

1 question different.

2 Would it be your opinion --

3 A My opinion, I would say it was after death.

4 Q Not a result of a wound she suffered?

5 A I did not see any wound there at that time. If
6 there was a wound, it would have been found when the
7 pathologist examined her.

8 Q All right. And I believe that you said that
9 there -- the prosecutor asked you about a mark on the
10 knee and your answer was that could be lividity or
11 injury, but you have no way of knowing?

12 A No, I do not.

13 Q Lividity, that's another way to describe a
14 discoloration of the blood in the body after death?

15 A Yes, sir.

16 Q Okay. The -- when she was turned, there was
17 large marks on her side, discolorations.

18 Again, is it your testimony that those are
19 artifacts that came about after her death as a result of
20 the operations of --

21 A That's correct.

22 THE COURT: Operations of what -- operations
23 of what? You're saying that's correct, but you don't
24 know what he's going to ask. Wait, please, for the
25 question.

26 The operation of what?

27 BY MR. SANDERS:

28 Q The -- excuse me -- the operation -- lost my

1 word.

2 THE COURT: You want it read back and you'll
3 get reminded or start again?

4 BY MR. SANDERS:

5 Q The operation of decomposition.

6 A Yes. However, if there was any type of injury
7 there at that time, I wouldn't be able to determine
8 that, to see that, until the body gets to the morgue.

9 Q Yes, sir. So you didn't notice any injuries
10 when you saw her?

11 A Not at that time, I did not.

12 Q You took her to the morgue so that the
13 pathologist could do a further exam?

14 A And find out if there were any injuries that I
15 could not find at that time.

16 MR. SANDERS: All right. I don't have any
17 further questions on cross-examination.

18 THE COURT: Redirect.

19 MR. THOMAS: I don't have any further
20 questions.

21 THE COURT: May this witness be excused?

22 MR. THOMAS: Yes, your Honor.

23 MR. SANDERS: Yes.

24 THE COURT: Thank you, Mr. Franey. You're
25 excused.

26 Call your next witness.

27 MR. THOMAS: That's the last witness the
28 People have this morning.

1 THE COURT: Ladies and gentlemen, we're going
2 to have an early morning break. We're going to start
3 back at 1:30. I believe there's only one witness you
4 have, then you plan on resting for this afternoon?

5 MR. THOMAS: Yeah, that's the only witness
6 this afternoon.

7 THE COURT: We may be finished early today.
8 Again, you're admonished that it is your duty not to
9 converse among yourselves or with anyone else about
10 any matter connected with this case nor form or
11 express an opinion on it until it's submitted to you.
12 (Whereupon the following proceedings were held outside
13 the presence of the jury:)

14 THE COURT: Our jury is gone. Anything else
15 we need to do on the record in this case before 1:30?

16 MR. THOMAS: No, your Honor. I gave the
17 Court the checklist this morning.

18 THE COURT: I assume you gave a copy of this
19 to Mr. Sanders, as well?

20 MR. THOMAS: I didn't give a copy of the
21 checklist. I gave a copy of the verdict forms and
22 statement of the offense.

23 THE COURT: Do you have another copy?

24 MR. THOMAS: I can give him a copy of that.

25 THE COURT: Is this the original?

26 MR. THOMAS: Yeah. That's the original.

27 THE COURT: Do you need a copy for yourself?

28 MR. THOMAS: Yes.

1 THE COURT: Make a copy for him. Anything
2 else?

3 MR. SANDERS: Thank you, your Honor. I had
4 indicated to the prosecutor the parts of the statement
5 that I felt should be redacted.

6 THE COURT: Let's talk about a little
7 information before we make assumptions.

8 MR. SANDERS: I believe we agree --

9 THE COURT: Statement that's going to be
10 offered by the prosecution, and it's a statement
11 alleged to be a statement by your client; is that
12 correct?

13 MR. SANDERS: Yes, your Honor.

14 THE COURT: All right. You are not going to
15 object to entry of the statements, but you believe
16 there should be some things that were stated by your
17 client that should be removed from the statement; is
18 that correct?

19 MR. SANDERS: Mostly statements by the police
20 officers but some statements by my client.

21 THE COURT: Mr. Thomas has not disagreed with
22 you and attempted to provide you with specifics of how
23 he intends to redact the statement of your client, so
24 that it is not objectionable to you; is that correct?

