injury if there should be any on the  
18 back or any injury at all.

19 Q Did you observe any on the victim, Rita Cobb?

20 A No, I didn't, just the decomposition.

21 Q Once the body is removed, do you also look to  
22 see if -- strike that.

23 Once the body's removed, do you look at the  
24 location again to observe anything?

25 A I look at the bed after the body's removed.

26 Q I'm going to show you another photograph that's  
27 been marked Exhibit 18.

28 Do you recognize what's shown in that

1 photograph?

2 A Yeah. That would be the bed covers that are on  
3 there with bodily fluids on the -- upon the bedding.

4 Q Okay. Would you, as a deputy coroner, look at  
5 the location to determine whether or not the fluids that  
6 you're seeing in Exhibit 18 are consistent with the body  
7 being there for a period of time?

8 A Yes, it would fit it.

9 Q It's consistent?

10 A It's very consistent, yes.

11 Q That's another indication to tell you the body  
12 has not been moved?

13 A That's correct.

14 Q Once you remove the body from the location,  
15 where do you put the body at that point?

16 A The body is removed by the coroner's  
17 transportation service. She is placed in a plastic  
18 zipper-type bag on a gurney and is taken to the morgue.

19 Q That's where the autopsy is preformed?

20 A The autopsy is preformed there in  
21 San Bernardino.

22 MR. THOMAS: Nothing further.

23 THE COURT: Mr. Sanders.

24 **CROSS-EXAMINATION**

25 BY MR. SANDERS:

26 Q Mr. Franey, a couple of questions about your  
27 opinion on the time.

28 A A little louder, would you please? I'm an old

1 man, getting hard to hear.

2 Q Me too. A couple of questions about your  
3 statements about time. You said that when -- you've  
4 gone to a number of scenes where you have picked up  
5 bodies in your work as a coroner and a funeral director;  
6 correct?

7 A Yes, sir.

8 Q In each of those scenes, you've observed either  
9 no decomposition or a lot of decomposition or anywhere  
10 in between?

11 A Yes, sir.

12 Q You indicated a minute ago that based upon the  
13 decomposition you saw, it looked like that body had been  
14 dead two or three days?

15 A Yes.

16 Q All right. And is that based upon what you  
17 observed as far as the decomposition on the body or were  
18 you taking into consideration other factors, such as,  
19 the temperature in the room?

20 A Due to temperature in the room, also, history  
21 of other cases I've been on for years.

22 Q Right. When you arrived at the scene, do you  
23 recall taking the temperature in the room?

24 A No, I did not.

25 Q Do you have an opinion as to what the  
26 temperature in the room was?

27 A At the present time, I have no idea what the  
28 temperature was.

1 Q So you would be unable to -- to tell us the  
2 conditions that that body had been in for 12 hours,  
3 24 hours, 36 hours, 48 hours before you got there?

4 A No.

5 THE COURT: Just a minute. That's -- that  
6 really is compound and complex. Needs to be broken  
7 down.

8 MR. SANDERS: I'll break it down. Thank you,  
9 your Honor.

10 BY MR. SANDERS:

11 Q You don't know what conditions existed in that  
12 room 12 hours before you arrived?

13 A No, I do not.

14 Q Or 24 hours?

15 A No.

16 Q Or 36 hours?

17 A I wasn't there, sir.

18 Q All right. So if there was an extremely warm  
19 temperature in that room before you got there, that  
20 could have made the body decompose faster than average?

21 A Yes, it would.

22 Q And your estimate was based on average?

23 A My what?

24 Q Your estimate of two to three days was based on  
25 average?

26 A That's correct.

27 Q Okay. You mentioned there are a number of  
28 things that happened when a body dies, and I think that

1 you said one of the things is that there's gaseous build  
2 up; is that correct?

3 A Yes.

4 Q The fat cells liquefy?

5 A Yes.

6 Q And there's bloating as a result?

7 A There is.

8 Q Okay. The pressure inside the body increases  
9 after death?

10 A Yes.

11 Q And because of that, liquid comes out various  
12 body orifices?

13 A That's correct.

14 Q You'll see there is liquid that comes out of  
15 ears, eyes, nose, mouth or anus --

16 A Correct.

17 Q -- or urethra or any of those things; correct?

18 A Yes.

19 Q I notice that on the pictures that we were  
20 looking at, there was a -- a lot of body fluid, but you  
21 indicated that none of that body fluid came out as a  
22 result of a wound that you saw, a wound that was on the  
23 body?

24 A That's right.

25 Q Okay. For example, a picture that showed her  
26 face, there was a lot of blood on the side of her face.

27 Is it your opinion that that was postmortem or  
28 after death or that came -- excuse me, let me ask the