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1 VIRGINIA:

2 IN THE CIRCUIT COURT FOR THE COUNTY OF BEDFORD

3
4 COMMONWEALTH OF VIRGINIA

5 V.

6 JENS SOERING

CLERK
COURT OF APPEALS OF VIRGINIA

DEC 27 1990

RICHMOND, VIRGINIA

CLERK
SUPREME COURT OF VIRGINIA

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9 **TRANSCRIPT OF PROCEEDINGS**

10 June 14, 1990
11

12 -----
13 **APPEARANCES:**

14 THE HONORABLE WILLIAM W. SWEENEY, PRESIDING

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I N D E X

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3 **ELIZABETH HAYSOM**

4 Direct Examination by Mr. Updike
5 Cross Examination by Mr. Neaton

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1 JUNE 14, 1990

P R O C E E D I N G S

9:30 A.M.

2
3 THE COURT: All right, gentlemen, are
4 we ready to proceed?

5 MR. UPDIKE: Yes, sir.

6 THE COURT: All right, call Elizabeth
7 Haysom back to the stand, and then call the
8 jury out.

9 MR. UPDIKE: Your Honor, may counsel
10 approach the bench just a moment?

11 THE COURT: Yes.

12 (Whereupon a bench conference was had
13 out of hearing of court reporter.)

14 THE COURT: If you need a break at any
15 time during the testimony, just indicate to
16 me and we'll take a break.

17 THE WITNESS: Thank you.

18
19 BY MR. UPDIKE: (continuing)

20 Q Miss Haysom, before we continue on past the
21 point where we left off yesterday in the middle of April,
22 there are several points if I could ask for some
23 clarification concerning. First of all, concerning when
24 you all checked into the Marriott Hotel on Friday night,
25 March 29, do you recall --

1 A March 27th, I believe.

2 Q I believe -- well I can provide you with a
3 calendar, I think it was the 29th, but at any rate, Friday
4 night, do you recall how the arrangements were made for
5 payment of the room?

6 A I believe we paid -- I think we paid cash to
7 begin with, put a downpayment down on the room, and then a
8 little bit later on we decided we needed the cash, and so
9 Jens used his Visa card to pay for the room.

10 Q And am I correct in understanding what you
11 said yesterday, that's how the room was ultimately paid
12 for, with that credit card?

13 A Yes, it was, sir.

14 Q Before Mr. Soering left to -- left
15 Washington on Saturday, did you provide him with any
16 information concerning the location of Loose Chippings and
17 how to get there?

18 A Yes, I did, sir.

19 Q How was that?

20 A I drew him a map.

21 Q You drew him a map. And he had been there
22 previously back in February, is that correct?

23 A That's correct, sir.

24 Q Did anything -- can you recall if anything
25 happened concerning your keys, did you have keys to the

1 Haysom house, Loose Chippings?

2 A Yes, I did, sir.

3 Q Do you recall that weekend whether anything
4 happened concerning your keys to Loose Chippings?

5 A I took my keys with me on the trip. I don't
6 know what happened to them, but later on when I was back
7 at UVA and after all this had taken place, I discovered
8 that my keys were missing. I had mentioned it in, I
9 believe the first interview that I had with Mr. Gardner
10 and Ms. Kirkland. And I mentioned it to Jens that my keys
11 were missing, and he told me that he had thrown out my
12 keys and some other items.

13 Q Did he indicate when he threw these items
14 out?

15 A After he killed my parents.

16 Q After he killed your parents. Do you recall
17 any other items he indicated that he threw away, you said
18 the knife and other items?

19 A He mentioned a glass, he mentioned that he
20 had thrown away my keys, the knife, I think he mentioned
21 something about a fork, but I'm not sure.

22 Q A fork, but you're not sure.

23 A (Witness nods head in the affirmative.)

24 Q The knife, what knife were you talking
25 about?

1 A The knife he used.

2 Q Now after returning to the University of
3 Virginia, the days that followed that return, was anything
4 reduced to writing concerning the events of that weekend?

5 A Yes, it was.

6 Q Tell us about that, please.

7 A After I had been interviewed by the police
8 the first time, Jens and I got together with my roommate
9 Christine, and we created a packet of our alibi.
10 Christine actually wrote the document out. We sort of
11 dictated it to her, I suppose -- I'm not quite sure why we
12 had her do it, except that my handwriting is terrible, and
13 Jens's isn't much better; maybe also to have a third
14 person involved. And we dictated to her our alibi. Jens
15 had -- we had already explained to her about Jens being in
16 a brawl on Saturday night, and that's why he had some
17 bruising on his face, and the cuts on his hand.

18 So we created this packet of information, it
19 was in diary form, going from the Friday, I believe, up
20 until the time that we stayed with the Massies. It
21 included the ticket stubs that I had purchased, and it had
22 some receipts, and I'm not sure what else.

23 Q Did both you and Jens Soering then dictate
24 this to Christine?

25 A Yes, we did.

1 Q Christine Kim?

2 A Yes, this is correct.

3 Q Now did you, or did Jens Soering in your
4 presence tell Christine Kim what had actually happened
5 that weekend concerning your activities and Jens Soering's
6 activities as to the death of your parents?

7 A Absolutely not.

8 Q Now have I in recent months asked you where
9 those documents were?

10 A Yes, I have been looking for them for a long
11 time. We tried to find them before my sentencing.

12 Q All right, at that point, when you say we
13 tried to find them, who are you talking about then?

14 A My attorneys, Drew Davis and Hugh Jones.

15 Q And was I not involved in that, I was the
16 prosecutor?

17 A Yes. We contacted a number of different
18 people. I know that when I saw you I asked you about it,
19 you asked me about it, I racked my brain trying to
20 remember who might have seen them, who might have had
21 contact with it, and we found nothing.

22 Q Did you inform me of some places where this
23 document may have been?

24 A Yes, I did.

25 Q Would the people that you suggested to me

1 have included your attorneys Hugh Jones and Drew Davis?

2 A Yes, it would.

3 Q And at my request, did you say anything to
4 Drew Davis and Hugh Jones concerning releasing any such
5 information to me if they had it?

6 A Yes, I did.

7 Q Concerning an attorney in Lynchburg -- or
8 excuse me, Charlottesville by the name of John Lowe, did
9 you at my request speak with John Lowe concerning these
10 documents?

11 A Yes, I did. And I believe that in August of
12 '87, I'm not sure if it was August or October, Hugh Jones
13 and Drew Davis contacted Mr. Lowe as well. He was out of
14 town at the time. They left a message and a release if he
15 had these documents. As I said, he was out of town and he
16 was unable to provide them, we were able to contact him,
17 and I gave him the release again to provide those
18 documents if he had them

19 Q And they were not obtained at that time, is
20 that correct?

21 A That's correct.

22 Q Now on Tuesday of this week as a matter of
23 fact, was that when I requested you to speak -- asked if
24 you would speak with Mr. Lowe concerning these documents?

25 A That's correct.

1 Q And as a result of you doing that, was a
2 copy of the documents obtained that you have described?

3 A Yes, that's right.

4 Q Have I shown you this document to read since
5 it was obtained?

6 A No, you have not.

7 Q I'd like to show you a Xerox copy of what
8 was obtained, the fax time up here at the top, June 12,
9 1990, 1358, 1:58 p.m. from John Lowe, and ask if you can
10 identify the handwriting on the first pages.

11 A Yes, this is Christine Kim's handwriting.

12 Q And as to the handwriting, how many pages
13 are there of that?

14 A Two and a half.

15 Q And in addition to that handwriting, is
16 there anything else attached there?

17 A Yes, there was a -- the fourth page, there
18 is a copy of the hotel bill, and I believe a Visa card
19 receipt, and at the bottom there is a room service guest
20 record, I'm not sure what that is, some kind of receipt.
21 On the next page there is some more receipts for room
22 service, someplace called the Virginian, and there are the
23 ticket stubs.

24 Q Ticket stubs for what?

25 A The ticket stubs to movies, to cinemas.

1 0 All right. If I could have that, please.
2 We would like to introduce this, please.

3 (RECEIPTS MARKED AS COMMONWEALTH'S
4 EXHIBIT 349.)

5 MR. NEATON: No objection

6 Q Miss Haysom, at this time, would you read
7 for us the handwritten entries on these two and a half
8 pages?

9 A Would you like me to read all of them?

10 Q If you would, just beginning at the top, and
11 indicating the date.

12 A Friday March 29th, noon to 13 p.m., sitting
13 around in room 13 p.m. to 14, Sarah for car rental,
14 taxi, ID it says 14 to 15, 2:30, checked out car, Jens
15 at 3 p.m. 15 to 16, left Charlottesville at 3:45. 16 to
16 19, Washington trip, arrived at 7 p.m. 19 to 22, checked
17 into hotel, room service, sex. 22 to 24, Porkey's
18 Revenge, 2401, Hamburger Hamlett on Wisconsin.

19 Q If I could stop you at this point, because
20 it starts out noon to 13 p.m., 13 p.m. to 14, 14 to 15 and
21 so on. Would those numbers be consistent with the 24-hour
22 clock, 14 hundred hours to 15 hundred hours, 2:00 to 3:00?

23 A Yes, that's correct, sir.

24 Q Please continue with the entries, then, as
25 to Saturday, March 30th?

1 A Saturday, 3-30, the date, 3-30. 1 to 8.
2 Most machine and lost card, Jens's, back to hotel. 8 to
3 10, room service 10 to 14 and a half, tour of Washington
4 Drive. 14 to 15 and a half, finding cash. 15 and a half
5 to 16 and a half, lunch. 16 and a half to 19, Witness and
6 getting there. 19 to 20 and a quarter, getting back to
7 hotel. 20 and a quarter to 21 and a half, room service,
8 sex, shower. Paul shouts for the Most, Beth answers. 21
9 and a half to 22, getting to, and then dot, dot, dot. 22
10 to 24, Stranger in Paradise. Sunday, 3-31. 0 to 2, Rocky
11 Horror Picture Show, late. 2 to 3, drunken encounter. 3
12 to 8 and a half, sleep. 8 and a half to 12, room service
13 and sex. 12 to 12 and a half, checking out. 12 and a
14 half to 15, drive back to Charlottesville, stop for gas.

15 Page 2. 15 to 16, return car and taxi back
16 to dorm. 16 to 17 and a half, unpacking and hanging out.
17 17 and a half to 18 and a half, dinner at Tree House. 18
18 and a half to 23, Buddhist exam and studying. 8 p.m.
19 called E -- 8 p.m. E called. 23 on bed, Chris goes to
20 James Dean, 11:00, return at 1 a.m. and reads until 2 and
21 a half a.m. Monday, 4-1 Zero to 8, E called home. 8 to
22 11 and a half, back to bed. 11 and a half to Cave and
23 getting there. 1 to 2, German. 2 to 2 and a quarter,
24 Chris at amphitheater, Vandersee sends --

25 Q And I don't believe the copy shows all of

1 that, but the best that you can there?

2 A Sends E away. There's something written
3 underneath, which I can't particularly make out. Then it
4 says 2 and a quarter to 3, financial aid, \$50, Dean's
5 Office in Peabody for some sort of loan, Lee loan. 3 to
6 3:15, Vandersee. 3:15 to 3:45, dorm, 1:30 drafting, Chris
7 naps while 3:45 to 5:30. Jens in 331 movie, click
8 something 5:30 to 7:30, Tree House, 8 to 10. -- and then
9 it says 8 to 10 to 11:30 Tree House written over the
10 11:30. Citizen Kane at Wilson. Toast wine -- this is
11 where I'm confused. It's 1:30 to 3 a.m., toast wine,
12 Jeremy, John Hakim, John Greenberg, with 12:30 written
13 under his name Danny, and it has made faces in
14 parentheses. Under the 11:30 to 3 a.m., it has an arrow
15 with E called her parents after movie

16 Tuesday, 4-2, 3 a.m. to 11 and a half, sleep
17 and called home. 11 and a half to 12 and a half, getting
18 up and left note with Ghanoonparvar. 12 and a half to 1,
19 got a ride from John Greenberg, Cave, Jim asks Chris K,
20 Mercedes 1 to 2, German, 2 to 3:30. Persian reading. On
21 Page 3, that's 3:30 to 5:30 Ghanoonparvar, with a dash.
22 4:30. Chris. 5:30 to 8:30, Virginian. 8:30 to 11, John
23 Greenberg, The Door, Terry. E called home 11 to 12:30,
24 Tree House, with Phil in parentheses.

25 Q Wednesday 4-3, 12:30 to 3 or 4, back to

4
1 room, architecture, John Greenberg, typing paper, E called
2 Massies -- E called Massies' maid, called back 11:10. 3
3 or 4 to 12:30, sleep. 12:30 to 1, K. 1 to 2, German, 2 to
4 6 and a half dorm, German test Thursday, sleep. 6 and a
5 half to 8 and a half, the trial interrupted by Beth and
6 Tracy, and then it has Massies written on the end.

7 Q Thank you for reading that, Miss Haysom,
8 when you testified before in your trial and in times when
9 I have talked to you in recent months up until just
10 recently, have you been able to remember all three of the
11 movies that were seen?

12 A No.

13 Q Which ones could you remember?

14 A I could remember Witness and Rocky Horror
15 Picture Show. I could not remember what the third one
16 was.

17 Q The third one. Now did I, before Tuesday,
18 and before all of this, did I show you a Xerox copy of the
19 movie page out of the Washington Post for that Saturday,
20 March 30 that had all the movies on it and ask you if you
21 recognized any of the movies, if it refreshed your memory?

22 A Yes, you did, sir.

23 Q Did I indicate in any way any of the movies
24 to you?

25 A No, you did not.

1 Q In our previous discussions or anything that
2 you have said to me, had you ever told me the third movie
3 before that?

4 A I don't remember doing so, I don't remember.

5 Q And once you looked at that movie page, what
6 did you say that the third movie was?

7 A Well I looked at it and I said I couldn't
8 remember and I had no idea. And I was going down the
9 listings, and then I saw the movie and I said it was
10 **Stranger in Paradise.**

11 Q Stranger in Paradise, and that's when you
12 recalled?

13 A Yes.

14 Q Perhaps I'll get that out of your way. If
15 we could continue, we had stopped around the middle of
16 April yesterday, in fact I think I asked you to read
17 certain portions from the April 18 letter. And I think I
18 asked you about the writing at the top of that letter as
19 being Jens Soering's, but I don't think that I asked you
20 to read that. If I could quickly find that, it's just a
21 couple of lines. This should be it, yes. All of that at
22 the top of the page is in Jens Soering's handwriting, you
23 wrote the letter itself?

24 A That's correct.

25 Q What did he write there?

1 A April 18, 1985, apparently a massive failure
2 to communicate. Her misunderstanding a lot of my
3 unqualified statements. My rather nasty letter in reply
4 destroyed upon my insistence. Do you know when Jens
5 Soering wrote that on top of that letter?

6 A I have no idea.

7 Q As the school year continued from the middle
8 of April, did you have the occasion at some point through
9 there to actually go to Loose Chippings, the house, and
10 see what was there, or what remained after the
11 investigation and the house had been released to the
12 family?

13 A Yes, a police officer, Chuck [redacted] body, I
14 can't remember his last name, took my brother and myself
15 to the house. It was supposed to be some [redacted] of
16 cooperative effort to see if anything was [redacted] ing. And he
17 described what they had found, what the police had thought
18 had taken place. I was staying at the Mas [redacted] at that
19 time, and that is was when [redacted] discovered the [redacted] a
20 bedspread that Jens had taken.

21 Q How did you discover that?

22 A Well it was missing, it wasn't on the bed.

23 Q Off of which bed?

24 A My father's bed, the first bed as you walk
25 into the bedroom.

1 A And when we returned to the Massies I wrote
2 Jens a letter, and I drew what I had seen. And I asked
3 him if that's what he had done. The violence that the
4 police officer had showed us, and it was obvious in going
5 around the house was much greater than I had realized, or
6 that had been described to me. And I sent him a letter
7 and I drew the blood smears, the footprint, the positions
8 of the bodies, and it was a very hostile letter, it was.

9 Q Why was it hostile at that point?

10 A Well I was shocked. It wasn't hostile that
11 I was really condemning him, but I was shocked. I had no
12 idea it was quite so horrible. I think I imagined
13 something very tidy and something not so real. He
14 received my letter, he was in Detroit at the time, he
15 received my letter, and I hadn't called him or he called
16 me at the Massies', I believe I called him, and we
17 discussed it on the telephone. And he at that point
18 denied having been so violent, and he insisted that
19 somebody else must have done the -- the rest of it.

20 Q Somebody else must have done the rest of it?

21 A Yes. He said that he had absolutely nothing
22 to do with any kind of voodoo or black magic or anything
23 like that, that all he tried to do was clean up the blood;
24 that he had not stabbed my parents that number of times.
25 He was quite insistent.

1 Q Now you indicated yesterday that in
2 Washington Jens Soering said to you that he cut your
3 mother first?

4 A That's correct.

5 Q Now when we had this discussion, this
6 confrontation after the letter, what if anything did Jens
7 Soering say at that point concerning the order of the
8 injuries and how things happened?

9 A Well after this discussion he insisted upon,
10 from then on that he cut my father first.

11 Q Cut your father first?

12 A Yes, sir.

13 Q And if you would, if you would just kind of
14 describe the events of the school year ending, the summer,
15 obviously we would be leading up to the fall when the
16 events of September and October and your leaving, but
17 before we get to September and October, if you wouldn't
18 mind just a kind of an overview of where you all were,
19 where you were, where the defendant was.

20 A Well I believe that all of what I just
21 described was after it was the end of the school year,
22 Jens had already returned to Detroit, I stayed behind in
23 Lynchburg for a short time. By this time I had decided
24 that I was going to go to Europe with him for a month.

25 Q That you were or were not?

1 A That I was.

2 Q Okay.

3 A I borrowed some money from the Massies, and
4 my cousin Myrim, that was money for the trip, and amongst
5 my father's things a cashier's check was found for my
6 birthday and I used that as well. And I flew from
7 Lynchburg up to Detroit to spend some time with Jens and
8 his family, I was there for a week, I believe. Then I
9 went to New York and stayed with some cousins in New York
10 State. From New York State I flew to Europe where I met
11 Jens in Germany. We spent a month together in Europe. We
12 returned separately, I returned back to New York, I spent
13 some more time with my cousins, then Jens drove down from
14 Detroit, picked me up and we drove down to Charlottesville
15 to attend summer school together.

16 Q Drove from Detroit and picked you up where?

17 A In New York City. We drove down to
18 Charlottesville, attended summer school, and then when
19 summer school finished, Jens returned back to Detroit and
20 I went up to Nova Scotia and spent some time with my
21 brothers.

22 Q And at some point thereafter, we are getting
23 near the point, I would assume when the school year is
24 about to start, is that correct?

25 A Yes, I was in Nova Scotia I think for two or

1 three weeks. When I returned, I flew back to
2 Charlottesville, I guess, and we started the fall
3 semester.

4 Q And as the fall semester starts, would that
5 be the end of August, first of September?

6 A It was a little bit later than that, because
7 it was our second year, and we didn't have to be there
8 before the beginning orientation, so it was probably about
9 the second week of September, something like that.

10 Q Upon your return to Charlottesville, where
11 were you living and with whom, and where was the defendant
12 living?

13 A I was living at 803 Rugby Road in a house
14 with Christine Kim and two other girls, undergraduates,
15 and a graduate student.

16 Q And that on Rugby Road, was that a house?

17 A Yes, sir.

18 Q Where was the defendant living as his school
19 year began?

20 A He was living in university housing, I don't
21 remember the name of the place, but it was standard
22 university housing.

23 Q And as the school year began in September,
24 did there come a time when the police investigators wanted
25 your footprints, your anatomical footprints?

1 A Yes, they did. They asked for my blood
2 samples as well.

3 Q And how did this come about and where did
4 this occur?

5 A I believe Ricky Gardner or somebody
6 contacted me when I was in Charlottesville, they said they
7 needed to get these things, did I have a problem, I said
8 no, I provided them. They came and picked me up, took me
9 down to Charlottesville Police Station and took my blood,
10 and then I was interviewed at some station and they took
11 my footprints, and you have them.

12 Q Now when the police officers obtained your
13 blood and your anatomical footprints, did they have a
14 search warrant?

15 A No, they did not.

16 Q Did you voluntarily provide those items?

17 A Yes, I did.

18 Q And the items have been introduced as
19 Commonwealth's Exhibits 39 and 40 taken on September 26,
20 1985. After that occurred that you provided those items
21 of evidence, would you describe what if any conversations
22 that you had with Jens Soering concerning what was done
23 with you, anything that they wanted, the police that is,
24 wanted to do with him, what happened thereafter?

25 A Well, that last interview that I had with

1 Ricky Gardner was rather unpleasant. He wanted to know
2 where Jens was, he was asking me a lot of questions about
3 Jens, why wouldn't Jens give his fingerprints and the
4 other things that were needed, and he said that he had had
5 a very difficult time trying to locate him, where was he.
6 At the time of the interview he was sitting in my room in
7 the house, and I told him that I had no idea where Jens
8 was, and that was his job to find him, and I didn't
9 want -- he shouldn't be asking me about Jens, that he
10 should speak to Jens had himself, and it was a hostile and
11 very unpleasant interview.

12 I, in a temper tantrum, tried to provide him
13 with Jens's phone number so that he could contact him
14 himself. After that interview Jens was waiting for me in
15 my room. I told him that they really wanted his forensic
16 samples and things, and that they were looking for him,
17 and that he would have to do something, he would have to
18 contact them or something, and it was a big source of
19 tension.

20 Q And from that point on, we're leading up to
21 the point where Jens Soering left on October 12th, I
22 think, Saturday, and you on October 13. But before we get
23 there, at the point that you have given your blood
24 samples, and the blood sample and footprints, just
25 continue if you would, describe the events leading up to

1 your departure, how did that come about?

2 A After some more of these -- some discussions
3 about what was going on, I had been trying to inform Jens
4 of what exactly was going on with the investigation so
5 that he would have some idea, and at that time we believed
6 that the police had fingerprints of his.

7 Q Why did you believe that? Was there any
8 specific reason?

9 A Apparently it was paranoia, but he had
10 fingerprints and he wanted to match them. And we were
11 absolutely sure that they must be a set of his. For some
12 reason, I misunderstood somewhere along the line, and I
13 thought you had a partial print actually in blood, and we
14 were very concerned about that.

15 Q Now these things that you thought about the
16 scene and the evidence that the Sheriff's Department had,
17 did you communicate those things to the defendant?

18 A Yes, we discussed them a great deal.

19 Q Now in your interviews back in April, was it
20 discussed with you the matter of the mileage on the car,
21 and the discrepancy?

22 A Yes, it was.

23 Q Before Jens Soering was interviewed on
24 October the 6th, 1985, had you told him about that
25 discrepancy in the mileage and what the police officers

1 knew about the car?

2 A Well, from the beginning we knew that the
3 mileage on the car was going to be a problem, and we
4 decided that it was just circumstance, and it was
5 suspicious, but it was something that was -- we'd have to
6 let it be.

7 THE COURT: May I interrupt for just
8 one question, I don't usually interrupt, but
9 on the trip from Charlottesville going to
10 Washington, did you detour or did you go
11 straight up?

12 A We did get lost. We got off on the wrong
13 road, but it was only a few miles, we went through
14 Arlington instead of staying on the main highway.

15 Q And as far as getting lost there, was that
16 getting lost a situation involving a lot of mileage or
17 not?

18 A No. Somehow we had taken the wrong turning,
19 and instead of staying on the main highway we had gone
20 off, and it was probably not more than 10 or 15 miles.

21 Q Thank you. It's in evidence that Jens
22 Soering was interviewed here in Bedford on October 6,
23 1985?

24 A (Witness nods head in the affirmative.)

25 Q Would you describe the events as you saw

1 them, or anything that you observed as you saw the
2 defendant leading up to that interview?

3 A He had one or two phone calls with his
4 father, I know that, because they were at my house, they
5 were on my telephone about that he should be more
6 cooperative, and that's one of the reasons why he agreed
7 to give the interview. And he also had the feeling that
8 maybe if he gave the interview that they would back --
9 that Ricky Gardner would back off. So he agreed to give
10 the interview. He went down, I believe it was a Sunday.

11 When he came back from that he was very
12 pleased, he was very confident that things had gone well,
13 except for Ricky Gardner. He felt that Ricky Gardner was
14 very suspicious of him, or didn't believe him. And on
15 Sunday night he said that if Ricky Gardner was dead, that
16 the investigation would finish, that the other police
17 officers would not pursue it. I disagreed with him on
18 that, but the whole idea of that frightened me, and it
19 really seemed like the answer to what was going on.

20 Q Did Jens Soering actually say anything
21 threatening against Ricky Gardner?

22 A Yes, he did, he asked me to be his alibi
23 again.

24 Q He asked you to be his alibi again?

25 A Yes, sir.

1 Q For what?

2 A He said that he knew where Ricky Gardner
3 lived, and that he could drive there and kill him.

4 Q What happened then?

5 A Well I was in a rather peculiar position,
6 because I couldn't exactly moralize that it was wrong to
7 kill people. So I created this very bizarre series of
8 lies so that I could not be his alibi. I, on Monday I
9 suddenly had a brain tumor.

10 Q A brain tumor?

11 A Yes, sir.

12 Q Suddenly?

13 A Yes. And I had to go into the hospital.
14 And I did in fact go to see a doctor. And on the Tuesday,
15 I had to have the brain tumor magically taken away. I
16 believe I called it experimental surgery, laser surgery or
17 something.

18 Q When you say that you suddenly had a brain
19 tumor, what do you mean by that?

20 A Well I just woke up on Monday morning and
21 said I have this terrible headache, I need to go to the
22 doctor, I marched over to the UVA hospital, saw a doctor
23 at the student's medical facility, and came back and said,
24 well they say I have a brain tumor.

25 Q And did you tell, then, when you said I

1 said, are these things that you told Jens Soering?

2 A This is what I told Jens.

3 Q Why did you tell him that you had a brain
4 tumor and pretended -- well went to the doctor.

5 A (Witness nods head in the affirmative.)

6 Q Did you actually see one?

7 A Yes, I did.

8 Q And then you came back and told Jens Soering
9 that you actually had a brain tumor?

10 A Yes, I did.

11 Q Why did you do that?

12 A So that I couldn't be his alibi, and that he
13 would be unable to, I suppose unable to go down to Ricky.

14 Q And what happened then?

15 A Well, then that plan was dropped, because I
16 had this brain tumor, and I was obviously no good for an
17 alibi. So Jens decided that -- both of us decided that
18 the next course of action would be to call Bedford and
19 tell them that Jens would be prepared to give the forensic
20 evidence that they wanted, and stall them, and we would
21 leave.

22 Q Now it's in evidence that that phone call
23 was on Wednesday, October the 9th, just so we know where
24 we are.

25 A (Witness nods head in the affirmative.)

1 Q What happened then, did Jens Soering
2 actually call the Sheriff's Department?

3 A Yes, he did.

4 Q And agree to do what?

5 A He agreed to give his fingerprints and
6 blood, I believe.

7 Q And blood.

8 Q And when he called, did he indicate when he
9 would do this?

10 A I think it was a week from that Wednesday
11 that he was supposed to come back to Bedford again. He
12 said that he couldn't come down sooner because of
13 mid-terms or something like that.

14 Q So that's Wednesday, October the 9th. What
15 happens then?

16 A The whole thing becomes more bizarre. By
17 this time, I am becoming pretty unraveled and unglued
18 about what's going on. I realize that Jens has to leave,
19 and I'm not sure what I want to do, I'm not sure whether I
20 want to leave with him, I'm not sure if I just want to
21 stay at UVA and carry on pretending and just act like
22 nothing's happened and I don't know why he's vanished. I
23 got very scared as to the very concrete definite move of
24 leaving. So I fabricated another story, one that has
25 persistently gotten me into trouble ever since.

1 Q What story is that?

2 A I told Jens on Thursday or Friday that I had
3 IRA contacts, and that I would be able to contact them and
4 get us passports, and money, and all of that. The reason
5 why I did this was because this would mean I had to fly to
6 London, and the flights for London were different than the
7 flights to Europe. And Jens had to leave on Saturday,
8 that was the least suspicious day for him to leave, he
9 would finish up classes, and then there was a story that
10 he would get a phone call, or a friend in Washington would
11 invite him up to Washington for a reunion, and he would go
12 up to Washington on the Saturday and never be seen again.

13 Q Do you remember the name of that friend at
14 this point?

15 A I think -- I'm not sure exactly, it was
16 either Giles or Richard, I'm not sure. And with this
17 story that I had, the flight for me that was convenient
18 was not until Sunday or Monday, and I made sure that in
19 the story that I told Jens that the time that I would have
20 to meet these people was a little bit later, a few days
21 after he left, which would give me some time to find out
22 what was happening, what was I supposed to do.

23 Q As far as you wanting to leave later, did
24 you know at that point whether you did want to leave?

25 A I had no idea. All I knew was I needed some

1 time alone without the pressure from Jens, not the
2 pressure from the police, the pressure from my family, I
3 mean I was juggling 10 different lives, and lying all at
4 once. I was -- it was just a complete chaos and
5 confusion. And I needed some time alone to try and think
6 things out in some sort of rational way.

7 Q You mentioned pressure from Jens Soering,
8 what type of pressure during this period, from the time of
9 the death of your parents through the summer and up to
10 this point, what kind of pressure were you receiving from
11 him?

12 A Well, he was in a very difficult position,
13 because as I said yesterday, he was solely dependent on me
14 to not tell, to lie well, and therefore he was very
15 concerned about how I conducted myself, and didn't like to
16 be too far away from me. And he liked to know exactly
17 what I was saying to whom, why, everything that was said
18 at any time. He had different ideas about how I should
19 conduct my interviews, and over a period of time it became
20 more evident to him at least that although I was doing a
21 good job with the lying and the pretending, that when I
22 was with him, I was beginning to fall to pieces.

23 My drinking and drug habits had increased a
24 great deal, and I just was having a terrible time. And he
25 could see that, he could see that, he was very suspicious

1 of that, and this bizarre thing of the brain tumor, and
2 the bizarre thing with the IRA, he was very suspicious,
3 and he had the right to be, because I didn't know what I
4 was doing.

5 Q Your relationship at that point was what,
6 the relationship between you and Jens Soering?

7 A Um, I think it was one of mutual fear. I
8 feared him, and I'm sure in many ways he feared me.

9 Q You stated earlier, and in your writings
10 before the death of your parents that you wanted freedom,
11 emotional freedom.

12 A (Witness nods head in the affirmative.)

13 Q After the death of your parents through this
14 period of time, and as a result of your relationship with
15 Jens Soering, did you have the freedom that you had wanted
16 before the death of your parents?

17 A No, sir.

18 Q Why not?

19 A I think what happened was that Jens sort of
20 took the place of my parents. I did what he said, I
21 feared his anger, I feared his disapproval, and at the
22 same time I had to lie to him.

23 Q Were those things that you did with your
24 parents?

25 A Yes, sir.

1 Q Did what they said, lied to them and the
2 other things that you described?

3 A Yes.

4 Q Had your situation in those respects been
5 duplicated?

6 A Yes, they had. Exactly like I did, but Jens
7 in my mother's position.

8 Q How was -- before we get to the point of the
9 departure, and before we get to that, I may even ask for a
10 break, but before we get to that, how was Jens Soering
11 acting -- well what if anything was he saying and acting
12 concerning the murder of your parents?

13 A Well about the time that we went to Europe,
14 well definitely while we were in Europe for that month,
15 and after that, Jens said that it was the greatest thing
16 he had ever done, it was a selfless act, and that he had
17 done it out of love for me, and he said that the only
18 drawback was that it was this wonderful act that he had
19 done, but nobody would ever know.

20 Q Nobody would ever know.

21 A (Witness nods head in the affirmative.)

22 Q As far as the IRA story that you made up.

23 A (Witness nods head in the affirmative.)

24 Q Why did you tell Jens Soering about an IRA
25 contact as opposed to something else, why that specific?

1 A For two reasons, the first reason is that
2 when I was in Europe a few years before, when I was in
3 Berlin, I had been assaulted buy some Irish youths, and it
4 was because of that assault that I finally met up with
5 Colonel Harrington and he returned me to my parents. When
6 I was returned from Berlin to London to meet up with my
7 brother and later on my father, at my father's request, I
8 spoke to a Scotland Yard Interpol police officer about the
9 five young men, because they had said that they were
10 involved with some kind of terrorist organization, whether
11 it was true or not, I do not know. And I told him what I
12 knew.

13 I had told that story, or a variation of it
14 to Jens, and so that gave some credibility to me knowing
15 somebody like this. It also appealed to him, he enjoyed
16 reading Soldier of Fortune Magazine and other magazines
17 like it, and the -- something about the terrorism, or
18 terrorists, or hire to kill, whatever, appealed to him,
19 and so the intrigue, or whatever of knowing these people,
20 getting new passports, and we actually got passport
21 photographs taken before we left Charlottesville, and that
22 whole scenario appealed very much to him, and so I fed it
23 to him, because I knew he'd want to believe it, it was
24 something.

25 Q Was there any change in that regard that you

1 can describe as to Jens Soering after the murder of your
2 parents as to interest in these sorts of things?

3 A If I remember correctly, he had always, as
4 long as I had known him, he had a subscription, or he had
5 purchased **Soldier of Fortune Magazine**, and had some sort
6 of interest in that type of thing, but it definitely
7 **intensified after the murders.**

8 Q Would he talk about what had happened to
9 your parents at times, and if so, what kinds of things
10 would he say and how would he say it?

11 A Well after discussing it that first time, or
12 first couple of times when the murders actually -- after
13 the murders actually took place, I asked him not to speak
14 on it too much, because in times we'd be putting on the
15 show for the police and for family and for friends, I
16 thought that it was best that I know as little as possible
17 so it would be as easy to lie. But he did bring the
18 subject up, **he would discuss it**, it would be things like
19 we'd be **sitting watching a movie**, and he would just say
20 oh, it's not like that, this is not like that.

21 Q What kinds of movies?

22 A Um, murder mysteries, or some of the psycho
23 movies or whatever, he'd say it's just not like that.

24 MR. UPDIKE: Your Honor, would you like
25 for me to --

1 THE COURT: We'll take a recess,
2 approximately 10 minutes.

3 (Whereupon a recess was taken.)
4

5 BY MR. UPDIKE: (continuing)

6 Q Miss Haysom, we stopped in the area of that
7 Wednesday, October 9th when Jens Soering called the
8 Sheriff's Department and indicated that he would do these
9 things, provide the samples the following week. And if
10 you would, just continue, then, through the rest of the
11 week, what happened, leading into Saturday.

12 A Okay, as I explained that, I told him this
13 very peculiar story about the IRA, and we phoned the
14 airline companies to make sure we got the flight
15 arrangements and things like that. And on Saturday we
16 told everybody, our peers, our friends, that Jens had been
17 invited up to Washington to visit a friend of his, and on
18 Saturday he drove up to Washington and caught a flight
19 from Washington to New York, I believe. And Saturday
20 evening he called me from the airport. We were pretending
21 that the call was coming from Washington and that he was
22 having a wonderful time in Washington with his friend, and
23 that he was inviting me to come up to Washington as well.

24 Q Had that been discussed as a plan for you to
25 follow before he left?

1 A That's correct, sir.

2 Q So he made that call, and then what
3 happened?

4 A This was Saturday evening, he flew from
5 Newark in New Jersey, New York, to Brussels. Meanwhile,
6 I'm still in Charlottesville, and I'm trying to decide
7 what on earth I am going to do. And I get a phone call
8 from my brother, which panicked me, and I decided to leave
9 as well. And I left on Sunday.

10 Q You left on Sunday?

11 A Yes. -

12 Q Why did the phone call from your brother,
13 this would have been from Howard, is that correct?

14 A That's correct.

15 Q Why did this panic you?

16 A He said that he was coming to see me, and he
17 wanted to see myself and Jens, he wasn't sure when he was
18 arriving, he was very unspecific on that, sometime on
19 Sunday or Monday he was going to be showing up. He wanted
20 us to come to dinner with him. I tried to put him off and
21 said, well I'd love to, I'm sure Jens is doing something
22 else. He said no, I really want to see both of you. He
23 asked me if there was anything he could bring me, I made a
24 joke about some chocolates or something. And we had a
25 very strange conversation about blood.

1 And I don't know whether it was my own
2 paranoia, or whether he was extremely suspicious of me at
3 the time, but it frightened me, and I knew I had to leave,
4 I couldn't face him. So I left on Sunday. The story was
5 was that I was taking a bus to Washington to meet Jens, to
6 meet him there, and the reason why I had so much luggage
7 was that I was taking some things for my cousin Cheetah to
8 put on the bus for her.

9 I actually went, I took a taxi to the bus
10 station, took another taxi from the bus station, went and
11 got some little bit of money out of the Most machine and
12 then I flew from Charlottesville to Washington, I think,
13 and from Washington to Newark, and then I took the same
14 flight on Sunday that Jens had taken the previous day to
15 Brussels.

16 Q To Brussels. Now you say that your story
17 was that you were going by bus to Washington?

18 A (Witness nods head in the affirmative.)

19 Q And when you say that, the story was to
20 whom, I mean who --

21 A To Christine, to her boyfriend, to the
22 people around us, around me at the time.

23 Q I see. So then you went Charlottesville,
24 Washington to Newark, then the same flight that Mr.
25 Soering took from there, Newark to Brussels?

1 A Yes.

2 Q You were earlier talking about that you were
3 supposed to fly to London?

4 A Yes.

5 Q Why didn't you do that, or was there any
6 particular reason?

7 A There was no reason for me to go to London,
8 because I wasn't meeting anybody there.

9 Q Did you ever tell during this period of
10 time, ever tell Jens Soering that the story concerning the
11 IRA was not true?

12 A No, I didn't.

13 Q The IRA contact I think was Rover, is that
14 right?

15 A That's correct.

16 Q The letters that I have referred you to some
17 several times, the Commonwealth's Exhibit 43, all of these
18 that were recovered from the flat that the two of you had
19 in England, who took these from Virginia to England?

20 A Jens took those with him.

21 Q He took those with you?

22 A (Witness nods head in the affirmative.)

23 Q Most of the letters, not all, but most of
24 them in here are letters that you wrote to him.

25 A Yes, they are.

1 Q Was there any reason that you saw as to why
2 most of these letters in England were those of you to him?

3 A Well I didn't realize that he had taken them
4 to begin with when we first set out, because we had
5 together destroyed a great many pieces of paper that we
6 thought were incriminating in any way, and so I had
7 assumed that those letters were destroyed. He told me
8 when he phoned from Newark that he had some letters, and
9 that I had better have torn up what I said I had torn up
10 or he would come back and get me.

11 Q Or he would come back and get you?

12 A Yes.

13 Q This was on Saturday when he called you from
14 Newark?

15 A Yes, sir.

16 Q The originals of what we have introduced as
17 a copy of Commonwealth's Exhibit 349, the three-page
18 handwritten notes, the copies of the tickets and so forth,
19 did you all take the originals with you?

20 A No. I don't know what happened to the
21 originals. I had a couple of copies. I remember
22 specifically that I had a copy in a little pine chest that
23 I had in my study, and that was destroyed. I thought I
24 had given or shown a copy to either John Lowe or one of my
25 brothers, but as far as I knew, everything was destroyed.

1 Q Did you yourself give this copy to John
2 Lowe, the one that we recovered from him this week?

3 A No.

4 Q Do you yourself from your own personal
5 knowledge know where the originals of those documents are?

6 A On Tuesday Mr. Lowe said to me on the
7 telephone that he had received a letter from an attorney.

8 MR. NEATON: I am going to object to
9 the hearsay statements of the witness,
10 Judge. He asked if she knows of her own
11 knowledge.

12 THE COURT: Yes, sir. The practice is
13 to stand when you address the Court, Mr.
14 Neaton. You've been doing it all right, you
15 just forgot then, I know.

16 MR. NEATON: I'm sorry, Your Honor.

17 THE COURT: The objection is to
18 hearsay. What do you say to that, Mr.
19 Updike?

20 MR. UPDIKE: No response, Your Honor.

21 THE COURT: Sustained.

22

23

24 BY MR. UPDIKE: (continuing)

25 Q Rather than what you have been told, do you

1 know from your own observations where the originals are?

2 A No.

3 Q Before we leave the events of that weekend
4 of October 11, Friday the 12th, Saturday and the 13th,
5 Sunday, I'd like to show you the diary which was also
6 recovered from the flat in London, and could you identify
7 that, are you familiar with that?

8 A Yes, I am.

9 Q The reason that I show you that at this
10 point is that it has entries concerning that weekend, it
11 begins with October 5, continuing on for some several
12 months after that. When was this diary written?

13 A I'm not exactly sure. It was started
14 sometime after we were in Europe, and we wrote it together
15 in retrospect.