25 MR. SANDERS: That's correct.

26 THE COURT: Mr. Thomas, you've seen that, and
27 do you have any reason to disagree with the --

28 MR. THOMAS: No, as far as --

1 THE COURT: -- statements that Mr. Sanders --

2 MR. THOMAS: As far as Mr. Sanders has
3 provided, I don't have any problem with redacting the
4 stuff. The only question I did have for Mr. Sanders
5 is there's reference at the end of the interview where
6 Mr. Yablonsky's invoking. I was planning on taking
7 that out unless you wanted to keep it in.

8 MR. SANDERS: I did this very late last
9 night, and I did forget when he invoked Miranda to
10 take that out.

11 THE COURT: Other than that, sounds like
12 we're in accord on what should be done. No
13 disagreement between the two of you?

14 MR. SANDERS: I believe so.

15 THE COURT: All right. That can't be done
16 until tomorrow.

17 MR. THOMAS: I wouldn't be able to do it
18 until tonight. I'm going to start this afternoon once
19 we're done.

20 THE COURT: How much is it?

21 MR. SANDERS: It's about a three-hour
22 interview. I'm requesting redaction of ten minutes
23 but in different parts of the interview.

24 MR. THOMAS: So I got to go through
25 everything and find out where I got to cut the
26 interview out and make sure it sounds good.

27 THE COURT: Can't be done between 11:05 and
28 noon?

1 MR. THOMAS: No. I'll be up late tonight
2 doing it.

3 THE COURT: Have a nice lunch. Thank you.
4 (Whereupon the lunch recess was taken.)
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1 VICTORVILLE, CALIFORNIA; JANUARY 26, 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, ladies and
12 gentlemen. Back on the record in the case of People
13 of the State of California versus John Henry Yablonsky
14 who is here along with his attorney, David Sanders.
15 John Thomas is here for the People along with his
16 investigating officer, Detective Robert Alexander.
17 Call your next witness.
18 MR. THOMAS: People call Dr. Bill Saukel.
19 THE BAILIFF: Remain standing. Raise your
20 right hand and face the clerk to be sworn.
21 THE CLERK: You do solemnly state that the
22 evidence you shall give in the matter pending before
23 this Court shall be the truth, the whole truth, and
24 nothing but the truth, so help you God?
25 THE WITNESS: I do.
26 THE CLERK: Thank you. Please be seated.
27 THE COURT: Please state your full name and
28 spell it for the record.

1 THE WITNESS: My name is George William
2 Saukel S-a-u-k-e-l.

3 THE COURT: Good afternoon, Dr. Saukel.

4 THE WITNESS: Good afternoon.

5 THE COURT: Doctor, right?

6 THE WITNESS: Yes.

7 THE COURT: Mr. Thomas, your witness.

8 MR. THOMAS: Thank you, your Honor.

9

10 **GEORGE SAUKEL**, having been duly sworn,
11 testified as follows:

12 **DIRECT EXAMINATION**

13 BY MR. THOMAS:

14 Q What's your current occupation?

15 A My current occupation, I am a pathologist at
16 Loma Linda University Medical Center and an associate
17 professor of pathology at Loma Linda University.

18 Q For those of us who don't know what pathology
19 is?

20 A Pathology is the study of -- generically of
21 diseases, and I'm primarily an anatomic pathologist,
22 which is studying the effects of diseases or injuries to
23 tissues.

24 Q When somebody uses the term forensic
25 pathologist, what are they referring to?

26 A --Forensic pathologist is a field that is
27 additional training into the effects of pathology as it
28 relates to other than natural deaths.

1 Q Have you had some training in forensic
2 pathology?

3 A Yes. After I completed my training in anatomic
4 and clinical pathology at Loma Linda, I did an
5 additional year of training with Root Pathology
6 Laboratory, which was an accredited site for forensic
7 pathology during the early '80s.

8 Q As part of that, were you involved in doing
9 autopsies for the County of San Bernardino?

10 A Yes, I was.

11 Q Okay. And do you recall what years you were
12 actually doing autopsies?

13 A I started my training at Root Pathology
14 Laboratory, which had the contract for the forensic
15 pathology services with the County of San Bernardino, in
16 1984. Then I completed my year of training and stayed
17 on for an additional year and was a partner with
18 Dr. Root.