16 Q Both you and Jens Soering wrote it together
17 in retrospect?

18 A Yes, sir.

19 Q The beginning of the diary is in your
20 handwriting?

21 A That's correct.

22 Q Are there some, for example, later in the
23 month, does it become Jens Soering's handwriting, the
24 month of October?

25 A Yes, it does.

1 Q About when, what date would it become Jens
2 Soering's handwriting?

3 A He has a footnote on October 21st, Monday,
4 and then another one on October 22nd, Tuesday, and then it
5 becomes his handwriting on October 23rd, Wednesday.

6 Q But the initial entries of October 5, 7, 8,
7 through the date that you just indicated, did the two of
8 you put that information down together in retrospect
9 thinking back?

10 A Yes, we did.

11 THE COURT: What Exhibit Number is
12 this?

13 A 44, sir.

14 Q And does it begin with October 5, Saturday
15 entry, Jens goes to see Officers Reid and Gardner in
16 Bedford, they insist on tests, must phone them by the 9th
17 of October?

18 A Yes, it does.

19 Q Now actually, as we know now, that interview
20 was on Sunday, not Saturday, October the 6th. This was
21 written in retrospect.

22 A (Witness nods head in the affirmative.)

23 Q The October 7th entry, does that refer to
24 the brain tumor that you have described for us?

25 A Yes, it does.

1 Q And the next day, October 8th, E has her
2 tumor out, experimental laser tech?

3 A That's correct.

4 Q And October 9th, entry refers to Jens phones
5 R & G that he will do tests following Wednesday?

6 A That's correct.

7 Q The October 10, Thursday and October 11th,
8 Friday entries seem to deal with finances, am I correct
9 there?

10 A Yes, sir.

11 Q October 10, Jens phones NL Bank about
12 closing account. Account merger incorrectly, denies
13 access, calls father who calls Charlottesville
14 immediately.

15 A (Witness nods head in the affirmative.)

16 Q Would that entry be correct and accurate as
17 to your recollection of what happened?

18 A Yes, sir.

19 Q The October 11th, that Friday entry as to
20 both accounts closed, Jens' credit card overcharged \$500,
21 father's card, approximately 1,600, E closes at 1,000,
22 Jens closes at 700. Jens get call from Richard, would
23 that be the name of the friend that you described earlier?

24 A Yes, sir.

25 Q Jens gets call from Richard to go to D.C.

1 for WE, would that be?

2 A Weekend.

3 Q Weekend. We go shopping, get only bag?

4 A Bag.

5 Q Pack Jens with Christine and David at

6 Martha's Cafe, with Christine to movie in quotes,

7 "shooting party" is that the name of the movie, then, I
8 guess.

9 A Yes, sir.

10 Q According to your recollection are those
11 events correct and accurate?

12 A Except Jens gets call from Richard to go to
13 D.C., that was part of the plan.

14 Q Part of the plan?

15 A Yes, sir.

16 Q Thank you for pointing that out. October
17 12, Saturday entry, white letters, in parentheses, Jens.
18 What was that all about?

19 A Jens wrote a number of letters to different
20 people about why he was leaving.

21 Q We have introduced, and I won't take the
22 time to find them, but some letters, a letter to Officer
23 Reid and Gardner, a letter to Christine Kim and a letter
24 to his parents, would those be the letters that you're
25 describing?

1 A Yes, sir.

2 Q And I won't pull them out here at the
3 moment, but there were copies of those letters in the
4 package of letters in London?

5 A I didn't know that.

6 Q Excuse me?

7 A I didn't know that.

8 Q You didn't know that? Okay. If I could
9 show you these, would these be Xerox copies of those
10 letters?

11 A Yes, sir.

12 Q First to Officer Reid and Gardner?

13 A And one to his family.

14 Q One to his family?

15 A And one to Christine.

16 Q Thank you. Do you recall as this October
17 12th entry continues where it says Lizzy throws fit with
18 Chris and David -- excuse me, Lizzy throws fit with Chris
19 and David over shopping?

20 A Yes, sir.

21 Q Jens wipes fingerprints from room?

22 A Yes.

23 Q Passport photos done, is that correct?

24 A Yes, it is, sir.

25 Q Leaves Charlottesville at 1 p.m. late for

1 D.C. in Scirocco, is that correct?

2 A Yes, it is.

3 Q The Scirocco, whose automobile was that?

4 A That was Jens's.

5 Q Parks at National Airport, is that correct?

6 A As far as I know.

7 Q Were you with him, then, were you not with

8 him on his trip to Washington?

9 A No.

10 Q So this information, parks at National

11 Airport, Satellite Parking Lot B, wipes car, where did you

12 get that information when you wrote it down?

13 A Jens was giving it to me as I wrote it down.

14 Q Barely catches People s Express to Newark,

15 where did you get that information?

16 A From Jens.

17 Q Departs N. is that Newark?

18 A That would be Newark.

19 A About 7:00 p.m., and preppie girl and

20 Buddhist technician as passengers, where would you have

21 gotten that information?

22 A From Jens.

23 Q Now it begins, E begins packing and writes

24 letter. What letter is that now?

25 A I wrote a letter to my family

1 Q And within that packet recovered from
2 England, I think there is a copy of that letter, did it
3 begin, if you recall, Dearest All, I think?

4 A Probably, yes, sir.

5 Q I can't find it at the moment. But at any
6 rate, you wrote a letter just as Jens Soering did, is that
7 correct?

8 A Yes, it is.

9 Q Well I won't take any further time looking
10 for it, I know that it's in here. But to continue on
11 quickly, Jens calls from Newark to invite me to join
12 Richard and himself in D.C. Now how much of that is
13 accurate, and explain that entry.

14 A Jens did call me, as I said earlier,
15 ostensibly to invite me to go up to D.C., but of course
16 he was in Newark.

17 Q Then E cooks dinner with Chris and David
18 about 10:00?

19 A Yes.

20 Q Then the entry, Howard phones?

21 A Uh-huh.

22 Q That was correct?

23 A (Witness nods head in the affirmative.)

24 Q He is arriving in Charlottesville, perhaps
25 tomorrow, but will definitely be visiting Wednesday, 16th,

1 is that correct?

2 A Yes, it is.

3 Q As you have indicated.

4 Q Then in single quotes, the case is about to
5 be solved. In brackets, perhaps fingerprints on coffee
6 mug used by Jens in Bedford interview gave him away. What
7 is that statement all about?

8 A Well as I stated earlier, the -- it was our
9 belief that the police had fingerprints, a partial
10 fingerprint in blood, and we thought that it was Jens's,
11 and we thought that when he had gone to Bedford and had
12 his interview with Ricky Gardner, that the coffee cup that
13 he had used, they had lifted the fingerprints off of the
14 coffee cup and matched it to this fingerprint.

15 Q And E plus C plus D, is that Elizabeth plus
16 Chris plus David?

17 A Yes.

18 Q Go midnight shopping, walk to corner,
19 Barrett Road Shopping Center, buy hair dye for E, and
20 what's that all about?

21 A I believe I dyed my hair red.

22 Q Walked to Faulkner to pick up stuff, 803,
23 what's that all about?

24 A I'm not sure what I was speaking of, I don't
25 remember. Oh, I think it was Christine's cello was at

1 Faulkner for some reason. I don't remember.

2 Q Faulkner, who was living at Faulkner and
3 what is Faulkner?

4 A Faulkner was the university accomodation
5 where Jens, I think -- I'm not sure if he was living
6 there, I can't remember if that was the name of the place
7 that he lived at. It may have been where David was
8 living, and that's why he had her cello.

9 Q Cooked cookies while hair is coloring,
10 approximately 2:00 a.m., Rover phones, IRA feel their
11 situation in London has been put in jeopardy by E, angry
12 and uncooperative, E spends rest of night cleaning and
13 wiping total apartment. The phone call from Rover, is
14 that fictitious?

15 A Yes, it is.

16 Q At the time that you and Jens Soering were
17 reducing these memories to writing, did he know that the
18 Rover phone call was fictitious?

19 A No, he did not.

20 Q On the 13th, that is the Sunday when you
21 left and proceeded in the fashion that you have already
22 described, Charlottesville, Washington, onto Newark, am I
23 correct there?

24 A That's correct.

25 Q Before we continue with the diary, tell us

1 if you would, then, about before you had left the country
2 at this point, went to Brussels as I understand, is that
3 right?

4 A That's right.

5 Q And how and where did you meet up with Jens
6 Soering?

7 A Before Jens left, before I left, we had gone
8 to the university library and checked out some books on
9 living in Europe on \$20 a day or something, and we had
10 arranged to meet at a certain particular place where he
11 was going to stay so I would know which hotel to go to and
12 where we would meet up. So when I arrived in Brussels I
13 took the train to Paris, which is where we agreed to meet,
14 and I tried to locate him at the hotel that we had agreed
15 that he would stay at, he was not there.

16 And I went completely berserk and went
17 around hotels with his photograph trying to find him. At
18 one place -- at some -- I kept phoning this hotel and kept
19 asking them and kept asking them if he had left any kind
20 of message. At some point somebody gave me a message that
21 he was staying at another place, I phoned there, he was
22 not there. I did not locate him on Monday, I spent the
23 night in a very cheap, nasty place, and on Tuesday I met
24 him, I believe it was under the Arc D'Triumphe in Paris.

25 Q Tell us about your meeting, what was said

1 between the two of you?

2 A As I said, I had gone completely berserk, I
3 was wandering around Paris with Jens's photograph, and
4 when I finally met up with him, I was just ecstatic, and
5 he just said to me are you alone. And he didn't say
6 hello, he didn't say are you all right, he just said are
7 you alone.

8 Q He just said are you alone?

9 A Yes.

10 Q Anything else at that point that you recall?

11 A No. -

12 A I said I was outraged with him, I said what
13 you do you mean by that, and we had an argument, and then
14 everything was settled, it was fine, I was just happy to
15 be with him.

16 Q And just for reference purposes, the entry
17 on October 15, Tuesday, does that state, meet around noon
18 under Arc D'Triumphe, I can't pronounce it very well,
19 October 15th?

20 A Yes, it does.

21 Q Miss Haysom, I want to stop at that point as
22 far as reading all these diary entries. What I'd prefer
23 if possible, you were arrested at the end of April in
24 London, is that correct, the two of you?

25 A Yes, sir, that's correct.

1 Q Jens Soering and you, I think it was April
2 30, 1986.

3 A (Witness nods head in the affirmative.)

4 Q Before we get to the events after that,
5 could you just perhaps in summary fashion, what did you
6 all do between October of '85 and April of 1986?

14 7 A We did a series of very odd things. We
8 rented a car, we drove across Europe, I wrecked the car on
9 the Yugoslav-Bulgarian border, we had some trouble with
10 that, went back to Austria. We flew from Austria to
11 Bangkok, Thailand. We spent some time, quite a long time
12 in Thailand. We then took a bus from Bangkok through
13 Malaysia down to Singapore, flew from Singapore back to
14 Europe, back to Zurich, back to Switzerland, and then from
15 there, took trains finally to England, and then we were in
16 England, in and out of England a couple of times and then
17 we were arrested for fraud.

18 Q What were you doing for money during these
19 trips?

20 A We had some money with us. We also used
21 Jens's father's credit card to obtain money, and to
22 purchase things, and then in Bangkok it started on the
23 fraud scheme, and in Singapore we obtained some money
24 through the fraud, and when we arrived in Europe we
25 continued. We also sold, we sold a camera, and tried to

1 sell some jewelry, and a guitar and stuff like that.

2 Q And you were arrested on the fraud, and that
3 investigation continued with Detective Sergeant Beever and
4 Detective Constable Wright, is that correct?

5 A Yes, sir.

6 Q And did the two of you remain incarcerated,
7 then, from April 30, 1986, until the first part of June,
8 1986 when Investigator Gardner arrived over there and the
9 interviews began as to the murder of your parents?

10 A That's correct.

11 Q Would the two of you during that period,
12 from the end of April to the first of June write letters
13 to one another?

14 A Yes, we did.

15 Q During this period of time in these letters,
16 was there any change in how Jens Soering would describe
17 his relationship to you, and your relationship to him as
18 far as one being the center in another's life and that
19 type of thing?

20 A As far as I remember, everything was fine
21 with the two of us. We --

22 Q Perhaps with the letters that I have here,
23 to refer you to just a couple, but for reference purposes,
24 do you recall ones that Jens Soering wrote to a Neal
25 Woodall?

1 A Yes, I do.

2 Q And in that letter does he discuss his
3 relationship with you?

4 A Yes, he does.

5 Q Does he also discuss -- well let me find the
6 letter first, if I might, this being the original letter,
7 handing the witness a gray exercise book, or that's how
8 it's entitled. Is that letter to, or I should say, in
9 Jens Soering's handwriting?

10 A Yes, it is.

11 Q And the date on the letter is what, please?

12 A May 18th - 19th, 1986.

13 Q Are you familiar with this letter, or have
14 you read it previously?

15 A I have read parts of the letter.

16 Q At times the defendant in this letter writes
17 what he describes as being the lie of non-separateness, is
18 that correct?

19 MR. NEATON: I am going to object to
20 the witness, this witness testifying about a
21 letter that was written to another person
22 and testifying as to her conclusions about
23 that letter.

24 MR. UPDIKE: I won't ask her to draw
25 conclusions, I would just ask her to read

1 from it. But Your Honor, if it is written
2 by the defendant and relates to the
3 defendant's feelings about Elizabeth Haysom
4 and his feelings about the relationship that
5 he had, then the only question is relevancy,
6 and we submit that it is indeed relevant,
7 and the witness may read portions of it.
8 I'm not going to ask her to interpret it.

9 THE COURT: Well I sustain as to any
10 conclusions that she might draw, Mr. Neaton.
11 It does seem, however, that the statements
12 were purportedly made by your client, and if
13 they are relevant, it would seem to make no
14 difference whether the letter was written to
15 Miss Haysom or written to a third party.

16 MR. NEATON: I would agree with that,
17 but within the context of the questioning,
18 it was implying that somehow this
19 letter was directed to this witness, which
20 it was not.

21 THE COURT: Oh, I see.

22 MR. NEATON: And my point was if this
23 witness is to read something that's in
24 evidence, fine, but not to imply that
25 somehow this witness knew about this letter

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at the time it was written.

THE COURT: Well I don't think we have a problem there, do we?

MR. UPDIKE: No, Your Honor.

THE COURT: I think this is a non-issue; proceed.

MR. UPDIKE: May we introduce the letter in its entirety, any objections to that?

MR. NEATON: No.

(LETTER MARKED AS COMMONWEALTH'S EXHIBIT 350.)

Q Would you read, please, the first paragraph of the letter that Jens Soering writes. Now this letter is written to -- it says Dear at the top and it's scratched through, is that correct?

A That's correct.

Q Are you aware to whom the letter is actually written?

A I believe it was written to Neal Woodall.

Q If you would read the first paragraph, please?

A I'm writing to you because I think best with pen in hand. Ideas become real in a manner of speaking. On paper they can be grasped and examined, in my head they

1 slip away. It should already be obvious from the above
2 that in writing to you but for myself, I have not
3 forgotten the rule of who must come first in my life,
4 myself.

5 Q Not forgotten the rule of who must come
6 first in my life, myself. As to Page 2, he refers to you
7 in the first full paragraph?

8 A Yes, he does.

9 Q If you would read that, please.

10 A Anyway, what Elizabeth and I provided for
11 one another was something who would make us feel unalone,
12 smothered by complete love, and smothering out over time.
13 Perhaps Elizabeth needed this love because she was never
14 loved; I needed it is because I lived in fear of losing
15 the smothering love I had always received from my mother,
16 who had made me the center of her life ahead of herself as
17 Elizabeth and I had later done for each other.

18 Q Please continue with the next paragraph.

19 A In the end, though, everyone is separate,
20 two people may be close, perhaps very close, but they are
21 never, underlined, one. Their bodies cannot merge, and
22 hence their spirits, always tied to separate bodies cannot
23 merge completely either. From this separateness axiom the
24 first axiom on Page 1 is derived. In the end, one must be
25 true to one's own self. Own is underlined. To put

1 someone else at the total dominant center of one's life is
2 to deny our central separateness. When Elizabeth and I
3 denied our separateness we were lying to one another in
4 order to receive each other's complete, in inverted
5 commas, non-separate love.

6 Q Continue with the next paragraph, please.

7 A You care about my progress, my strength,
8 this is inverted commas, straightening myself out, end
9 inverted commas. You said that you did not want me to
10 waste everything you had said to me. When I told you that
11 I had some thoughts on you and your problem with children
12 you even grew angry because you said that I was again
13 forgetting the central separateness axiom and trying to
14 fix other's problems before I had done my duty to myself
15 by straightening myself out. What I want to do now is to
16 show myself something and to do some therapy, and doing is
17 important. Another axiom is one also needs stop thinking,
18 and to do before thought kills action.

19 Q The first paragraph on Page 4, if you would
20 read that until I interrupt you, please.

21 A Starting from D.C?

22 Q Please.

23 A Do you see, it is this sort of thing that I
24 want you to do, what I have, underlined, to do for myself,
25 as well as, underlined, do you. You told me, in inverted

1 commas, know who you are, end inverted commas. A partial
2 answer to that is the separateness axiom. Popeye the
3 Sailor Man stated it as, inverted commas, I am what I am,
4 and that's what I am; end of inverted commas. J.R. Ewing
5 of Dallas would say, inverted commas, I, J.R. am number
6 one in my life come first, and --

7 Q Thank you. The bottom of that page, the
8 last paragraph, it continues to the next page, the one
9 last story as the paragraph begins?

10 A One last story, my mother's. Her father was
11 killed in the war when she was nine or 10. She grew up
12 with an uncaring mother and grandmother in harsh times,
13 and since she was not very pretty she did not experience
14 much love. By their own admission, my parents married
15 because my father felt lonely in his posting, and even --
16 and needed a maid. When my brother and I were born we
17 instantly became the absolute centers of her life, and
18 were smothered by her, in inverted commas, complete love,
19 end inverted comma, for which no sacrifice was too great,
20 underlined. For the sake of the children, she has now
21 spent over 20 alcoholic years with a man who makes her
22 miserable. She lied to herself and family by denying the
23 separateness axiom and always putting the children's
24 happiness before her own. The result was extreme
25 unhappiness for everyone. Besides making herself and her

1 husband unhappy, both children are emotionally disturbed
2 due to the emotionally very violent atmosphere they were
3 raised in, and the guilt they feel for open inverted
4 commas, causing those miseries. Also, at least one of
5 those children has fucked up badly because he grew
6 dependent on the illusion of, inverted commas, complete,
7 end inverted commas, non-separate love, afraid of losing
8 it, afraid of being alone.

9 Q Thank you. Page 8, if you wouldn't mind
10 reading, please, just a little ways down that first
11 paragraph where it begins, with Elizabeth, this was no
12 problem.

13 A With Elizabeth, this was no problem, because
14 we had a silent agreement to make each other the centers
15 of our lives. However, Giles obviously realized that this
16 non-separateness was an impossible lie. Furthermore, when
17 two people pretend to each other that they are not
18 separate, they are really not friends or lovers, but only
19 dependent on one another, the way a baby is dependent on
20 his mother's love. Such dependence at a later stage in
21 life can only be destructive to the two individuals, and
22 whatever remains of their friendship or love.

23 Elizabeth and I are perfect examples of
24 exactly how destructive two people can be to each other
25 and still pretend they are in love, inverted commas in a

1 non-separate way. My relationship with Claudia ended
2 because with her, too, I demanded to be smothered in love,
3 to be non-separate; anything, inverted commas, less, and
4 inverted commas, was not enough. I never gave, I was
5 never offered friendship and love, but demanded, open
6 inverted commas, more, and inverted commas, the lie of
7 non-separateness.

8 Q Thank you. Finally, on Page 10 of the
9 letter, the entry at the bottom numbered Number 7?

10 A Number 7?

11 Q Yes, on Page 10.

12 A I must examine where the violence in me
13 comes from and how it expresses itself. Violence takes,
14 underlined, many forms, physical, whether in a serious or
15 like vein, psychological, perhaps even spiritual, and then
16 it has in parentheses, see note 8.

17 Q Thank you. Miss Haysom, that letter was
18 to -- was not to you, but the date on it again is May 18
19 and 19, 1986, am I correct?

20 A That is correct, sir.

21 Q A letter on May 21 that I'd like to show
22 you, it being a letter written to you, and ask if you
23 could identify that.

24 A Yes, it is a letter to me from Jens.

25 Q We'd like to introduce that letter.

1 MR. NEATON: No objection.

2 (LETTER MARKED AS COMMONWEALTH'S
3 EXHIBIT 351.)

4 Q The middle of that first page, just a long
5 sentence, if you would read for us, please, that begins
6 secondly?

7 A Secondly, the, in inverted commas, nasty in
8 her past that might affect our future could, underlined,
9 be too much to block out as described above, so don't
10 forget about what I told you last week, we'd already be
11 gone, and, underlined, think about what our special
12 British detectives would be doing to us. We certainly
13 would not be where we are now.

14 Q Those would be -- or that would be the
15 excerpt that I'd like for you to read at this time from
16 that letter. But in response to this letter, perhaps I
17 should get you to read Page 4, just one excerpt quickly
18 where it begins about three-quarters, a little below half
19 the way down the page, I think it would be all right to
20 begin with where it says you don't need me, though you may
21 think you do.

22 A Yes.

23 Q And let me just continue, does he state at
24 that point, you come first in your life with me at close
25 second, and that's the way that it should be?

17
1 A That's correct.

2 Q Now this is May 21, and I want to ask you
3 about a letter that you write to him on May 28 which
4 begins, My Darling Jens. If I can find it here in just a
5 second. Did you write this letter to Jens Soering?

6 A Yes, I did.

7 Q And the date, am I correct on the date, May
8 28th, 1986?

9 A Yes, that's correct.

10 Q If I could introduce this letter.

11 MR. NEATON: Sure.

12 (LETTER MARKED AS COMMONWEALTH'S
13 EXHIBIT 352.)

14 Q I'm not going to ask you to read much of
15 this, and I'll try to move this along, Miss Haysom, but
16 I'm trying to see what the two of you are writing at this
17 point. And on the first page, and this is May 28th, do
18 you write, I have always -- and this is about a quarter of
19 the way down the page -- I have always considered you
20 first in my life, for some reason I believed you felt the
21 same. Suddenly all my fears seem to have been justified,
22 you were advising me to do as you do, consider number one
23 above all, that in quotes, number one in quotes, above
24 all. It hurt me to think I had slipped in the rankings,
25 or perhaps have never been there. Did you write that to

1 Jens Soering?

2 A Yes, I did.

3 Q And why did you write that at that time?

4 A I was responding to his letter.

5 Q In what respect?

6 A Um, I guess I feared that he had not loved
7 me.

8 Q And that you were not first in his life?

9 A Yes.

10 Q Another letter during this same period with
11 the date of June 3, 1986, would this be a letter that Jens
12 Soering wrote to you, this being the orange exercise book?

13 A Yes, that's correct.

14 Q And again, with the numbers there, that date
15 does read June 6, I think the numbers are 3-6, but it
16 actually means June 3, am I correct, because of the
17 European dating system?

18 A Yes.

19 Q I'd like to introduce this, please.

20 MR. NEATON: Fine.

21

22 (EXERCISE BOOK MARKED AS
23 COMMONWEALTH'S EXHIBIT 353.)

24 Q Miss Haysom, just so that you will know, I
25 think this is probably going to be the last letter that I

1 will be referring you to for a few minutes, I know that
2 this is not easy. Now in the May 28th letter that I had
3 showed you that you wrote Jens Soering, I think at the
4 bottom there's some mention of him writing you a dirty
5 letter or something like that, whatever happened to that
6 dirty letter, would that be correct?

7 A That's correct.

8 Q Now I'm not going to make any references to
9 the first portion of that letter, but would that be the
10 first 20 pages or so, a sexually explicit letter that a
11 boyfriend, girlfriend might write?

12 A Yes, sir.

13 Q But I'd like to ask you, as to the remainder
14 of the letter, Page 23, at the bottom of the page, I think
15 the last sentence, I no longer need to be needed, have you
16 found that?

17 A Yes.

18 Q And since I have asked you to read some
19 several entries here, if I might read it, and if you can
20 confirm that I have read it correctly. I no longer need
21 to be needed by someone who has no other purpose in life
22 than to need me. I don't want it anymore, because I am
23 finding the strength to stand on my own emotional legs.
24 Does he write that?

25 A Yes, he does.

1 Q The previous page, Page 22, if you would
2 follow this paragraph and confirm whether he wrote this,
3 Jens Soering wrote this to you. This need, in brackets,
4 for someone else to be the center of one's life because
5 one does not know one's self enough to be one's own center
6 is not only destructive to one's self, though, for
7 example, by me and my father and mother would not only
8 have made her life -- or excuse me. Yes, let me read that
9 again. For example, by leaving my father, my mother would
10 not only have made her life better, she would have made
11 everyone else's better, too. My father would be happier,
12 my brother less messed up, and I, well at least I would
13 not be a needer, in quotes, but a lover, end quotes. I
14 think you can see how my quote need, end quote, has been
15 destructive to us both, and in parentheses, and others,
16 does he write that?

17 A Yes, he does.

18 MR. NEATON: I'd ask that Mr. Updike
19 ask the witness to read Page 24 of the
20 letter, since he's taking it out of context.

21 MR. UPDIKE: You'll have your
22 opportunity to read any pages that you would
23 like, Mr. Neaton.

24 MR. NEATON: Well he's taking out of a
25 20-some page letter, he's taking excerpts.

1 THE COURT: It's obviously a matter
2 for cross examination, objection overruled.
3 You may read any part of it you want, Mr.
4 Neaton, when your time comes.

5
6 BY MR. UPDIKE: (continuing)

7 Q The bottom of Page 28, does he write, the
8 quote, mistakes, end quote, of my past don't burden me
9 mentally, I have made them, and because I have forced
10 myself to look, I have seen them as well.

11 A Yes, he does.

12 Q And at the middle of that page, does Jens
13 Soering write to you, and why cry over the mistakes I have
14 made, even though some are major. Does he write that?

15 A Yes, he does.

16 Q Does he continue by saying crying will not
17 improve my lot now. As long as I can base today's
18 decisions on the truth, not a past I have made for myself,
19 I actually benefit from my mistakes. How? For one thing,
20 they'll make my autobiography that much more interesting,
21 does he write that to you?

22 A Yes, he does.

23 Q Thank you Miss Haysom. Now if I could just
24 have a moment to gather these letters from this package so
25 that I don't -- . That letter was written June 3, that

1 last one that I referred to. On June 5, two days later,
2 you and Jens Soering were brought to the Magistrate's
3 Court in Richmond, England for a remand hearing, is that
4 correct?

5 A Yes, sir, that's correct.

6 Q Upon your initial arrival there at the
7 Richmond Magistrate's Court, did you have any knowledge
8 concerning Investigator Gardner being there, or any
9 upcoming questioning as to the murder of your parents?

10 A No, I had no idea what was going on, and it
11 was only until I was in my cell and my attorney came in
12 with the front page of the newspaper and showed it to me.

13 Q And without asking you what the newspaper
14 said, did it refer to you and Jens Soering, and the
15 investigation into the death of your parents?

16 A Yes, it did.

17 Q So at that point you knew about
18 investigators being there?

19 A I knew that something was up, yes. I didn't
20 know Gardner had arrived until I was in the courtroom and
21 saw him.

22 Q Now later that day, that being Thursday,
23 June 5, you and Jens Soering were taken to the Richmond
24 Police Station, is that correct?

25 A Yes, it is.

1 Q When you initially were brought into the
2 police station, were you advised of your right to counsel?
3 A Yes, I was.
4 Q Did you request counsel?
5 A Yes, I did.
6 Q Before you were interviewed by Investigator
7 Gardner, Detective Sergeant Beever and Detective Constable
8 Write on June 6, were you allowed to talk to your
9 attorney?
10 A Yes, I was.
11 Q And your attorney's name was what, please?
12 A Keith Barker.
13 Q And when you were interviewed for the first
14 time, and to refresh your memory if you need to, a Miranda
15 rights form dated June 6, 1986 at 4:45 p.m. pertaining to
16 you, were your attorneys present, or was Keith Barker
17 present?
18 A Yes, he was.
19 Q Was a Miss Kneebone present as well?
20 A Yes, she was.
21 Q During that interview, that's Friday, yes,
22 Friday, June the 6th, did you answer any questions put to
23 you by the police officers concerning the murder of your
24 parents?
25 A No, I did not.

1 Q Did you decline to answer?

2 A Yes, I did.

3 Q Did you provide them with any information
4 which implicated either you or Jens Soering during that
5 interview in the murder of your parents?

6 A No, I did not.

7 Q Your Honor, could I ask, does the Court
8 think that a break before lunch might be appropriate
9 somewhere in there? Now is fine if that's all right with
10 the Court, but that will be fine.

11 THE COURT: Let's talk about it. Yes,
12 I think maybe we could take another short
13 break, and what I had hoped was possibly you
14 could finish with your direct examination of
15 this witness prior to lunch, and then when
16 we break and come back from lunch cross
17 examination would start, would that be
18 possible? I don't know how much you might
19 have.

20 MR. UPDIKE: I'm not quite sure, Your
21 Honor, although we're obviously, we're
22 getting near the end from my part of it. I
23 don't know whether I can finish before lunch
24 or not, I'll certainly try.

25 THE COURT: Well, let's go ahead and

1 take another short break at this point, and
2 we'll think about it.

3 (Whereupon a recess was taken.)
4

5 BY MR. UPDIKE: (continuing)

6 Q Miss Haysom, I was discussing with you that
7 first interview with you on June 6, 1986, and you were not
8 interviewed again until Sunday night, June 8th. And
9 showing you a Miranda form, excuse me, sir, June 8th,
10 1986, 11:15 p.m., does that Miranda form have your
11 signature at the bottom of it?

12 A Yes, it does.

13 Q During that interview, as I recall, just
14 Detective Sergeant Beever and Detective Constable Wright
15 were present, Ricky Gardner was not?

16 A Yes, I requested that he not be present.

17 Q You asked that Ricky not be present. Why
18 was that, or was there any particular reason?

19 A It was embarrassing.

20 Q In what way?

21 A Well, in the May interviews that I had with
22 him, several interviews that I had with him here in the
23 United States, I had been very rude, arrogant, as I was in
24 Richmond, I was very flippant.

25 Q In the first portion of that interview, do

1 you discuss any of the details of the events of the
2 weekend when your parents were murdered?

3 A I know I gave a statement that was not
4 accurate. I don't remember specifically what was in that
5 statement.

6 Q Have you seen anytime recently a transcript
7 of that statement that was made back in '86?

8 A In fact I'm not sure that I have ever
9 re-read that statement since I left Bedford.

10 Q Does there come a point during that
11 interview when you made statements concerning what
12 happened the weekend of the murder of your parents?

13 A I believe so. Yes.

14 Q And are any statements made by you
15 concerning the trip to Washington, the movie tickets, the
16 alibi?

17 A Yes.

18 Q Do you state in that interview what you have
19 related for these ladies and gentlemen concerning what
20 Jens Soering did, the trip to Loose Chippings, and the
21 return and the events thereafter?

22 MR. NEATON: Objection, it's hearsay.
23 It's not relevant, or else he's impeaching
24 his own witness.

25 MR. UPDIKE: I'm certainly not

1 impeaching my own witness, Your Honor, I'm
2 just asking her what she said. She is the
3 person who said it, and it is available for
4 cross examination by counsel. And the
5 purpose of this offer is not for the proof
6 of the content of the statement, she's
7 already testified in this regard. The
8 purpose of this offer is the fact that the
9 statement was made, and if it's made in that
10 respect it's not hearsay.

11 MR. NEATON: The fact that she made a
12 statement at this point in the trial is not
13 relevant. Whether she made a statement on
14 June the 8th or not about the offense, and
15 asking the witness a question that asks the
16 witness to summarize and draw a conclusion
17 about the contents of the statement not
18 only is improper and irrelevant and
19 immaterial, but is also asking the witness
20 to draw a conclusion about what she actually
21 said in that statement. And the only
22 relevance it can have is either to support
23 or discredit the witness. And if he's
24 trying to use it to support the witness,
25 it's improper, if he's trying to use it to

1 discredit the witness he's impeaching his
2 own witness and it's not proper.

3 MR. UPDIKE: I'm not asking to impeach
4 the witness, Your Honor. I agree that I was
5 leading, I was just trying to summarize
6 without asking her everything that she said
7 so that we can move it along. But again,
8 it's being offered not for the proof of the
9 content of the statement, but rather the
10 fact that she did at that point make the
11 statements.

12 THE COURT: Well I'll have to see the
13 statement that you're talking about before I
14 can rule. I haven't seen it.

15 MR. UPDIKE: Well, Your Honor, it would
16 be the entire transcript, which we have a
17 copy of right here, and in fact I have one
18 inside the doorway here.

19 MR. NEATON: Judge, let me make my
20 position more clear. I don't have a problem
21 with with him asking the witness did she
22 make a statement. She's already answered
23 yes. What's objectionable is when we get
24 into the contents of the statement in front
25 of the jury at this point. The contents of

1 the statement are not relevant at this point
2 in the trial. And that is my objection.

3 THE COURT: All right. Well I will
4 have to determine that from looking at the
5 statement and seeing what the statement says
6 to determine whether or not it is relevant
7 at this time.

8 MR. UPDIKE: Here's a transcript of the
9 statement, Your Honor.

10 THE COURT: (Pause for perusal.) We
11 are talking now about a statement made by
12 Elizabeth Haysom on June the 8th and 9th in
13 England. And I have briefly reviewed the
14 contents of this statement, and certainly
15 there would be nothing wrong with asking
16 her, Mr. Updike, if she made a statement in
17 England to the investigators on these
18 particular dates, there's certainly nothing
19 wrong with asking her whether or not the
20 contents of the statement were true or
21 false. When we get beyond that we get to
22 the point that it's objected to, which has
23 to do with hearsay, and it has to do with
24 relevance. Now I don't want to comment
25 further, because it wouldn't be proper for

1 me to make any comments about the content of
2 the statement. I will allow you to go that
3 far. I have some serious question about the
4 relevance, and the necessity for further use
5 of the interview in view of evidence which
6 you have already put on.

7 MR. UPDIKE: Yes, sir.

8 BY MR. UPDIKE: (continuing)

9 Q Your Honor, perhaps I could handle it in
10 this fashion. I just showed you that Miranda form, you
11 did make that statement under those circumstances that we
12 described with Detective Constable Wright and Detective
13 Sergeant Beever on the night of Sunday June the 8th?

14 A Yes, I did.

15 THE COURT: Now wait, she's entitled to
16 look at the statement if you're going to
17 ask her whether it's correct or not.

18 Q Yes, sir. And I'm not going to ask her --
19 as I understand it, you have not read this since you left
20 England?

21 A Yes, I don't believe I have.

22 Q And I'm not going to ask you about specifics
23 of it, because it would require that I at this point give
24 it to you and ask that you read the whole thing. I would
25 like to ask after that interview, were you interviewed

1 again that night?

2 A Yes, after I made the statement I went back
3 to my cell, and I rang for the desk sergeant and asked to
4 speak with somebody, he said that everybody was leaving or
5 in bed, it was very late, it was very early Monday
6 morning, and I said I didn't care who I spoke to, I had to
7 speak to somebody. And I was shown up to the interview
8 room and I believe that Mr. Gardner, and Beever and Wright
9 were present, and I made another statement.

10 Q You asked to do that?

11 A Yes, I did.

12 Q Was that a brief statement, and if I can
13 show you a transcript of a statement that is really about
14 a page and a half long after you take the Miranda
15 advisement out of it.

16 THE COURT: Do you want to look at
17 that?

18 Q If you'd like.

19 A Yes, this is the statement.

20 Q My question would be at this point, why did
21 you make that statement at that time?

22 A Because I felt absolutely miserable about
23 the -- some of the things that I had said in the earlier
24 statement.

25 Q Earlier that night?

1 A Yes. That statement that I had made. I
2 felt that I had given the impression that -- well I had
3 tried to give the impression to begin with that I was not
4 involved in any way, Jens was solely responsible, and
5 afterwards I felt that I had placed insufficient
6 responsibility on myself for what taken place, and that I
7 was in effect blaming him, and I wanted to clear that up,
8 and that's what this statement is about.

9 Q And in that statement do you admit your
10 responsibility, your involvement in this matter?

11 A Yes, sir.

12 THE COURT: Don't let your voice drop
13 too much, it's becoming hard to hear you.

14 A Yes, I do.

15 Q Miss Haysom, after those statements, the
16 last being the morning of Monday June 9th, 1986, at that
17 time you remained incarcerated in England for a period of
18 time until you were extradited to this country, is that
19 correct?

20 A That's correct.

21 Q Your extradition hearing finally occurred
22 when?

23 A On April 15th, 1987.

24 Q Which is of course your birthday, is that
25 correct?

1 A Yes, it is, sir.

2 Q During that period of time, just briefly,

3 did you and the defendant continuing writing one another?

4 A Yes, we did.

5 Q I'd like to ask you about just a couple of

6 letters, if I might. And I'm not going to ask you about

7 all of these, I'd just like to ask a question concerning

8 this stack of letters. Are you familar with how our

9 sheriff's department obtained these letters?

10 A Yes, I am.

11 Q And how is that?

12 A I gave them to Mr. Gardner.

13 Q And was that on the night of your return to

14 this country?

15 A That's correct.

16 Q A letter or two, if I might. If I could

17 show you this letter, do you recognize that letter?

18 A Yes, I do.

19 Q And in whose handwriting is it?

20 A Jens's.

21 Q And to whom was it written?

22 A To me.

23 Q And did you receive it from him while you

24 were in prison?

25 A Yes, I did.

1 Q And we'd ask, this again being the June 14,
2 1986 letter?

3 A Yes, that's correct.

4 Q If we could introduce that.

5 MR. NEATON: No objection.

6 (LETTER MARKED AS COMMONWEALTH'S
7 EXHIBIT 354.)

8 THE COURT: Now were you in the Bedford
9 jail when you received this, or were you
10 still in prison in England?

11 A This is while I was in prison in England,
12 sir, this is in '86.

13 THE COURT: All right.

14 Q I'd just like to refer you to, perhaps I
15 think one sentence in that letter, and it would be the --
16 or almost middle of the second page, the long page that
17 folds out. And after the paragraph sign, could I ask, did
18 Jens Soering at this time on June 14th, write to you, I
19 love you, and am glad we met. I hope you feel the same
20 way, but would not blame you at all if that is not the
21 case.

22 A I can't find this anywhere.

23 Q Perhaps if I could refer you, because it is
24 a rather long letter, beginning right here.

25 A Yes, it was written.

1 Q And as to the next letter, or excuse me,
2 that same letter, that same page, as a matter of fact, at
3 the bottom where it begins, which reminds me, although
4 there are no if onlys?

5 A Yes. Oh, yes.

6 Q Would you read that, please?

7 A Which reminds me, although there are no if
8 onlys, I do regret having done this very much. Inadequacy
9 does not begin to describe it, though. I don't regret
10 meeting you. It would have been better for had you not me
11 me. Enough self recriminations, they are so bloody
12 useless and beside the point they make me smile. I'm not
13 asking for forgiveness. I don't deserve it, and I
14 certainly don't want a letter from you taking it all on
15 yourself. Such a letter would piss me off tremendously.
16 All along I made the mistakes, and more or less you were
17 dragged along. Excuse me, and or more or less willinngly
18 you were dragged along.

19 Q If I could stop you at that point. So there
20 at the end, the statement is all along I made the mistakes
21 and more or less willingly, and you were dragged along?

22 A Yes, sir.

23 Q And at the middle of that same page,
24 continuing down, does the defendant write to you, I have
25 quote, learned my lesson, end quote, so terribly, terribly

1 well?

2 A Yes, sir.

3 Q Thank you. As to the letter dated June 23,
4 1986, if I could ask you, did the defendant write this
5 letter to you while you were in prison in England?

6 A Yes, he did.

7 Q We would like to introduce that letter,
8 please.

9 MR. NEATON: No objection.

10 (LETTER MARKED AS COMMONWEALTH'S
11 - EXHIBIT 355.)

12 Q This being June 23 near the last of the
13 second paragraph of that letter, the first page. Does the
14 defendant write to you at this point, I feel ridiculous
15 having wrecked your life?

16 A Yes, he does.

17 Q And does he further down that same page in
18 the next paragraph state near the last of the next
19 paragraph, I'm trying to tell you that the quote, I have
20 wrecked your life, end quote, remark was not gratuitous
21 masochism mixed with self pity, but simply reality as I
22 see it.

23 A Yes, it is.

24 Q And further down that same page, does the
25 defendant write to you this again, June 23, 1986, next to

1 the last sentence, perhaps you will be consoled by the
2 fact that I truly do love you, that those words are not
3 platitudes uttered in an impossible situation to relieve
4 guilt feelings on my part?

5 A Yes, he does.

6 Q And I would like to refer you to a letter
7 dated July 17, 1986, and ask you if the defendant Jens
8 Soering wrote this letter to you at that time while you
9 were still in prison in England.

10 A That's correct, sir.

11 Q We would like to introduce that letter,
12 please.

13 MR. NEATON: No objection.

14 (LETTER MARKED AS COMMONWEALTH'S
15 EXHIBIT 356.)

16 Q And in that letter there is a reference --
17 again, I believe if you could help me with the date, this
18 is the July 13th letter that I just handed you, is that
19 correct?

20 A I believe so, yes. Yes, yes, sir.

21 Q It is in the corner?

22 A Uh-huh.

23 Q Because I have two here dated July 13th, and
24 I wanted to be sure that I handed you the ones that I am
25 talking about. As to this letter, this should be the July

1 letter, excuse me, yes, it does have -- I see where
2 we are now, if I could see that letter just to be sure
3 that we are both together, yes, we are, thank you. This
4 letter with the July 13th date, there is a reference that
5 I'd like to refer you to. If I can find it here in just a
6 moment. Yes, okay.

7 This letter, Miss Haysom, is not the one
8 that I intended to show you, but there is a reference in
9 there that I would like to refer you to, the second
10 paragraph, does the defendant write, by the way, I did not
11 get your letter from that fateful Thursday, that being the
12 second paragraph of that letter.

13 A Yes, that is correct, sir.

14 Q And if I might have that letter back, and it
15 is the July 17 letter that I would next like to refer you
16 to. Actually, I was trying to refer you to it that time
17 and picked up the wrong letter. Yes, this would be the
18 letter. If I could ask you concerning this, did the
19 defendant write this letter to you while you were still --

20 A Yes, he did, sir.

21 Q -- In England, and it bears the date of July
22 17. We'd ask that this be introduced, please.

23 MR. NEATON: No objection.

24 (LETTER MARKED AS COMMONWEALTH'S
25 EXHIBIT 357.)

1 Q And as to this letter, I'd like to ask you
2 if you would read some portions, it's actually a page or
3 so, until the point that I interrupt you if I might, it
4 begins on the second page. Well before I forget why I
5 wrote this, would you read that, please.

6 A Well before I forget why I wrote this
7 letter, I better get to the point which is rather urgent
8 now, I mean immediately, as in yesterday is really too
9 late, that's in inverted commas, understanding, post
10 haste, underlined, schnell, vite, with celebrity at its
11 utmost, I think you get the idea. Sit down on your fanny,
12 which I remember distinctly and lust after every free
13 moment. In any case, sit down and write to all your upper
14 class well connected friends to get all of them in toto
15 alle tout, the whole shee-bang, the lot, and scrounge
16 around for one, a top class, in inverted commas, our sort
17 of people, inverted comma, solicitor and barrister, with
18 A, connections in the Home Office and B, connections in
19 the Bow Street Extradition Court. Especially, underlined,
20 these personal connections are absolutely astoundingly
21 vital, super important. We need someone with personal
22 leverage in at least one of these two areas, preferably A.

23 Two, all people in the home office, the
24 judicial systems, MP's, cabinet stuff, your aunt's Duke,
25 i.e., anyone with influence I know you can do this, you

1 know you can do it; number one, it's vitally urgent,
2 number two is only very, very urgent. As to the lawyer,
3 obviously money is no objective, if you're thinking of
4 that. I am at present not clear on what your, underlined,
5 position re: extradition is. Sorry my pert, believe me,
6 I've been writing people, too, but all this takes so
7 depressingly long. I only know that I've got a fairly
8 decent chance of getting to my country if someone with the
9 right connections can whisper magic words into the ears of
10 judges at the Extradition Court, or at the various Courts
11 of Appeal, ending finally with the British Minister of the
12 Interior, or Minister of the Home Office, or whatever he's
13 called. We both know that justice is not the same for
14 everyone, especially, in the UK. The rich and well
15 connected, if they can't get off, at least get a bit more
16 justice. The key is obviously the right solicitor for us
17 of all. A reliable, sensible, underlined, friend. And
18 then there's a star, and by the star it says perhaps very
19 caring, find him for you, and therefore me. And again,
20 speed is essential, the best will barely do.

21 Someone who is pally pally old Oxford chums,
22 et cetera, with Channing, I think he's the Secretary of
23 the Interior right now. Enough rambling on that point.
24 For now, just begin collecting contacts, and number two,
25 to be activated at the correct time. Extradition will

1 take at least, underlined, eight months. I'm very sorry
2 that I can't give you any direct indications or direct
3 benefits for you in all of this. I simply do not know.
4 So I'm asking you to save my ass in the hope that somehow
5 that will help save yours, in some way that neither of us
6 knows about right now.

7 Q Thank you. So at the conclusion of that
8 paragraph, he does write to you I'm very sorry that I
9 cannot give you any direct indications of direct benefits
10 for you in all of this, I simply do not know. So I'm
11 asking you to save my ass in the hope that somehow that
12 will save yours.

13 MR. NEATON: I'm going to object,
14 that's been asked and answered, Judge, she
15 read the letter.

16 THE COURT: Sustained, the letter's
17 been read.

18
19 BY MR. UPDIKE: (continuing)

20 Q Miss Haysom, I'm not at this point going to
21 ask about anymore of the letters, but they did continue
22 during the period of your incarceration until you were
23 extradited, is that correct?

24 A That's correct.

25 Q Did the frequency of the letters remain the

1 same during that period?

2 A No, they did not.

3 Q In what way did the frequency change?

4 A They dwindled.

5 Q They dwindled. Initially, what was your
6 position concerning extradition on the charges of murder?
7 Your charges.

8 A Initially, mine were to do anything possible
9 to get out of extradition, to get Jens out of extradition,
10 and myself out.

11 Q Did there come a point while you were still
12 incarcerated in England when your position changed as to
13 extradition?

14 A Yes, it did.

15 Q When was that, and why was that?

16 A I'm not sure exactly whether it was October
17 or November, but it was when the extradition papers
18 arrived, when I received my set of extradition papers, and
19 through the documents, there was a great deal of the
20 evidence, the statements, forensic report and the -- some
21 photocopies of my parents. And seeing the photocopies of
22 these pictures had an impact on me, and I began to change
23 my view on extradition and what I was going to do, and it
24 took some time, it was not something that happened
25 overnight, and I spent a lot of time trying to block those

1 pictures from my mind, and to deny, but there came a point
2 where I decided that I would waive my extradition. I
3 still fully supported the idea of Jens contesting, he was
4 in a different position than I was, and I decided that I
5 would plead guilty.

6 Q And when you decided that you were going to
7 plead guilty, did you inform the defendant Jens Soering of
8 your decision?

9 A Yes, I did.

10 Q Just for reference purposes, another letter
11 dated December 18, 1986, did the defendant write that
12 letter to you during your period of incarceration in
13 England?

14 A Yes, he did.

15 Q We would like to introduce this letter,
16 please.

17 MR. NEATON: No objection.

18 (LETTER MARKED AS COMMONWEALTH'S
19 EXHIBIT 358.)

20 Q And again, that date is December 18, 1986?

21 A Yes, it is.

22 Q At the bottom of that page, is there a
23 statement that he is making as to, quote, purging your
24 guilt towards your family and me?

25 A Yes, there is.

1 Q He writes that. On the top of the next
2 page, and the bottom of that page, does he write, so why
3 for God sake, sacrifice your future by refusing to oppose
4 extradition and pleading guilty to charges which are far
5 too high. Does he write that at that time?

6 A Yes, he does.

7 Q So there had been discussions between the
8 two of you as of the time that this letter was written
9 December 18, 1986 as to you pleading guilty?

10 A Yes.

11 Q Upon your return -- well it would have been
12 in May --

13 A May the 8th, 1987.

14 Q May the 8th, 1987. Well before we get to
15 that, I wanted to ask you, was there any reaction from the
16 defendant to your decision of pleading guilty, and I'm
17 talking about reaction in person between the two of you.

18 A Yes. The second to last time that Jens and
19 I went up for extradition together, we saw each other in
20 the courtroom, we were sitting in the dock together, there
21 was debate going on in the courtroom about my barrister
22 had asked for the cases to be separated so that I could be
23 extradited, and his barrister was saying that for various
24 reasons that they could not be separated, and I was
25 asked -- the Judge asked me how I felt, and I said that I

1 wanted to waive my extradition. And Jens grabbed me by
2 the throat in the courtroom, and he had to be removed.

3 And the final time that we appeared together, he had to be
4 handcuffed and escorted in the courtroom, and at that time
5 the cases were separated, and I appeared my final time on
6 April 15th.

7 Q Upon your return to this country on the
8 night of May the 8th, did you give a statement to
9 Investigator Gardner that night, the very night that you
10 arrived?

11 A Yes, I did.

12 Q And did you speak with Investigator Gardner
13 again on May the 11th, and again on May 14, 1987?

14 A I did. Yes, I did.

15 Q And in August of 1987, did you in fact plead
16 guilty to the counts of first degree murder?

17 A Yes, I did.

18 MR. UPDIKE: Thank you, I have no
19 further questions.

20 THE COURT: All right, that's a good
21 time to stop, we'll go to lunch. Recess
22 until two o'clock.

23 (Whereupon a luncheon recess was
24 taken.)

25 THE COURT: All right, the delay in

1 starting was at the request of the attorneys
2 for a good reason. We are now ready to
3 start, I think. So I understand now that we
4 will proceed with the cross examination of
5 Elizabeth Haysom, is that correct?

6 MR. UPDIKE: Yes, sir, the Commonwealth
7 is finished with direct.

8 THE COURT: All right, bring the
9 witness in, bring the jury in.

10
11 CROSS EXAMINATION

12 BY MR. NEATON:

13 Q Miss Haysom, I am going to show you what's
14 been marked as defendant Exhibit 14. Did you write that?

15 A (Pause for perusal.) Yes, I did.

16 Q I'd ask that it be introduced into evidence,
17 I will show it to the Commonwealth.

18 MR. UPDIKE: No objection.

19 (LETTER MARKED AS DEFENDANT'S EXHIBIT
20 14.)

21 Q Would you read that to the jury, please?

22 A The sound of silence. The terror of night
23 filled with strange noises. You cannot hear sounds of
24 silence, the silent sound of loneliness. Lines draw
25 across the page. Ink drops begin to grow. The chairs

1 found new splinters, floors new cracks, and the leaves
2 listened. The window pane bent, the door opened shut and
3 terror crept around the corner, treading soft and lurking
4 where. The moon closed his eyes and sky shut his ears,
5 God was off duty. So no one saw or heard screaming
6 silence. The silent scream of echo filled the hall with
7 smoking entrails. No one noticed the empty echogyre. The
8 voice cut the walls, sliced the trees, severing the life
9 from them. No one heard their pleas, for who listens to
10 trees. No one ever hears the sound, they only hear the
11 silence, because it always leaves a trail of flying blood.

12 Q You gave that to your mother around
13 Christmas of 1984, right?

14 A I'm not sure when I gave it to her, but it
15 was written while I was at Wickham when I was probably 18
16 years old.

17 Q Would you read the inscription?

18 A Mommy, a Christmas special from the pen from
19 a little known and exceeding rare poet, all the very best,
20 Elizabeth. P.S., in inverted commas, sometimes the devil
21 is a gentleman shouting. Since when was genius found
22 respectable, the quote for the day.

23 Q Thank you, I'll take that back. Miss
24 Haysom, you said that you pled guilty to this first degree
25 murder you're now serving a sentence for?

1 A Yes, I am, sir.

2 Q You have applied to serve your be sentence
3 in Canada, is that correct?

4 A That is not accurate, no.

5 Q That is not accurate?

6 A No. In October of '89 I went before -- I
7 was subpoenaed and went before a federal Judge, the
8 Federal Court in Powhatown, and my deportation was ordered
9 to Canada by a Federal Judge, and after that I put in an
10 application to start the process of being transferred to
11 Canada.

12 Q And you were aware that the Commonwealth
13 opposed that transfer?

14 A Yes. I actually informed --

15 Q You were aware of it, right?

16 A Yes, I informed, I wrote to my family and
17 told them what I was doing, and when I saw Mr. Updike for
18 the first time I was not aware of if he knew or not, and I
19 told him what I was doing.

20 Q You were aware that Mr. Updike had filed an
21 objection to that?

22 A I was only made aware of that much later on.

23 Q When were you made aware of that?

24 A I can't give you the exact date, but
25 Richmond phoned me, a Roberta Nixon, who is the

1 coordinator of interstate transfers, phoned me at
2 Goochland, and told me that the transfer had been put on
3 hold.

4 Q After Mr. Updike filed objections, correct?

5 A That's correct, yes.

6 Q And regardless of the fact that a
7 deportation proceeding prompted you to apply to serve your
8 sentence in Canada, you did in fact apply to serve the
9 remainder of your sentence in Canada, correct?

10 A That's correct.

11 Q Now, Miss Haysom, you're still here in
12 Virginia, right?

13 A I guess so.

14 Q You had the services of an attorney earlier
15 this year, didn't you, Mr. Rosenfield?

16 A That's correct.

17 Q And he acted on your behalf, is that not
18 correct?

19 A That's correct.

20 Q And Mr. Rosenfield, on your behalf sought
21 concessions or favors from the Commonwealth in return for
22 your testimony, is that right?

23 A That's correct.

24 Q And in fact Mr. Rosenfield acted upon your
25 instructions, correct?

1 A (Witness pauses.) We discussed it and I
2 agreed to it, I supposes that's my instructions, yes.
3 Q Well whatever he did, you agreed to it,
4 right?
5 A Yes, I did.
6 Q And therefore, you agreed to tell the
7 Commonwealth that you would not testify in this case
8 unless you got a deal, right?
9 A Um, yes, I did say that -- well Mr.
10 Rosenfield did represent it as such, yes.
11 Q With your authority, correct?
12 A With my authority, yes. But I do not have a
13 deal
14 Q I didn't ask you that, I said you made
15 that --
16 A But I am testifying.
17 Q You made that effort, right?
18 A Yes, I did make that effort.
19 Q Mr. Rosenfield also contacted my colleague,
20 Mr. Cleaveland on your behalf, correct?
21 A That's correct.
22 Q And that was with your authority, correct?
23 A Yes.
24 Q And with your authority he asked Mr.
25 Cleaveland for money in return --

1 A No, that was not with my authority.

2 Q That was not with your authority. In any
3 event, acting on your behalf he asked Mr. Cleaveland for
4 money in return for your cooperation, correct, with the
5 defense?

6 A What are you asking me to answer?

7 Q I am asking you to answer whether or not Mr.
8 Rosenfield asked my partner, Bill Cleaveland to pay you
9 money in return for your cooperation with the defense in
10 this case after the Commonwealth wouldn't deal with you?

11 A That is my understanding, he did that over
12 the telephone, yes.

13 Q And that was with your authority?

14 A He did not have that telephone conversation
15 with my authority, no. He did send the letters with my
16 authority.

17 Q He had your authority to contact Mr.
18 Cleaveland in order to try to gain favors from the defense
19 in this case, right?

20 A Um, yes, that's correct.

21 Q Now Mr. Cleaveland or I couldn't offer you a
22 transfer to Canada, right, we don't represent the
23 Commonwealth, do we?

24 A No, you do not represent the Commonwealth.

25 Q And Mr. Cleaveland or I couldn't get you

1 special favors in Goochland, could we?

2 A No, you cannot.

3 Q And so Mr. Rosenfield asked Mr. Cleaveland
4 for the only thing that could help you, which was money,
5 right?

6 A I don't need any money.

7 Q Whether you need it or not, it was asked
8 for, correct?

9 A I believe that it was asked for, yes.

10 Q And when that whole matter was brought up in
11 court afterwards, you agreed to cooperate with the
12 Commonwealth, right?

13 A I had already agreed to cooperate with the
14 Commonwealth.

15 Q And that's why you, after already agreeing,
16 that's why you asked them for favors, right?

17 A (No response.)

18 Q If you had already agreed to cooperate with
19 the Commonwealth, it was with the expectation that you
20 would gain something, right?

21 A No. I have it in writing; I did not expect
22 nor want anything from Mr. Updike or the Commonwealth.

23 Q You're hoping for something, aren't you?

24 A No, sir, I'm not.

25 Q You're hoping to be transferred to Canada.

1 aren't you?

2 A Since the prison has been condemned, has
3 been pulled down, and it's a disgusting place, no, I'm not
4 hoping that.

5 Q Goochland?

6 A No, the Canadian prison.

7 Q There's only one prison in Canada you could
8 be transferred to?

9 A There is only one federal penitentiary to
10 which I'd be transferred to, the one in Kingston, Ontario.

11 Q What is your shoe size?

12 A Eight and a half, nine.

13 Q You said that the letters that were
14 exchanged between you and Jens at Christmas time of 1984
15 were not part of any plotting to kill your parents, is
16 that right?

17 A Not in any specific way.

18 Q But at that time you were trying to get him
19 on your side, right?

20 A We discussed problems with our parents very
21 openly to each other.

22 Q You wanted him to sympathize with you,
23 didn't you?

24 A Absolutely.

25 Q You wanted him to be on your side against

1 your parents, right?

2 A Yes, I would say that was fair.

3 Q You said that in March of 1985 you sent Jens
4 a letter from the Ramada Inn in Colorado?

5 A That is correct.

6 Q And that the sole, the whole purpose of that
7 letter was to manipulate him, right?

8 A Yes, that is correct.

9 Q And your method of manipulation in that
10 letter was to confess that you had lied to him in the
11 past, right?

12 A No, that wasn't the sole -- most of the
13 method was to do with money.

14 Q That was part of your method, though?

15 A That was part of my method.

16 Q But you confessed that you lied to him,
17 right?

18 A Yes.

19 Q Confessed that he was the best thing that
20 had come into your life in a while, right?

21 A That's correct.

22 Q Tell him that you wouldn't lie anymore,
23 right? Right?

24 A I don't remember that being in the letter,
25 but if you say so, I'm sure that it's there.

1 Q And tell him a bunch of more lies, right?

2 A That's correct.

3 Q And of course you wanted him to give up his

4 career at school and go with you and live in Europe,

5 right?

6 A Well, it was better than murder.

7 Q Answer my question, Miss Haysom, you wanted

8 him to give up his career and go and live with you in

9 Europe, right, run away from school with you together.

10 A I wanted him to leave the school with me and

11 go somewhere, where it was, it didn't matter as long as it

12 was away from my parents, yes.

13 Q Because what you wanted to do was get away

14 from your parents, right?

15 A Yes.

16 Q Miss Haysom, you testified yesterday that at

17 the end of the Ramada Inn letter you told Jens that he had

18 to choose for himself?

19 A I said something about that he must do what

20 was best for him, because I had already messed up my life.

21 Q I thought you said yesterday that at the end

22 of the Ramada Inn letter that you said that Jens had to

23 make up his own mind.

24 A I said that he had a choice.

25 Q I'm going to show you a copy of what I

1 believe is the Ramada Inn letter, and I'd ask you to read
2 the last paragraph on that last page outlined.

3 A Promise me, Jens, above all else, and this
4 is -- has a square around it -- even if it means no more
5 us, whatever it takes now, promise me you'll not ruin your
6 life, I've seriously fucked up on mine. This is the first
7 real and good thing that I have done, but please don't let
8 me destroy yours, career, school, spiritual, whatever. I
9 would kill myself if I discovered you were compromising
10 yourself for me, don't do it.

11 Q But you wanted him to compromise himself for
12 you, didn't you?

13 A Yes, I wanted him to, but I was also
14 reminding him that he didn't have to.

15 Q That was part of your manipulation, wasn't
16 it, Miss Haysom?

17 A Quite possibly, yes.

18 Q It wasn't just quite possibly, it was yes,
19 you wanted him to leave UVA and go to Europe with you so
20 you could be away from your parents, right? So you
21 threatened suicide, said you might kill yourself, right?

22 A I said I threatened suicide, not if he
23 didn't do what I said, but if he did something that was
24 contrary to what he wanted to do.

25 Q And you wanted to make him do what you

1 wanted him to do, right?

2 A Yes, I believe that's fair.

3 Q Now in that letter you mentioned that as a
4 christening present Nancy Astor gave you a flat on 100
5 Eaton Square in London, is that right?

6 A Yes, I do say that in the letter.

7 Q And that was a lie, right?

8 A Yes, sir.

9 Q And you mention that a Board of Governors
10 was appointed, including Lord Carrington to administer
11 this life estate?

12 A Yes, sir.

13 Q And that was a lie, right?

14 A Yes.

15 Q Then you talked about your publishing career
16 beginning at Cambridge in the history department, and that
17 was a lie, wasn't it?

18 A I misunderstood what you just said, could
19 you -- ?

20 Q Well maybe I will show you. You talked
21 about your publishing career beginning in the history
22 department at Cambridge down at the bottom of Page 3?

23 A I don't see publishing here, I see many
24 political careers, et cetera, begin at Cambridge in the
25 history department, so I went to Cambridge with a nice

1 scholarship.

2 Q That was a lie, right?

3 A But that has nothing to do with publishing.

4 Q Well I'm sorry if I can't read your writing;
5 that was a lie, wasn't it?

6 A The many political careers, et cetera, begin
7 at Cambridge in the history department, no, that's not a
8 lie.

9 Q The fact that you went to Cambridge on a
10 scholarship?

11 A Yes, I never actually made it there, no. I
12 was offered an award at St. Catherine's College.

13 Q My question is, it was a lie that you went
14 to Cambridge on a scholarship, right?

15 A Yes, sir.

16 Q It was a lie that when you came back, Eaton
17 Square was on a lease, you know, 99-year type of thing,
18 the favorite of the English, right?

19 A It is on a lease, but it has nothing to do
20 with me.

21 Q That's right. It was a lie that you had a
22 25 thousand dollar book contract payment as a source,
23 right?

24 A Yes, that's true.

25 Q It was a lie that you had made \$500,000 from

1 an insurance policy, right?

2 A That's correct.

3 Q And that you gave some of it or all of it to
4 your brother Richard because his business was being
5 coerced buy a major architecture company, that was a lie,
6 that you gave him money from that insurance proceeds,
7 right?

8 A It did not come from my insurance proceeds,
9 but I did give him some money through my parents, yes.

10 Q The point is you told Jens in the letter
11 that you gave him the money from your own insurance.

12 A That's correct.

13 Q And that was a lie, right?

14 A Yes, it was, sir.

15 Q Were your parents very wealthy?

16 A No, they were not.

17 Q So it was a lie when you told him I have
18 very wealthy parents who won't give me a dime unless I act
19 out their fantasies, right?

20 A The second half of that is true, the first
21 is not true.

22 Q Was Nancy Astor your Godmother?

23 A Yes, she was.

24 Q Did you get accepted into MIT?

25 A I applied and was accepted, I never went.

1 Q Now Miss Haysom, you said that in February
2 of 1985 Jens came into your dorm room?

3 A Into my room, yes, sir.

4 Q It wasn't a dorm room, you had a room other
5 than a dorm room in '85 at UVA?

6 A It was several doors, it was a door from the
7 balcony into the suite, and then it was a door into my
8 room. There were five rooms off the dorm room.

9 Q Well which room did he come in?

10 A He came into my room, my personal room, with
11 my books and my bed.

12 Q And how long had it been since you had seen
13 him last before that particular day?

14 A I have no idea, probably not long, we spent
15 a great deal of time together.

16 Q But you have no idea today?

17 A When I last saw him before a particular
18 incident in February of '85?

19 Q Yes, the only incident in February that you
20 testified to yesterday.

21 A No, I have no idea how long it had been
22 since I had seen him.

23 Q And at that time you didn't have any idea
24 where he had been, right?

25 A That's correct.

1 Q You had no idea to whom he had talked?

2 A That's correct.

3 Q And he walked in the room and said I could
4 blow their heads off?

5 A That's correct.

6 Q In your statement of June the 8th of 1986 to
7 the police in England, did you mention anything about
8 that?

9 A I don't remember.

10 Q Would you like to take your time to read
11 this if it helps you refresh your memory?

12 A (Witness complies.)

13 MR. UPDIKE: Your Honor, if the witness
14 is being asked to read the entire
15 transcript, it is 30 pages long.

16 MR. NEATON: I'm just asking her to
17 read as much as she needs to read in order
18 to refresh her memory as to whether she told
19 the English police in 1986, anything about
20 this conversation. If she only needs to
21 read a page, that's fine with me. If she
22 needs to read it all, she can read it all.

23 A (Pause for perusal.)

24 Q Did you find anything about that yet?

25 A No, I haven't, sir.

1 Q What page are you on?

2 A 21.

3 Q Keep going.

4 A (Witness complies.) No, I find nothing that
5 specifically relates to it.

6 Q So on June 8th, 1986, you didn't tell the
7 police anything about that conversation, right?

8 A Not specifically, no.

9 Q Or not unspecifically either, right?

10 A I do say in there a number of times that we
11 had been thinking about plotting to kill my parents since
12 February, about a month before the crime took place.

13 Q But yesterday you testified that that wasn't
14 part of your premeditation, it was just a statement of
15 Jens walking into the room and blowing off steam, right?

16 A No, sir, I said that that was a turning
17 point for me anyway.

18 Q For you?

19 A Yes. From that point on --

20 Q I'd like to ask you something else about
21 your --

22 A Excuse me, sir, he interrupted me, may I
23 finish what I was saying?

24 THE COURT: Yes, you may finish what
25 you were saying, go ahead.

1 A I was saying that it was a turning point for
2 me, because at that point the idea in real concrete terms,
3 the idea of beginning to plot to actually kill my parents
4 became a reality.

5 Q Yesterday you testified that in Washington
6 Jens went in and bought a knife, right?

7 A That's correct.

8 Q You paid for it?

9 A That's correct.

10 Q But you never saw the knife?

11 A No, I did not.

12 Q Let me show you Defendant's Exhibit 15, do
13 you recognize that?

14 A Yes, I do.

15 Q Is that a drawing of a knife you made?

16 A That is a drawing of a knife, yes.

17 Q That's the drawing of a knife that you made
18 for the detectives in England and told them this was the
19 knife that Jens bought, right?

20 A Yes, that's correct.

21 Q The knife you never saw?

22 A That -- I have no idea what knife was
23 bought, and that drawing was something I drew to --

24 Q It was a lie, right?

25 MR. UPDIKE: Objection, Your Honor, if

1 the witness could finish her answer, please.

2 THE COURT: I don't believe she quite
3 finished.

4 A I drew the picture of the knife, because
5 just as I pointed out, it was our belief that if we threw
6 in enough peculiar factors, that our whole confessions
7 would be disqualified. So I drew a picture of a knife, a
8 picture that Jens had shown me from Soldier of Fortune
9 magazine, because as far as I knew, that the forensic
10 evidence of the type of cuts that were made would not
11 match the knife that I drew. And I later on cleared it up
12 that the picture that I drew was just a drawing of a
13 picture I had seen from Soldier of Fortune magazine.

14 Q But at the time you drew it, it was a lie,
15 right?

16 A That's correct.

17 Q And Miss Haysom, you drew a double edged
18 blade on the knife, right?

19 A That was the picture shown to me, yes, sir.

20 Q And Miss Haysom, since your arrest on the
21 fraud charges, you and Jens have not been in contact with
22 each other, other than a few times in court, right?

23 A That's correct.

24 Q And while you were at the Richmond Police
25 Station; you and Jens had not been in contact with each

1 other, correct?

2 A That's correct.

3 Q You had been held separately?

4 A That's correct.

5 Q Didn't see him?

6 A Right.

7 Q Didn't talk to him?

8 A That's right.

9 Q And in fact that's why on the evening of

10 June the 8th, 1986 you rang for the custody officer and

11 asked to speak to Detective Beever, right?

12 A I don't follow.

13 Q Because you hadn't seen or heard anything

14 about Jens, right?

15 A Can you give me the date again?

16 Q Sunday night, June 8th.

17 A Yes, Sunday night I asked them how he was

18 doing, could I see him, was he all right, what was going

19 on.

20 Q No, you asked Detective Beever, has Jens

21 admitted to the murders yet?

22 A I did not ask him that.

23 Q You did not say that to Detective Beever?

24 A Detective Beever came to my door and said

25 Jens has confessed. I said, don't try and pull that

1 nonsense with me, I don't believe you. He came back a few
2 minutes later and said this is what Jens was wearing when
3 he met you at the Rocky Horror Picture Show, and think
4 about that for a few minutes. He left again, and when he
5 came back, I said was Jens all right, and he said that the
6 following day I would be able to see Jens, but I had to
7 talk to them first.

8 Q You never asked Detective Beever has Jens
9 admitted to the murders yet, you never asked him a
10 question like that?

11 A No, not at all.

12 Q Not at all?

13 A (Witness shakes head in the negative.)

14 Q You claim that you didn't go to Loose
15 Chippings, you weren't there and had nothing to do at the
16 scene with the death of your parents, right?

17 A That is correct.

18 Q Now in your statement of June 8th, 1986, I'd
19 like to show you the bottom of Page 20 to the middle of
20 Page 21 that's in brackets, would you read that to
21 yourself first?

22 A Excuse me, where do you want me to go from
23 again?

24 Q From the red bracket at the bottom of Page
25 20, Miss Haysom.

1 A Yes.

2 Q If you'd read that to yourself.

3 A Yes, I did.

4 Q Would you hand that back to me, please.

5 A (Witness complies.)

6 Q Thank you. And at that time in response to
7 Sergeant Beever saying you egged him on all right, not
8 only with the letters, you egged him on in private, didn't
9 you Elizabeth, you knew it was going to happen and you
10 were creating the alibi while he was committing the crime,
11 that's true, isn't it? Tell me the truth, Elizabeth, are
12 you going to answer me? Well are you going to answer me?
13 You have written letters to him willing your parents to
14 death, you have led the poor boy to it most probably, or
15 are you both as guilty as each other? And you answer, all
16 right, I led him into it, I did everything, right. You
17 said that?

18 A Yes, I did, sir.

19 Q And Beever said, you knew he was going to do
20 it, didn't you, did you? And you said, I did it myself.
21 And he answered, don't be silly, and you said, I got off
22 on it. And Beever not knowing what that American
23 expression was said you did what, what does that mean.
24 And then you said I was being facetious, correct?

25 A That's correct, sir.

1 Q Now let's talk about what happened on the
2 weekend of the 29th of March in Washington. But before we
3 do so, you said that the prior weekend you had a nice
4 weekend with your family?

5 A Yes, I did.

6 Q And your family had agreed that you could go
7 to the Gerta Institute in Salzburg?

8 A That's correct.

9 Q Did you know that there is no Gerta
10 Institute in Salzburg?

11 A I believe there is, sir, outside. Unless I
12 have the wrong town, but I'm pretty sure that there is.

13 Q Would you like to call directory assistance
14 in Salzburg right now?

15 MR. UPDIKE: Are you going to pay for
16 the call, Mr. Neaton?

17 MR. NEATON: I'll be glad to.

18 A Sir, I'm sorry if I had the wrong town, but
19 I was definitely permitted to attend the Gerta Institute,
20 and my parents spoke with Herb Bansleben, who is the head
21 of the German Department at the University of Virginia
22 about which Gerta Institute I should attend, and which
23 program I should follow, whether it's the six weeks or the
24 eight weeks course or whatever.

25 Q So what you're saying is that it may be

1 incorrect that you decided that your parents agreed to let
2 you go to the Gerta Institute in Salzburg?

3 A Absolutely not. I'm saying that I may have
4 made an error concerning the town, but as to the Gerta
5 Institute, yes, I was most definitely allowed to go.

6 Q The Gerta Institute someplace?

7 A The Gerta Institute in Austria; there are
8 many of them, and I specifically wanted to go to Austria.

9 Q You said that on the Saturday night of March
10 the 30th, 1986, that there was a Georgetown basketball
11 game in Washington that night? That's what you testified
12 to yesterday, right?

13 A Well if you could give me the dates again,
14 Saturday, yes, there was a basketball game. I don't know
15 if it was in Washington itself, but certainly the
16 university there in Georgetown was participating in that
17 game, and they won the game, and there was an enormous
18 amount of confusion and chaos, and lot's of people in the
19 streets.

20 Q That's because you know that there was no
21 game in Washington that night, right?

22 A That's not true, sir, there was a game.

23 Q In Washington that night?

24 A I don't know if it was in Washington, I know
25 that Georgetown played and won the game, and there were

1 vast amounts of people in the street. I don't know where
2 the game was, I know nothing about basketball. I know
3 that Georgetown won that night and there were a lot of
4 people.

5 Q You said that you arrived at the Marriott on
6 Friday night, right?

7 A That's correct, yes.

8 Q And that you originally paid cash for the
9 room, right?

10 A I believe so, yes.

11 Q And it was your cash, right?

12 A Yes, it was.

13 Q Jens had no cash, right?

14 A I have no idea how much money he had on him,
15 but I did pay for the room, yes.

16 Q And you paid for the car, right?

17 A That's correct, yes.

18 Q And in fact you had the cash on you for the
19 two of you for that weekend, I believe you said, right?

20 A Most of it anyway, yes.

21 Q Now on Friday night you said you went to a
22 movie and to dinner, is that right?

23 A We went out that night, yes.

24 Q Can you remember where you went?

25 A I know we went to a small restaurant, and I

1 had something to eat, I don't remember if we had a full
2 dinner or anything like that.

3 Q You don't remember the name of the
4 restaurant?

5 A No, sir, I don't.

6 Q You don't remember the name of the movie?

7 A No, sir, I do not.

8 Q The following day, Saturday, you said that
9 you drove up into Georgetown, right?

10 A Yes, Jens and I drove into Georgetown, and I
11 attempted to sell some jewelry, I did sell some jewelry.

12 Q Jens wasn't with you?

13 A No, he wasn't, he dropped me off.

14 Q And where he went, you don't know?

15 A No.

16 Q And you sold your mother's jewelry?

17 A Some of it was, yes.

18 Q Which you had stolen from your mother about
19 a month earlier?

20 A Some of it.

21 Q And some of the jewelry, what, you stole
22 from somebody else?

23 A No, the other was my own.

24 Q And you got what, a couple hundred bucks for
25 your mother's jewelry?

1 A Actually, I was unable to sell my mother's
2 watch, I was only able to sell my own chains and broach,
3 and yes, I got -- I don't remember specifically, it was
4 about \$150, \$200, something like that.

5 Q And you sold that for additional cash,
6 right?

7 A Excuse me?.

8 Q For additional cash for the weekend?

9 A Yes, sir.

10 Q You were already planning to do dope then?

11 A Any opportunity I can, yes.

12 Q Then you knew that Jens did not do drugs,
13 right?

14 A No, he does not smoke, he doesn't do drugs
15 and he drinks very little.

16 Q So whatever you had to do in relation to
17 drugs, you had to do alone, right, not with Jens?

18 A I suppose.

19 Q Well you'd be awful terrified of Jens if he
20 knew that you were doing drugs, right?

21 A I don't think so, no. He was aware that I
22 had a problem.

23 Q So he had already accepted that fact, is
24 that what you're saying?

25 A No, I think he was very unhappy about it.

1 Q But he loved you anyway, right?

2 A So he says.

3 Q So he said at the time, right?

4 A So he said.

5 Q Now you said that later in the afternoon or
6 later that day, that that's when you and Jens decided to
7 kill your parents, right? In the car driving around
8 Washington?

9 A I think that it would be more accurate to
10 say that we were deep into the plot of killing my parents,
11 and it was decided at that particular moment while we were
12 in the car that it was now or never.

13 Q So you went to Washington for the purpose of
14 killing your parents, is that what you're saying today?

15 A I think that --

16 Q I'm not asking you what you --

17 MR. UPDIKE: Objection, Your Honor.

18 Q I'm not asking you what you think, I'm
19 asking you whether or not you went to Washington with
20 definitely deciding to kill your parents.

21 MR. UPDIKE: Since she's not a lawyer,
22 she might need to think before she talks.
23 So we'd ask that she be allowed to do so.

24 THE COURT: Well, if you can answer
25 that question with a yes or no, then you

1 should do it. If you need to explain it,
2 I'll allow you to do so, Miss Haysom.
3 A I would say yes.
4 Q Now you set up the alibi in the car, right?
5 A We discussed what the alibi would be, and
6 that was for me to go to these various movies to take
7 notes, the room service,
8 Q I didn't ask you what the alibi was. I asked
9 you when you set it up, Miss Haysom, that was in the car,
10 right?
11 A No, I think it was set up before that.
12 Q In any event, by one or two in the
13 afternoon, are you saying that Jens had left and you began
14 the process of buying theater tickets?
15 A Sometime early in the afternoon Jens dropped
16 me off at the theater, he left and I went to the movie.
17 Q But you didn't go to the movie, right?
18 A I went into a bar and then I went to the
19 movie and bought the ticket. But he dropped me off at the
20 movie.
21 Q And you don't remember the name of the
22 movie.
23 A It was either Stranger in Paradise or
24 Witness.
25 Q And it was about two in the afternoon?

1 A One --

2 Q Or was it one in the afternoon?

3 A Between one and two, I'm not sure exactly.

4 Q And then you went to the bar, did you have a
5 drink?

6 A Yes, I did.

7 Q Score some dope?

8 A Yes, I did.

9 Q In the bar?

10 A Yes, I did.

11 Q You just knew where to find those kind of
12 bars, right?

13 A When you're a junkie it finds you very
14 quickly.

15 Q You came out of the bar, right?

16 A Uh-huh.

17 Q Then you went to the next movie and bought
18 the tickets?

19 A I went to the first movie, bought the
20 tickets from the first movie.

21 Q Then went to the bar instead of going to the
22 movie?

23 A Excuse me sir, you're repeating yourself. I
24 went to --

25 Q I'm just trying to get your story straight,

1 ma'am. I'm sorry if I have to repeat myself.

2 A Jens dropped me off at the movie, I went
3 around the corner to the bar, I went into the bar and I
4 brought the drink and I scored some dope. I came out of
5 the bar, I went to the movie, picked up some tickets and
6 left.

7 Q And that's when you walked around Washington
8 in a haze, right?

9 A Something along those lines, yes.

10 Q Dope induced, right?

11 A Definitely.

12 Q And then you walked to the -- in that haze
13 you walked around, and then you came to the Stranger in
14 Paradise theater or the Witness theater, right, one of the
15 two?

16 A I walked around for a period of time, I
17 scored some more dope, I got a taxi and I went to the
18 second movie that we had agreed that I would go to, I
19 bought some more tickets, two of each, and um --

20 Q And that was at what, about four or five in
21 the afternoon?

22 A Yes, I suppose, something like that, yes, it
23 would be a couple of hours after the first movie.

24 Q And you didn't go in that movie, right?

25 A No, I did not, sir.

1 Q You just bought the tickets?

2 A (Witness nods head in the affirmative.)

3 Q Then you went back, took a taxi back to the

4 hotel?

5 A Not then, no.

6 Q Oh, you went to the next bar and scored some

7 more dope?

8 A Probably, yes. I went back to the hotel

9 later in the evening, it was about six, 6:30, something

10 like that.

11 Q And then you stayed in the hotel room and

12 ordered room service, right?

13 A That's correct.

14 Q And you paid for it with Jens's Visa card,

15 right?

16 A No, I signed for it. I signed for it using

17 Jens's name.

18 Q And then you left about 10:00, right, 10,

19 10:30, or was it about 11? I don't want to be unfair to

20 you.

21 A Thank you. I'm not -- I can't be specific

22 as to time, but I think I arrived at the Rocky Horror Show

23 in time for it to start.

24 Q It started at what, around midnight, as most

25 of them did at that time?

1 A That's correct.

2 Q And that was right in the heart of
3 Georgetown, right?

4 A That's correct.

5 Q Took a taxi there?

6 A That's correct.

7 Q And so if it started around midnight you
8 must have left the Marriott around 11, 11:30, correct?

9 A Probably, but maybe even later than that.

10 Q Now, Jens did give you his Visa card, then,
11 right?

12 A That's correct.

13 Q And he did not give you any money, right?

14 A No, he didn't.

15 Q And you did not give him any money?

16 A I'm not sure about that, I don't remember
17 whether I gave him money or not, but he did give me his
18 Visa card.

19 Q You were the controller of the cash for the
20 two of you that weekend, right?

21 A That's correct.

22 Q So you doled it out as either of you needed
23 it, right?

24 A I had a purse in which it was convenient to
25 carry it in, yes.

1 Q I'd like to show you Page 3 of your June 8th
2 statement, and I'd ask you to read to yourself the first
3 paragraph.

4 A (Witness complies.) Just to where the pink
5 ends?

6 Q Yes. And you said on June the 8th, 1986,
7 after he dropped me off at the movie, he said buy a couple
8 of tickets and I didn't think about it, I just did as he
9 said, oh, and I looked and said to him that I didn't have
10 enough money to do all of this, that he gave me his Visa
11 card and he gave me some money and he said, you know, that
12 he was going to be off, and he'd meet me back at the
13 hotel. You said that on that day, right?