19 Q Before we get to what an autopsy is and
20 everything, did you have to receive some special
21 education or training before you became involved in
22 pathology?

23 A Yes. Before you can take training in
24 pathology, you have to have a degree of medicine, which
25 I attended University -- Medical University of
26 South Carolina from 1976 to 1980. That's when I
27 received my MD.

28 Then for forensic pathology, you have to also

1 previously have had training in general pathology, which
2 was a four-year course, which I did at Loma Linda
3 University Medical Center between '80 and '84.

4 Q Then in 1984, you started working with
5 Dr. Root?

6 A Yes, sir.

7 Q And then as far as autopsies are concerned,
8 what is an autopsy?

9 A An autopsy is the examination of the body after
10 a person has died. So a typical autopsy is an
11 examination of the external of the body then removal of
12 all the internal organs and in most instances
13 subsequently taking samples of those organs, making
14 microscopic slides of them and examining the microscopic
15 slides and then taking the findings from the entire
16 examination and formulating an opinion regarding what
17 were the causes or sequences of diseases that affected
18 the person that led to death.

19 Q When somebody dies, is an autopsy done
20 regardless on everybody?

21 A No. Autopsies in the non-forensic setting,
22 autopsies are done only with permission of the
23 survivors. In the forensic setting, the examination of
24 the body is dictated by the local state laws.

25 Q And how many autopsies have you performed?

26 A Probably 18-, 1900.

27 Q Regarding this specific case, do you recall
28 performing an autopsy on or about September 24th of 1985

1 on a victim by the name of Rita Mabel Cobb, age 55?

2 A Yes, I did.

3 Q While you were preparing this autopsy, did you
4 prepare a report in conjunction with that autopsy?

5 A Yes, I did.

6 Q I imagine, since you've done a lot of
7 autopsies, without that report you wouldn't be able to
8 say, yeah, I remember this specific autopsy and remember
9 exactly all the injuries and documentation?

10 A I wish I had that memory, but I don't.

11 Q So before you came to court, you reviewed what
12 is often referred to as an autopsy protocol?

13 A Yes, I did.

14 Q That autopsy protocol -- can you give us a
15 brief description on what an autopsy protocol is?

16 A The protocol is the written report that is a
17 summary of the examination that I previously described.
18 It's just documentation of what history we have, what
19 examination we did, what we found, and then what our
20 conclusions were. Often we'll have ancillary
21 information regarding studies that may not be routine,
22 such as, toxicology.

23 Q In this particular case, the autopsy of
24 Rita Cobb, I assume you get the body at some point at
25 the office?

26 A Yes. During that period of time, the autopsies
27 from our coroner's office were performed in the morgue
28 of the old San Bernardino County Hospital.

1 Q So the body gets transported by the coroner's
2 deputies to the morgue?

3 A Yes.

4 Q Then once it's at the morgue, eventually you
5 get to it and perform the autopsy?

6 A Yes.

7 Q What's the first thing you did in this case
8 with Rita Cobb's body as far as the autopsy was
9 concerned?

10 A The routine is before we start the autopsy, as
11 you mentioned, we will review whatever information we
12 have available, which may include statements or a
13 written report from the deputy coroner, photographs that
14 they have taken. Then we will confirm that we have the
15 same body. Then we will -- usually the bodies are
16 transported in a plastic bag, and then they're removed,
17 put on the autopsy table. Then we will take photographs
18 of the body. We'll collect trace evidence, and then
19 we'll do the gross examination, then the dissection.

20 Q Okay. In this particular case, did you have an
21 opportunity before performing the autopsy to review some
22 of the photographs?

23 A I probably did. The routine would have been
24 there would have been photographs taken by the
25 investigating deputy coroner that would have accompanied
26 the body.

27 Q Before you came to court, did you have an
28 opportunity to review photographs taken at the scene?

1 A Yes, I have.

2 Q One of the things, I imagine that you would do
3 as a forensic pathologist is try to determine when this
4 person actually died; is that correct?

5 A That's one of the aspects that is evaluated.

6 Q What goes into determining when a -- an
7 individual died?

8 A It's a combination of what findings we have of
9 the state of the body after death. There are a series
10 of alterations that happen as the body normally goes
11 through the decomposition process, and then in addition,
12 you can compare those to evidence at the scene and then
13 reports of when the person was last seen alive.