14 A Yes, I did.

15 Q And that was a lie, right?

16 A Yes, it was, I was trying to shift more
17 blame on Jens.

18 Q And then you said that you went to the
19 movie -- you testified that you didn't go to the movies,
20 right, you just bought the tickets?

21 A That's correct.

22 Q And I'd show you the first couple of lines
23 in blue right under the part you read on Page 3 of your
24 June 8th statement.

25 A Yes.

12
1 Q On June 8th, 1986 you told the police that
2 you went to the movies, right?

3 A Yes, sir, as I say, I was trying to shift
4 all the blame on Jens.

5 Q Well whatever your reason, you went to the
6 movies, right?

7 A No, sir, I did not go to the movies.

8 Q But you told the police that you did.

9 A Yes, I did.

10 Q Now, you testified that you came back to
11 this country in 1987, right?

12 A Are you asking me if I came back in 1987, or
13 whether I testified or not.

14 Q First of all I'm asking whether you
15 testified or not, then we'll find out whether that was
16 true. Did you come back to the country in 1987?

17 A Yes, I did.

18 Q And you said you came back to plead guilty,
19 right?

20 A Yes, I did.

21 Q To tell the truth, right?

22 A To plead guilty.

23 Q That's different than telling the truth?

24 A No, sir.

25 A I'd like to show you -- well ask you first.

1 then, on May the 8th, 1987, you gave another statement to
2 Ricky Gardner in the Sheriff's Office here in Bedford
3 County, right?

4 A That's correct.

5 Q And I'd like you to read the first question
6 and answer in pink on Page 6 of that statement.

7 A (Witness complies.) Would you like me to
8 read it out loud?

9 Q Well I'll read it to you and you can tell me
10 if you said that or not.

11 A Yes, I did say that.

12 Q You were asked by Ricky Gardner did you go
13 to the cinema, and you said no, right?

14 A That's correct.

15 Q And that was a lie, right?

16 A I think we were referring to did I go to the
17 cinema to watch the movie.

18 Q Well, the next question was, and I'll show
19 this to you, right beneath it.

20 A I said -- Investigator Gardner said, you
21 didn't go to the cinema, where did you go?

22 A I went to a bar. Investigator Gardner. A
23 bar, oh, okay. Elizabeth. He dropped me off at the
24 cinema, then I went to the bar next-door.

25 Q That's right. Thank you.

1 A Well I have just said that. And then later
2 on he says, Investigator Gardner says, he dropped you off
3 at the cinema.

4 MR. NEATON: Your Honor, the witness is
5 not responding to my question.

6 MR. UPDIKE: She's just responding to
7 the question.

8 MR. NEATON: She's not.

9 MR. UPDIKE: Your Honor, defense
10 counsel is suggesting, saying that she said
11 something different, and he suggested that,
12 and the witness has said that she's not, and
13 she's just not.

14 THE COURT: No, sir, disagree, Mr.
15 Updike, he's got a right of cross
16 examination, now he asked the question,
17 she gave an answer, and then she volunteered
18 reading other testimony; I rule she may not
19 do it, I sustain Mr. Neaton.

20 MR. NEATON: Thank you. Can I have my
21 statement back, please.

22 THE WITNESS: Well it is not an
23 untruthful statement.

24 MR. NEATON: Your Honor, I have not
25 asked a question.

1 THE WITNESS: Excuse me.

2

3 BY MR. NEATON: (continuing)

4 Q Now you said that I was taking this out of
5 context in this May 8th statement that you said that you
6 did in fact purchase two tickets for the cinema that day,
7 right?

8 A That's correct.

9 Q I show you Page 22 of your May 8th
10 statement, and I'd like you to read to yourself the items
11 in brackets on the top of Page 22.

12 A And this is referring to the last --

13 Q You have read them?

14 A Yes, I have read them.

15 Q Okay. And Investigator Gardner asked you,
16 you didn't -- so you actually never did purchase two
17 tickets at the cinema, did you?

18 A And you answered I only ever purchased one,
19 the one for the Rocky Horror Show, right? You said that,
20 right?

21 A I said that I purchased only one ticket from
22 the Rocky Horror Show, yes, not two.

23 Q You said I only ever purchased one, the one
24 for the Rocky Horrow Show. Are those not your exact words
25 to Investigator Gardner?

1 A Yes, they are.

2 Q Now of course you weren't under oath when
3 you made any of those statements to the police, were you?

4 A No, sir.

5 Q And you're under oath here today, right?

6 A Yes, I am, sir.

7 Q And you were under oath on October 5th,
8 1987, weren't you?

9 A Yes, I was, sir.

10 Q I am going to show you Page 167 of your
11 sworn testimony on October 5, 1987, and I'd ask you to
12 read to yourself, read lines 6 through 12.

13 A (Witness complies.) Yes, I have read them.

14 Q Now Miss Haysom, you testified today that he
15 dropped you off, and then you walked toward the theater,
16 and then you went to the bar, came out and bought the two
17 tickets for the movie, right, that's what happened, right?

18 A That's correct, yes, sir.

19 Q And you testified on October 5, 1987, no, so
20 what eventually happened is that he took me to a movie up
21 in, I'm not sure where it is, north of Georgetown, I
22 believe, and he dropped me off at the movie, and as soon
23 as he was gone -- well he watched me go in and buy the
24 tickets. As soon as he was gone I was out and I went to a
25 bar next-door. So you testified on October 5th that you

1 went to the movie first and not the bar first, right?

2 Right?

3 A Yes.

4 Q Thank you.

5 Q Now you said that you had discussed buying
6 the movie tickets before Jens left to go to Lynchburg,
7 right?

8 A That's correct.

9 Q I call your attention to your sworn
10 testimony on Page 168 and ask you to read to yourself
11 Lines 20 through 25 on that page.

12 A 20 through?

13 Q 20 through 25.

14 A Yes.

15 Q And under oath and from that very same
16 witness box in 1987 you said, in answer to the question,
17 was there some discussion between you and Jens about that,
18 about the movie tickets and an alibi, and you answered,
19 after the fact, yes, sir. The question, when after the
20 fact? When he came back, was your answer, not directly
21 after he came back, but on the Sunday. That was your
22 answer back three years ago from that very same witness
23 box, wasn't it?

24 A It appears so, sir.

25 Q Do you have any reason to doubt the accuracy

1 of the certified transcript?

2 A Absolutely not. I'm just wondering about
3 the context.

4 Q And on October 6th you were still in that
5 same witness box, were you not? And you were asked some
6 other questions about the planning to establish an alibi,
7 and I'd like to call your attention to Page 306, Lines 17
8 through 22, if you could read those to yourself.

9 A (Witness complies.)

10 Q And on October 6th you were asked the
11 question, you're stating now that after Jens Soering left
12 you got some acid or some drugs or something, and you
13 answered yes, sir? Right?

14 A (Witness nods head in the affirmative.)

15 Q And you were asked the question, and you had
16 no plan to establish an alibi there in Washington, and you
17 said, no, sir, correct?

18 A That's what it says, yes, sir.

19 Q Do you have any reason to doubt that that's
20 accurate?

21 A No, sir.

22 Q And on Page 307, Line 20 through 22, just so
23 we make sure we're not taking this out of context, ma'am,
24 would you read those to yourself?

25 A 20 through 22?

1 Q Yep.

2 A Yes, sir.

3 Q And you were asked the question, you said
4 here that you attended movies, you're saying now that you
5 didn't, and you answered, no, I didn't, right?

6 A That's correct, sir.

7 Q And again on Page 308, talking about whether
8 or not the alibi was planned in advance, read the
9 highlighted stuff to yourself, please.

10 A Yes.

11 Q And you were asked the question, but there
12 was no plan of providing an alibi you're saying here
13 today, and you answered, there was a plan afterwards, yes,
14 sir. Question, a plan afterwards? Yes, sir. Correct?

15 A Yes, sir.

16 Q You said today that you did not sign or use
17 Jens's Visa card to pay for the room service meal, that
18 you just signed the room service ticket, right? That's
19 what you testified to here today, Miss Haysom, correct?

20 A Well when you sign for the room service, I
21 think I supplied the card, but it was not used, they
22 didn't take a print of it.

23 Q I thought you just said 10 minutes ago that
24 Jens didn't give you his card.

25 A No, I did not, sir. Jens gave me his Visa

1 card.

2 Q And so you used the Visa card to pay for the
3 room service, right?

4 A No, sir, I tried to, all I had to do was
5 sign for it.

6 Q Well did he or did he not give you the Visa
7 card out on the street?

8 A He gave me the Visa card.

9 Q He gave you the Visa card.

10 A Yes, he did.

11 Q Do you want to think about that for a minute
12 and make sure you got it straight?

13 A Jens gave me his Visa card.

14 Q What did you buy on the room service?

15 A I bought some alcohol and some food, I
16 believe.

17 Q Did you buy two meals?

18 A I don't remember specifically, but I bought
19 food and alcohol.

20 Q You don't know how much you paid, or how
21 much Jens paid for it, or really, how much Jens' father
22 paid for it.

23 A Well actually, he didn't end up paying for
24 it, because I gave Jens a check, and Jens sent the check
25 to his father, or he sent the money to his father.

1 Q My question is you have no idea what it
2 cost, right?

3 A I believe around \$30, something like that,
4 I'm not sure.

5 Q And that was for the liquor, and the food?

6 A That's correct.

7 Q And you bought a bottle of liquor?

8 A I bought some liquor, yes, sir.

9 Q Well do you know what kind of liquor you
10 bought?

11 A Johnny Walker.

12 Q And did you buy a bottle of it?

13 A I bought a small bottle, yes.

14 Q So you bought a bottle of Johnny Walker and
15 you bought some food?

16 A Yes, I did.

17 Q And you signed for it all on the Visa card
18 or on the room service receipt, right?

19 A I signed for it using Jens's name.

20 MR. NEATON: Judge, could I have a
21 break right now?

22 THE COURT: All right, we'll take a
23 10-minute recess.

24 (Whereupon a recess was taken.)

25 THE COURT: All right, let's go back.

1 Bring the jury in.

2 THE COURT: All right, we'll go for one
3 more hour, that will put us at five? After
4 five, and we'll stop at that time.

5

6 BY MR. NEATON: (continuing)

7 Q Miss Haysom, in 1985, on the weekend of
8 March the 29th, what, you were 20 years old?

9 A That's correct, sir.

10 Q A couple of weeks from being 21?

11 A Yes, sir.

12 Q Jens was 18?

13 A Yes, sir.

14 Q And you had told him that you had been --
15 you had done some traveling in Europe, right?

16 A That's correct.

17 Q You told him that you had been around, right
18 had a lot of lovers?

19 A Yes, sir.

20 Q That both male and female, right?

21 MR. UPDIKE: Objection, Your Honor, as
22 to relevancy.

23 THE COURT: Well, that's a question,
24 what is the relevancy of that cross
25 examination?

1 MR. NEATON: It goes to the
2 manipulation that she was using on our
3 client, Your Honor.

4 MR. UPDIKE: Your Honor, we challenge
5 any basis in that regard, and still
6 respectively submit it's irrelevant.

7 MR. NEATON: I'm asking whether she
8 made the statements, not whether they're
9 true or not.

10 MR. UPDIKE: We re still objecting on
11 grounds of relevancy, as to any issue to be
12 determined in this case.

13 THE COURT: I rule that you may ask her
14 about whether she's had past sexual
15 experience, but that's the limit of it,
16 and only that is relevant insofar as any
17 knowledge implied to your client.

18 MR. NEATON: Right, and that's all I'm
19 trying to get to.

20 THE COURT: Right.

21
22 BY MR. NEATON: (continuing)

23 Q Now you testified that after your parents
24 were killed and the house was returned to the family, that
25 you and your brother went back to the house to clean up?

1 A No, we did not go back to the house to clean
2 up. The police officer took my brother and I to the house
3 to examine it to see if anything was missing and to show
4 us what had taken place. And sometime after that I did go
5 back to the house at various times.

6 Q And one of those times, on several of those
7 times, it was to clean up?

8 A We had professional cleaners come in, but
9 yes, I did go and do some cleaning.

10 Q And hadn't you suggested to your brother
11 that you didn't need professional cleaners, that you all
12 could do it yourselves?

13 A I do not remember making that statement to
14 him, no, sir.

15 Q And during one of the times that you were at
16 the house, didn't -- weren't you there trying to clean up
17 some of the blood on the threshold of the front door?

18 A No, that's not correct, sir.

19 Q Well where were you trying to clean up the
20 blood from, then?

21 A It was not blood, sir, and I was not
22 cleaning up. I was looking at where my father had laid,
23 and on the side of the dining room door there was some
24 hairs from his head.

25 Q Okay. So you weren't trying to clean

1 anything up, is that what you're saying?

2 A I'm not sure what I was doing. I may have
3 been cleaning up something, I don't remember what I was
4 doing. I was there with some people.

5 Q Well how about this, were you at any time
6 trying to see how your foot fit in the footprints that were
7 on the living room floor?

8 A The police officer suggested that I measure
9 my foot against the footprint and I did.

10 Q So you did measure your foot against the
11 footprint, right?

12 A Yes, I did.

13 Q And which police officer told you to do
14 that?

15 A Chuck, who is the one I can't recall his
16 name.

17 Q Officer Reid?

18 A No.

19 Q Now how many different footprints did you
20 try your foot in?

21 A As far as I know, only one, sir.

22 Q Was that your right or your left foot?

23 A I have no idea, I don't remember.

24 Q Did you ever tell Jens that you had been
25 sexually abused by anyone?

1 A Yes, sir.

2 Q You told Jens that you had been raped at the
3 age of 10 in Switzerland?

4 A That is correct, sir.

5 Q And that's false, right?

6 A No, it is not.

7 Q You told your brother, didn't you, that it
8 wasn't a rape, it was only an indecent exposure act,
9 right?

10 A I told him that, yes, sir.

11 Q And that was a lie?

12 A Yes, it was. I don't think that discussing
13 rape on a ski lift in Colorado 10 years after the event,
14 nine years after the event suddenly out of the blue, it
15 wouldn't have brought --

16 Q Your brother was concerned about you,
17 though, wasn't he, that's why he asked you questions,
18 right?

19 A (No response.)

20 Q Right?

21 A I can't suppose what my brother was
22 thinking. Perhaps, yes.

23 Q Well you're not ascribing any improper
24 motive to your brother on the ski lift, are you?

25 A No. It's just odd, it was an odd place to

1 strike up a conversation about it for the first time ever
2 about a rape when you were a child.

3 Q Did you ever tell Jens that you had been
4 sexually abused by anyone else?

5 MR. UPDIKE: Your Honor, I still have
6 difficulty understanding the relevancy of
7 this, and would object on that basis.

8 THE COURT: I'm having some trouble
9 seeing it, too.

10 MR. NEATON: Judge, I think it's
11 relevant in two ways. A, it goes to the
12 manipulation of my client, which we contend
13 went on during that period of time, and B,
14 it goes to motive for this witness to kill
15 her parents.

16 MR. UPDIKE: If I might, excuse me,
17 Your Honor, we would still object on grounds
18 of relevancy, and more specifically, it has
19 to be limited in some respect. I don't see
20 how this can be any kind of motivation
21 concerning Mr. and Mrs. Haysom. We think
22 it's too broad.

23 MR. NEATON: Well, I'm willing to make
24 an offer or proffer outside the presence of
25 the jury, or I'm willing to indicate what

1 I am asking about now is not whether
2 it's true or not, but whether the statements
3 were made. And the fact that statements are
4 made to my client is certainly relevant, and
5 ultimately the truth or falsity of those
6 statements would be relevant as to motive.

7 THE COURT: Well the Supreme Court of
8 Virginia has many times ruled that a lawyer
9 on cross examination of a critical
10 prosecution witness should be allowed great
11 latitude. I am going to adopt that rule,
12 along with the fact Mr. Neaton states to the
13 Court that he has a purpose for these
14 questions. I frankly can't see the purpose
15 at this point, but if you say that you have
16 a purpose, I'll let you proceed.

17 MR. UPDIKE: Your Honor, if the
18 Commonwealth does not see that purpose,
19 may we restate our objection?

20 THE COURT: You mean later on?

21 MR. UPDIKE: Yes.

22 THE COURT: Certainly.

23 BY MR. NEATON: (continuing)

24 Q Well Miss Haysom, did you ever tell my
25 client about nude photographs of yourself?

1 A Yes, I did.

2 Q And did you ever tell my client who took
3 those photographs?

4 A Yes, I did.

5 Q And who did you say to my client took those
6 photographs?

7 A My mother.

8 Q And did you tell my client, did you tell
9 Jens that those photographs were taken in a way that
10 depicted you in disgusting positions?

11 A I said that they were humiliating positions.

12 Q Humiliating positions.

13 A Yes.

14 Q And that was true?

15 A Yes, sir.

16 Q Now, did you ever tell my client that your
17 mother's good friend Mrs. Massie had somehow done things
18 to you?

19 MR. UPDIKE: Objection on that ground,
20 Your Honor.

21 MR. NEATON: I'm not saying it's true,
22 I'm just asking whether it was said.

23 MR. UPDIKE: Your Honor, our point,
24 we're now talking about some other parties,
25 we're not talking about Jens Soering,

1 Elizabeth Haysom, Nancy Haysom or Derek
2 Haysom.

3 THE COURT: Mr. Updike, for purposes of
4 credibility, though, the question is
5 admissible, only for that purpose.

6 MR. UPDIKE: Yes, Your Honor, and
7 please, I'm not trying to argue with the
8 Court, but if I could briefly state my
9 understanding, Judge, the impeachment must
10 be limited to prior inconsistent statements
11 as to testing of memory, such things as
12 certain areas pertaining to character, and
13 within that realm, Your Honor, we think that
14 character cross examination is limited to
15 such things as certain criminal convictions,
16 and in a case of this nature, but that's
17 basically it, if it's going to character.

18 MR. NEATON: It's not going to her
19 character in any other way than trying to
20 show that she's not a believable witness.
21 I'm not asking -- I'm asking if she made
22 these statements, because I contend that
23 it's part of the manipulation that this
24 person was using on my client to make my
25 client sympathize with her.

1 THE COURT: I'm sorry, I'll have to
2 allow the question. Obviously I'm not --

3 MR. NEATON: And I want to make it
4 clear, I'm not vouching for the credibility
5 of the statements, I'm asking whether the
6 statements were made to my client. And I
7 apologize that I have to do it, but I feel
8 that it's my duty.

9
10 BY MR. NEATON: (continuing)

11 Q Did you ever tell Jens Soering that your
12 mother's good friend Mrs. Massie had touched you in any
13 way?

14 A I don't recall doing so, no.

15 Q But you told the police that she had done
16 it, right?

17 A I don't believe so, no.

18 Q Did you ever tell Jens that Mrs. Massie knew
19 about these photographs?

20 A Yes, she did.

21 Q And you're saying here today that she knew
22 about the photographs?

23 A As far as I know, yes, she did.

24 Q Okay. Now you ran away from Wickham Abby in
25 England, didn't you, in 1983?

1 THE COURT: Wait just a minute, before
2 we leave that other point. The law is that
3 when you ask a question like that and I let
4 you ask it, you have to prove it. You can't
5 just ask questions and then not back it up
6 with proof. Now so far you haven't backed
7 it up with proof, and and if you don't, I am
8 going to strike the question and I am going
9 to strike the answer, sir.

10 MR. NEATON: She admitted about --

11 THE COURT: She admitted about saying
12 it, but that's not the question -- as I
13 understood it, that wasn't the question that
14 you asked.

15 MR. NEATON: She admitted saying that
16 to my client. And she admitted that the
17 person to whom I referred had seen the
18 photographs.

19 THE COURT: I didn't understand that to
20 be exactly the question you asked her the
21 first time when Mr. Updike objected. What
22 was your first question?

23 MR. NEATON: The first question was
24 about any un -- some sort of conduct
25 by Mrs. Massie against this witness.

1 MR. UPDIKE: That is the question I
2 objected to, Your Honor, on the ground of
3 relevancy.

4 THE COURT: Unless you can do better
5 than what I have heard so far, this Court
6 sustains the objection.

7 MR. NEATON: I think I can, I just
8 lost my place.

9 THE COURT: You think you have other
10 evidence on that?

11 MR. NEATON: Yes.

12 THE COURT: Well go ahead, I'll give
13 you a chance.

14

15 BY MR. NEATON: (continuing)

16 Q I had asked you whether you told the police
17 that Mrs. Massie had touched you in some way. Would you
18 read Page 38 of the May 14th transcript to yourself?

19 A ((Witness complies.))

20 Q The highlighted portion.

21 A Yes, sir.

22 Q And did you tell Detective Gardner on May
23 the 14th, 1987, that she just came up to me and she just
24 sort of tweaked my breast and said you have a lovely body
25 or something, and I think those photographs are just

1 lovely or the rest of it, and I was very embarrassed, I
2 mean I really was.

3 Q Did you say that?

4 A Yes, sir.

5 Q It wasn't true, was it?

6 A (Witness pauses.) I'm afraid it is, sir.

7 MR. UPDIKE: Your Honor, we still
8 haven't seen any relevance to any of this.

9 Q You told that to Jens, didn't you?

10 A I have no idea.

11 MR. UPDIKE: Again, objection, Your
12 Honor, what difference does it make? Your
13 Honor, isn't the issue of murder of Mr. and
14 Mrs. Derek Haysom?

15 MR. NEATON: Well the issue is the
16 credibility of this witness and the stories
17 she would tell my client in order to gain
18 sympathy. And this witness has been offered
19 by the Commonwealth as a believable witness,
20 and has told a story, and you know, I regret
21 that I have to go into these sensitive
22 areas, Judge, I don't enjoy doing it, but
23 this witness has made accusations against my
24 client, and her credibility is at issue.

25 THE COURT: If she doesn't deny the

1 statement, Mr. Neaton, it's not a question
2 of impeachment. It really hasn't been
3 handled properly.

4 MR. UPDIKE: Your Honor, again we
5 emphasize our understanding that it's not
6 proper impeachment as to credibility, and if
7 I understand what Friend states in here, you
8 cannot raise collateral issues and impeach
9 on collateral issues raised for the first
10 time on cross examination, that's improper.
11 And I do think, and I'll defer to the
12 Court's understanding that on cross
13 examination you cannot raise a collateral
14 issue that's irrelevant then come back and
15 impeach it, because it's just improper, it
16 distracts from the issue being tried.

17 MR. NEATON: Judge, it's not
18 collateral, because I believe it goes to
19 motive. And I'm going to go on to a
20 different area in any event at this point,
21 but it goes to motive, and I think in
22 argument I'll be able to tie it together.

23 MR. UPDIKE: But Your Honor, counsel
24 represented to this Court that he could show
25 relevancy of this issue.

1 MR. NEATON: Well motive is relevant.

2 THE COURT: I don't see how that
3 testimony, even if true, could prove motive
4 in the case, I really don't. It's out, the
5 Jury has heard it, but I sustain the
6 Commonwealth's objection to it. There's not
7 much we can do about it now, but I didn't
8 know where you were going, and I don't think
9 that you have properly produced this
10 evidence. I sustain the Commonwealth.

11
12 BY MR. NEATON: (continuing)

13 Q Miss Haysom, you have made allegations about
14 your mother, have't you?

15 A (Witness pauses.)

16 Q You have said that your mother has slept
17 with you, haven't you?

18 A Yes, sir.

19 Q And you have told that to the police, right?

20 A I don't remember if I discussed it with them
21 or not.

22 Q You told it to the person who prepared your
23 presentence report, right?

24 MR. UPDIKE: Objection, Your Honor,
25 that's not a relevant question concerning

1 the presentence report, regardless of what
2 is in there and is not in there.

3 THE COURT: I don't think you can use
4 the presentence report under the statute,
5 Mr. Neaton.

6 MR. NEATON: I'm not intending to use
7 the report, just a statement made to the
8 person. You told it to Jens, didn't you?
9 You told Jens that your mother slept with
10 you, didn't you?

11 A I think I probably did, yes, sir.

12 Q You told him that she abused you, right?

13 A I think I discussed that with him, yes.

14 Q And you told him you were mad because of
15 that, right, you were angry at her, resentful at her?

16 A It was part of my anger and bitterness, yes.

17 Q And was that true?

18 A Yes, sir, it was.

19 Q Well when you testified at your guilty plea
20 hearing, at your sentencing hearing in October of 1987,
21 you said that was false, right?

22 A I'm not sure that's exactly what I said,
23 sir.

24 Q Weren't you asked to clear it up once and
25 for all?

1 A Excuse me?

2 Q Weren't you asked at that hearing to clear
3 it up once and for all?

4 A I don't know whether I was asked.

5 Q I show you Page 233 of your sworn testimony
6 of October 6, 1987, read the bracketed material to
7 yourself.

8 A (Witness complies.)

9 Q You were under oath, then, weren't you Miss
10 Haysom?

11 A Yes, I was, sir.

12 Q And you were testifying at a sentencing
13 hearing in order to try to get yourself a light sentence,
14 right?

15 A I asked for two life sentences, sir, at that
16 sentencing, and I believe I deserved it, I did not want a
17 light sentence.

18 Q You were asked the question, was she a
19 sexual abuser, did she sexually abuse you? If she didn't
20 for God sakes, clear her name now.

21 A And have I said here today that she sexually
22 abused me?

23 Q You said at that time she did not sexually
24 abuse you.

25 A And I did not say today that she sexually

1 abused me either.

2 Q You said yes today, right?

3 A I said that she abused me, I did not specify
4 that it was sexual.

5 Q She abused you psychologically, right?

6 A That's one term for it.

7 Q And you didn't like it.

8 A No, I did not.

9 Q I'd like to talk to you about some of the
10 letters that you read, for example, the June 3rd, 1986
11 letter of Jens to you, the Commonwealth's attorney asked
12 to you read Pages 22 and 23 of that letter, in suggesting
13 that Jens was not in love with you at that time --

14 MR. UPDIKE: Objection, Your Honor, as
15 to what I was suggesting.

16 THE COURT: Sustained, objection
17 sustained.

18 MR. NEATON: I'll withdraw that,
19 comment.

20 THE COURT: Sustained; objection
21 sustained.

22 BY MR. NEATON: (continuing)

23 Q I call your attention to Page 24 of that
24 letter, Miss Haysom, and I'd ask you to read out loud from
25 the red bracket to the next red bracket that's on the

1 following page.

2 A It is surprising and amazing how much
3 perspective has changed and how much I really do know now
4 that those glasses are off. I have made long mental lists
5 of your good points and your bad points, a list which I'd
6 like to commit to paper soon. I have looked at them for a
7 very long time, and I now know it is you I love. Yes, I
8 loved you before, our past is not a complete sham, but it
9 was tainted if you will, by my need and the rose colored
10 glasses that need forced onto my nose. That need is now
11 gone, I love you and I will love you until the last
12 flicker of hope that you'll love me, too, dies. But I
13 know it won't. You are the one that I want, and I don't
14 care how long I have to wait, our love will last and last
15 and grow and grow.

16 Q Thank you. And I'd ask you to read the
17 second bracketed material on Page 31 of that same letter.

18 A The second bracket?

19 Q Yes.

20 A Now to the letter you sent me, it was
21 wonderful, thank you so much, I felt so good after it. I
22 do so very much hope that that is how you really feel and
23 are doing, because you basically said what I was trying to
24 say in the above letter. We seem to be getting along
25 better with the prisons. I say that I hope that's how

1 things are, because I know that you are sweet enough to
2 tell me only what I want to hear so as not to bother me.
3 It seemed, though, that you really were cheering up and
4 getting used to it. That makes me so happy. To some
5 specific points, I love you, I will never abandon you
6 unless requested to do so repeatedly by you. I believe
7 that the whole issue of who was first, second and third in
8 whose lives has been sorted out, at least on my side by
9 the above. You are number one in my life, it's just that
10 I had to find my life. And if you suggest that we are
11 friends again, I'll stick something in you and prove
12 otherwise.

13 Q And that is the end of the letter which was
14 in response to your letter that you had written about how
15 it would be to have sex with him, right?

16 A I have no idea, but I imagine what you're
17 saying is true.

18 Q I am going to show you a copy of a letter,
19 is that a copy of a letter you wrote to Jens while you
20 were both being held in English prison for the remand for
21 the fraud?

22 A Yes, sir.

23 Q And that's the letter you wrote him
24 immediately before the June the 3rd letter that both I and
25 Mr. Updike have had you read excerpts from, right?

1 A Yes, sir.

2 Q And in that letter you describe very
3 graphically how you would want to have sexual relations
4 with Jens, is that right?

5 A (Witness nods head in the affirmative.)

6 MR. UPDIKE: May I see this letter or
7 have a copy of it?

8 MR. NEATON: Sure, you have the one.

9 MR. UPDIKE: Thank you, Your Honor,
10 thank you, that's the one.

11

12 BY MR. NEATON: (continuing)

13 Q And your answer to my question was you had
14 written that letter on May the 28th describing how you
15 wanted to have sex with Jens?

16 A Yes, that's correct, sir.

17 Q And how good it would be, right?

18 A Yes, that's correct, sir.

19 Q And he wrote you back in reply on June the
20 3rd?

21 A That's correct.

22 Q And the June the 3rd letter was sent, was
23 written two days before you were brought to the Richmond
24 Police Station for the remand interrogation, right?

25 A That's correct, sir.

1 Q By the way, before the break you mentioned
2 that a Mr. Bansleban was the head of the German Department
3 at UVA?

4 A I believe so, yes.

5 Q Well he's not, is he?

6 A Not anymore, he is no longer there.

7 Q He wasn't back in 1985, was he?

8 A To my knowledge, he was. I know he didn't
9 have -- I can't think of the word that they call it, where
10 you're a full professor because you publish work.

11 (LETTER MARKED AS DEFENDANT'S
12 EXHIBIT 16.)

13 Q You said that -- Miss Haysom, you said that
14 Mr. Soering had had to be handcuffed in the dock at Court
15 in London?

16 A (Witness nods head in the affirmative.)

17 Q Because of threats that he made against you?

18 A That's correct, sir. Well he was handcuffed
19 in the dock the following time.

20 Q But that was the reason, you made a
21 complaint to the police because of the threats that he had
22 made against you?

23 A No, sir.

24 Q In any event, you knew that's why he was
25 handcuffed in the dock, right?

1 A Well cause and effect, yes.

2 Q I'd like you to look at defendant's proposed
3 Exhibit 16. Is that a letter you wrote to Jens?

4 A Yes, it is.

5 Q Move its admission.

6 MR. UPDIKE: If I could just.

7 MR. NEATON: I'm sorry, it's March --

8 MR. UPDIKE: It may be one that I have
9 got.

10 MR. NEATON: I think that it is.

11 MR. UPDIKE: I'll look at it later, I
12 don't have any objections to it.

13

14 BY MR. NEATON: (continuing)

15 Q And you wrote in that letter -- in fact why
16 don't I have you read the highlighted portion to the jury.

17 A Why have they started handcuffing you in the
18 dock, it seemed a bit heavy.

19 THE COURT: I tell you, it would be
20 helpful to me, and possibly to the jury with
21 so many letters being read from, if you
22 would give us the date the letter was
23 written, and remind us who is writing whom.
24 I know it would help me. I don't know about
25 the jury, but I'm getting confused. All

1 right, now could you do that?

2 Q Yes, this was a letter written March the
3 27th of 1987 by you to Jens, is that right?

4 A That's correct. After the final time I saw
5 him. And I said why have they started handcuffing you in
6 the dock, it seemed a bit heavy.

7 Q Now Miss Haysom, you said you weren't at
8 Loose Chippings on the night of March the 30th, right?

9 A That is correct, sir.

10 Q And you said that Jens had only been there
11 once, is that right?

12 A I believe he had been to the house one
13 weekend, yes, sir.

14 Q And you drove him there, right, from
15 Charlottesville?

16 A I don't know who drove, but we went
17 together, yes.

18 Q And the least you're saying is that Jens was
19 not familiar enough with the area of where the house is,
20 so much so that you needed to give him a map on how to get
21 from Washington to the house, right?

22 A I had to draw him a map because he wasn't
23 sure of the turnoff from the main highway into Lynchburg
24 which put him straight onto Rivermont Avenue to drive
25 straight ought to Boonsboro.

1 Q Now -- excuse me for one minute. You would
2 agree, would you not, that in the spring of 1985 you were
3 attempting to manipulate Jens, correct?

4 A Absolutely, sir.

5 Q And you would agree that you were pretty
6 successful at it, right?

7 A In some areas, extremely successful.

8 Q And this was part of your -- this was your
9 method of operation, wasn't it, as it had to do with men
10 in your lives, correct?

11 MR. UPDIKE: Method of operation, again
12 is irrelevant. We think Elizabeth Haysom
13 and Jens Soering is the only issue in this
14 case.

15 THE COURT: You're going too wide on
16 the mark here with some of these questions,
17 Mr. Neaton, we're evading the relevancy
18 role. I sustain the objection.

19 (LETTER MARKED AS DEFENDANT'S EXHIBIT
20 17.)

21

22 BY MR. NEATON: (continuing)

23 Q Well Miss Haysom, when you gave the
24 statement to Ricky Gardner in October of -- or in April of
25 1985, and subsequently in statements in June of '86, the

1 police didn't believe you then, did they?

2 MR. UPDIKE: Objection, Your Honor.

3 THE COURT: Sustained. She doesn't
4 know what the police believed.

5

6 BY MR. NEATON: (continuing)

7 Q Well you knew you were a suspect in October
8 of '85, didn't you?

9 MR. UPDIKE: Your Honor, doesn't that
10 again go to the state of mind of the police
11 officers?

12 THE COURT: No, the question if she
13 knew she was a suspect goes to her state of
14 mind.

15 MR. UPDIKE: Wouldn't it have to be
16 whether she thought she was a suspect?

17 MR. NEATON: Whether she knew.

18 THE COURT: That gets pretty technical.

19 MR. UPDIKE: Yes, sir, but still.

20 THE COURT: Yes, sir, I know. But I
21 rule that is a question that she may answer,
22 if she knows the answer.

23 THE WITNESS: Could you ask the
24 question again, please, sir?

25

1 BY MR. NEATON: (continuing)

2 Q Well you knew you were suspected of some
3 complicity in your parents' deaths in September of 1985
4 when you were asked to give blood and footprint samples,
5 right?

6 A Of course, I knew I would be a suspect, and
7 I knew I was considered a suspect, and so was Jens.

8 Q At that time, though, you didn't know the
9 test results of the blood or the footprint analysis, did
10 you?

11 A Well in September they had just been given,
12 so --

13 Q And when you left the country in October of
14 1985, you did not know the results of those tests, did
15 you?

16 A No, I did not, sir.

17 Q Now also in October of 1985, you said that
18 you had received a telephone call from your brother, is
19 that right?

20 A That is correct.

21 Q And it was after the telephone call from
22 your brother that you decided that you're going to go and
23 join Jens, is that right?

24 A That's correct.

25 Q I call your attention to the diary, which is

1 Commonwealth's Exhibit 44, and I call your attention to
2 the October 12th entry that you made in this diary, I'll
3 point to it right there. Now in your diary, the part that
4 you wrote, you said that you began packing to leave before
5 your brother called you, right?

6 A That's correct.

7 Q So you had already decided to leave before
8 he called you, correct?

9 A No, sir.

10 Q Oh, you were packing just in case you might
11 decide to leave?

12 A No, sir. If you recall, this diary was
13 written in retrospect with Jens, and at that time Jens did
14 not know the reason why I had stayed behind was to think
15 things out for myself. And so of course I had to write in
16 here that I had begun packing before I considered packing.

17 Q So that was a lie in the diary?

18 A There are a great many lies in many of these
19 diaries.

20 Q And they were deliberately put in there by
21 you in that October 12th entry?

22 A I don't understand.

23 Q You intentionally wrote what you did in the
24 October 12th entry to deceive Jens, right?

25 A It was a continuance of a deception, yes.

1 Commonwealth's Exhibit 44, and I call your attention to
2 the October 12th entry that you made in this diary, I'll
3 point to it right there. Now in your diary, the part that
4 you wrote, you said that you began packing to leave before
5 your brother called you, right?

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8 he called you, correct?

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15 things out for myself. And so of course I had to write in
16 here that I had begun packing before I considered packing.

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19 diaries.

20 Q And they were deliberately put in there by
21 you in that October 12th entry?

22 A I don't understand.

23 Q You intentionally wrote what you did in the
24 October 12th entry to deceive Jens, right?

25 A It was a continuance of a deception, yes.

1 Q Was there a difference between continuing to
2 deceive and actually deceiving?

3 A Probably, not, no.

4 Q I'd like to show you Defendant's Exhibit 17
5 and ask you if this is a letter that you wrote to Jens,
6 you can look at it.

7 A (Pause for perusal.)

8 Q Did you write that letter to Jens in late
9 1984, early 1985? You can look at the front page. I
10 don't think there is a date on it.

11 A No, there isn't. There is no date.

12 Q Did you write it?

13 A I did write this, yes.

14 Q Move its admission. I'll show it to you.

15 MR. UPDIKE: No objection, then, Your
16 Honor.

17 THE COURT: Admitted.

18 Q I'd like you to read the highlighted portion
19 on Page 3 of that letter.

20 A I hated my love for you for a long time. I
21 hated myself for discovering vulnerability, but as the
22 weeks passed I began to understand. I had always believed
23 that I made men fall in love with me so that I could screw
24 them physically and emotionally and take out all the
25 hatred I felt for them by humiliation. Then I despised

1 their cheap lust and easy passions, and then in the end I
2 made them hate themselves for loving me, and then the
3 torture I inflicted, I would -- oh, excuse me -- for
4 loving me and the torture I afflicted. I would make a man
5 humiliate himself to -- I can't read -- the photocopy
6 hasn't brought it up.

7 MR. UPDIKE: The original is in that
8 white package.

9 Q Well, maybe I can help you with that.

10 A I can't remember. I would make a man
11 humiliate himself to something me, then I would give him
12 the best fuck he's ever likely to get and then walk out.

13 Q That's what you did to Jens, wasn't it?

14 A (No response.)

15 MR. NEATON: That's all. Did you
16 answer the question?

17 THE WITNESS: No, sir, I haven't
18 answered the question. No, I don't think
19 that that's what I did to Jens.

20 MR. NEATON: Thank you, that's all.

21 THE COURT: All right, we have 10 more
22 minutes, do you think you could -- would you
23 want to stop now or would you want to come
24 back tomorrow morning?

25 MR. UPDIKE: Your Honor, I would want

1 to stop now if that's permissible with the
2 Court.

3 THE COURT: Well, I have usually granted
4 the requests on both sides as to when to
5 stop, I think I have spread that around
6 pretty well, so Mr. Updike, if you're asking
7 to stop now, we'll stop now, it's five
8 minutes to five. We'll recess until 9:30
9 testimony morning.

10 (Whereupon court was recessed until
11 9:30 a.m. on June 15, 1990.)
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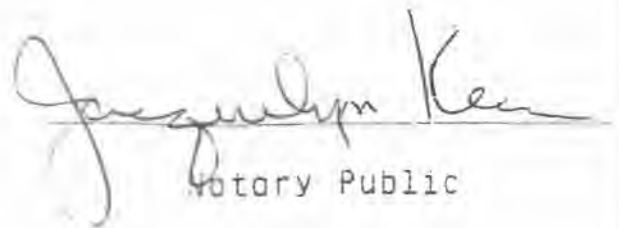
STATE OF VIRGINIA

AT LARGE, to-wit,

I, Jacquelyn Keen, Notary Public in and for the State of Virginia at Large, do hereby certify that the foregoing proceedings were taken before me, and that the aforesaid pages 1 through 166 represent a true and accurate transcription of said proceedings to the best of my Stenographic ability.

Witness my hand this 2nd day of November, 1990

My commission expires September 30, 1993.


Notary Public

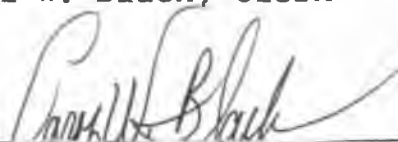
CERTIFICATE

I, Carol W. Black, Clerk of the Circuit Court of the County of Bedford, do hereby certify that the foregoing transcript in the case of COMMONWEALTH OF VIRGINIA vs.

Jens Soering

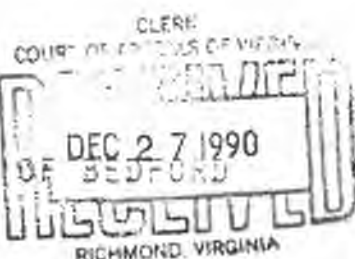
was filed with me as Clerk of said Court on the 14th day of December, 19 90, being within sixty days of final order.

Carol W. Black, Clerk


BEDFORD COUNTY CIRCUIT COURT

2/6/1
91190
VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF



COMMONWEALTH OF VIRGINIA

JENS SOERING



TRANSCRIPT OF PROCEEDINGS

June 15, 1990

APPEARANCES:

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14th

December 90

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Mayday Schmidt

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EXHIBIT 360

Topo
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1 JUNE 15, 1990

P R O C E E D I N G S

9:30 A.M.

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MR. NEATON: Judge, before we proceed, as I understand it, the Commonwealth has no redirect of our last witness, and what he wants to get into next is the admissibility, or he seeks to introduce a statement made by my client to German authorities regarding this offense, and we have some objections to this statement, to its admissibility in the prosecution's case in chief, and I thought that before we bring the jury out, that perhaps it would be a good time to argue it, then you can make a ruling, and then the trial could proceed without interruption.

MR. UPDIKE: We agree with that procedure, certainly, Your Honor.

THE COURT: That is all right. I think the jury should simply be told that there will be a delay because there are matters being heard out of their presence.

THE COURT: All right, let's proceed out of the presence of the jury with this testimony.

1 MR. NEATON: Your Honor, I think on
2 December the 30th, 1986, the defendant was
3 interviewed by the public prosecutor for
4 the City of Bonn, West Germany while he was
5 in custody in England in connection with
6 the proceedings brought against him in
7 Germany for this same offense. To give you
8 some background, under German law, a West
9 German citizen can be tried in Germany for
10 crimes that he or she allegedly committed
11 outside the borders of West Germany, and
12 that is a peculiarity of that country's
13 legal system.

14 The West German authorities did seek to
15 prosecute my client for this very same
16 offense. As part of their investigation,
17 the public prosecutor went to England in
18 December of 1986 and interviewed my client.
19 My client was represented by a German
20 attorney, there was also a British
21 detective present. My client was given a
22 British caution and was given a warning by
23 the German public prosecutor that the
24 statements that he made could be used
25 against him in Germany, however he was not

1 read Miranda warnings, nor did he sign
2 Miranda warnings, nor was this
3 interrogation being conducted by the German
4 authorities in cooperation with the United
5 States authorities, as opposed to the June,
6 1986 statements where the British and
7 Bedford County authorities were working in
8 conjunction in order to interrogate my
9 client in this matter.

10 And in that instance, my client was
11 provided both the British caution and
12 Miranda warnings. In the German instance
13 he was provided the British caution, but no
14 Miranda warnings. It's our position that
15 the statement is not admissible as
16 substantive evidence against my client in
17 the prosecutor's case in chief in this
18 trial, because A, the statement was given
19 pursuant to a German investigation by
20 German authorities, and without the
21 warnings that would have been present in
22 the United States; that no United States
23 officer, to the best of my knowledge was
24 present at that interview; that my client
25 was never advised that the statement could

1 be used against him in the United States;
2 that he was not, as I said, he was not
3 advised of the substance of the Miranda
4 warnings that he would have received had it
5 been an U.S. cooperative interrogation, and
6 as such, the statement is not admissible as
7 substantive evidence against him.

8 In addition, the Court should recognize
9 that West Germany is an European Code
10 country in which the rules of evidence are
11 different, in which the admissibility or
12 non-admissibility of evidence is different,
13 in which there are no juries, in which the
14 rules and the weight given admissions like
15 this is different under the German Code,
16 and as such, without warning to him, that
17 the statement could be used in the United
18 States against him, it would be a violation
19 of his Fourteenth Amendment rights, his
20 Fifth Amendment rights and his rights under
21 the Virginia Constitution to admit this
22 statement against him in the prosecutor's
23 case in chief.

24 I would concede, though, that the
25 statement could be used to impeach him

1 should he desire to testify in this case,
2 and that the statement is no different than
3 the statements in I think Harris v. New
4 York in 1970, a U. S. Supreme Court case
5 where the Harris's confession was ruled
6 inadmissible because of violations of the
7 Miranda and the fact that it was
8 involuntary, but the Supreme Court held
9 that while it was not admissible in the
10 case in chief against Mr. Harris, it was
11 permissible to use the statement to impeach
12 Mr. Harris when Mr. Harris testified. And
13 that's what I think the situation is here.
14 And therefore, I'd ask that you rule the
15 statement inadmissible in the prosecutor's
16 case in chief June 15, 1990.

17 THE COURT: Well, I would like to see
18 the statement to view the statement in
19 camera before hearing anymore about it, if
20 I may.

21 MR. UPDIKE: Yes, sir, Your Honor. We
22 have copies of it.

23 THE COURT: A copy is fine.

24 MR. UPDIKE: And Your Honor, the
25 interview was conducted in German. We have

1 the English translation which was prepared
2 by Scotland Yard, and the local German
3 professor has verified it with some
4 semantic editorial things, that's what the
5 markings are.

6 THE COURT: Thank you. I would like to
7 take some time now and read it, because I
8 think that I can more intelligently rule
9 after I have read the statement.

10 THE COURT: (Pause for perusal of
11 document.)

12 THE COURT: All right, I have read the
13 statement. All right, Mr. Updike. I will
14 hear your position.

15 MR. UPDIKE: Yes, sir, Your Honor.
16 Your Honor, we feel very strongly that
17 there is really no Constitutional
18 objection, no real valid objection that can
19 be raised in any way to the admissibility
20 of this statement. And we would emphasize
21 first of all, that the Constitution of the
22 United States and the Miranda Rules which
23 were adopted pursuant to the Fifth
24 Amendment guard against and are designed to
25 prohibit and deter unlawful police conduct

1 by agents of the United States government
2 or any of its subdivisions, or sub agencies
3 of the United States Government, including
4 states or any localities, and that's the
5 purpose of the exclusionary rule, to deter
6 such conduct.

7 Here we have an entirely different
8 situation, it's even different from the
9 case which we cited at the suppression
10 hearing, the Vertigo v. Yuradez, I'm not
11 sure that's the correct pronunciation,
12 I've forgotten exactly how it's spelled
13 anyway. But even in that case where there
14 is some question as to the effect of
15 interviews outside the United States, that
16 situation involved agents of the United
17 States Government, they were acting outside
18 our borders, but still, the United States
19 was involved.

20 That, we recognize has not been
21 entirely clarified at this point, although
22 we made our arguments earlier in that
23 regard. Here, Your Honor, the United
24 States was not involved in any way, the
25 Commonwealth of Virginia was not involved

1 in any way. Bedford County was not involved
2 in any way. What this was, as counsel
3 stated, was an interview that was
4 instituted and requested by the German
5 government, an entirely separate sovran.
6 And none of those individuals acting on
7 behalf of the German Government could in
8 any way be considered agents of the United
9 States Government, it wasn't a United
10 States Government interview.

11 Instead, it was conducted at their
12 request in England, and what happened was
13 Detective Sergeant Peter Gosling, who is
14 here today, was present, did record the
15 interview, and did so after advising the
16 defendant of the British caution, and
17 recorded the interview with the consent of
18 Mr. Soering's German counsel, and with Mr.
19 Soering's consents himself, and the
20 procedure agreed upon and the procedure
21 which was followed was that detective
22 Sergeant Gosling would record the
23 interview, that he would have recordings
24 made, they were made by Paul John
25 Groninger, who is here and present. A copy

1 would be forwarded to Germany, that was
2 done, the Germans transcribed it, forwarded
3 a copy back to England, the transcription
4 was translated, and all parties concerned
5 were aware of this procedure, consented to
6 it, including the defendant himself.

7 Detective Sergeant Gosling's only
8 reason for being here, Your Honor, and he's
9 prepared to testify to this, was to ensure
10 that the defendant's rights were not
11 violated in any way, or that the German
12 Government did not violate the British
13 legal system. That's what he did, that's
14 when he advised the defendant of the his
15 rights and those rights were insured.

16 Secondly, Your Honor, we would
17 emphasize the most compelling feature of
18 this situation, and that was that the
19 defendant had counsel present throughout.
20 And his counsel even asks questions at
21 certain points. So in addition to the
22 protection afforded him by the British
23 government, he had his German counsel
24 there. The issue therefore becomes one,
25 Your Honor, we submit not of any

1 Constitutional violations of the United
2 States Constitution, but one merely of
3 admissibility of evidence, whether it's
4 relative, or whether it has probative
5 value, whether it's material, and whether
6 it has relevancy to these proceedings.
7 Most certainly it does, Your Honor, we
8 would submit for some several reasons.
9 First of all, it's not only the content of
10 the statement is generally consistent,
11 though there are variations as to
12 particulars in some instances generally
13 consistent with what he said in what I call
14 the British interviews in June of 1986.

15 Therefore, it is corroborative of the
16 Commonwealth's theory of this case, and
17 it's corroborative as to the ultimate
18 issues in this case, because many other
19 things are not being contested as to there
20 being a trip to Loose Chippings from
21 Washington and back, the question is who
22 did it. We presented our evidence in that
23 regard, the defense is challenging and
24 saying that the defendant didn't even go
25 there. This interview is corroborative of

1 that, and corroborative of our theory of
2 the case.

3 In addition, not only is the content of
4 the interview so important, but what is
5 equally important is when it occurred and
6 the circumstances under which it occurred.
7 The allegations have been raised that
8 during the interviews in June of 1986 the
9 defendant was denied counsel. In December
10 of '86 he had counsel present and he says
11 generally the same thing. Allegations have
12 been raised about coercion concerning the
13 British officers, at this time no British
14 officer was present, and speaking
15 specifically of any officer involved in
16 this investigation, Beever or Wright,
17 Gardner was not present, and yet basically
18 and essentially the same thing is said
19 there again.

20 Allegations have been made that our
21 statements are untrue because the defendant
22 loved Elizabeth Haysom at the time and
23 that's why he made these statements. Well,
24 Your Honor, at the time of December 30,
25 1986, he knew by virtue of these

1 conversations with Elizabeth Haysom, and
2 one of the letters that we have already
3 introduced written by the defendant in the
4 middle of December, 1986, in which he
5 recognizes that Elizabeth Haysom is coming
6 back to the United States and pleading
7 guilty, she has decided that's what she's
8 going to do, she's communicated that to the
9 defendant, therefore there's no need to
10 protect her any further, she's made up her
11 mind she's going to do this.

12 In addition to that, on Page 6 of the
13 interview, the defendant states that though
14 he loved Elizabeth Haysom from December of
15 '84 until April 30, 1986, we considered
16 ourselves in love, or I believed myself to
17 be in love, I possibly see this differently
18 now. So as a consequence, Your Honor, at
19 the time that he's giving this interview in
20 December of 1986, he doubts his love for
21 Elizabeth Haysom, sees it differently, that
22 it's not love, that's not protecting
23 Elizabeth Haysom at this point, because
24 there's no need to do so, and his
25 relationship with her is entirely

1 different. Therefore, it's corroborative,
2 and extremely probative, and it is
3 extremely material.

4 Finally, Your Honor, we must emphasize,
5 and in no way trying to be critical of
6 counsel, but I have to argue my side of the
7 case as well. And my side of the case here
8 requires that I emphasize that this
9 particular interview, the transcript, and
10 the German transcript were provided to
11 counsel, hand delivered to them on January
12 26, 1990, by letter in the file, lists
13 these particular items as Items 189 and
14 190, they've had them since then, in
15 February I stated on the record before Your
16 Honor that the tapes were available for
17 counsel to review and listen to, that is on
18 the record, I think it was the middle of
19 February, I can't recall the specific date.

20 At any rate, our point is that as a
21 result of the laws in the Commonwealth of
22 Virginia, the Commonwealth does have the
23 right to appeal if Constitutional issues
24 are raised before trial. Any
25 Constitutional issues such as a motion to

1 suppress evidence as an alleged violation
2 of the Fourth, Fifth, Sixth Amendment must
3 be raised before trial so that the
4 Commonwealth of Virginia's right to appeal
5 are met.

6 In essence, what I'm saying is that the
7 train has left the station on this motion,
8 Your Honor, in addition to everything else
9 that I have said. Therefore, we would
10 respectfully ask that we be allowed to
11 proceed with the admission of this
12 statement.

13 THE COURT: All right, any further
14 comments, Mr. Neaton?

15 MR. NEATON: Judge, I would just
16 indicate that the -- in addition to the
17 arguments I made, that I would say that the
18 fact that there is an attorney means
19 nothing if it's not an American attorney.
20 The fact that the defendant was not advised
21 that this could be admitted against him in
22 the United States is an important
23 consideration, and the fact that the
24 statement is cumulative to the evidence
25 that's already in the trial is important as

1 well. As I said, if the defendant
2 testifies, I can see it can be used to
3 impeach him, but I don't think that it's
4 admissible in the Commonwealth's case in
5 chief.

6 THE COURT: Well I take it that you
7 concede that the evidence in this statement
8 for the most part is cumulative of
9 testimony previously admitted.

10 MR. NEATON: Yes. And I don't disagree
11 with that. What I am saying, though, is
12 that it's -- this is not -- should not be
13 used as substantive evidence against my
14 client because of the reasons I have
15 stated.

16 THE COURT: Well let me ask you this
17 question, you may keep your seat, Mr.
18 Neaton, if the evidence is simply for the
19 most part cumulative of evidence previously
20 admitted, how could the admission of this
21 statement be prejudicial under the law to
22 your client?

23 MR. NEATON: The issue is not whether
24 it's prejudicial, the issue is whether it's
25 admissible, and those are two different

1 issues.

2 THE COURT: I would agree with that.
3 Basically the first question is whether or
4 not it is admissible, but I think it's fair
5 to look to the question of prejudice, too.
6 Gentlemen, I don't know, and I don't mind
7 saying I don't know when I haven't had a
8 chance to really study something. This is
9 the first time I have seen this statement.
10 I have heard your arguments, I have my own
11 feelings about how I will probably rule on
12 this issue, but if there is any way to do
13 so, it would be helpful to me if the
14 Commonwealth could proceed with other
15 evidence to give me a chance today to -- or
16 possibly even this weekend to do some
17 research on this rather novel issue. We
18 don't get many cases where foreign
19 confessions are tested by Miranda, it's not
20 an easy ruling. It may require some
21 research on my part, it may require that I
22 attempt to get some research by telephone
23 assistance today. I'm not sure about your
24 schedule, Mr. Updike, where are we with
25 that?

1 MR. UPDIKE: I will be happy to state
2 it, Your Honor. The Commonwealth is -- we
3 are near the end of our case, other than a
4 stipulation as to the testimony of
5 Christine Kim and another couple of brief
6 matters, perhaps brief testimony from Mr.
7 Klaus Soering, which would take only a
8 short period of of time. It was our intent
9 to introduce this evidence and then rest
10 our case.

11 THE COURT: Well, that's all right, but
12 I'm asking you whether you can give me any
13 thinking time on this, or whether you feel
14 you have got to go with it next.

15 MR. UPDIKE: That's all I have got. I
16 think as far as testimony, what I am
17 talking about might be five minutes, 10
18 minutes.

19 THE COURT: Well I'll take that. Along
20 with recesses, I might be able to work an
21 hour or so into it. No, I would like to
22 proceed with something else, give me some
23 time to reflect on this, and I'll do the
24 best I can, but I'm just not ready to rule
25 right now on this. So let's proceed with

1 the jury, and go ahead and complete your
2 other evidence, and then when we get to
3 this, I'll try to give you a ruling.

4 MR. UPDIKE: Judge, counsel and I
5 discussed the -- if I might, the footprint
6 photographs of Mr. Hallett, one of them is
7 marked, and I think both counsel and I can
8 pick these out pretty quickly. We would
9 like to mark on the backs of them, just
10 certain ones for identification purposes,
11 this one of the defendant is already
12 marked, but as far as just putting on the
13 back of the known, do you agree that is
14 Julian Haysom's?

15 MR. NEATON: Yes.

16 MR. UPDIKE: Mrs. Black, do you have
17 some kind of red marker we can put on this?
18 This is Commonwealth 344 for the record.
19 Something that might show up And
20 Commonwealth's Exhibit 342 is Elizabeth
21 Haysom's?

22 MR. NEATON: Uh-huh.

23 MR. UPDIKE: And Commonwealth's Exhibit
24 343 is Fontaine Harris?

25 MR. NEATON: (Nods head in the

1 affirmative.) That's right.

2 MR. UPDIKE: And finally,
3 Commonwealth's Exhibit 348 is Jens
4 Soering's, right?

5 MR. NEATON: Yes.

6 MR. UPDIKE: Thank you very much for
7 that. And then, Your Honor, it would be my
8 intent to once the jury is in, if I could
9 offer this stipulation, that counsel and I
10 have entered into.

11 COURT CLERK: The name of the last one,
12 excuse me?

13 MR. UPDIKE: Jens Soering.

14 THE COURT: All right, go ahead.

15 MR. UPDIKE: The stipulation as I
16 understood it would be that if I might get
17 the exhibit number just for clarification,
18 that Christine Kim, who was here yesterday,
19 and both counsel and I spoke with her, that
20 if called to the stand, she would testify
21 that she -- that the original of
22 Commonwealth's Exhibit 349, and when I say
23 that I'm referring to the handwritten two
24 and a half page notes at the beginning of
25 it, that that is in her handwriting, and

5
1 that she wrote the original, however she
2 does not remember who told her to write
3 that, or when it was written, and thirdly,
4 that Christine Kim does not remember
5 whether Jens Soering did or did not have
6 cuts or bruises on his hand or face, and
7 that I would offer that stipulation.

8 MR. NEATON: That's correct.

9 THE COURT: All right, that stipulation
10 may be presented to the jury and read to
11 the jury as the testimony of that witness.
12 Agreed. Now what else?

13 MR. UPDIKE: The Commonwealth would be
14 ready for the jury.

15 THE COURT: Let me ask you a question
16 just by way of review, about this interview
17 in England by the public prosecutor of
18 Bonn, West Germany, it's my understanding
19 that it was conducted by the public
20 prosecutor, would that be of West Germany?

21 MR. UPDIKE: Yes, sir, and conducted in
22 German.

23 THE COURT: That the defendant had a
24 German attorney present, is that correct?

25 MR. NEATON: Yes, Judge.

1 THE COURT: Was there a British officer
2 also present?

3 MR. UPDIKE: Yes, sir, Your Honor.
4 Your Honor, could I ask if the Court would
5 consider hearing the very brief testimony
6 of Detective Sergeant Gosling?

7 THE COURT: Yes. I think I need that
8 information.

9 MR. UPDIKE: If we could call him to
10 the stand out of the presence of the jury.

11
12 PETER GOSLING, was called as a witness and
13 having been duly sworn was examined and testified as
14 follows:

15 DIRECT EXAMINATION

16 BY MR. UPDIKE:

17 Q State your name, please.

18 A Peter Gosling, Detective Sergeant of the
19 Metropolitan Police, London.

20 Q And what is your posting at this present
21 time, where are you assigned?

22 A I am assigned to a police station in
23 Southeast London at Pixley Hill.

24 Q And in 1986, specifically December 30, 1986,
25 what were your duties at that time?

1 A I was a Detective Sergeant attached to the
2 extradition squad, which is part of the serious crimes
3 unit in New Scotland Yard.

4 Q And would this extradition squad be attached
5 to New Scotland Yard?

6 A Yes, sir, it would.

7 Q If I could show you a sealed package with a
8 cassette tape in it, and the container for that particular
9 tape, and ask if you recognize it.

10 A I didn't hear the last word, sir.

11 Q Do you recognize it?

12 A I do, sir.

13 Q And how is it that you recognize that?

14 A That was a tape that I used in recording an
15 interview.

16 Q If you would, just begin with the
17 circumstances that led you to make that recording if you
18 would, please, how did it come about?

19 A Detective Sergeant Bill Cutts was an officer
20 in the extradition squad, and he was in charge of Mr.
21 Soering's extradition. There had been a request received
22 from the public prosecutor in Bonn.

23 Q Bonn, Germany?

24 A Bonn, Germany to come interview Mr. Soering
25 in prison. It would have been Mr. Cutt's job to accompany

1 him to the prison while the interview was going on. He
2 wasn't available on that particular day that it was going
3 to happen, so I went along as the free officer on that
4 day.

5 Q And just proceed as far as how the tape was
6 obtained, and what you did thereafter, why you were there,
7 what you did, just all the circumstances.

8 A Well, the interview was to be held on
9 Tuesday the 30th of December, of 1986. And I obtained the
10 tape recorder and purchased that cassette from the shop on
11 the morning of the interview. I then met with the public
12 prosecutor and defense lawyer at Scotland Yard.

13 Q And the public prosecutor for Bonn, Germany,
14 his name?

15 A Mr. Koenig.

16 Q Mr. Koenig. And for the record, is that
17 K-o-e-n-i-g?

18 A Yes, sir.

19 Q And Mr. Soering's defense counsel?

20 A He was also there, Mr. Friesen.

21 Q And for the record, is his name spelled
22 F-r-i-e-s-e-n?

23 A Yes.

24 Q So please continue from that point, then.

25 A I then drove them to Chelmsford Prison. On

1 the way there, there was a discussion about how the
2 interview would be conducted, and I explained to them that
3 he would have to be cautioned under English law, but they
4 could then conduct the interview as in German law. And I
5 explained that I had a tape recorder, and that if they
6 were agreeable, that we could tape record the interview
7 and they could then speak in the German language, which
8 might be easier for them. I said that I needed to tape
9 record it to have an accurate record of that interview.
10 My main purpose to go along then was to see that he was
11 aware of his rights, and there was no abuse of any sort
12 during the interview.

13 Q To insure who was aware of his rights,
14 please?

15 A Mr. Soering.

16 Q Mr. Soering. And when you suggested this
17 procedure to the German prosecutor and the German defense
18 counsel, what was their response?

19 A They agreed, they thought it was a good
20 idea.

21 Q For you to record it?

22 A Yes.

23 Q Now if you would, just describe, then, what
24 happened once you arrived at the prison.

25 A We arrived about, I think about 10 to one.

1 10 to two, sorry, and after the formalitie.
2 into the prison, we saw Mr. Soering, and he
3 consult privately with his solicitor from 1:5
4 2:10 p.m.

5 Q And were you present during that time that
6 Mr. Soering was consulting with his attorney, Mr. Friesen?

7 A No, he's allowed to do that in private.

8 Q He did that in private?

9 A Yes, sir.

10 Q And after Mr. Soering had that opportunity
11 with his counsel, what happened then?

12 A Well he was then cautioned by me.

13 Q Explain that procedure, please.

14 A It's -- well the caution is that you didn't
15 need to say anything unless you wish to do so, but what
16 you say may be given in evidence. There are several
17 variations of that, as long as you don't lose the sense
18 that he doesn't have to answer and it may be given in
19 evidence.

20 Q When you cautioned him, how many times was
21 that done?

22 A In the extradition squad we deal with a lot
23 of foreign nationals, and we tend to adapt it slightly to
24 the situation, and probably do it two times, which I did
25 in this situation to make absolutely sure that he

1 understands.

2 Q And did Jens Soering on each occasion
3 indicate that he did understand the British caution?

4 A He did.

5 Q And what happened then?

6 A Then I taped the interview with the
7 knowledge and agreement of all the parties.

8 Q Did the defendant himself, Jens Soering
9 agree to the tape recording?

10 A Yes, it was explained to him before the
11 interview was started what was going to happen, and he
12 also agreed to it. And I taped it while Mr. Koenig
13 conducted it in the German language.

14 Q And after -- well at the conclusion of the
15 interview, what was done as far as the Germans and -- or
16 excuse me, the German prosecutor and the German defense
17 counsel getting access to transcripts of the tape, how was
18 that handled?

19 A Well at the conclusion of the interview, I
20 removed this cassette here, and placed it back in the
21 holder, having signed it and dated it, and placed an
22 exhibit label on it with my signature again. I then
23 needed to go back to Scotland Yard, I took that with me,
24 and I explained that we couldn't just run off a copy on a
25 juke hookup machine, it would have to go through our audio

1 lab. So I made arrangements to supply one to Mr. Koenig,
2 who would then supply the defense in due course.

3 Q And the transcription of the tape was done
4 how?

5 A On agreement with Mr. Koenig, I asked him to
6 send me a transcript, which he obviously had to prepare in
7 Germany to save time and expense, I asked him to send me a
8 copy of that, which he did. I then in due course had an
9 English translation made by an official police
10 interpreter, and when that was received, I caused the
11 typed copy to be made, and then I photostated various
12 copies of the both the typed English and German.

13 Q And the English translation was prepared
14 where?

15 A The handwritten or the typed, sir?

16 Q Well one first, and then the other.

17 A Well it's normal practice, the interpreter
18 in a long job like this, a number of pages would take it
19 home and do it, and return it.

20 Q But I mean who was it, really, not the
21 specific location, was he associated with the Metropolitan
22 Police Department?

23 A Yes, it was Dr. Smith, she was official
24 police interpreter.

25 Q And again, your sole purpose for being

1 present during the interview was what?

2 A Was really to advise him of his rights and
3 insure there's no abuse in the system.

4 MR. UPDIKE: Thank you. We have no
5 further questions.

6 MR. NEATON: I don't have any
7 questions.

8 THE COURT: Tell me again exactly who
9 was present at the interview, please.

10 THE WITNESS: Mr. Soering, myself,
11 public prosecutor, Mr. Koenig, and Mr.
12 Soering's defense lawyer, Mr. Friesen.

13 THE COURT: Mr. Friesen was from where?

14 THE WITNESS: He was from Bonn, West
15 Germany, sir.

16 THE COURT: I see, there were no
17 British officers present?

18 THE WITNESS: Except myself.

19 THE COURT: Did you participate in the
20 interview?

21 THE WITNESS: No, once the interview
22 was started I had no say, sir.

23 THE COURT: So you had no participation
24 in the interrogation?

25 THE WITNESS: No, sir.

1 THE COURT: To your knowledge, did the
2 defendant at any time request that the
3 interviews be stopped, or make any
4 objections?

5 THE WITNESS: To my knowledge, none at
6 all, sir, he seemed very cooperative.

7 THE COURT: That's all. Thank you.
8 You may step down.

9 (Witness excused.)

10 THE COURT: And that's all on that,
11 isn't it?

12 MR. UPDIKE: Those are the
13 circumstances, Your Honor, the other
14 officers would be involved in the chain of
15 custody.

16 THE COURT: Yes. What I'd like to do
17 at this point is take about five minutes.
18 Frankly, I am going to try to get a little
19 quick help on this, one of my sources that I
20 am legally able to go to under our law,
21 something like a law clerk, and then I'll
22 get somebody started on that, and then we
23 will start with the -- go back with the jury
24 and we'll put on your other testimony, and
25 then perhaps by the time you get ready to

1 put this on I'll be ready to rule.

2 MR. UPDIKE: Yes, sir.

3 (Whereupon a recess was taken.)

4 THE COURT: All right, gentlemen, I
5 apologize for the length of the delay, but I
6 have been working on this matter and talking
7 with someone in legal research to give me a
8 little assistance, and I appreciate your
9 cooperation. I think I will be able to rule
10 on this by the time before you need to rest
11 your case. All right, let's call the jury
12 in now and go ahead with the other evidence.

13 THE COURT: Good morning, members of
14 the jury. I know you wonder about the
15 delays, all I can say to you is that
16 they are necessary. We hope to hold them to
17 a minimum. All right, Mr. Updike, you may
18 proceed with your case.

19 MR. UPDIKE: Thank you, Your Honor.
20 Your Honor, may I read at this point the
21 stipulation agreement to the jury and
22 explain just briefly what a stipulation is?

23 THE COURT: Yes, sir.

24 MR. UPDIKE: Ladies and gentlemen,
25 defense counsel and I have entered into

1 a stipulation agreement. What this is is an
2 agreement between both parties, the
3 Commonwealth and the defense that this is
4 what the witness Christine Kim would testify
5 to if she were on the stand, and that is to
6 be accepted and considered by you as
7 evidence in the case without her having
8 testified.

9 THE COURT: Would you identify who
10 Christine Kim was, again for the jury.

11 MR. UPDIKE: Yes. Christine Kim is or
12 was a classmate and friend of Elizabeth
13 Haysom, a roommate of hers, and she is the
14 individual to whom Elizabeth Haysom referred
15 to at times in her testimony, and in some of
16 the documentations where the reference to
17 Chris is made. The agreement is that if
18 Christine Kim testified, she would have
19 testified that as to Commonwealth's Exhibit
20 349, the two and one-half pages of this
21 exhibit, as you can see, contain handwritten
22 notes.

23 Christine Kim would testify that this
24 is her handwriting, and that she wrote the
25 original to this. Christine Kim would also

1 testify that she does not remember who told
2 her to write the original of this document,
3 and she does not remember when it was
4 written. Christine Kim would further
5 testify that she does not remember whether
6 Jens Soering, in April of 1985, did or did
7 not have cuts or bruises on his hand or
8 face. And that is the stipulation agreement
9 as to what her testimony would have been.

10 THE COURT: All right, members of the
11 jury, you may accept that stipulated
12 statement of evidence as evidence in the
13 case. All right, call your next witness.

14 MR. UPDIKE: Klaus Soering, just
15 briefly, Your Honor.

16
17 KLAUS SOERING, was called as a witness and
18 having been duly sworn was examined and testified as
19 follows:

20 DIRECT EXAMINATION

21 BY MR. UPDIKE:

22 Q State your name, please.

23 A Klaus Soering.

24 Q Your profession is what?

25 A I am a German diplomat.

1 Q And where were you posted, and where were
2 you living in 1985 and 1986?

3 A In Detroit, Michigan.

4 Q And working there in your capacity as a
5 German diplomat, is that correct?

6 A That's right, I was vice consulate.

7 Q Vice consulate there in Detroit. And for
8 how long did you remain vice consulate in Detroit and when
9 did you leave?

10 A I left in November, 1989.

11 Q You would of course be the father of the
12 defendant, Jens Soering, is that correct?

13 A Yes, sir.

14 Q Now Mr. Soering, especially under these
15 circumstances, I just have a couple of questions for you
16 if I might.

17 A Of course.

18 Q Mr. Soering, referring you to that same
19 Commonwealth's Exhibit 349, and I would like to ask you,
20 not only about the two and one-half handwritten pages, but
21 the remainder of the items included within the exhibit,
22 the hotel bill, the credit card slip, the various receipts
23 from room service at the Marriott, the Virginian, the torn
24 movie tickets, advertisements of movies from a newspaper
25 and the documents here at the end. First of all, sir, did

1 you have the occasion to find the original of all of these
2 documents that I have listed?

3 A Yes, sir.

4 Q When and where was that, please?

5 A I picked them up unknowingly on the 6th or
6 7th of December, 1985, and took them to Detroit, and in
7 the following time found these articles in Jens's
8 property.

9 Q In his property?

10 A Yes.

11 Q Now when you found them, where were they,
12 where was his property in which these items were located?

13 A It was in my house in Detroit.

14 Q But where did you originally find them?

15 A They were most likely in his dorm room in
16 Faulkner.

17 Q His dormitory at Faulkner at the University
18 of Virginia in Charlottesville?

19 A Yes, exactly.

20 Q Subsequent to your finding them, you did you
21 have occasion to do something with the original documents?

22 A Yes, I sent photocopies of it to our then
23 attorney, whom I had retained to find my son, I sent
24 photocopies of these materials to him.

25 Q And who was that attorney, sir?

1 A It was Mr. Hogshire, Charlottesville.

2 Q And I had here just a moment ago a copy of a
3 letter from Mr. Hogshire which I had no longer than five
4 minutes -- well there it is. I'll stop walking around
5 with evidence one of these days, sir. Would this Edward
6 L. Hogshire be the attorney to whom you sent these copies,
7 Xerox copies of these documents?

8 A Yes.

9 Q Now sir, do you recognize this letter dated
10 June 8, 1986 from Edward L. Hogshire to John Lowe, an
11 attorney in Charlottesville?

12 A Yes, I seem to remember that he sent me a
13 photocopy of it.

14 Q And sir, did Mr. Hogshire then forward
15 copies as your attorney of the original documents to John
16 Lowe in Charlottesville?

17 A Well this is what the letter says

18 Q And you received a copy of it, and he was
19 your attorney

20 A Correct.

21 MR. UPDIKE: Thank you sir, if you'd
22 answer any questions counsel might have.

23

24

25

1 CROSS EXAMINATION

2 BY MR. NEATON:

3 Q Did you authorize Mr. Hogsnire to send that
4 letter?

5 A I don't seem to remember that I did.

6 MR. NEATON: Okay, that's all. I have
7 no further questions.

8 THE COURT. That's all.

9 (Witness stood aside.)

10 THE COURT: All right, next witness.

11 MR. UPDIKE: Your Honor, may counsel
12 and I approach the bench just for a second?

13 THE COURT: Yes, sir.

14 (An off the record bench conference was
15 had.)

16 THE COURT: Members of the jury, I
17 hate to send you out again, but I must do
18 so, because I need to make a statement to
19 counsel out of your presence. Will you go
20 back to your room?

21 (Whereupon the jury leaves courtroom.)

22 THE COURT: All right, gentlemen, I
23 certainly don't blame counsel, but I was
24 not given a lot of time to reflect and
25 consider on this matter, and sometimes it

1 comes up that way. And it is now my
2 understanding from counsel that Mr. Updike
3 has completed his case in chief with the
4 exception of the possible admission of the
5 statement made in the presence of the West
6 German prosecutor. So the Court must rule
7 at this time. It is my opinion that the
8 leading case of United States v. Miranda was
9 not designed to prevent suspects from
10 confessing, it was designed, rather, to
11 require that any statement which is given is
12 given voluntarily, in a non-coercive
13 environment with the accused aware of all of
14 his rights, including the right to counsel.

15 Tested by that standard, and
16 particularly in view of the fact that the
17 statement is substantially similar to the
18 statement given on December the 30th, 1986
19 by the accused have already been ruled
20 admissible, this Court feels that the
21 December the 30th, 1986 statement, though
22 not made under the strict requirements of
23 Miranda Warnings, it was nevertheless in
24 substantial compliance with Miranda, it was
25 not obtained by any agent of the United

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States.

I further find that prior to interview the accused was given a discuss with his attorney circumstances of the interview, and he was advised that he, Mr. Soering was advised of his rights to remain silent and not answer any questions; that he was given both the British caution and the German warning, and that he was told, as I understood the British officer, that any statements that he did make could be used against him in court. Now I'm not certain it was ever said which court, but I understood the British officer to make that statement. Based upon those reasons, the Court rules that the December 30th, 1986 statement made by the defendant Jens Soering is admissible. The objection of the defense is noted. Did you want to say anything further?

MR. NEATON: No, Judge.

THE COURT: All right, if you're ready to start with that?

MR. UPDIKE: Yes, sir, Your Honor, with calling Peter Gosling back to the stand we

1 are ready to proceed.

2 THE COURT: All right, bring the jury
3 back in.

4
5 PETER GOSLING, was called as a witness and
6 having been duly sworn was examined and testified as
7 follows:

8 DIRECT EXAMINATION

9 BY MR. UPDIKE:

10 Q State your name, please.

11 A Peter Gosling, Detective Sergeant of the
12 Metropolitan Police, London, UK.

13 Q And Detective Sergeant Gosling, I'd like to
14 ask you specifically what your duties were at the time of
15 December 30, 1986.

16 A I was attached to the extradition squad
17 which is part of the serious crimes branch of New Scotland
18 Yard which dealt with the extradition of prisoners abroad.

19 Q And I would like to show you a sealed
20 package in which is contained, obviously a cassette tape
21 and a container for a cassette tape, and ask if you can
22 identify that.

23 A Yes, sir, I can, that's a cassette I used in
24 a taped recording with Mr. Soering on that particular
25 date, the 30th of December, 1986, and produced it for me

1 as my Exhibit PG-1.

2 Q The marking on the tape PG-1, would that be
3 your marking for PG, Peter Gosling, Number 1?

4 A That's right. And it's the first and only
5 exhibit, so it would be one, only one.

6 Q If you would, Detective Sergeant Gosling,
7 just begin at the beginning with the circumstances that
8 led to that tape being recorded, and how it happened, when
9 it happened, those circumstances.

10 A Yes, sir. Prior to this date, a request had
11 been received from the West German authorities or public
12 prosecutor Mr. Koenig from Bonn to interview Mr. Soering
13 in prison.

14 Q So this Mr. Koenig was as you indicated, a
15 public prosecutor from Bonn, West Germany?

16 A That's correct.

17 Q And the request for the interview came from
18 him?

19 A That's right, sir. And it was granted by
20 our Home Office, which is a government department which
21 deals with that request.

22 Q At that point, I think that I stopped you
23 concerning Mr. Koenig, the German prosecutor, and I
24 believe you were indicating that the interview occurred at
25 his request, and the request was granted by the Home

1 Office --

2 A Which is the government department which
3 deals with that sort of thing.

4 Q And after the request was granted by the
5 Home Office of the British Government, what happened then,
6 please?

7 A Arrangements were made to make an
8 appointment at the prison, and for the public prosecutor,
9 and Mr. Friesen, his defense lawyer to fly over to the UK.

10 Q And Mr. Friesen would be the defendant, Jens
11 Soering's German defense counsel?

12 A That's correct.

13 Q And those arrangements were made, what
14 happened then, please?

15 A On the morning of the interview, I obtained
16 the tape recorder, and I purchased this cassette from a
17 local shop. I then met Mr. Koenig and Mr. Friesen at
18 New Scotland Yard, and I drove them to the prison in
19 Chelmsford.

20 Q Chelmsford?

21 A Essex, which is in the United Kingdom also.
22 The journey is about an hour and an a half, and during the
23 journey I discussed how the interview should be conducted,
24 and the fact that he should be cautioned under English
25 law, but the interview conducted by Mr. Koenig could be

1 done be under German law. And I offered them the facility
2 of taped recording, which both agreed to, and thought it
3 was a good idea.

4 Q Both the prosecutor, Mr. Koenig and the
5 defense attorney, Mr. Friesen agreed to the interview
6 being recorded?

7 A That's correct, sir. We then arrived at the
8 prison about, I would think ten to two that afternoon.
9 Then after the formalities of entering the prison, Mr.
10 Soering was able to consult privately with Mr. Friesen,
11 the defense lawyer, and he did so from 1:55 p.m. until
12 2:10 p.m.

13 Q And you stated privately, that -- was anyone
14 else present, were you present when the defendant, Jens
15 Soering was consulting with Mr. Friesen?

16 A No, sir, I wasn't. Under English law you're
17 entitled to completely private consultation.

18 Q And that was granted, then, that
19 opportunity?

20 A Yes, sir.

21 Q After Mr. Soering had that opportunity to
22 consult with Mr. Friesen, what happened then?

23 A Mr. Soering was brought back into the room,
24 and it was myself, Mr. Soering, defense lawyer and the
25 public prosecutor. The agreed mode of interview was

1 explained to Mr. Soering, i.e., use of the ta
2 and he agreed to that, and once that was agre
3 formally cautioned him under the English law.

4 Q And would you please explain that to us,
5 when you say that you formally cautioned the defendant
6 under English law, what does that mean?

7 A The caution, actually the words are that you
8 do not need to say anything unless you wish to do so, but
9 what you say may be given in evidence. I used -- because
10 we're in the extradition squad we usually use a lot of --
11 or we're dealing with a lot of foreign nationals, we tend
12 to repeat once or twice, or adapt it slightly so that they
13 may understand it better. As long as you don't lose the
14 main sense, which is that he doesn't have to say anything,
15 or the fact that it s given in evidence, as long as that
16 sentence is retained, that's acceptable under English law.

17 Q And did you then explain that to the
18 defendant twice, and did he state twice that he understood
19 that?

20 A Yes, I did that twice as you say, and he
21 indicated clearly that he understood that. I also told
22 him that whatever he said could be used in an English
23 Court.

24 Q Now, what happened then?

25 A Well, it was a test procedure with the tape

1 recorder to make sure it was working, and in fact the
2 public prosecutor produced his own tape recorder, which
3 didn't seem to work too well. The interview was then
4 conducted by Mr. Koenig in the German language. And my
5 participation in the interview was purely to time the
6 cassette, it was both sides, it was a two-hour interview,
7 it was to stop it, turn it over, proceed with it, and take
8 it out again.

9 Q Does the recording itself have any of your
10 voice on it?

11 A It does, sir, it has where I advised him of
12 the caution and his rights, it has me suggesting they stop
13 at a certain time, because I was timing it from the clock,
14 and then it says the interview will continue on the other
15 side, and a brief few words at the end, but no
16 participation in the interview at all.

17 Q So again, as to the interview itself, was
18 virtually all of it conducted by the German prosecutor,
19 Mr. Koenig?

20 A If I can put it in the sense of questioning
21 officers were totally by the public prosecutor.

22 Q Did you observe the defendant being
23 threatened or coerced, or harmed in any way during the
24 course of this interview?

25 A No, not at all. And I don't think having

1 met the public prosecutor, that Mr. Koenig, he would have
2 allowed it, and he would have informed me of any
3 situation, I'm sure.

4 Q What was the sole purpose of your being
5 there?

6 A Basically, to inform him of his rights under
7 English law, and to make sure there was no abuse of the
8 privilege of the interview.