14 Q Okay. And I forgot to ask you this earlier, I
15 imagine you've had to testify in court before regarding
16 these autopsy protocols?

17 A Yes, I have.

18 Q Approximately how many times have you testified
19 as an expert in court regarding these autopsies?

20 A Probably approximately 20.

21 Q As far as this particular case, Rita Cobb, did
22 you do an examination where you were able to determine
23 or give an estimate as to when Ms. Cobb died?

24 A It's part of the assessment, and on her, the
25 estimate would be based primarily on she had a
26 moderately advanced degree of decomposition,
27 putrefaction, where the body has started to be digested
28 by internal bacteria.

1 In addition, she had evidence of insect
2 activity. Primarily she had fly eggs about the head and
3 the vagina with the hatching of maggots from those eggs.

4 Q And then as far as your observations were
5 concerned, did you form an opinion as to when Ms. Cobb
6 actually died based on your observations that you just
7 mentioned?

8 A Yes. From the degree of decomposition, the
9 body was probably dead at least two days. From the
10 presence of the hatched fly eggs, which take a day after
11 they're laid, it was -- it was at least a day and then
12 the degree of decomposition it was more, probably at
13 least two days.

14 Q Okay. That's two days from when the body was
15 originally discovered?

16 A Yes.

17 Q Then as far as the external examination that
18 you performed, Rita Cobb, can you tell us if you found
19 anything unusual during your external examination?

20 A Yes. The primary abnormality on the external
21 examination is the presence of ligature. In this case,
22 it was a coat hanger that had been wrapped twice around
23 the neck, one loop low in the neck with a wind -- double
24 wind off to the right. Then it was looped back again
25 with a wind and a half on the left side of the neck.

26 Q As far as that particular coat hanger was
27 concerned, did you unwind it or did you just cut it off?

28 A The standard, since you want to be able to

1 exam -- anytime there's been a ligature, you want to be
2 able to reconstruct how it might have been wound whether
3 it was right to left. To preserve that -- those
4 details, the approach when you have any type of ligature
5 is to cut it away from the spots where it's tied or
6 wrapped and secure the ends. With a coat hanger, it was
7 a matter of cutting it since it does not spontaneously
8 unwrap.

9 Q I'm going to show you a photograph.

10 May I approach the witness, your Honor?

11 THE COURT: You may.

12 BY MR. THOMAS:

13 Q Show you what's been marked Exhibit 17.

14 Do you recognize what's depicted in Exhibit 17?

15 (Whereupon Exhibit 17 was marked
16 for identification.)

17 THE WITNESS: Yes. That's the coat hanger on
18 the lower portion, the site at which I cut across the
19 coat hanger to preserve it and remove it from the
20 body.

21 BY MR. THOMAS:

22 Q As far as the coat hanger, did you have any
23 opinion as to how tightly wrapped around the victim's
24 neck it was?

25 A It was sufficiently tight on the body itself.
26 There was actually what's called a ligature mark or
27 furrow in which the coat hanger had been sufficiency
28 impressed into the tissue that left a dried sort of

1 depression where it pushed the skin down. Then it
2 had -- I had an opportunity -- it damaged the surface of
3 the skin. So the tissues will dry out, and it will
4 leave a permanent mark in the body.

5 Q Then as far as the autopsy protocol, I'm going
6 to show you what's been marked Exhibit 48.

7 Do you recognize what's in Exhibit 48?

8 (Whereupon Exhibit 48 was marked
9 for identification.)

10 THE WITNESS: Yes. This is a copy of the
11 protocol that I generated at that time.

12 BY MR. THOMAS:

13 Q Okay. And looking at it, is it a true and
14 accurate copy of the autopsy protocol that was generated
15 by you back in 1985?

16 A Yes.

17 Q This protocol would have been prepared at or
18 near the time that you performed the autopsy?

19 A Yes.

20 Q Then as far as the ligature, I notice on the
21 autopsy protocol there is a mention of a chain.

22 A It looks like the body had several pieces of
23 jewelry, one of which is a necklace or chain that had
24 been broken and was sort of behind and trapped in the
25 ligature.

26 Q Then as far as -- you said there was other
27 pieces of jewelry.

28 Do you recall any of the other pieces of

1 jewelry?

2 A From my description, there was a watch. There
3 were wristbands and one finger ring -- bracelet, I mean.
4 Bracelets and watch and ring.