9 Q And did any abuse of the privilege of the
10 interview occur at any time during that?

11 A It was in the German language, I didn't
12 understand that, but it did not appear so at all. He
13 seemed at ease to speak, and it was a very sort of --
14 almost actually a friendly deal.

15 Q Friendly. And the defendant which is
16 identified on the tape, and in the transcripts, the person
17 who is being interviewed by Mr. Koenig, the German
18 prosecutor, would that person be the defendant seated over
19 there, Jens Soering?

20 A Yes, sir, it would.

21 Q How long did the interview last?

22 A It started at 2:10, and concluded at 4:17.

23 Q Then what happened, please?

24 A At the conclusion of the interview, I
25 removed the cassette from the tape recorder, and I signed

1 the date on the actual cassette, and I placed the exhibit
2 label on the cassette holder and signed that, and I then
3 retained it in my possession. We drove back to London.

4 Q Were there any arrangements made concerning,
5 or I should say any arrangements made with you, the German
6 prosecutor and the German defense counsel concerning
7 copies of the tape or transcripts thereof?

8 A Yes, there were. Obviously, they wanted a
9 record of it, of the interview. So we agreed between
10 ourselves that I would make a copy of the tape, and that I
11 would supply that to Mr. Koenig, who would of course in
12 due course supply the defense with either a copy or a
13 transcript. I also agreed that Mr. Koenig would supply me
14 with that transcript to save time and expense.

15 Q And to provide you with the transcript in
16 German as the interview was conducted, am I correct?

17 A Yes, sir. At the end of January, 1987, he
18 posted me a transcript of the tape in German.

19 Q Do you have that original transcript in
20 German that he provided you?

21 A I do, sir.

22 Q And would this be it?

23 A Yes, sir.

24 Q And I'll just ask you to retain that, but
25 once you received this transcript in the German language,

1 what if anything was done to translate that into English?

2 A I sought some direction as to formality with
3 people, and they said to get it transcribed into English.
4 We have a number of official police interpreters attached
5 to the Scotland Yard which we use, the particular one that
6 I used, is Dr. Smith, she's a German interpreter, I
7 supplied her with a copy of that transcription, because I
8 didn't want that to go out of my hands. And she took it
9 home, and in due course reduced it to an English
10 handwritten copy which I have.

11 Q Do you have that?

12 A (Witness submits transcript.)

13 Q And once this handwritten translation into
14 English was obtained, what was done there?

15 A We have our own typist in the office, I
16 simply gave her that, and she produced an original typed
17 copy.

18 Q Which?

19 A Which I also have. And then further copies
20 were supplied to those people.

21 Q Copies were then supplied, okay. And was at
22 some point a copy of -- well actually, a copy of the
23 transcript in German, and a copy of the English
24 translation, Xerox copies forwarded to me here in this
25 country?

1 A Yes, sir, I gave them to another officer in
2 the UK, together with copy of the taped recording, and
3 presume that he gave them to you.

4 Q Okay. Now we'll be calling to the stand in
5 just a few minutes, really, a Dr. James Ogier, a German
6 professor from Roanoke college?

7 A Yes, sir.

8 Q And he has at this time copies of the German
9 transcript and copies of the English translation. Have
10 you had the occasion to compare each with the copies which
11 he he has?

12 A Yes, I have, sir, they appear identical.

13 Q As to the tape itself, would you explain
14 what you did with it after that day of December 30, and --

15 A Yes, sir, I retained it in my possession
16 until the 7th of January when I took it to the
17 Metropolitan Police audio laboratory, which is in Denmark
18 Hill, South London, took the cassette, PG-1, with the
19 purpose of obtaining copies. On that day I gave it to
20 Paul Groninger, who is a technical expert who provides
21 copies for Court.

22 Q And he is here today of course as well?

23 A He is.

24 A Subsequently on the 12th of January I
25 returned to the laboratory and retook possession of the

1 cassette, PG-1 together with eight tapes, PJG 1 through 8,
2 which were for tape use in court and transcripts, and
3 together with six working copy cassettes, which I produced
4 eventually as exhibits PG 2 to 7. After that, I kept two
5 copies, I posted one to the public prosecutor, and another
6 I retained for submission with the copy documents. The
7 rest I sealed in the Metropolitan Police property bag, and
8 put police property seal around it and placed it in a
9 secure cupboard, and it remained there until I left the
10 extradition squad on the 13th of March, 1989, on which
11 occasion I handed it to a colleague of mine, Detective
12 Constable Robert Crane.

13 Q Who is of course here as well?

14 A Yes, sir.

15 Q After delivering the tape to Mr. Groninger,
16 when you received the tape back, in what condition was it?

17 A It is as you see it now, sir, sealed, and it
18 has not been opened at all, not even now.

19 Q I will ask Mr. Groninger about this once he
20 testifies, but from the time that you received it back in
21 this seal and the time that it was in your custody, did
22 this seal remain intact?

23 A It has to, sir, for court purpose; if it
24 was opened it would be invalid, that's why we have the
25 working cassette.

1 Q And it remains sealed today, as it was back
2 in January of 1987?

3 A Yes, sir.

4 Q Then during the time that this tape was in
5 your possession as you have described, nothing was done,
6 altered, changed or modified in any way?

7 A Not at all, sir, that would invalidate the
8 use of it.

9 Q And just briefly, I will not be introducing
10 these, but just for verification purposes, do you
11 recognize these reel-to-reel tapes?

12 A Yes, sir, they are exhibits PJG-1 through 8,
13 Mr. Groeninger's exhibits.

14 Q Did you receive these as well with the
15 original cassette itself?

16 A Yes, sir.

17 Q All those were maintained together. And
18 there were six cassettes prepared, and would there be
19 three of these here at this time?

20 A That's right, sir.

21 Q And all of these were maintained in the
22 fashion that you described?

23 A In the same sealed bag.

24 MR. UPDIKE: Okay, sir, if you'd answer
25 any questions that counsel may have.

1 CROSS EXAMINATION

2 BY MR. NEATON:

3 Q Mr. Gosling, you were with the extradition
4 squad in 1986, is that right?

5 A From 1983 to 1989, sir.

6 Q So were you in charge of the -- were you in
7 charge of the extradition proceedings against Mr. Soering
8 at that time? A. No, sir, it was detective Sergeant Bill
9 Cutts.

10 Q Okay. Were you aware of the fact that the
11 United States had requested Mr. Soering's extradition
12 prior to December of 1986?

13 A Yes.

14 Q Were you aware of the charges under which
15 the United States had requested Mr. Soering's extradition
16 in 1986?

17 A I knew it was a murder charge, sir.

18 Q Were you aware of the specific indictments?

19 A No, sir.

20 Q Were you aware of the fact that the United
21 States had requested Mr. Soering's extradition to face the
22 death penalty in 1986?

23 MR. UPDIKE: Your Honor, objection,
24 Your Honor, that's not a proper question.

25 MR. NEATON: I think it is, Your Honor.

1 and I think it goes to this statement and
2 the reason it was given.

3 MR. UPDIKE: There was no request for
4 extradition for the death penalty, Your
5 Honor.

6 MR. NEATON: Well for capital murder,
7 I'll rephrase the question.

8 MR. UPDIKE: We would question the
9 relevancy, especially unless some foundation
10 was laid for that.

11 MR. NEATON: Well the relevancy, sir,
12 is to explain the statement. The statement
13 is going to be allowed in, the jury has to
14 decide whether it's true or not.

15 THE COURT: Go ahead, use the term
16 capital murder.

17 MR. NEATON: I will, Judge, I'm
18 sorry.

19
20 BY MR. NEATON: (continuing)

21 Q Were you aware at the time that the United
22 States was requesting Mr. Soering's extradition for
23 capital murder in this state?

24 A I wouldn't have known what that meant, sir,
25 I'm not familiar with your laws. All I knew was that he

1 had been extradited for murder.

2 Q At that time also, was West Germany
3 requesting or interested in requesting Mr. Soering's
4 extradition to Germany?

5 A Well obviously on the 30th of December, that
6 was their purpose, I would imagine in coming over.

7 Q To prosecute Mr. Soering on these charges as
8 well, correct?

9 A Yes, sir, to make an application for
10 extradition, yes.

11 Q You are aware of course that West Germany
12 does not have capital punishment, correct?

13 A I believe that is correct. I couldn't say
14 for certain, but I believe that's correct.

15 Q Now you said that Mr. Soering had consulted
16 with Mr. Friesen?

17 A That's correct, sir.

18 Q For about 15 minutes?

19 A Yes, sir.

20 Q Before he gave his statement?

21 A Yes, sir.

22 Q And you were not present during that
23 consultation?

24 A No, sir, they were taken to a separate room
25 provided by the prison authorities.

1 Q And so you don't know what Mr. Friesen told
2 Mr. Soering, right?

3 A No, sir.

4 MR. NEATON: Thank you, that's all.

5 MR. UPDIKE: No further questions, Your
6 Honor.

7 (Witness stood aside.)

8

9 JOHN GRONINGER, was called as a witness and
10 having been duly sworn was examined and testified as
11 follows:

12 DIRECT EXAMINATION

13 BY MR. UPDIKE:

14 MR. UPDIKE: Your Honor, we're going to
15 ask that tape be introduced, the original.

16 MR. NEATON: That's fine. I mean to
17 the nature of the exhibit.

18 THE COURT: I understand.

19 (TAPE MARKED AS COMMONWEALTH'S EXHIBIT
20 359.)

21 Q State your name, please.

22 A Paul John Groninger.

23 Q And Mr. Groninger, in January of 1987, what
24 was your employment at that time?

25 A I was a technical officer with the

1 Metropolitan Police, forensic tape laboratory.

2 Q I didn't catch the first part of that, I'm
3 sorry, you were where?

4 A I was a technical officer.

5 Q Technical officer?

6 A Yes.

7 Q Forgive me, if you would repeat, technical
8 officer?

9 A With the Metropolitan Police, forensic tape
10 laboratory.

11 Q Okay, sir. And specifically, directing your
12 attention to January 7, 1987, I'd like to show you what is
13 now marked with a sticker, Commonwealth's Exhibit 359, and
14 ask you if you can identify that.

15 A Yes, that is a tape recording PG-1 that was
16 handed to me on the 7th of January of that year by
17 Detective Sergeant Gosling.

18 Q And after having received that tape at that
19 time, please describe what you did with it, what happened
20 to it, the circumstances thereafter.

21 A After I received the tape recording, I
22 placed it in a security drawer at the forensic tape
23 laboratory. I then removed it from the tape store at a
24 later date, and made copies of the tape recording. After
25 I made the copies, the original tape recording was sealed

1 in a bag by me and replaced in the security store together
2 with the copies.

3 Q Then the seal on the tape which we have now,
4 can you identify the seal itself?

5 A Yes, that's my signature on the actual
6 sealing of the bag, I have dated it.

7 Q 10-1-87, January 10, '87?

8 A That's correct, sir.

9 Q Other than the Commonwealth's Exhibit
10 sticker, which is shown on the package itself, is that
11 seal still in the same fashion as it was at the time that
12 you sealed it?

13 A Yes, it is.

14 Q The copies which you made, how many and what
15 type of copies of the tape did you make?

16 A I made six working cassette copies of the
17 tape, and I also made two sets of reel to reel recordings,
18 which were all eight tapes all together.

19 Q Without introducing these, do you recognize
20 these reel-to-reel tapes that we have here?

21 A Yes, that would be the copies that I made at
22 the time.

23 Q And do they have seals on them designated
24 January 10, 1987?

25 A Yes, the court copies would be sealed.

1 Q And the signature on the back of the witness
2 is Paul Groninger, that of course is your signature?

3 A Yes.

4 Q And you have mentioned six cassette copies,
5 we have -- I have in front of you at this point three of
6 those, did you make these as well? Well you made six, is
7 that correct?

8 A That's correct, yes. Yes, these are the
9 three copies that I made.

10 Q And during this recording procedure, was
11 anything done to modify, alter, change in any way what is
12 marked Commonwealth's Exhibit 359, the original cassette
13 itself?

14 A No.

15 Q And then what did you do thereafter, after
16 the copies were made, you made them?

17 A After I had made the copies I sealed the
18 original in the bag there, and together with the copies I
19 placed them back in the security store.

20 Q And where was this again, this security
21 store?

22 A This was at the forensic tape laboratory.

23 Q Of the Metropolitan Police?

24 A That's correct.

25 MR. UPDIKE: London, England. Thank

1 you, no further questions.

2 MR. NEATON: No questions.

3 (Witness excused.)

4 (TAPE MARKED AS COMMONWEALTH'S EXHIBIT
5 360.)

6

7 ROBERT CRANE, was called as a witness and
8 having been duly sworn was examined and testified as
9 follows:

10 DIRECT EXAMINATION

11 BY MR. UPDIKE:

12 Q State your full name, please.

13 A Robert Crane, I'm a Detective Constable
14 attached to the international organized crimes branch in
15 New Scotland Yard, sir.

16 Q And sir, if I could show you, directing your
17 attention to March of '89, and specifically showing you
18 what is now marked Commonwealth's Exhibit 359, the
19 cassette recording, and some reel-to-reel tapes, and some
20 cassettes, some of -- there were additional cassettes at
21 the time, but asking you if you recognize those items.

22 A I do, Your Honor, yes.

23 Q And how is it that you recognize them?

24 A Those particular tapes were given to me by
25 Detective Sergeant Gosling in March of 1989. I retained

1 those tapes during his absence, and in January of this
2 year I gave those tapes to Sheriff Wells, and identified
3 them to him.

4 Q During the time that these items were in
5 your possession and custody as you have described, was
6 anything done to alter, change, modify any of them in any
7 way?

8 A No, sir, they were retained in the secured
9 room at the Scotland Yard.

10 Q Have you enjoyed your stay here in Virginia?

11 A It's been an absolute pleasure.

12 MR. UPDIKE: Thank you.

13 (Witness excused.)
14

15 C.H. WELLS, was called as a witness and
16 having been duly sworn was examined and testified as
17 follows:

18 DIRECT EXAMINATION

19 BY MR. UPDIKE:

20 Q You're of course C.H. Wells, Sheriff of
21 Bedford County, is that correct?

22 A Yes, I am.

23 Q And as the sheriff of Bedford County,
24 directing your attention to January of this year, did you
25 have the occasion to travel to England for the purposes of

1 transporting the defendant, Jens Soering from England back
2 to Bedford County, Virginia pursuant to the extradition
3 proceedings?

4 A Yes, I did.

5 Q And I believe if I recall the date
6 correctly, you returned to Bedford on January the 12th?

7 A That's correct.

8 Q It was the 12th?

9 A That's correct.

10 Q And in addition to transporting the
11 defendant and returning him to this country, did you also
12 return during that procedure these tapes which we have
13 inside of a bag?

14 A A bag, yes, I did.

15 Q And subsequent so that, did you release
16 these items to Investigator R.W. Gardner, who has
17 continued with the investigation in this matter?

18 A Yes, sir, I took possession of them there
19 and returned them here in my possession, and turned them
20 over to him.

21 Q Turned them over to him.

22 A Yes, sir.

23 Q During the time that these tapes were in
24 your possession as you've described, was anything done to
25 them to modify them, alter them, change them in any

1 fashion?

2 A I never looked at the tapes, they were in
3 the back seat.

4 Q One other question concerning another
5 portion of the investigation, you most certainly were at
6 the Haysom residence on April 3, 1985 as the investigation
7 began into this matter, is that correct?

8 A Yes, I was.

9 Q Did you take note of any newspaper in the
10 Haysoms' mail box or in the mail?

11 A Yes, -I did in the mail box.

12 Q What would that have been?

13 A There was a paper that the Bedford Bulletin
14 Democrat prints and puts out, sort of an at street box
15 holder that goes into the boxes on Monday, which is called
16 the Bedford Bullet; that was in the mailbox.

17 Q On Wednesday, still in there on Wednesday,
18 April the 1st?

19 A Wednesday, yes, sir, it was.

20 MR. UPDIKE: Thank you very much. If
21 you'd answer any questions counsel may have.

22 MR. NEATON: No questions.

23

24

25

1 R.W. GARDNER, was called as a witness and
2 having been duly sworn was examined and testified as
3 follows:

4 DIRECT EXAMINATION

5 BY MR. UPDIKE:

6 Q And as previously identified, you're
7 Investigator R.W. Gardner, Bedford County Sheriff's
8 Department?

9 A Yes, sir, I am.

10 Q Understanding that you remain under oath in
11 this matter.

12 A Yes, sir.

13 Q And asking you as to a specific portion of
14 the investigation, the original tape recording which we
15 have marked as Commonwealth's Exhibit 359 and the
16 accompanying reel-to-reel recordings, and three cassettes,
17 do you recognize those?

18 A Yes, sir, I do.

19 Q To briefly go through this, did you receive
20 these from Sheriff Wells after the defendant Jens Soering
21 had been returned to this country?

22 A Yes, sir, I did.

23 Q Now we have three copies of the cassettes at
24 this point, was there a fourth one originally?

25 A Yes, sir.

1 Q What did you do with that fourth cassette
2 copy?

3 A I gave it to Dr. James Ogier, who is a
4 professor at Roanoke College.

5 Q Did you also provide him with copies which
6 we had of the German transcript of this statement, and the
7 English translation of that statement?

8 A Yes, sir, I did.

9 Q And sir, during the period of time -- well
10 since you received this particular Item 359 from Sheriff
11 Wells, has it remained within your custody?

12 A It has.

13 Q Until today?

14 A (Witness nods head in the affirmative.)

15 Q And during that period of time specifically,
16 was this changed, modified, altered in any fashion?

17 A No, sir.

18 MR. UPDIKE: Thank you, if you'd answer
19 any questions counsel may have.

20 MR. NEATON: No questions.

21 (Witness stood aside.)

22 MR. UPDIKE: Dr. Ogier, please, Your
23 Honor.

24

25

1 DR. JAMES OGIER, was called as a witness and
2 having been duly sworn was examined and testified as
3 follows:

4 DIRECT EXAMINATION

5 BY MR. UPDIKE:

6 Q State your name, please.

7 A My name is James Ogier.

8 Q Your profession is what?

9 A I'm professor of German at Roanoke College.

10 Q At Roanoke College?

11 A At Roanoke College

12 Q And could you tell us, please, something
13 about your educational background, your training in this
14 field of the German language, and your experience,
15 employment experience thereafter, please, just tell us
16 something about yourself.

17 A All right. I have a bachelor's degree in
18 German from Lehigh University in Bethlehem, Pennsylvania.
19 I have a master's degree and a Ph.D. from the University
20 of Pennsylvania in Philadelphia. I have studied at the
21 University of Bonn. And as for employment experience, I
22 have been professor at Skidmore College and now at Roanoke
23 College. I have also taught at the Middlebury Summer
24 School, German summer school.

25 Q And specifically as to the German language,

1 your academic credentials there, please?

2 A Both my graduate degrees are in art and
3 German literature, and Germantic Philology, and I have
4 been teaching German for some 17 years now.

5 Q 17 years?

6 A Uh-huh.

7 Q And do you have occasion to return to
8 Germany, or go to Germany?

9 A On the average about once a year, yes.

10 Q The most recent such occasion was when?

11 A Last month.

12 Q In addition to German, do you speak other
13 languages, and holding a Ph.D. in?

14 A I also speak Danish when the need arises.

15 Q Now I'd like to ask you whether you had the
16 occasion to receive a cassette recording from Investigator
17 R.W. Gardner of our sheriff's department?

18 A Yes, I did.

19 Q And you have maintained possession of this
20 recording?

21 A Yes, I have.

22 Q In addition to that recording, did you also
23 receive from Investigator Gardner and me a copy of a
24 German transcript?

25 A I did.

1 Q And did you also receive a copy of an
2 English translation of that German transcript?

3 A I did.

4 Q Have you had the occasion to compare that
5 German transcript and that English translation with the
6 originals which Detective Sergeant Peter Gosling has
7 today?

8 A Yes, I did.

9 Q And did they appear to be the same
10 documents?

11 A Yes, they did.

12 Q And of course the purpose of us presenting
13 these documents to you was to ask of you, am I correct,
14 that you authenticate the translation which we have.

15 A That was my understanding, yes, sir.

16 Q If you would, explain the procedure that you
17 followed in doing this.

18 A I listened to the cassette which was given
19 to me. I compared it with the German transcription, I did
20 this twice in fact. Then putting the German and the
21 English side to side, I compared the German with the
22 English translation, sentence by sentence.

23 Q And having done that, are you now prepared
24 to provide a translation in England of the German
25 recording which you have?

1 A Yes, sir, I am.

2 Q We would like for you to do that at this
3 time, if you would, please. And you will, of course,
4 going through this designate the questions that are being
5 asked and the answer, designating those, if you would,
6 please.

7 A I should point out. this is not my
8 translation, this was prepared in England, and I have made
9 corrections where I see fit.

10 Q Yes, sir, and if you would point those out,
11 please.

12 MR. NEATON: Before he begins, I have
13 not been furnished, I believe with his
14 corrections, I'd like a copy of that

15 MR. UPDIKE: Sure

16 MR. NEATON: Thank you.

17 A There may be small matters which I have
18 corrected in recent reduction on the past few days, but
19 the main corrections should be on that sheet.

20 Q Okay, sir.

21 A The translation begins with a note which
22 occurs in the German edition which states that the author
23 of the report, we visited on the 30th of December, 1986,
24 with the consent of the competent English authorities, the
25 accused Jens Soering, who is detained in Chelmsford prison

1 in Essex, England, and who is as from the 31st of
2 December, 1986 in custody pending extradition to America.

3 In the presence of the German defense
4 counsel of the accused, Dr. Friesen, lawyer from Bonn, and
5 of an official from Scotland Yard, the head of the
6 department was permitted to contact Soering. The English
7 officer gave the defense counsel prior to this an
8 opportunity to have a discussion with the accused for
9 about 20 minutes. The discussion was with Soering in the
10 presence of his defense counsel, and the officer from
11 Scotland Yard, was conducted in the German language and
12 recorded on tape.

13 The following record presents a literal
14 transcript as far as possible of the tape put at the
15 disposal by Scotland Yard of the discussion between the
16 undersigned Dr. Friesen, lawyer, and the accused, Jens
17 Soering in Chelmsford Prison in Essex on the 30th of
18 December, 1986. To start with, the tape contains a
19 caution about rights given by Sergeant Gosling, from
20 Scotland Yard, who was present at the discussion. The
21 public prosecutor says, as an accused, you have the right
22 to refuse to give evidence. You need not make any
23 statement here. If you will give details, we will accept
24 them. And the defendant says yes. Actually, that's
25 rather an abbreviated statement, actually the public

1 prosecutor went on on the tape and said, as we said, you
2 needn't say anything at all; you may, however. If you do
3 we'll accept them, the statements as they're made, and
4 you'll have a chance to ask counter questions, but you
5 need say nothing, do you wish to make a statement? And
6 the answer by the defendant is yes.

7 The prosecutor: All right, we will start.
8 then, as usual with the personal data, because we have
9 nothing yet about these in the files. When were you born,
10 where were you born, what is the profession of your
11 parents, do they live together, are they separated, your
12 school education.

13 The defendant says, I was born on the first
14 of August, 1966 in Bangkok, Thailand. My father is a
15 German diplomat and a present vice counsel with the German
16 consulate in Detroit, America. My parents are still
17 married, I have one brother who is 18 years old. I
18 attended school -- I visited school in Southwest Germany
19 and the U.S.A.. I was last at the University in Virginia
20 at U.S.A., where I obtained a full grant in a competition.

21 I studied there, psychology to begin with,
22 then after the second year I started to study Chinese and
23 economics. My mother is a housewife, my brother is at the
24 University in Michigan. The prosecutor asks, have you a
25 German final secondary school examination? In

1 parenthesis, an abitur or any other kind of secondary
2 school examination.

3 The defendant says -- in the meantime, it's
4 a bad translation. In the mean time, I have received an
5 equivalent diploma. I have an American high school
6 diploma and two years of the university. Dr. Friesen:
7 Have you had any relevant diseases, not necessarily
8 children's diseases, have your parents any diseases?

9 The defendant: Perhaps it is relevant that
10 I had an operation as a small child. I believe I was
11 about two years old, for a brain tumor which was not
12 found. Whether this is relevant or not, I do not know.

13 At this point, Dr. Friesen, the lawyer makes
14 a brief statement which is accoustically not
15 understandable, but probably in connection with the
16 **psychiatric expert opinion** in which Soering gave in this
17 context further details. I listened to the tape, there is
18 mention of the report by **Dr. Hamilton**. At this point, the
19 prosecutor asks were there any other illnesses, and the
20 defendant answers no. That is not in the script.

21 Now a further question concerning alcohol or
22 drugs and addictions to it. Have you taken some
23 occasionally? The defendant answers, this I can explain
24 immediately, completely, because there is not much to
25 tell. I have, I believe perhaps smoked marijuana all

1 together three or four times. The prosecutor: When was
2 that?

3 The defendant: Once in the 9th, once in the
4 10th, and once in the 11th grade. That was when I was 14,
5 15, 16 or 17 years old, and once when I was 18, each time,
6 not more than one cigarette. I did not like it actually,
7 I tried it again regularly once a year to find out whether
8 it gives me anything new, which means did anything new for
9 me, but it did not happen. I have, therefore, quarrels
10 with my friends. Because of this, I had problems in
11 school. The same applies to alcohol. In America when one
12 goes to high school, one gets drunk regularly on the
13 weekend, and at big parties. I did not like that. I also
14 did it once a year. From 15 onwards until university, at
15 the most twice a year. As already said, I did not like
16 it. I don't like to get drunk, and I also don't like the
17 taste of alcohol. I occasionally drink wine, but never
18 real alcohol; I am also not used to alcohol.

19 The defense counsel asks, with regard to
20 intolerance of alcohol? And the defendant answers, that
21 comes later. Defense counsel: Perhaps you can tell at
22 this point what you told me. The defendant: Well, as I
23 said before, after having finished high school I took a
24 few days holiday in Mexico and fell in love with a girl.
25 Nothing happened there. When I then got to the university

1 sometime in the middle or beginning of November, I don't
2 know exactly when, I once got completely drunk because of
3 this girl. That was the only time I got drunk to such an
4 extent that I laid down and woke up three, four hours
5 later, being told by all my friends who lived in this
6 apartment, that was in the autumn of 1984, that I attacked
7 one of my friends once or twice and tried to fight with
8 them, but was drunk. I could not remember any of it.
9 They put me into bed again without anything happening.
10 What I drank then was a half a bottle of Kalua liquor
11 mixed with half a bottle of vodka, a so-called Black
12 Russian. That was quite a lot and considerably high proof
13 alcohol. That was the only time that I myself have
14 attacked somebody physically, and that was under the
15 influence of the alcohol. It was under the influence of
16 the alcohol.

17 There is a mistake in the text here, the
18 public prosecutor then says, that was therefore something
19 very unusual, the defendant says yes. The public
20 prosecutor continues, is there still something to be said
21 to the personal data, do you still have questions, Dr.
22 Friesen? Then I would suggest to get to the crux of the
23 act, i.e., the girlfriend, when met, parents, when met, et
24 cetera, when did you get to know your girlfriend Elizabeth
25 Roxanne?

1 The defendant: That was in the autumn of
2 1984 on the first day I was at the university, that was in
3 the end of August. I met the mother the first week in
4 September, maximum for two hours that I saw her. I
5 therefore only talked very briefly with her. At this time
6 I only knew Elizabeth for one or two days and had
7 therefore not really been friends with her. I then saw
8 the mother and the father once again, that must have been
9 in March when they visited Elizabeth in the university,
10 and I then went with Elizabeth and the parents together to
11 eat at a restaurant. That was therefore also in 1985.
12 The public prosecutor says, that was therefore also in
13 1985?

14 And the defendant says, that was in 1985, yes.

15 The prosecutor: How old is your girlfriend
16 actually? The defendant says, she should be 22 now. The
17 prosecutor: The parents, what kind of people were they,
18 you saw them at least once briefly; what did Elizabeth
19 tell you about them? The defendant: Well, there's also a
20 great discrepancy, that is, what kind of people they were
21 and what Elizabeth told me about them. I hardly know
22 these people anyway, I know almost nothing about them. I
23 know quite a lot that Elizabeth has told me. As far as I
24 know, and what I have been told by Dr. Hamilton who also
25 examined Elizabeth. Then the prosecutor, who is Dr.

1 Hamilton?

2 The defendant: Dr. Hamilton is a
3 psychiatrist, he is the head of the medical department of
4 Broadmore Hospital. On the tape that's clarified that
5 that is a main institute or institution for criminals in
6 England. He said -- to continue with the text, he said
7 that Elizabeth is a pathological liar. With regard to
8 this, I do not know what is true of what she told me and
9 what is not. I can only imagine that only very little of
10 it is true, and what's true is most likely even
11 exaggerated.

12 The mother was described to me as a woman
13 who was extremely mean to the entire family, and most of
14 all to her father -- that was a slip of the tongue, he
15 apparently meant husband, but he said father, and to
16 Elizabeth, most especially. At this point the defendant
17 couldn't remember the German word for cruel, and asks in
18 English, cruel, how do you say that in German, I don't
19 know. And the public prosecutor supplies him with the
20 word for cruel. The defendant says thank you.

21 The prosecutor: Listen, you must say of
22 course if you have any difficulties expressing yourself in
23 German, you can feel free to say this in English. There
24 is a not in the text, now, Soering's reply is at this
25 point acoustically not understandable, he explained that

1 he had no articulation difficulties, only occasionally he
2 is lacking a precise expression for an English word, and
3 on the tape we can hear the expression, ostegubunk, he's
4 out of practice.

5 The defendant continues: She was supposed
6 to be a particularly cruel woman who suffered from various
7 psychical illnesses that she accused members of the
8 family, mainly her husband of poisoning her, et cetera,
9 and again this is not on the script, this is on the tape,
10 and that she, the mother, that she had egged her father on
11 to hate her. Well, I should perhaps say to this that from
12 the middle of October until beginning of December,
13 Elizabeth and I were very good friends, but not more.
14 During this period she talked of course very much about
15 herself and her parents. From December of 1984 until we
16 were arrested here on April 30th, 1986, we considered
17 ourselves to be in love, or I believed myself to be in
18 love. I possibly see this differently now.

19 From the beginning of December until the
20 beginning of April or the end of March when this happened,
21 Elizabeth told me a lot about her parents, and especially
22 many stories about cruel behavior of her parents toward
23 her, neglect; the word neglect is the not on the script,
24 it's also on the tape. Also hints about sexual abuse on
25 the part of the mother, and with this, for example, she

1 showed me a photo of herself purportedly taken by her
2 mother and passed around in the circle of friends, a photo
3 of her. At this point the prosecutor interrupts and says,
4 obscene, the defendant says yes, and the defendant
5 continues, on which she was naked, and as said before, I
6 could tell further stories for hours.

7 Prosecutor: Well, what did she say about
8 her father, was he also so cruel or mean, or was this
9 another man who was completely dominated by the mother?

10 The defendant: There was exactly this. Originally, he
11 was supposed to have been a good person, but was then led
12 astray by the mother to hate her and to treat her cruelly.

13 She also told me as an example, that both parents were
14 still regularly beating her up when she was 20 years old.

15 et cetera. Prosecutor: How old are the parents, do you

16 know that? Defendant: No, I don't know that, however I

17 was completely led by her. I was very much in love with

18 her, or well, I considered myself very much in love. I

19 trusted her completely. There were various reasons at

20 that time in my life I had the urge to or why I could

21 easily become dependent upon someone.

22 Were you then dependent upon Elizabeth, or
23 have you the impression that you were dependent?

24 At that time, no. I considered it to be a
25 perfect relationship. I considered her to be perfect. I

1 took her for my goddess, as I expressed it to the
2 psychiatrist. There was no doubt whatsoever for me about
3 what would happen if it came to a conflict, then
4 everything was always done as she wanted, because her
5 affection, her love was unbelievably important and
6 important above everything. Prosecutor: Did she then on
7 some occasion say something about that she could not get
8 on with her parents and one had to do something?

9 Defendant: She said from the beginning that
10 she was at the point of flipping out. The text has at the
11 limit of dropping out, which the German word is the point
12 of flipping out. She could not go on any more living
13 under the pressure of her parents, something had to
14 happen. I actually always thought that she meant perhaps
15 to marry me or something like that to get away from her
16 parents. Prosecutor: Did she live at home with her
17 parents? Defendant: Yes, the parents only lived one hour
18 away from Charlottesville, where we attended the
19 university. During term, she lived in the university. At
20 the weekend and during the holidays she always stayed with
21 her parents.

22 Prosecutor: And there she felt herself
23 rather suppressed, in every respect, also financially?
24 Defendant: Exactly. In every respect; financially she
25 was never allowed to do what she wanted. Allegedly, I

1 also don't know if it is true; that is, however, what she
2 told me allegedly. She spent one and a half years on the
3 run from her parents traveling -- I'm sorry, there is a
4 mistake, let me backtrack a bit. That is however what she
5 told me. Allegedly she spent one and a half years on the
6 run from her parents traveling alone in Europe,
7 hitchhiking, et cetera. At this time she was very heavily
8 dependent on drugs. She was that, by the way, partly,
9 too, at the beginning of our relationship.

10 Prosecutor: How was it in 1985? Defendant:
11 Beginning of 1985, heroin. Prosecutor: For how long?
12 Defendant: At about that time, it stopped as far as I
13 know. I only once saw a needle prick. Whether indeed it
14 was heroin, I do not know. See told me as much. During
15 the autumn term, 1985 -- on the tape the defendant starts
16 off to say 1986, is then connected to 1985, she had a
17 brain tumor. I heard so many stories from her which I
18 swallowed at that time without doubting, since I trusted
19 her totally. What I shall believe now, I do not know
20 anymore.

21 Prosecutor: What was the profession of her
22 parents? The defendant: The father was retired. He was,
23 as far as I know, a very wealthy businessman. The mother
24 was from the Astor family. At this point on the tape
25 there was a discussion of who the Astor family are. The

1 prosecutor suggests that perhaps jewels or womens items,
2 and then finally settles on rich Americans with link to
3 English nobility. The matter of the money was also
4 touched on by the American police. This is the defendant
5 again. Money was perhaps a problem for her, not for me.
6 I had received an extremely generous grant from the
7 university. It's a slip of the tongue here, it says the
8 University of Michigan. Since I was believed to be an
9 especially nice lad and also was an especially good
10 student. I had no financial problems at all, I lived more
11 or less like a king.

12 Prosecutor: And when you were together, who
13 paid for example? The defendant: I did.
14 That cost me a lot of money, and this is on the tape and
15 not on the script, it caused me problems with dad. That
16 was pretty difficult now and then. Back to the script.
17 But it was no problem at all for me. Everything could be
18 arranged. I had plenty of money from the university and
19 simply spent it all for us, for her, for me that we could
20 have fun.

21 At this point, Dr. Friesen asks a question
22 concerning a trip to Europe by Elizabeth. The defendant
23 says, she told me that she was mistreated and beaten by
24 her parents as a small child. She was sent to various
25 schools, also public schools in England. Afterwards she

1 wanted to go to Cambridge to study there, and to the Royal
2 Academy of Dramatic Arts to become an actress. She was
3 not allowed to do that. Then her parents wanted to take
4 her to a hospital, to a clinic for nervous diseases. That
5 was about two years before I met her. At that point in
6 time she ran away to Europe and travelled for about one
7 and a half years in Europe as an addict. She felt
8 persecuted by her parents and was eventually found by her
9 parents through a colonel of the U.S. Army after she had
10 injured herself in Berlin.

11 Prosecutor: We're now coming to the act
12 itself. I just assume, you can correct me, I told you you
13 need not say anything, that you murdered Derek and Nancy.
14 There is a note here that the original German papers show
15 the name Haysom. These are the names of the parents. To
16 put it graphically, how did one actually get the idea to
17 do something like this? The defendant: First of all, I'm
18 not quite sure, 100 percent sure that I murdered them, and
19 furthermore, it is also not important that I had the idea
20 to kill them. Prosecutor: I didn't say that. I said how
21 did one get the idea, one of you or the other, I don't
22 know.

23 A The defendant. In retrospect, it is quite
24 clear to me that at least on the part of Elizabeth it
25 could have resulted something like this, I don't know,

1 exactly, I can hardly imagine anymore who this girl is,
2 because it seems that everything that she has told me
3 about herself are lies, too. If you wish, I can describe
4 to you exactly what did happen at this weekend.

5 Prosecutor: Exactly. I am concerned about, both of you
6 obviously left on the 29th, hired a car, this I gathered
7 from a statement of the American Police Officer Gardner
8 which he made at the time before the Circuit Court of
9 Bedford County. That was what I take as guidance. In
10 this he mentioned everything, more I do not have at my
11 disposal. It revolves around the said weekend, according
12 to this, both of you rented a car and drove to Washington,
13 took a hotel room, and in the tape it says in the Marriott
14 Tower or whatever it's called. Then went to the cinema,
15 you were supposed to have driven back again. It would be
16 best if you started telling from the 29th, how it stated
17 and why you rented the car.

18 The defendant says, well, we only -- we
19 started -- excuse me. We rented the car because we wanted
20 to have a weekend in Washington, D.C., because we finally
21 wanted to be together privately. We both did not like it
22 at the University of Virginia, we did not particularly
23 like the people. The same problems as before, because I
24 did not like to get drunk, this being the main leisure
25 activity of the students. The prosecutor interrupts him

1 at this point and says, you wanted to study, right?

2 And the defendant continues, I wanted to be
3 together with Elizabeth, play music, go to the cinema, and
4 not in any case get -- it says permanently drunk, I think
5 drunk continually would be a better translation. I don't
6 like it, and for this reason there were always conflicts
7 between me and my co-students. Furthermore, we always
8 were in double bedrooms in the dormitories in the
9 university. It therefore was very difficult to be
10 together with Elizabeth in privacy. That is why we drove
11 to Washington. There was much going on, and most of all,
12 we could also book a room.

13 Prosecutor: Did you pay for this again, and
14 also hire the car? In whose name?

15 The defendant says, well, with the car I'm
16 not sure, but I assume that was in my name. Anyhow, one
17 needs a credit card for this, the one that I had from my
18 father. That phrase is on the tape, not in the
19 transcript. Well, we rented the car and drove to
20 Washington to the hotel. On the Friday we left, Elizabeth
21 had a phone call from her parents. I do not remember
22 what the parents discussed with her, I only know that she
23 told me in fact in Washington that I really had to do
24 something. She again on the tape not on the script, she
25 convinced me in Washington that a crisis point had been

1 reached.

2 Prosecutor: If I may briefly interject, the
3 car perhaps was rented by her. The defendant: Maybe, I
4 don't know. I think it is not important. Something had
5 to happen. The parents did not think much of our being
6 together. Prosecutor: Did she give any more reasons for
7 it? The defendant: I believe the problem of this weekend
8 is, and basically also of the entire time thereafter from
9 December, 1984, particularly this weekend and this period
10 I can only remember imperfectly. I don't know exactly why
11 this is so. I assume it has something to do that I have
12 realized in the meantime that my conduct in the past one
13 and a half years or one and three-quarter years is not
14 exactly normal, or well normal.

15 I can only say that I cannot remember
16 exactly what happened in Washington itself that weekend.
17 I only still know that Elizabeth was of the firm opinion
18 that something had to happen. The original script is, I
19 had to undertake something, but is it closer to say
20 something had to happen. I had to drive to Lynchburg
21 under any circumstances and I said as usual, yes, okay,
22 great, I'll drive there. Then I drove to Lynchburg with
23 the intention in fact to talk to the parents. I believe
24 to remember that she said something, whether it was at
25 that time -- it definitively was mentioned at that time

1 that she would be taken away from the University of
2 Virginia because her parents did not like our relationship.

3 Prosecutor: Did she give any reason why her
4 parents said this, did you not suit them?

5 A The defendant. Exactly. I was not good
6 enough, and in general, people wouldn't think much of me,
7 because there were many more wealthy people with much
8 better chances than myself. Well I went to Lynchburg to
9 attempt to convince the parents that Elizabeth and I
10 wanted to stay together and would stay together no matter
11 what. Well as already said at that point in time, I
12 thought of myself, as all the other people, too, as a
13 particularly nice lad, and I therefore was fairly
14 convinced that I could achieve this. Prosecutor: How did
15 you in fact envisage this?

16 The defendant: I was always an excellent
17 speaker. I myself was not clear about why the parents
18 should think that I of all people should not have any good
19 chances. At that point in time it is difficult to
20 explain. The grant I had obtained from the University of
21 Virginia is a matter which bears with it much more than
22 just money. The prosecutor then says something which is
23 attributed to the defendant, one has to achieve special
24 grades, which goes on, the defendant continues. And after
25 that, the chances would be very excellent, too, since one

1 is then supported by the Alumni Association, the text says
2 promotion committee, but on the tape it's Alumni
3 Association. I was therefore of the opinion that I was
4 exactly the right one, and of this I also wanted to
5 convince the parents. And since I had managed to convince
6 the heads of the competition, I was fairly convinced that
7 I would also convince the parents of it. With this
8 intention, I drove to Virginia, to Lynchburg. Prosecutor:
9 Why didn't she actually come along?