5 Q And the watch itself, did that appear to be
6 intact still on her wrist?

7 A Yes.

8 Q As far as the rest of the external examination,
9 did anything else catch you as unusual?

10 A Well, the body was found and then brought to
11 the morgue naked. So whenever we have a murder in which
12 the person's not clothed, the routine is to do an
13 examination for sexual assault. So we specifically will
14 do a careful examination of the genitalia and the inner
15 aspects of the legs to see any evidence that there has
16 been injuries.

17 Q In this case did you do that?

18 A Yes, I did.

19 Q Did you find any signs of injury?

20 A There were several faint bruises that were on
21 the inner aspect of her right leg, the largest was
22 three-quarters of an inch. Other than that, she did not
23 have any injuries of her inner thighs or of her
24 genitalia or vagina.

25 Q Before we get to some of those other questions
26 that I had, I want to show you another photograph that's
27 been marked Exhibit 33.

28 You had a chance to review Exhibit 33 before

1 you came into court?

2 A Yes, I did.

3 Q Looking at Exhibit 33, on the right knee area,
4 as the knee's bent in that photograph, there appears to
5 be several areas of discoloration on the knee.

6 A Yes. These are the injuries that were
7 essentially bruises that were there on her knee.

8 Q You're pointing using the laser pointer to the
9 jury on the inside part of her right knee that's bent
10 straight up almost?

11 A Yes.

12 Q As far as those injuries were concerned, did
13 you attribute that to possibly being a result of the
14 sexual assault or a sexual assault?

15 A It's a -- it's one possibility for that type of
16 injury.

17 Q And then as far as the lack of injuries to the
18 genitalia area and specifically her labia and vaginal
19 area, is that uncommon to find a lack of injuries in
20 that area in sexual assault cases?

21 MR. SANDERS: Objection. Lack of foundation.
22 Expertise. I'd like a chance to voir dire the
23 witness.

24 THE COURT: Overruled. You can do that with
25 cross-examination, Mr. Sanders.

26 THE WITNESS: I lost track.

27 BY MR. THOMAS:

28 Q Let me go back and get a little bit more of

1 your expertise.

2 You've had cases dealing with sexual assaults
3 before?

4 A Yes.

5 Q Okay. How many cases have you dealt with
6 dealing with sexual assaults or suspected sexual
7 assaults?

8 A Without going back and finding my notes from
9 that era, I wouldn't recall.

10 Q If you had to estimate?

11 A It was probably less than ten.

12 Q Okay. And as far as those cases were
13 concerned -- strike that.

14 Did you do any research as far as sexual
15 assaults and injuries that people received from sexual
16 assaults?

17 A Yes. As part of the forensic training,
18 essentially, we make use of various reference texts
19 because many of the injuries we might come across are
20 individually relatively uncommon, and so one of the ways
21 that we try to share what we do or don't, how we
22 interpret these, is people publish the results, they
23 will publish a series. Then we have access to those
24 reports to be able to determine if what we are seeing is
25 consistent or inconsistent with our -- what our
26 interpretations may be.

27 So as part of the reading and studying for
28 sexual assaults, one of them was the frequency or the

1 commonality of having injuries versus not having
2 injuries. So for injuries to the genitalia, the
3 presence of injuries is one that more strongly supports
4 that there may have been a forcible assault, where the
5 absence does not exclude that that did happen.

6 Q As far as these sources that you previously
7 stated that you used in doing your research in sexual
8 assaults and the injuries, are those sources normally
9 relied upon by persons in your specific scientific
10 community to come to certain opinions?

11 A Yes. We refer to them as reference texts.
12 They are textbooks that are generally written by persons
13 who have experience in the field and used by those of us
14 in training.

15 Q In this specific case, Rita Cobb, you didn't
16 attach any significance to the fact that you didn't see
17 any injuries to her genitalia area?

18 A No. As a consequence of that, part of our
19 examination of a person who may have been assaulted, we
20 routinely do a series of additional examinations rather
21 than just the -- the gross examination. We will
22 typically collect a variety of swabs from different
23 areas of the body and then examine those to see if we
24 have evidence of sexual activity.

25 Q And in this case, did you collect some swabs
26 from the victim's vaginal area?

27 A Yes, we did.

28 Q And based on the swab -- your examination --