10 Defendant: That s something odd. I believe
11 she did not come along, but I am not quite sure.

12 Prosecutor: So you think she might have come along?

13 The defendant: I don't know. I don't know whether she
14 followed perhaps in another car or whether she came along
15 in the car, but I cannot remember anymore. I think there
16 remain a few pictures of us even here and there, let us
17 say, which I can remember. In between, there are enormous
18 gaps, and partly, there is something missing within the
19 pictures themselves. It is possible that Elizabeth came
20 along. I cannot commit myself. I don't believe it, I
21 don't think so, but on the other hand, the police have
22 told me that a second set of footprints, and actually
23 female ones have been found in the blood in the house. If
24 they were so fresh that they left traces in the blood,
25 somebody must have been there most likely or very soon

1 after me or at the same time with me, I do not know that,
2 I have no idea about it. Prosecutor: So you drove to
3 Lynchburg.

4 Defendant: On the way to Lynchburg I bought
5 myself two or three cans of beer and probably drank them.

6 Defense counsel: Why? Defendant: I was nervous.
7 Basically, it was very untypical, since normally I don't
8 drink to pluck up courage. I cannot explain this exactly,
9 why I did it. I drove a long time in the car, it was hot.
10 I stopped and bought myself two or three cans of beer. I
11 do not know anymore, how many. There were, however, not
12 many. I then arrived, late afternoon, no, it must have
13 been dark already. Prosecutor: Which day was this
14 exactly, the 30th?

15 At this point the proceedings were
16 interrupted because the Germans' tape recorder was not
17 functioning. There was some discussion about it. After
18 that, the defendant continues: I don't know anymore. The
19 question was what day was that exactly, the defendant
20 says, I don't know anymore. It was Saturday evening. I
21 then arrived at the house on Saturday, and Mrs. Haysom was
22 upstairs. I was let in by Mr. Haysom. The first thing, a
23 drink was put into my hand. He was already drinking; that
24 is, I believe, customary. It possibly was gin with
25 something. Well, I do not know this exactly, I don't

1 drink any hard drinks otherwise.

2 Prosecutor: Did you then drink a glass or
3 did you merely sip from it? The defendant: No, I drank
4 it all. Prosecutor: Why, against your habit? The
5 defendant: Because I was nervous, and the longer I stayed
6 there the more nervous I became. As Elizabeth already
7 said in Washington, there came rather strong pressure
8 rather soon from both parents. I think the people had
9 been represented to me already as monsters, and I had no
10 reason to doubt it. I, however, never doubted what
11 Elizabeth told me. Well, I was nervous, there was no
12 doubt at all. It was very important to me that these
13 people should like me, that they would not interfere any
14 further in the relationship with Elizabeth. I drank that
15 one. Then Mrs. Haysom came down and drank pernod, I
16 believe. Shortly afterwards, Mr. and Mrs. Haysom started
17 quarreling with each other, and making the same poisonous
18 remarks to each other as they had done, too, when I was at
19 lunch with them about one month ago; it may have been with
20 Elizabeth's mother. Prosecutor: What was the quarrel
21 about?

22 The defendant: It started that Mrs. Haysom
23 was painting. She painted as a hobby, and she came down
24 splashed with paint, and there was already the first mean
25 remark from Mr. Haysom, and so it continued, and Elizabeth

1 told me that the parents carried out their feuds in
2 public, and that the parents were quite particularly
3 poisonous. That, I had already noticed, as I mentioned in
4 the restaurant. Well, it continued in the same style from
5 the beginning in the house. I don't know how it was with
6 Mrs. Haysom, the text says Mr. Haysom, but it quite
7 clearly Mrs. Haysom on the tape. Mr. Haysom was already
8 drinking when I arrived. Perhaps it loosened him up
9 somehow, I don't know.

10 Prosecutor: How did it go on then, what did
11 you talk about, did you say hey, I don't understand this?

12 The defendant: First we sat in the living room, there we
13 did not talk about Elizabeth and myself, but about general
14 things. And as mentioned, the Haysoms were very busy
15 attacking each other. I was then offered something to
16 eat, we then went to the dining room. Defense counsel:
17 Had you eaten anything before? The defendant: No, I had
18 not eaten anything since breakfast. For lunch I ate a
19 hamburger in Washington, but not much. The last big meal
20 was breakfast. On the way there it is three and a half
21 hours by car, and I had no time to eat something, and I
22 got served something warmed up, and we were sitting down
23 together in the dining room. When we were sitting down I
24 then started to tell them that Elizabeth had told me that
25 first of all I did not fit into their plans.

1 Prosecutor: What did they say with regard
2 to this? The defendant: Well, they were very direct and
3 opened the attack immediately, which shocked me somewhat,
4 because normally I would in fact expect that they would do
5 it in a bit lower key and not quite so direct. Not in the
6 script, the prosecutor asks, both of them? And the
7 defendant says, both of them.

8 The defendant continues. What happened
9 after that was a weird and very loud conversation. The
10 next phrase is difficult to translate, the original has,
11 one yelled at each other, there was yelling at each other.
12 It was so that Mr. Haysom had his own tactic, which mainly
13 depended on that I had no great future in comparison with
14 other people whom Elizabeth knows. He meant by this
15 background and material things, and Mrs. Haysom made it at
16 the same time in a more personal way and at the same time
17 they accused each other again, and that what the other had
18 said was not at all relevant and unimportant and did not
19 make the slightest difference, and that the only sensible
20 thing was this and that. It was practically a
21 three-partied competition between the two fighting about
22 the method, and at the same time, in my direction.

23 Prosecutor: What did you say to this? Again, the tape,
24 not on the script. Did you listen to it without speaking?

25 The defendant: No, I tried to say

3
1 something, but it was extremely difficult in this
2 situation, especially in the beginning. The fact is I
3 cannot express myself really well when I have the
4 impression that the partner in the conversation is
5 critical of me, or has malicious feelings toward me. I
6 don't know. Perhaps that originates from my relationship
7 with my father, since I am rather fearful in such
8 situations. I am with persons in authority that I become
9 nervous in such situations when I have the feeling that
10 they don't like me -- or the original words are angry with
11 me -- I think intend malice might be better. Thus I was
12 passive in the beginning and mainly listened, and the more
13 I tried to say something the more they kept on talking to
14 me getting louder, with the result that I also got louder,
15 and in reality, one yelled at each other.

16 Prosecutor: How long did this last about?
17 The defendant: that's very difficult to say. I mean I
18 described this now rather from an emotional perspective
19 than an objective perspective. I cannot remember exactly
20 how it felt at the time. I believe the whole affair from
21 the arrival until the respective attack passed in about 20
22 to 30 minutes, including eating. I believe the meal was
23 not finished. Mr. Haysom has still somehow eaten ice
24 cream. I had in the meantime, two drinks in the living
25 room, and another one in the dining room. They were also

1 drinking. That is was all within 20, 30 minutes, I would
2 estimate, but it is very, very difficult to say. I mean I
3 can remember the whole affair only very, very poorly.

4 Defense counsel: Can you remember what Mrs.
5 Haysom objected to in your personality precisely? The
6 defendant: It started that I had nothing to say to Mr.
7 Haysom's criticism, that I therefore was weak, that I was
8 therefore not as talented as Elizabeth and would stand in
9 her way. As mentioned, it started with this and was
10 further built up on it. The prosecutor then asks, how did
11 it end, that's on the tape, not on the script

12 The defendant continues, I do not know
13 anymore what the trigger point was, but something was said
14 and I flew off the handle and wanted to run out of the
15 house. I got up quite quickly. We were previously
16 sitting at the table, Mr. Haysom sat there, Mrs. Haysom
17 sat there and I sat here. There's a note in the text to
18 the effect that the accused explained this with the help
19 of the tape recorder in front of him. To continue. Mrs.
20 Haysom sat opposite me. The door was behind Mrs. Haysom.
21 Again, though the script has Mr. Haysom, the tape has Mrs.
22 Haysom. I had to go around behind Mr. Haysom to get out.
23 It was a large table, and the other way was not free.

24 I had only one instinct, I wanted out, I
25 could not take such stress too well. I have with my

1 father, but when my father sometimes scolded me as a
2 child, my reaction was always to run out. This is natural
3 for me. And there was a mistake in the script, the script
4 says, I did not get up, and in fact if the tape says I got
5 up very quickly and wanted to run out. Mr. Haysom got up
6 and pushed me against the wall, pushed me back. Says the
7 prosecutor, could he then get up so quickly at all if you
8 started so suddenly, if you took off so suddenly?

9 The defendant: It all went in a hurry, it
10 all happened at once. How it was in detail, I do not
11 know. I only know when I wanted to pass him from behind
12 he was standing. He had only to get up, really, while I
13 had to take a few steps to get past him. He stood and
14 pushed me back, pushed me, thus by the shoulders. He is
15 taller than I, and sturdier than I, he was a rather strong
16 man. Prosecutor: Did he threaten you during this or only
17 simply push you?

18 The defendant: He yelled something, I don't
19 know it exactly anymore, sit down young man or something
20 like it. Anyhow, I was ordered that I should sit down. I
21 thus fell back and in fact against the rear wall of the
22 house in the dining room. It was a stone wall. I then
23 bumped my head against it, how strongly, I don't know
24 anymore. I also could not assess it, but the next thing
25 that I can remember is that I stood behind Mr. Haysom, and

1 then blood ran from his neck into his lap, and that I was
2 incredibly shocked. I cannot really describe it, I simply
3 could not grasp it.

4 Prosecutor: What could you not grasp?

5 Defendant: That I stood there with a knife in my hand.
6 He had blood running into his lap. I don't know whether I
7 stabbed him in the neck or cut down along the neck. I am
8 of the opinion that this must have been something like it.

9 Prosecutor: Diagonal cut through the artery? The
10 defendant: Yes, that was it. The artery is here in
11 front, isn't it? I-don't know. It came down, in any
12 case. It was such a feeling, I simply could not
13 understand it. It was for me -- series of dots.

14 Prosecutor: From where did you have the knife? The
15 defendant: This is a question which I also have not
16 answered to the American officer. I also want it here to
17 remain unanswered.

18 Prosecutor: I know for what reason you want
19 it, you think of premeditated crime, that is what it
20 amounts to. Defendant: Yes. Prosecutor: Certainly
21 there is with us, too, the question of intent and
22 negligence, but that is something other than planned or
23 not. The script then has the question, how did you get
24 the knife, which isn't accurate; the tape has, so you
25 don't want to talk about the knife. The defendant

1 Perhaps we can discuss this later. I want to get on with
2 this first of all. Next I looked up and saw Mrs. Haysom
3 approaching me with a knife and screaming, which was
4 probably understandable. What happened after this, I can
5 only describe very roughly.

6 Well, there was a fight, and in fact rather
7 at the beginning, I took hold -- excuse me. And in fact
8 rather at the beginning I took hold of Mrs. Haysom's hand
9 in which she held the knife and tried to push her between
10 me and Mr. Haysom. Somehow I tried to hold the hand with
11 the knife. The script has her with the knife, but the
12 tape correctly has the hand with the knife. Mr. Haysom in
13 the meantime got up and it was very peculiar.

14 Prosecutor: He was standing all the time?
15 The defendant: No, he was sitting. After I was away from
16 the wall. What was in between, I cannot remember anymore.
17 But I can remember distinctly that I stood behind him.
18 Well he was sitting and I stood behind him, and that I
19 with a knife in my hand at his neck, and that the blood
20 ran into his lap. I realize there's no verb in that
21 sentence. There are no verb sentences which end
22 differently than they begin. This is one of the, the verb
23 tends to come last in German, and if the sentence is
24 broken off you don't get the verb.

25 How I got there exactly, I do not know.

1 Well, that I had injured him at that time in the neck, I
2 have no doubt. Anyhow, after I had Mrs. Haysom's hand
3 with the knife, dot dot dot. Defense counsel: Were you
4 then still standing behind Mr. Haysom? The defendant:
5 No, I came from behind him and she came then towards both
6 of us, and I grabbed her arm with the knife and Mr. Haysom
7 got up in the meantime. I still know exactly that he
8 shouted my God, what you doing. Then there was fighting.
9 I don't know how for how long, I only know that I several
10 times from Mrs. Haysom, again no verb, who was naturally
11 defending himself, wanted to defend his wife. It was very
12 curious, he still had incredible strength and appeared as
13 if he was not wounded. He bashed me and boxed my head
14 actually, several times. The first time my glasses flew
15 off my face and I could hardly see anymore. I have very
16 weak eyes.

17 Prosecutor: What did you do, did you beat
18 around her? The defendant: No, I held her arm firmly and
19 tried to take the knife away from her, because Mr. Haysom
20 had no knife, he was only beating me. This was a smaller
21 risk than Mrs. Haysom who had her knife in her hand. I
22 wanted to take it away from her under any circumstances
23 and this was my greatest fear. Sometime I must have been
24 injured by the knife Somehow I got two holes, not
25 exactly cuts, in the fingers of my left hand -- on the

1 tape it says I noticed them much later.

2 I had the impression that a small lump of
3 flesh was cut out. That must have happened at the time
4 that I tried to take the knife away. In the meantime
5 there was quite a lot of blood in the floor. We
6 therefore, all three of us were continually slipping and
7 getting up again. In any event I remember that. I think
8 it is possible that the fight lasted less than one minute.
9 In my memory it appears to be like a half an hour, because
10 I myself was absolutely terrified, and had no knowledge
11 how I got into this situation, and what I was doing there.
12 I had somehow insane fear. It was as said a very
13 difficult affair. I don't know how much I have described
14 it. Prosecutor: Did you somehow injure the woman?

15 The defendant: Yes, of course. Eventually,
16 and finally I injured Mrs. Haysom, too, at her neck. I
17 say injured, because there was all of a sudden no
18 resistance on her part. I let go and ran to the door,
19 because as said, there was no more resistance, and the
20 danger of the knife did not exist anymore. I think I was
21 in such terror. I only wanted out, and as soon as
22 possible. Well I had an insane fear. The last I
23 remember, I was at the door to the living room. I saw her
24 go into the kitchen with both hands at her neck, I don't
25 know anymore.

1 Mr. Haysom was still screaming. He tried to
2 get up, after probably having slipped on the blood. That
3 is about the last that I can clearly remember. After that
4 I left the house toward the car. I remembered later on in
5 June that I drove afterwards to a rubbish container about
6 one mile away, and that I then returned to the house. To
7 be quite honest, I also cannot be sure there anymore. I
8 believe I drove to the rubbish container. Shortly after I
9 had left the driveway to the house I hit a little dog
10 which ran across the road.

11 I don't know whether it is understandable,
12 on the way to the rubbish container, I had tremendous fear
13 and shock that I had injured the dog with the car. That
14 is perhaps odd, but anyway I arrived and noticed that I
15 was bleeding profusely. As said, there were no cuts, but
16 a small lump cut out, and that is why I was bleeding so
17 much, and I thought it was absolutely essential to drive
18 back to find something to bandage the hand.

19 Furthermore, all the lights were on in the
20 house and I was afraid that somebody would notice it
21 during the next day and then go there to examine why there
22 was light, and also the door was open and all such things.
23 Anyway, I thought it over that I had to return. In any
24 event, I think I can remember that. I came back. I can
25 tell you only that I have two hazy memories of the bodies.

1 There was some discussion on the tape,
2 again, of the defendant could not remember the German word
3 for crazy, and said the word in English. I could not tell
4 how long I was away. I estimated for the American
5 police that it was about 15 minutes, but as I said, I
6 don't know, I'm not certain. I only know that I drove
7 very slowly to the rubbish container and that I thought
8 the whole time about the dog. When I returned I can only
9 remember that I only saw the legs of Mr. Haysom as he was
10 lying on the floor, and actually next to the passage way
11 between living and dining room. And then I can still
12 remember that I saw Mrs. Haysom's upper body as I said,
13 also very vaguely in the kitchen, but it was like I was
14 standing next to her, let us say, perhaps at the sink. I
15 don't know, and tossing a glance at her. That last
16 phrase, tossing a glance was on the tape and not on the
17 script.

18 The prosecutor: You went back once more you
19 said, and you saw the bodies lying there, one in the
20 kitchen and one in the living room area? The defendant:
21 Half in the dining and half in the living room. I can
22 only remember that the legs of Mr. Haysom were in the
23 living room and the upper part of Mrs. Haysom was in the
24 kitchen. Prosecutor: What did you do then? The
25 defendant: What happened then, I can hardly still

1 I remember. I was once in the bathroom, and got something
2 to bandage my hand, but I cannot remember now whether it
3 was a bandage or a band aid or simply a towel. I do
4 remember that I took a type of shirt or a sweatshirt since
5 my clothes were very blood stained and I wanted to throw
6 them away.

7 Prosecutor: You had not thrown them away
8 yet? The defendant: No, I had not thrown them away yet.

9 Prosecutor: I thought you had already thrown them away on
10 the way to the rubbish container and returned only wearing
11 your undershirt and underpants. The text having been
12 translated in vest and pants. The defendant: No, I had
13 not yet thrown it away. I went once more to the
14 container. Prosecutor: Why did you drive to the
15 container in the first place if you did not throw the
16 clothes away?

17 The defendant: Well, I drove there and
18 intended to throw my clothes away there. When I arrived
19 then and opened the door -- and on the tape and he says
20 and the light in the car went on for the first time I saw
21 all the blood on my trousers and quasi-woke up from the
22 whole affair, because I could only think of the dog the
23 whole time. I realized that I was bleeding too profusely
24 to be able to return to Washington, and that the light was
25 on in the house and that I had to return once more. That

1 is why I drove back once more. Well, I took a shirt or a
2 Rowing Club sweatshirt. Honestly, the next thing I can
3 remember is that I was sitting in the car and heard a
4 certain song from the radio. I think I was -- the text
5 says I think I was at the house once more, but on the tape
6 he says I think I was at the dumpster once more, because I
7 took my cutlery, my glass and the clothes. I thought -- I
8 need to rearrange some of the syntax here -- I thought
9 there were fingerprints on the glass and the plates, and I
10 also switched the light off in front of the house and
11 closed the door behind me.

12 The few things of which I am certain on the
13 evening are the feeling of standing behind Mr. Haysom, of
14 seeing Mrs. Haysom running towards me, that I was always
15 slipping during the fight, that Mr. Haysom was always
16 boxing me, and what I saw shortly before I ran out, that
17 Mrs. Haysom was in the kitchen and Mr. Haysom was just
18 getting up, and that the two pictures, mainly Mr. Haysom's
19 leg in the living room and Mrs. Haysom's upper body in the
20 kitchen. These are basically the real only sole clear
21 things I can remember.

22 Prosecutor: How did it go on when you were
23 on the way to Washington, what about Elizabeth? Elizabeth
24 in Washington when I arrived, she was on the street.
25 Prosecutor: Did you call her in advance or did you meet

1 her accidentally? Defendant: No, we intended to meet there
2 in the street in front of the cinema. Prosecutor: How
3 did she know when you were returning? On the tape it says
4 you must have arranged it beforehand. The defendant:
5 She was very shocked at how I looked. She then said that
6 I was extremely late, but this I can't remember exactly.
7 I do remember where it was, it was in front of the
8 Georgetown, that is the name of the part of the City.
9 There are many cinemas, restaurants and bars. There was
10 really something going on Saturday nights. On the way
11 back I can only remember the song on the radio and that I
12 had a tremendous urge to get back to Elizabeth.

13 Between Elizabeth and myself it was always
14 so that I left all my problems behind when I was together
15 with Elizabeth. With her, it was my small safe world in
16 which everything was perfect, and in which I was loved
17 completely and felt protected. I had as I already said,
18 this urge to come back to Elizabeth. We then went to the
19 hotel. Prosecutor: Did you go directly to the hotel or
20 was that later?

21 The defendant: We drove into the
22 underground parking garage. I was in shock and fear
23 Elizabeth practically just -- the text says Elizabeth saw
24 me in a practical way, which doesn't make sense.
25 Elizabeth practically just looked at me and from this

1 moment on took over the lead. We then drove down and
2 parked the car. She went to the room and collected an
3 overcoat. Anyhow, she must have collected an overcoat, I
4 can remember that she was wearing an overcoat when I was
5 then standing in the lift. I can also remember the lift
6 because there was a mirror in the lift, or was it in the
7 hall, the hall in this means reception hall, the foyer
8 where I was -- and on the tape where he continues, where I
9 was full of blood and had the coat around me. I don't
10 know anymore.

11 We then got up to our room, and there she
12 washed and bandaged me. Then I believe we drove back the
13 next day to Virginia to Charlottesville. Three, four days
14 later the bodies of the parents were found by a lady
15 friend of the mother, Mrs. Massie. I must add that the
16 things I told the police and the American officials in
17 June which Mrs. Massie supposedly said, as everything else
18 at the time -- again, this is a sentence which doesn't
19 make a great deal of sense -- as everything else at the
20 time in June to this October, I fully trusted Elizabeth.
21 Elizabeth told me things about Mrs. Massie, and I must say
22 as I see the situation now that in your place, I would not
23 value anything. What I told the American police about
24 Mrs. Massie is all from Elizabeth, which I simply adopted
25 and believed the things from Elizabeth.

1 Prosecutor: One question in between. How
2 did it happen that Mrs. Massie did find the parents?

3 The defendant: I was told or read somewhere, I don't know
4 anymore, I suppose there was a bridge club in which she
5 was a member, and Mr. Haysom had not phoned and did not
6 appear. She therefore drove there. It was somehow like
7 this, I believe. Prosecutor: If I tell you now that Mrs.
8 Massie stated that Elizabeth phoned her on April 3rd and
9 told her she could not reach her parents, the victims, she
10 should go and check, is this new to you? The defendant:
11 Elizabeth phoned Mrs. Massie? I'm not surprised about
12 anything, anymore.

13 Prosecutor: Mrs. Massie stated that. It is
14 then not known to you that Elizabeth phoned Mrs. Massie.
15 This is then your whole presentation as you have the
16 affair in your memory, or is there anything to be added
17 before we, Mr. Friesen and I will ask you a few questions?
18 The defendant: Well you know about this evening. I don't
19 think so. I can only say that I personally have not much
20 confidence in my own memory. I think we can discuss the
21 matter about the knife at a later stage. I had no intent
22 to kill these people, and it was an absolute horror
23 experience -- on the tape he says unexpected horror
24 experience. And I can remember very little, and what I
25 can remember of this weekend is all very hazy.

1 Prosecutor: Let us start with this right
2 away. You said you had no intention to kill the parents.
3 Until now you have not told me that you did kill them. Do
4 you remember having killed them? The defendant: I can
5 remember that I caused both of them neck wounds. I did
6 cause them neck wounds, I believe, I remember having seen
7 them on the floor in the house after I was away for
8 perhaps a quarter of an hour. Well I must say that I
9 personally assume that at least the wounds I caused them
10 had something to do with their death. The reason why I
11 cannot say anything, do not want to say that I killed them
12 is that after all there is a second set of footprints
13 which supposedly were in the house and are absolutely
14 inexplicable.

15 Prosecutor: Well I can say that there was
16 nothing in the files I have read about a second set of
17 traces. There is only talk -- it is only said is in the
18 script here, but there was talk of an imprint of a tennis
19 shoe, and then the imprint of a sock. You yourself said
20 to the American officer that you returned in socks the
21 second time. The defendant: Yes, that is right.

22 Prosecutor: Perhaps you're confusing this with the two
23 imprints.

24 The defendant: No. When I left the house I
25 was not wearing shoes. I had taken them off the first

1 time when I got into the car. No, the matter with the two
2 footprints was in all the newspapers from the beginning,
3 and I think that during the week we were in Lynchburg, and
4 the police had always informed the brothers and the family
5 about what they knew, what they had learned in the
6 meantime, et cetera, and I was told in the months after
7 that again, and again, either they talked about it in my
8 presence or I heard it from Elizabeth. On the tape, it
9 says perhaps from newspapers that one set of male and one
10 set of female footprints was found there, and there was
11 always the theory that the woman was the wounded one and
12 the man had carried her out.

13 Prosecutor: Well to get back, you said in
14 the beginning you did not know whether Elizabeth
15 accompanied you. Now at the end you said that you met her
16 in Washington. I think in theory it would have been
17 possible that she also hired a car, drove there and back
18 and was there again before you. Is that what you base
19 your assumption on? The defendant: As already said, I
20 simply do not know. I know that I collected her in front
21 of the cinema. I don't want to commit myself.

22 Defense counsel: Did Elizabeth know
23 something of the act when she met you in Washington,
24 something she could have known, she could have only known
25 if she had been there herself? The defendant. No, not in

1 any event that I can remember. The next sentence makes
2 sense neither in German nor English, but had already said,
3 there it is, there it is, too. I can remember only her
4 shocked face when she got into the car. The prosecutor
5 adds on the tape, smeared with blood. The defendant
6 continues, and then the matter in the hall in the parking
7 garage, in the reception hall of the parking garage. I
8 simply don't know, I wish I could say more to this.

9 Prosecutor: If we consider this as the
10 conclusion, let us go back once more. I suggest to you
11 what the American police officer Gardner declared in his
12 sworn statement before the District Court in Bedford at
13 the time. He then said you stated to him you had hired a
14 car together. With the car you drove it Washington, D.C.
15 there you booked into a hotel. Well there I faced the
16 first question, either before or at the time of hiring the
17 car you both had already talked about killing the parents,
18 what do you say to this? The defendant: There was no
19 discussion of this weekend that the parents should be
20 killed this weekend.

21 Prosecutor: Was it then mentioned at
22 another time that the parents should be killed? The
23 defendant: That is a question which I should really
24 discuss with you. It addressed to Dr. Friesen, the
25 defense counsel. You know what I told Dr. Hamilton. The

1 defense counsel says, it is a question of how far one
2 delves into the problem of Elizabeth. I think we should
3 delve into the story if we put the emphasis, which we
4 certainly still do, on the role of Elizabeth, or rather of
5 what she told you. One must then come to the discussions
6 which were held in the beginning of April, and wishes or
7 ideas with regard to her parents and the killing of her
8 parents. The defendant: Well I believe in the first two
9 month of 1985, Elizabeth and I spent much time with each
10 other.

11 Prosecutor: Was this actually the first
12 woman for you? The defendant: Yes, absolutely.

13 Prosecutor: You need not go further into it, it shall
14 only be established why you were so attached to this
15 woman. The defense counsel says, this is a story which we
16 should perhaps not discuss here in all details, but should
17 nonetheless mention. The defendant: Well, I summarized
18 briefly how this took place in my brain. I actually was
19 always an outsider. There was then the first time when I
20 was still in Atlanta at the high school, and it was
21 increasingly like that, especially toward the 12th grade.

22 The entire time in Atlanta I went out
23 with -- excuse me, the entire time in Atlanta, I didn't go
24 out with a girl even once. I went to the senior ball, the
25 last dance of the year against my will with a girl whom I

1 did not like at all. It was rather a disaster. Thank God
2 I hardly saw the girl during the evening. As said, the
3 only girl with whom I had once a relationship was this girl
4 whom I met during the three weeks summer holidays, 1984 in
5 Mexico. But with her, also, it was a highly problematical
6 relationship which came to nothing. We kissed perhaps
7 three or four times. With Elizabeth was the first time at
8 all, and for me it was something of very special
9 importance, since until then I had no contact in general
10 with co-students. At the high school as well, I didn't
11 have it, especially not in the last year. That was the
12 first person in any case, it appeared to me like that, who
13 loved me, and who gave me the feeling to be loved.

14 Prosecutor: You were then at that time very
15 intimate and close friends. Did you at any time discuss
16 killing the parents or getting rid of them? The
17 defendant: During the first two months, or the time
18 following, Elizabeth and I spent every free minute from
19 early morning until very late in the evening together. I
20 hardly slept during the second term, since we spent the
21 whole time together. It was then daily, I would even say
22 increasingly when we talked about her past. I was told
23 stories about what her parents had done to her. Well,
24 that she was raped in Switzerland and the parents
25 neglected her, and that a social worker in Canada was even

1 going to take her away from home because she had accused
2 the parents of neglect. And on the tape he adds, because
3 Elizabeth had been attacked by a dog, et cetera.

4 Such stories came out more and more. I
5 believe it is quite right that I hated the parents more
6 and more, because I loved Elizabeth so incredibly. She
7 was my everything. I can only very poorly describe what
8 feelings I had for her. I would say in the last month
9 before this happened there were talks, not really details,
10 which arose from the feeling of hate. Man, we must really
11 put them into a car and let them roll off a mountain. The
12 matter with these conversations was that I in any event,
13 did not take them seriously, and it is for this reason
14 that I also said that I could not drive to Lynchburg with
15 the intent to kill these people. To this, I should
16 perhaps still add something, that I was also in the
17 previous years, politically rather left, always very much
18 against war, against violent acts, et cetera, and also
19 wrote for a newspaper. I was the editor of a student
20 newspaper.

21 I always was critical of violence in TV and
22 cinema. Violence was foreign to my character, but I hate
23 these people, is also very much, and these feelings of
24 hate I expressed in conversations through fantasy games,
25 as, for example, one should put them into a car and let

1 them roll off a mountain. Something with remote control
2 bomb, burn do you know the house. During the past days, I
3 have remembered another thing, something with a bathtub
4 and piranhas. I remember that Elizabeth in fact called a
5 pet shop in Washington and inquired about the fish. It
6 was a reaction from me. I loved this girl. I believed
7 everything she said. I believed that the parents
8 mistreated her terribly, abused and attacked her, and it
9 was a way of releasing emotions in fantasy games. On the
10 tape, it has purging, like in Greek drama.

11 It was nothing seriously meant. In
12 hindsight I must say that I believe that on her part it
13 could have been met seriously. I don't know. I think I
14 have not the slightest idea who this person really is. It
15 is a fact that I was considered at this point to be
16 intelligent. I knew at this time, beginning 19 -- the
17 beginning of 1985 of three shotguns, two revolvers and one
18 automatic pistol which I could have obtained within one or
19 two days. In two cases the owner of the gun would not
20 have noticed it where it could tell the police, because
21 two of the guns were not registered. I knew a boy who
22 lived in my apartment and had a revolver at home and who
23 even told me where it was. From a neighbor in Atlanta for
24 whom I looked after his parrot, I knew that he had a
25 powerful revolver, and I also knew where it was. As

1 already said, if I wanted to kill somebody, or intended to
2 kill, I would then have done it in any case with a gun.
3 That is the only logical thing. That is the only way how
4 one would have wanted to kill a person if one had done it,
5 and because one would not be caught. I mean piranha fish
6 and remote control bombs are simply not the right thing.
7 I or anyone could buy guns any time in America, and this
8 would have been my choice, if I had wanted to kill
9 someone.

10 Prosecutor: Once more going back, you said
11 that you, before or the car hire did not specifically talk
12 about killing the parents -- excuse me -- talk about the
13 killing of the parents? The defendant. No, we did not.
14 Prosecutor: And accordingly, you have not made a concrete
15 murder plot? The defendant: No, we did not. Prosecutor:
16 Well, an American officer had this recorded like this, in
17 other words, stated like this. Defendant: As I said, it
18 is not right. The American officer had also said the
19 sentence at the end, that I said that I killed the people,
20 but I did not say that to the American police, in any
21 case, not in this form.

22 Prosecutor: I further suggest to you in an
23 abbreviated fashion that as I have noted from the
24 statement, according to this, you said we, you're supposed
25 to have said we discussed that, whereupon I drove to

1 Lynchburg as planned The girlfriend went to the movies
2 in Washington, she was supposed to watch several films to
3 to provide me with an alibi. The defendant: It was not
4 planned. There was no driving to Lynchburg according to
5 plan to kill these people. The whole matter that I should
6 drive to Lynchburg this weekend only came up at all in
7 Washington. We only wanted to drive to Washington as
8 said, for fun.

9 Prosecutor: Then what the officer said is
10 not so, you perhaps did not say -- excuse me. You perhaps
11 did not then say that at the time like that. Defendant:
12 No, I did not drive to Lynchburg planning to kill these
13 people. And he adds in the tape, that's nonsense.

14 Prosecutor: You were supposed to have said that you felt
15 during the trip to Lynchburg hatred and anger for the
16 later victims, the parents of your girlfriend, because
17 they exercised pressure on your girlfriend to end the
18 relationship, anything in that?

19 The defendant: That is right without doubt.
20 But this concerns the general feeling which was building
21 up in me anyway over months. I say this only very
22 reluctantly, but I believe I allowed Elizabeth to build it
23 up in me. I have mixed emotions about Elizabeth I
24 trusted the girl totally over years, and it is very
25 painful for me to admit that was perhaps mitigated.

1 Prosecutor: I continue. The officer
2 further stated you were supposed to had said, which you
3 also said now previously, you were received by the father,
4 the mother was probably preparing a meal. It did also not
5 become out exactly from this statement, she probably came
6 down later from upstairs when you were sitting at the
7 dining table, the relationship with Elizabeth was
8 discussed, and that the parents will do anything to
9 terminate this relationship.

10 The defendant. They have said that they would
11 get me expelled from the university. As Elizabeth had
12 explained the position of her parents, they could have
13 done that, and then my whole future would have been
14 destroyed I worked very much for this grant, that was my
15 entire future My parents are not wealthy. But this had
16 nothing to do with it, it all revolved around Elizabeth; I
17 would have sacrificed anything.

18 Prosecutor: In this context an anger built
19 up in you, it was the woman you loved, with whom you would
20 have wanted to spend your life, whom you would have wanted
21 to marry. The defendant: Naturally. Prosecutor:
22 Because they built up this opposition -- the text has
23 position, the tape correctly has opposition. Because they
24 built up this opposition towards you, you are supposed to
25 have gotten up, pulled a knife and slit Derek's neck from

1 top to bottom and across, severing both arteries and
2 veins.

3 The defendant: I certainly did not say that
4 in that way to him, not like that. Actually, I said it
5 word for word. I know this rather accurately, as I just
6 said it here. Mainly that I got up and wanted to run out,
7 was pushed back, hit the wall with my head and the next
8 thing I can remember is that I was standing behind Mr.

9 Haysom. Prosecutor: Well, we can establish that you did
10 get up with the intention to kill or to injure, but to
11 escape to get away from it all.

12 The defendant: Of course, this has been a
13 natural reaction for me for a long time. I have no
14 experience with fights. The last time I had one I was in
15 the 9th grade and previously in the 7th grade, I was 14 or
16 12 years old. I never fought. It is a natural reaction
17 for me to run away, not to stab somebody with a knife,
18 this is not natural for me. Prosecutor: Well in this
19 context, we must of course discuss the question of the
20 knife. The American officer talked about the Swiss army
21 knife which you were supposed to have possessed. I don't
22 want to discuss this anymore deeply, only where did the
23 knife come from? You yourself say that you injured both
24 of them later, or him anyway with the knife, and injured
25 her, too, where did the knife come from?

1 The defendant: Well, one thing I will say
2 to this, the Swiss army knife, the matter which always
3 comes up, guaranteedly, it was not a Swiss army knife.
4 The matter is simply this, I don't know with which knife I
5 injured Mr. Haysom. I am positive that I injured Mrs.
6 Haysom with the knife she had. I don't know with which
7 knife I injured Mr. Haysom. I personally have my theory,
8 but I naturally forgot to discuss it with you. And at
9 this point he turns to his defense counsel: Defense
10 counsel was the one with whom he did discuss this matter.

11 The defense counsel says, I don't know
12 whether this is so important now. Does this matter at
13 all? If it is a theory, we discussed before, he should
14 not tell you things which he may later put together, but
15 only what he actually knows. Prosecutor: You don't know
16 how you got the knife? The defendant: No, I didn't say
17 that. What I wanted to say is that I do not know with
18 which knife I injured Mr. Haysom. Prosecutor: Can one
19 establish that you anyhow had some kind of knife with you,
20 considering that it is quite customary to carry guns in
21 the United States, I assume you had a knife with which
22 you -- excuse me, I assume you had the knife with you, no
23 matter for whatever purpose?

24 The defendant: Can't we leave that?

25 Prosecutor: I don't know, I leave that up to you.

1 Defense counsel. He doesn't want to say anything about
2 that, we'll leave it then. If he doesn't want to say
3 anything about that, we'll leave it, then. We have
4 established that he does not know with which knife he
5 injured Mr. Haysom.

6 The defendant: I did in fact injure him
7 with a knife. Prosecutor: And her, you probably injured
8 with the knife she had in her hand, in any case that's
9 what you think? The defendant: I believe that this would
10 be logical, that I injured her with the knife she had in
11 her hand, because that was the knife against which I
12 wished to defend myself.

13 Prosecutor: Once more briefly back to it,
14 you're sitting there and want to escape. We must try to
15 reconstruct this a bit. So Mr. Haysom gets up, pushes you
16 towards the wall and says, sit down, boy. Now I don't
17 understand how it came to the use of a knife, wherever the
18 knife came from. The defendant: I think I've been now
19 for -- I think I have been now for or seven or eight
20 months here in prison. I basically started to think about
21 it only in the last few months, because until now I tried
22 to forget the matter. I have discussed this with various
23 people, for example also with the psychiatrist. I think
24 if I had remembered more I would have been able to tell
25 this in the meantime. I only know that I came away from

1 the wall with a tremendous rage. Defense counsel: Did
2 you feel humiliated by Mr. Haysom, or was it more your
3 fury that you did not get any further? The defendant
4 interrupts, here and says both. Defense counsel continues,
5 was it a fury at having been treated like a small child,
6 or a fury at not being up to the situation anymore. The
7 defendant: In reality, it is both. It is the fact that
8 it was the first time for years and years somebody
9 attacked me physically.

10 Well the end of November when I got so drunk
11 because of a girl after the summer holidays I could not
12 remember at all. This I was only told by people. But
13 there are probably witnesses for it that I attacked
14 somebody, but I do not remember it at all. The last time
15 I can remember having pushed or beaten or something like
16 that happened when I was 14 years old. This was a
17 combination of being yelled at and pushed away, and then
18 as already said, that I banged my head against the wall, I
19 don't know. With my psychiatrist, I dwelled a long time
20 about this point in time about my relationship to my
21 father, perhaps I need not do it here.

22 A collective rage arose which resulted from
23 the situation which was already months, if not years old,
24 that all erupted now. Prosecutor: One more back. It is
25 all well and good, how you got the knife you don't know,

1 whether you had put it into your pocket or whether you had
2 taken it from the table.

3 The defendant: I do not know anymore with
4 which knife I wounded him. Prosecutor: But why do you
5 stab him and attempt to slash his artery in his neck, did
6 this arise out of the rage? The defendant: I cannot
7 remember what I tried -- I do not remember that I tried
8 doing it. I do remember that I stood behind him, having
9 this total shock and terror when I saw the blood in his
10 lap, there was no attempt. Prosecutor: All right, let us
11 get directly to the act. Defendant: Well suddenly I
12 stood there, the man was bleeding, I had a knife in my
13 hand. Prosecutor: Well you yourself do not know that you
14 cut him, but it is simply the logical consequence of
15 having a knife in your hand and seeing him bleeding?

16 The defendant: As already said, I came from
17 the wall with a horrific rage in me and the next thing I
18 remember is that I stood behind him in the total shock
19 and -- and the text says terror but it says horror, the
20 total shock and horror that his blood was there in his
21 lap. Prosecutor: Then in this moment Nancy came up with
22 the knife towards you, these are all fragments.

23 The defendant: Yes. Prosecutor. And with
24 her, it then came to a fight? The defendant: I tried to
25 take the knife away from her and clinged to her arm where

1 the knife was. Prosecutor: Now this American officer
2 states that you're supposed to have put your arm over her
3 right shoulder, and then cut her throat from the side?

4 The defendant: Yes, I must have put my arm
5 over her right shoulder, since we were both standing and I
6 am right-handed. But in between there was what represents
7 for me a very long drawn out fighting scene; how long it
8 actually lasted, I do not know. But it was a very
9 intensive fight. It was mainly that I wanted to take the
10 knife from her, because Mr. Haysom was beating me at the
11 same time, and one can only defend oneself badly against
12 beating if one tries to take a knife away at the same time
13 from someone of whom has an insane fear. That I injured
14 Mrs. Haysom at her neck is quite right. Defense counsel:
15 How was the chronological correlation? She approached you
16 with the knife and you felt attacked?

17 The defendant: Certainly, yes. Defense
18 counsel: As reaction to the attack immediately, the
19 injury of the neck, or was there wrestling, was there
20 wrestling in between? The defendant: Yes, as I said,
21 there was a fight which appeared to me lasting like after
22 an hour, but probably was only one or two minutes during
23 which they tried, partly with success to injure me, and at
24 the time Mr. and Mrs. Haysom were beating me as much as
25 possible, and that went on so long between the three of us

1 until I injured her neck.

2 Prosecutor: Can you still say how this
3 actually happened, or don't you know? The defendant: I
4 only know that I injured her at the neck. Prosecutor:
5 Then I continue with the statement of the American
6 officer. After this you are supposed to have said that
7 after the act you took your clothes off and later threw
8 them away at the rubbish dump. Because the light was on in
9 the house, you returned to the scene of the act. You were
10 injured on your index finger and little finger, and walked
11 into the house in socks. Basically, it is as you told me
12 up to now, only that you said previously that the changing
13 of the clothes happend on the second journey to the
14 rubbish dump and not the first time.

15 The defendant: On the tape the statement
16 begins, there was confusion about that in the interview
17 with the American officer. I'll continue from the script.
18 The American officer must have misunderstood this. It
19 would not be logical that I travelled a second time to the
20 rubbish dump. Prosecutor: One can of course say
21 logically, all right, as told it before, you threw the
22 knife away on the first occasion, and you returned for the
23 second time to throw the clothes away.

24 The defendant: I did not take a knife with
25 me the first time. Everything I threw away I threw away

1 the second time. Prosecutor: The glass and the plate and
2 such things so that one would not know that a third person
3 had attended the supper? The defendant: No, because of
4 the fingerprint. Prosecutor: Then you're supposed to
5 have smeared blood around to remove traces. The
6 defendant: Yes, I told you that. About the smearing, I
7 can only say -- and there's no end to that sentence. I
8 cannot say now that I do remember it now, but I presume
9 that I remember that -- at least in June that I probably
10 did it. That I remembered that at least in June that I
11 probably did it.

12 Prosecutor: Now perhaps the contradiction,
13 too, is cleared up with the two trips, because the officer
14 stated later in his interview, he afterwards drove again
15 to the rubbish dump where he threw the knife and clothes
16 away, except for socks, underwear and pullover.
17 Therefore, it seems that already then there was talk about
18 two trips. Then you bandaged the injured hand in the
19 bathroom, as you also explained today. Thereafter, the
20 officer then states, you met your girlfriend in Washington
21 in front of a cinema. Then you are supposed to have told
22 her in the car that you murdered her parents. Defendant
23 Yes.

24 Prosecutor: The girlfriend then fetched
25 clothes from the hotel room so that you were able to go

1 upstairs. You then went together into the hotel from
2 where you departed again on the next day, the 31st of
3 March. The defendant: Yes. Prosecutor: Who actually
4 took the car back afterwards, you two together, or only
5 she? The defendant: No idea.

6 Prosecutor: Have you made other trips in
7 the car, or were they quasi more or less the trips which
8 you have explained? The defendant says we're talking
9 about -- to clarify this issue, we're talking about what I
10 told them, yes, only these trips. There's interruption
11 here in which the defendant says something about that he
12 just remembered something that Dr. Burkhart, who works
13 with Dr. Hamilton told him, I'm not quite sure what was
14 going on there, it's not in the script. The defendant
15 says yes, only these trips. I told the officer everything
16 that way, and I have to assume that it was like that.

17 The prosecutor: That corresponds with the
18 established distance in kilometers which you paid
19 afterwards. This is actually all I wanted to ask at this
20 moment. Dr. Friesen, have you anymore questions?

21 The defense counsel says, only one question,
22 basically, namely, had you the impression that you were
23 drunk when this happened because of the beer and the gin?
24 The defendant: Yes, that's a difficult thing Since I
25 never drank, and since, with the exception of the one time

1 in November, I never got really drunk, I mean completely
2 drunk. It is therefore very difficult for me to say
3 whether I got drunk. I drank in fact three cans of beer,
4 and I assume about three of these drinks, hard drinks, gin
5 and tonic, I believe it was. I had nothing or very little
6 for lunch. I have to say that I believe that I must have
7 been drunk, because as already said, I never drank much.
8 I also hardly drank between the time of November of the
9 Kalua and the journey to Lynchburg, since the smell of
10 alcohol made me feel sick in this period afterward. I
11 don't know whether this is normal, but after I got so
12 completely drunk I could not stand alcohol anymore. I
13 felt really sick from it. I have to assume that I was
14 drunk or was at least strongly intoxicated, most of all,
15 because this act was in fact completely untypical, in any
16 case, from my view. I draw the conclusion from this that
17 I was surely strongly intoxicated, and drunk by the end.

18 Defense counsel: Is this, then, a
19 subjective explanation for the act? The defendant: The
20 way I see it, to say it straight out, for many years
21 certain problems have built up inside me which perhaps
22 other young people around their 18th have, teenagers, et
23 cetera. All these problems appeared to come to a solution
24 when I met Elizabeth, and I believe that the relationship
25 with Elizabeth prepared me for this matter, and certain

1 tendencies within me which led to this act increased, and
2 that the matter of this evening ended as it ended because
3 I drank alcohol for the first time in a long period, and
4 and for me relatively much, and that because of the
5 alcohol, all these things erupted, and then entire anger
6 and all problems were discharged. Prosecutor: A further
7 question. From the autopsy reports available here, it
8 emerges, for example, that Derek received a stab in the
9 heart

10 The defendant: Yes, I was asked about this,
11 too. I cannot remember all these things. I believe very
12 much stab wounds were established, I cannot remember stab
13 wounds. Prosecutor. The the neck wounds only?

14 Defendant: Yes, only the neck wounds. Prosecutor. You
15 cannot remember all the stab wounds which are listed
16 there, abdomen, stomach, the heart area? The defendant:
17 I cannot remember these. I believe I cannot say anymore
18 to it at this point in time. I still have further
19 theories of my own, but I cannot remember it. I have
20 explained today exactly what I can remember.

21 Prosecutor: Except for the knife.

22 defendant: Yes, except for the knife, but also there, and
23 that sentence is unfinished. Defense counsel: There is a
24 theory? The defendant: Exactly. That is a theory. I
25 cannot remember with which knife I injured them. This

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MR. NEATON: No.

MR. UPDIKE: I'm not going to have any further questions.

THE COURT: Then I'd like to be able to excuse the witness. Thank you so much, sir, for coming, and you are excused.

(Witness excused.)

THE COURT: We are now going to take a luncheon recess for one hour, please.

(Whereupon a luncheon recess was taken.)

THE COURT: Does the prosecution have any further evidence evidence?

MR. UPDIKE: No, sir, Your Honor, that's our case in chief.

THE COURT: The prosecution rests its case in chief. Is the defense ready to proceed?

MR. NEATON: Judge, I would ask if we could begin on Monday. It would make our case run more smoothly, and quite frankly, we didn't anticipate that the prosecution would be finished with their case at this point in time.

THE COURT: That suits me, quite

1 frankly, but I think we should discuss the
2 schedule for the week. It is necessary that
3 I be in Norfolk on Wednesday on a case that
4 I have previously been designated by the
5 Supreme Court to hear. It is a sentencing,
6 and normally sentencings can be postponed,
7 but this one, for reasons that I won't go
8 into, probably cannot be postponed.

9 The only reason I'm hesitating, Mr.
10 Neaton, is because it would be very
11 nice if we could finish this case Tuesday or
12 Tuesday evening so that there would not be
13 another interruption, but I really don't
14 know how much defense evidence there will
15 be, nor am I asking you to disclose that
16 necessarily at this time. But I suppose it
17 might be possible for me to move my
18 sentencing date in Norfolk from Wednesday to
19 Thursday, I would certainly try to do that
20 if I had to do it. Can you give us any
21 general idea as to how much time you think
22 Your evidence will take, or is that
23 something you don't know at this time?

24 MR. NEATON: I would anticipate that it
25 would take at least Monday and some point

1 into Tuesday. I can't really predict how
2 long, because I can't predict how long cross
3 examination would be. But I would think, at
4 least I would hope that we could finish the
5 defense case by the end of Tuesday.

6 THE COURT: Then you may or may not
7 have some rebuttal testimony?

8 MR. UPDIKE: That would be the
9 situation, Your Honor, just depending on
10 what we see.

11 THE COURT: How do you feel about
12 adjourning, stopping today, Mr. Updike?

13 MR. UPDIKE: I'm not going to express
14 any objections to that, Your Honor. I can
15 appreciate counsel's position, and having
16 said that, we'll just leave that to the
17 Court.

18 THE COURT: I will stop today, but
19 before we leave the Court, out of the
20 presence of the jury, if there are any
21 motions of any kind to be made at this
22 point, I'd rather they be made now than
23 Monday. So go ahead, Mr. Cleaveland.

24 MR. CLEAVELAND: Your Honor, we would
25 like at this time to make a motion to strike

1 the Commonwealth's evidence, and
2 specifically with regard to the charge of
3 first degree murder in this case. There has
4 been a great deal of evidence about the fact
5 that Mr. Soering was at the scene, committed
6 certain acts that one could infer, taking
7 the evidence in the light most favorable to
8 the Commonwealth, would have resulted in the
9 deaths of Mr. and Mrs. Haysom. However, it
10 is our position that even taking the
11 evidence in the light most favorable to the
12 Commonwealth at this stage, which the Court
13 must do, that the evidence as a matter of
14 law is lacking on the question of
15 premeditation, and that is our specific
16 motion to strike at this time.

17 THE COURT: All right, let's hear the
18 Commonwealth's position.

19 MR. UPDIKE: Your Honor, based upon the
20 evidence presented, as always viewed in the
21 light most favorable to the Commonwealth,
22 the evidence concerning statements of the
23 defendant, the co-defendant's testimony, the
24 circumstantial evidence, the extensive
25 nature of the injuries which were described

1 by Dr. Oxley as being contemporaneous with
2 death, most certainly there is evidence from
3 these types of injuries, including virtually
4 decapitation, the basis for which an
5 inference may be reasonably made by the jury
6 of an intent to kill. We would therefore
7 respectfully ask that the motion be denied.
8

9 THE COURT: Do you want to say anything
10 further, Mr. Cleaveland?

11 MR. CLEAVELAND: Just brief response,
12 Your Honor, with regard to first degree,
13 intent to kill is not really the issue with
14 first degree. I think the issue that
15 separates the first and second degree is
16 premeditation. And although there is in
17 fact the requirement for second degree that
18 intent to kill be present, I think that the
19 status of second degree to first degree is
20 the presence of premeditation, that is what
21 we specifically feel is lacking in the
22 Commonwealth's case at this time. I might
23 add that there were at least two references
24 with regard to the co-defendant's statement
25 in which she emphatically stated that
there was not a plot or a plan at any

1 particular time. But I think that the
2 premeditation issue is what we find is the
3 Commonwealth's failure here in this proof.

4 THE COURT: All right, thank you. The
5 Court feels that the evidence is more than
6 sufficient to submit this case to the jury
7 on first degree murder, second degree
8 murder, and of course the not guilty option.

9 At this point I cannot see that it could
10 could be a manslaughter case, but I can see
11 that the evidence would support either a
12 first degree murder conviction or a second
13 degree murder conviction, or if the jury
14 adopts the defense position, a not guilty
15 position; that adopts the position that
16 he was not there. Now my views about
17 instructions might change, but those are my
18 tentative views, but my view that this is a
19 case which should go to the jury on first
20 degree as well as second degree murder, I'm
21 sure will not change, based on the evidence
22 which I have heard. Are there any further
23 motions to be made today, Your Honor?

24 MR. CLEVELAND: No, Your Honor.

25 THE COURT: Thank you, gentlemen. Bring

1 the jury in, we'll instruct them of what we
2 are doing.

3 (Whereupon the jury entered the
4 courtroom.)

5 THE COURT: Members of the jury, I have
6 Some news for you, the Commonwealth has now
7 rested its case in chief. And I think we're
8 going to stop now, and start back with the
9 defense evidence Monday. Now as far as
10 giving you some idea as to how long the case
11 will take, again, I cannot tell you, but I
12 certainly have a better idea now than I did
13 at the beginning of the trial, and I would
14 certainly hope, for the benefit of your
15 schedules, that we could finish this case
16 certainly next week, perhaps as early as
17 Tuesday or Tuesday evening, perhaps
18 Wednesday or even at the latest Thursday,
19 but that's the way it's beginning to look to
20 me at this point. I know that's not much,
21 but I know you need all the information that
22 you can get about that so that you will know
23 when you can get back to your jobs and so
24 forth, and that's pretty much the way the
25 picture looks to me at this point.

1 Now I'll tell you this, too. As I told
2 the attorneys, it is necessary that at the
3 present time, necessary that I be in Norfolk
4 on Wednesday for a case which is an
5 important case which I have to go down on,
6 is it is for purposes of -- it's a case
7 which will probably take one day. There is
8 some chance that I could shift that from
9 Wednesday to Thursday. What I would very
10 much like to do is not interrupt this trial
11 anymore, and I'll do everything I can. But
12 if this case runs a little longer than I now
13 think it's going to, it may well be that you
14 will get another day off next week while I
15 go to Norfolk. That's about all I can tell
16 you at this time. But in view of the
17 schedule that we have now got, I am going to
18 ask you to come on back Monday, and let's
19 see if we can't move on through and try to
20 finish the case. All right, we'll adjourn
21 until 9:30 Monday morning.

22 (Whereupon court was recessed until
23 9:30 a.m. on June 18, 1990.)
24
25

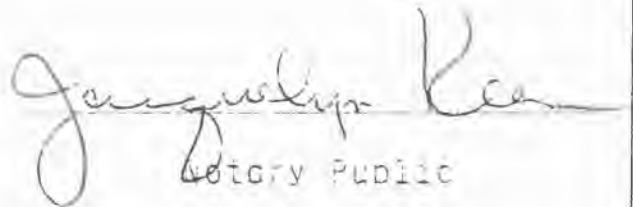
STATE OF VIRGINIA

AT LARGE, to-wit,

I, Jacquelyn Keen, Notary Public in and for the State of Virginia at Large, do hereby certify that the foregoing proceedings were taken before me, and that the aforesaid pages 1 through 135 represent a true and accurate transcription of said proceedings to the best of my Stenographic ability

Witness my hand this 2nd day of November, 1990

My commission expires September 30, 1993.


Notary Public

1 VIRGINIA:

2 IN THE CIRCUIT COURT FOR THE COUNTY OF BEDFORD, VIRGINIA

3
4 COMMONWEALTH OF VIRGINIA

5 v.

6 JENS SOERING

7
8
9 **TRANSCRIPT OF PROCEEDINGS**

10 June 18, 1990

11
12
13 **APPEARANCES:**

14 THE HONORABLE WILLIAM W. SWEENEY, PRESIDING

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JUNE 18, 1990

P R O C E E D I N G S

9.30 A.M

THE COURT: Gentlemen, before we bring the jury in this morning, I had a chance this weekend to do a little work on the -- a little research work on the admissibility of the German confession, and I have a memo which I want to give to counsel at this time. There are three there for two defense counsel and Mr. Updike. What I found was that I have found some authority to the effect that the Miranda advisement need not be given in the exact form described in the Miranda decision so long as the warnings are substantially given.

I found a recent U. S. Supreme Court case on that, that's the Duckworth v. Eakin case, just decided in June of 1989. The other case, the California case is also a Supreme Court case decided in 1981. I found a treatise which in effect stated that the presence of counsel at interrogation is an adequate protective device, and for the most part satisfies Miranda requirements. I simply wanted to file this memo with the

1 papers in the case

2 Are all right, are you gentlemen ready
3 to proceed now with the defense evidence?

4 MR. NEATON: Yes, Your Honor.

5 THE COURT: All right. Bring the jury
6 in, please. I might add that one of the
7 cases that I cited is from the Virgin
8 Islands.

9 (Whereupon the jury entered the
10 courtroom.)

11 THE COURT: All right, let the record
12 show that all jurors are present. Good
13 morning members of the jury All right, the
14 defense may proceed with its case.

15
16 KENNETH BEEVER, was called as a witness and
17 having been duly sworn was examined and testified as
18 follows:

19 DIRECT EXAMINATION

20 BY MR. NEATON:

21 MR. NEATON: The witness is still under
22 oath, Your Honor, before from the
23 prosecutor's case?

24 THE COURT: Yes.

25 Q Mr. Beever, I'd like to call your attention,

1 to the evening of June the 8th, 1986 On that evening.
2 were you in the Richmond Police Station as part of the
3 interrogation of Jens Soering and Elizabeth Haysom?

4 A Yes, sir, I was.

5 Q I'd like to call your attention to the time
6 of approximately 9:55 on the evening of Sunday night, June
7 the 8th, 1986

8 A (Witness nods head in the affirmative.)

9 Q Did you have occasion to speak with
10 Elizabeth Haysom at that time?

11 A Yes, sir, I did.

12 Q And at that time, did Elizabeth Haysom ask
13 you if she could speak with Jens Soering?

14 A Yes, sir.

15 Q When she asked you that question, what did
16 you tell her?

17 A I told her it would be irregular, and I said
18 no, she couldn't

19 Q After you said that to her, did Elizabeth
20 Haysom say anything else to you at that time?

21 A She asked me whether Jens had confessed

22 Q I'd like you to recall as closely as about
23 possible what her words were. Did she ask you
24 specifically, has Jens confessed or admitted to the
25 murders yet?

1 A I can give you -- I made notes of what
2 happened that night, sir.

3 Q Do you have them?

4 A I do have the notes with me, yes, sir. I
5 can give you as close a conversation as possible if you
6 will let me refer to the notes, sir.

7 Q Yes, I will let you do that.

8 A Thank you. Might I read them to you, sir,
9 or do you want to ask me questions, sir?

10 Q After looking at the notes, now, do you have
11 a clearer picture of what Elizabeth Haysom told you that
12 evening?

13 A It's not recorded exact verbatim, it's just
14 a general note, sir.

15 Q And generally, what did Elizabeth Haysom ask
16 you?

17 A As I said before, sir, she asked me whether
18 Jens had admitted the murders.

19 Q What did you say to her at that point?

20 A I didn't answer her question directly, sir.
21 I just told her I was happy with the way the investigation
22 was going

23 Q And did this conversation take place at her
24 cell?

25 A Yes, it did, sir.

1 Q And had you opened the cell door in order to
2 speak with her?

3 A Yes, through an open door, yes

4 Q And after she asked you that question, was
5 there any other conversation with her at 5:55?

6 A No, sir. I closed the door, and I returned
7 to the office, my office

8 Q Did you ever tell her specifically that Jens
9 had made any admissions or statements concerning the
10 investigation at that point?

11 A No, sir.

12 Q When is the next contact you had with
13 Elizabeth Haysom after 9:55 a.m?

14 A 10:23, sir.

15 Q And is that when she rang and asked to speak
16 with you and Mr. Wright alone?

17 A That happened, yes, sir, not initially. I
18 went down and had another conversation with her. I have
19 just got that noted, at 10.12, result of information
20 received. I went to the cell complex and had a brief
21 conversation with her. And then she asked me if we could
22 consult privately and give an account of what happened
23 when her parents died.

24 Q So at 9:55 she asked you if Jens had
25 admitted the murders, at 10.12 she called you back and

1 without knowing if he had or hadn't, asked to give her
2 side of the story, right?

3 A Yes, sir.

4 MR. NEATON: Thank you, that's all.

5 MR. UPDIKE: I have no questions, thank
6 you.

7 (Witness stood aside.)

8
9 R. W. GARDNER, was called as a witness and
10 having been duly sworn was examined and testified as
11 follows:

12 DIRECT EXAMINATION

13 BY MR. NEATON:

14 Q Mr. Gardner, I believe you testified several
15 times in the Commonwealth's case that you were the officer
16 in charge of this homicide investigation?

17 A Well I don't know if I was in charge or not,
18 the sheriff was in charge, but I was working on the case,
19 yes, sir.

20 Q You were the investigator assigned to the
21 case, is that right?

22 A Yes, sir

23 Q Originally you and Detective Reid were
24 assigned jointly?

25 A Yes, sir.

1 Q And ultimately it was your responsibility or
2 your assignment from the sheriff to investigate this case,
3 right?

4 A Yes, sir.

5 Q And as such, you were -- it was your
6 responsibility to accumulate whatever information you
7 could in this case, and kind of spear, direct the
8 investigation, is that right?

9 A Yes, I guess so, yes, sir.

10 Q In April of '85, I believe you said that
11 everyone was a suspect in this case, is that right?

12 A April of '85.

13 Q yes

14 A Yes, sir.

15 Q And that would have included Elizabeth
16 Haysom and her brothers and sisters?

17 A Yes, sir

18 Q And anyone that possibly had any knowledge
19 or contact with the Haysom family at that time, right?

20 A Yes, sir

21 Q Now in April of 1985, you were present
22 during Elizabeth Haysom's interviews with you, is that
23 right?

24 A Yes, sir, I was.

25 Q And isn't it true that she smoked during

1 those interviews?

2 A I believe she did, yes, sir.

3 Q And did you notice that she was smoking
4 Merit cigarettes at that time?

5 A I don't recall; it's possible, yes, sir.

6 Q Well, there had been a Merit cigarette
7 recovered at the scene, or cigarette butt recovered at the
8 scene of the Haysom home, correct?

9 A Yes, sir.

10 Q And since Elizabeth Haysom was a suspect, it
11 didn't occur to you to check that kind of cigarettes she
12 was smoking during these interviews?

13 A I possibly could have, yes, sir.

14 Q But you didn't make any notes of that?

15 A Well, I might have at the time, but I don't
16 recall it right now, but it's very possible, yes, sir.

17 Q So it's very possible that she was smoking
18 Merit cigarettes during those interviews, is that what
19 you're saying?

20 A Yes, sir.

21 Q But you didn't make the connection then in
22 April?

23 A Well, I also knew that she lived there.

24 Q But everyone was a suspect, whether they
25 lived there or not, right?

1 A Yes, sir

2 Q Now did you ever request that any of the
3 blood tested in this case, the known blood samples of
4 people be tested to determine if they were secereters? Do
5 you know what I mean by the term secreters?

6 A Yes, sir, I think so.

7 Q What don't you explain to the jury what your
8 understanding of the term secreter is.

9 A The way I understand it, some people are
10 secereters, and some people are non-secereters, meaning
11 that -- I m not really up on this, knowledgeable on this
12 subject, but some people sweat more than others, and that
13 type of thing

14 Q Well let me see if I can help you out, does
15 a secreter mean that some people secrete blood into their
16 saliva and other body fluids?

17 A Yes, I believe is that's correct.

18 Q And a non-secreter is a person that does not
19 secrete blood into saliva or other body fluids, right?

20 A Yes, sir, that's right.

21 Q And in this case there was no blood analysis
22 done to determine if any of the known blood samples were
23 people who were secereters or non-secreters, correct?

24 A You're talking about the people that blood
25 was submitted?

1 Q Yes.

2 A I just took it that that was part of the --
3 well I understand that is part of the testing on the
4 blood.

5 Q Well, did you ever review the certificates
6 of analysis filed in this case by the -- by Ms. Burton and
7 Mr. Gist?

8 A Yes, sir.

9 Q They did not indicate whether any of the
10 known blood samples were tested for secreter or
11 non-secreter analysis, did they?

12 A I don't recall, no, sir.

13 Q Wouldn't it be important to you to know
14 whether a person would secrete blood in saliva or other
15 body fluids?

16 A Yes, sir.

17 Q And that wasn't done in this case was it?

18 A I don't recall, no, sir.

19 Q Now your first interview -- I believe your
20 first full interview with Elizabeth Haysom was on April
21 the 8th of 1985, is that right?

22 A Yes, sir.

23 Q And at that interview, did Elizabeth Haysom
24 tell you that her shoe size was a size eight?

25 A I don't recall, Mr. Neaton, if she did or

1 she didn't

2 Q Well would referring yourself to a
3 transcript of her statement, might that refresh your
4 memory?

5 A Yes, sir, it would.

6 Q While I'm looking for this, I'll ask you
7 some additional questions. You knew that there were shoe
8 prints found tracked through the house, correct, the
9 Haysom home?

10 A Yes, sir.

11 Q And those shoe prints appeared to be made
12 with blood, is that right?

13 A Yes, sir.

14 Q And as I understand it, you never asked that
15 any of the blood from the shoe prints be retained and
16 analyzed for blood type, is that right?

17 A Well, if you did that, then it would destroy
18 the shoe impression.

19 Q Well but you photographed the shoe
20 impressions, right?

21 A Yes, sir. I didn't, but.

22 Q But you had them photographed, right?

23 A Yes, sir.

24 Q And after they were photographed, they were
25 preserved, correct?

1 MR. UPDIKE: Your Honor, I haven't
2 objected yet, but we need to point out that
3 it is defense counsel's witness at this
4 point, he's not supposed to lead.

5 THE COURT: The objection is sustained,
6 leading.

7

8 BY MR. NEATON: (continuing)

9 Q Would it have been important for you to
10 determine the movement of the person in the house who was
11 was leaving the shoe prints?

12 A The movement inside the house?

13 Q Where that person was.

14 A I suppose so, yes, sir

15 Q And would it be important, then, to know the
16 type of blood that was being left by that person's shoes
17 when that person was walking through the house? Would
18 that tell you something about where that person may have
19 been?

20 A Could possibly, yes, sir.

21 Q Now were either of the victims, Mr. and Mrs
22 Haysom, wearing shoes with a sole pattern similar to the
23 sole pattern found on the living room and dining room
24 floors?

25 A No, sir.

1 Q Would that indicate to you, then, that the
2 person leaving the shoe print patterns throughout the
3 house was one of the other person or persons in the house
4 other than Mr. and Mrs. Haysom at the time of the
5 killings?

6 A Yes, sir.

7 Q I am going to call your attention, getting
8 back to the shoe size issue, I'm sorry it's on the
9 statement of April the 16th, 1985, and I'm going to show
10 you Page 4 of the statement and ask you to read to
11 yourself the bracketed material there.

12 A (Witness complies.) Yes, sir.

13 Q Now in your -- at the April 16th interview
14 of Elizabeth Haysom, does she tell you that she wore a
15 size eight shoe?

16 A Yes, sir, she did.

17 Q Now as part of your investigation, did an
18 officer or officers take photographs of the shoe print to
19 various locations to determine the brand of the shoe
20 print?

21 A That s possible, yes, sir.

22 Q Do you know for sure?

23 A Would you repeat the question, Mr Neaton,
24 please?

25 Q Well as part of this investigation, did

1 other members of your investigative team seek to determine
2 the identity of the shoe print?

3 A As I recall, yes, sir.

4 Q And in fact was Officer C.L. Baker one of
5 those people?

6 A I don't recall the individual, no, sir.

7 Q Let me show you a police report dated, I
8 believe it's April the 8th, or 9th, 1985, the date is
9 obscured, but I'd like to show that to you and ask you to
10 look at who signed that report and ask you if that
11 refreshes your memory.

12 A (Witness complies.) Yes, sir.

13 Q Okay. Now do you now remember whether
14 Officer Baker was the officer who went out and did that
15 investigation?

16 A Yes, sir, according to his report.

17 Q And was it your job to be familiar with the
18 information contained in this report and other reports?

19 A Yes, sir, it was.

20 Q And were you familiar with the information
21 contained in this report before you interviewed Elizabeth
22 Haysom on April the 16th, 1985?

23 A Can I see the report again, please?

24 Q Sure.

25 A (Pause for perusal.) Mr. Neaton, I don't --

1 it's not acted, so I'm not sure if I did or I didn't. I
2 don't have that knowledge.

3 Q Well, does it say the date of this report up
4 on the top left corner there?

5 A Oh, yes, sir, I'm sorry, I missed the date
6 of the report. April the 8th, 1985. Okay, that's the
7 first day I talked to Elizabeth Haysom

8 Q Now you talked to her a second time on April
9 the 16th, is that right?

10 A Yes, sir, I did.

11 Q And when you talked to her the second time
12 on April the 16th, had you already received this report
13 that I have shown you?

14 A Probably, yes, sir.

15 Q And had you read it?

16 A Yes, sir.

17 Q And were you familiar with its contents?

18 A I assume that I would have been, yes, sir.

19 Q Were you then -- did you then have
20 information that the type of shoe that made the print --

21 MR. UPDIKE: Objection, Your Honor,
22 he's getting into opinion, and we heard a
23 whole lot of objections about opinions
24 earlier. Now what's good for one side is
25 good for the other.

1 MR. NEATON: Judge, this is not
2 offered --

3 MR. UPDIKE: It most certainly is,
4 there's no other reason for it. And if he's
5 going to state what it is, we'd ask that
6 that the jury either be excluded or we open
7 up this area entirely.

8 THE COURT: Well, I think this is a
9 matter that we need to send the jury out.
10 Let me screen the evidence and then make a
11 decision. Members of the jury, I'll ask you
12 to go to your room, please.

13 (Whereupon the proceedings continued
14 out of the presence of the jury as follows:)

15 MR. NEATON: Judge, I'll just make a
16 proffer of what the testimony would be, so
17 that you can have a better basis for making
18 a ruling.

19 THE COURT: All right.

20
21 BY MR. NEATON: (continuing)

22 Q Mr. Gardner, as a result of this report,
23 prior to your interview of April the 16th of 1985 with
24 Elizabeth Haysom, did you have information that the shoe
25 prints left in the Haysom house were consistent with a New

1 Balance type of running shoe?

2 A Yes, sir.

3 Q And prior to your interview with Elizabeth
4 Haysom on April the 16th of 1985, did you have information
5 that the size of the physical evidence in the house was
6 consistent with a woman's size eight to eight and a half
7 shoe, or a small boy's shoe?

8 A I'm not certain, Mr. Neaton, because I don't
9 know when we got the report back from the lab in Richmond.

10 Q I'm asking you about Officer Baker's report,
11 I'm not asking you about the lab report from Richmond.
12 I'm simply asking about information that you had about the
13 investigation of the case in April of 1985, and I'm asking
14 you if in April of 1985, based on Officer Baker's report
15 that you had information that had size of the shoe print
16 in the home, in the Haysom home was equivalent to a
17 woman's size eight to eight and a half shoe or a small
18 boys shoe?

19 A (Pause for perusal.) Okay.

20 Q Did you have that information?

21 A Yes sir.

22 Q After you had acquired that information, did
23 you then contact the New Balance Shoe Company to determine
24 if in fact there was a match with the tread?

25 A I did not, no, sir.

1 Q Did anyone under your instructions do that?

2 A Not to my knowledge, no, sir.

3 Q After you determined that the -- that you
4 had information that the size of the shoe print was equal
5 to a woman's size eight to eight and a half shoe, did you
6 contact the New Balance Shoe Company or any other people
7 to determine if that was correct?

8 A No, sir.

9 MR. NEATON: That would be the
10 testimony that I would seek to offer from
11 the witness.

12 MR. UPDIKE: We have some cross
13 examination to that point as far as to the
14 proffer

15 THE COURT: Go ahead.

16

17 CROSS EXAMINATION

18 BY MR. UPDIKE:

19 Q So let me be sure, from Baker's report,
20 somebody said the shoe type was what, a New Balance, is
21 that correct?

22 A Yes, sir.

23 Q And that it was a woman's what size? I
24 think didn't you say eight to eight and a half a few
25 minutes ago?

1 A Yes, sir, down at the bottom it's eight and
2 a half shoe in woman's size.

3 Q Did we later get information from Rick
4 Johnson that it was a Converse shoe, an Arizona 84, do you
5 recognize this copy?

6 A Yes, sir, I do.

7 Q And then did Rick Johnson say in his report
8 that it may be a six and a half to seven and a half
9 woman's shoe?

10 A Yes, sir.

11 Q And do you now have the information from the
12 experts that you can't tell the size of the shoe from the
13 impression because you don't know how the impression was
14 made, is that correct?

15 A That's correct.

16 Q For example, if a tennis shoe is placed
17 straight down on the floor it will make one impression, is
18 that correct?

19 A Yes, sir.

20 Q If it's a tennis shoe with tread rolled up
21 and it's made walking, in that fashion, then the
22 impression will be longer, is that correct?

23 A Yes, sir.

24 Q And did Rick Johnson and Bob Hallett both
25 tell you that you can't tell the size of the actual shoe

1 from the impression that was there at the house?

2 A That's correct.

3 Q Now as far as what Mr. Neaton is asking you
4 about concerning Mr. Baker's report, isn't that true that
5 that is what somebody has told Mr. Baker, not what
6 somebody told you, right?

7 A That's correct.

8 Q So someone told Mr. Baker and you're reading
9 Mr. Baker's report in response to Mr. Neaton's questions?

10 A Yes, sir.

11 MR. UPDIKE: All right, thank you. No
12 further questions on that point.

13 THE COURT: Gentlemen, my initial
14 reaction is that this being a part of the
15 investigation, and that both the direct
16 examination of the witness, which did not
17 ask the witness his opinion, and the cross
18 examination which Mr. Updike has just
19 conducted would both be admissible.

20 MR. UPDIKE: Your Honor, it seems like
21 to me, first of all, all of it is hearsay.
22 You're talking about what someone told Mr.
23 Baker, Mr. Baker reduced to writing, and
24 that is hearsay first of all. Secondly, it
25 concerns opinion. Now we had Rick Johnson

1 here. we had Mr. Hallett here, and at the
2 time, counsel even objected to Mr. Hallett
3 talking about the effects of socks on the
4 foot at the time the known impressions were
5 made, that that was opinion. We couldn't go
6 into any opinion. So as a result, we
7 stopped our testimony, Mr. Hallett's not
8 here, Mr. Johnson is not here. Now Mr.
9 Neaton wants to introduce expert opinion as
10 to the shoe business and not even have the
11 expert here, and not even have the person
12 who formulated the opinion, but rather a
13 shoe salesman who told somebody who told
14 somebody else as to an opinion. We most
15 certainly feel, Your Honor, that if we were
16 not allowed to go into any opinion when our
17 experts were actually here and available for
18 cross examination, that counsel should not
19 be allowed to go into it through hearsay.

20 MR. NEATON: Judge, the reason for this
21 is not on the issue of whether or not
22 this is true, that that is a feature of the
23 physical evidence found in the house, the
24 issue is the investigation. And what I want
25 to do is I want to tie this up with some

1 follow-up questions on knowing this
2 information, then why didn't this witness,
3 or one of the other investigators then go to
4 the Marriott Hotel and get the information
5 from the Marriott Hotel. Whether or not
6 this information is true or not, it didn't
7 check out, he had this information in April,
8 and he didn't follow through on it.

9 MR. UPDIKE: What's the shoes got to do
10 with the Marriott Hotel, Your Honor?

11 MR. NEATON: But the fact that the
12 information is that the shoe size, at least
13 as he had it would be close to the shoe size
14 that Elizabeth Haysom admitted having,
15 everyone being a suspect, and then this
16 officer doesn't go to the Marriott Hotel for
17 a year and a half to get the information of
18 the so called alibi. That's the relevance
19 of the information. There are 360-some
20 exhibits in this case, all attempting to
21 show what a great job the police did in
22 investigating the case. That is an issue in
23 this case. And therefore, as part of the
24 defense, through this witness we're trying
25 to show that the police had certain

1 information early on and apparently didn't
2 follow up on it or didn't realize the
3 significance of it. Whether it's true or
4 false, that was information they had.

5 THE COURT: Well Mr. Neaton, the
6 questions which you're asking the witness do
7 involve some hearsay. Now the real question
8 is whether or not this evidence is offered
9 for purposes of the truth or offered for
10 other purposes. You say it's not offered
11 for classic hearsay reasons, it's not
12 offered to prove the truth. But if I allow
13 this testimony, then you open the door for
14 Mr. Updike on cross examination to likewise
15 ask opinion -- not opinion evidence, but
16 also to ask evidence which would appear to
17 be hearsay evidence pertaining to involve
18 the size of the blood print could change
19 depending on whether the person is walking,
20 running or standing. So if I allow this,
21 then I am going to allow Mr. Updike full
22 cross examination rights in that regard. Do
23 you understand my ruling?

24 MR. NEATON: With regard to the shoe
25 prints?

1 THE COURT: Yes But you objected to
2 certain parts of this early on, and I
3 sustained them. If I allow this now, I'm
4 going to have to allow Mr. Updike to make a
5 proper cross examination of what you're
6 going into, you see?

7 MR. NEATON: With regard to the shoe
8 prints?

9 THE COURT: Yes.

10 MR. NEATON: And the shoe prints
11 only?

12 THE COURT: Basically what he's just
13 asked.

14 MR. UPDIKE: And we would point out,
15 he's not only talking about the shoe prints,
16 he's talking about the size of the foot,
17 isn't he? He's talking about the size of
18 the foot required to -- that would wear on a
19 certain size shoe.

20 THE COURT: Well I think if it comes
21 in, I think it all comes in with proper
22 cross examination, too. My thought as I
23 said, would be that it is admissible for
24 purposes of showing what action the
25 investigators took based on certain

1 information; that it is not offered for
2 that some of it is
3 hearsay, but that Mr. Updike would have the
4 right to fully inquire, and that his
5 examination might likewise require
6 hearsay testimony from this witness.
7 All right. I think that we should admit
8 exactly what we have heard out of the
9 prospect of the jury from both sides, from
10 you and from Mr. Updike.

11 MR. NEATON: Okay, and that is the
12 extent to which both sides will be allowed?

13 THE COURT: Well that would depend to
14 some extent on how far you go.

15 MR. NEATON: Well I intend simply to
16 repeat the questions that I did.

17 THE COURT: Well my thought would be
18 that Mr. Updike would be limited to the
19 questions that we just heard from him.

20 MR. NEATON: Okay.

21 THE COURT: Does anybody have any other
22 problems with that? All right, bring the
23 jury in, please.

24
25 MR. NEATON: (continuing)

Mr. Gardner did you, prior to your April 1985 interview with Elizabeth Haysom, have information from [redacted] Baker's investigation that the prints found inside the Haysom home might be consistent with [redacted] size eight to eight and a half

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And did you also have information that the tread pattern might be consistent with a New Balance brand of running shoe?

A Yes, sir.

Q Now after you spoke with Elizabeth Haysom on April the 16th, 1985 and determined that she had admitted having a size eight shoe, did you then request the Marriott Hotel to supply you with the records of the weekend that Elizabeth Haysom and Mr. Soering had spent in London on the weekend of the murders immediately after receiving this information from Elizabeth Haysom?

On the 16th of April?

Yes

A No. sir.

() Now I am going to show you what's been
' led as Defense Exhibit 1^o and ask you if this is

her sec on. of Mr. So...

in the Pedernales County Jail on January 30th of this

2 Yes, sir.

3 And did you sign that particular exhibit?

4 Yes, sir, I did.

5 And by your signing it, does that mean that
6 you actually witnessed Mr. Soering make these prints?

7 A I was present, yes, sir.

8 Q And was this roll of prints a second copy of
9 prints that defense counsel had requested and were
10 provided as part of the sampling that day?

11 A I did do some extra prints, yes, sir.

12 Q Okay. Now as part of your investigation,
13 you have any information from witnesses on when Mr.
14 Mrs. Haysom were last seen alive on March the 30th?

15 MR. UPDIKE: Objection, Your Honor, as
16 to hearsay.

17 THE COURT: Wait just a minute. What
18 is the purpose of the question?

19 MR. NEATON: To go further into the
20 investigation that was done to follow up
21 this information that they may have received
22 to determine whether it was true or not.

23 MR. UPDIKE: Your Honor, am I going to
24 be allowed to ask the witness questions
25 concerning whether we had information or

1 heard information concerning the defendant?
2 Wouldn't that be objectionable, and us not
3 allowed to do it?

4 THE COURT: Well, if I allow him to ask
5 this question, then any other hearsay
6 information upon which the investigation was
7 based, no matter who it involved, would be
8 admissible likewise. I think we're getting
9 into a dangerous area.

10 MR. NEATON: Okay, I'll withdraw the
11 question, Judge.

12 THE COURT: All right, question
13 withdrawn.

14
15 MR. NEATON: All right.

16 In Elizabeth Haysom's interview on April the
17 of 1985, did she tell you that her father had ice
18 cream for dessert that night?

19 MR. UPDIKE: Objection, Your Honor, as
20 far as I don't think that that question was
21 ever placed to Miss Haysom, therefore it's
22 not admissible unless it's a prior
23 inconsistent statement, it's hearsay. I
24 don't recall Mr. Neaton ever asking
25 Elizabeth Haysom that. It's hearsay, it's

1 an extrajudicial statement.

2 THE COURT: Yes, it is. Are you
3 offering it for purposes of impeachment of
4 Elizabeth Haysom's testimony? If so, the
5 foundation must appear in direct --

6 MR. NEATON: I'm just reviewing my
7 notes, I may not have asked her that
8 question

9 THE COURT: Take your time, I think you
10 know what the law is on that.

11 " Mr. Updike
12 right, I don't believe I asked her that
13 question

14 THE COURT: Thank you.

15 MR. NEATON: Thank you, I have no
16 further questions of this witness.

17
18 DIRECT EXAMINATION

19 BY MR. UPDIKE

20 Concerning blood samples, Investigator
21 Under, you were asked about the effect of secreters.
22 Is it correct that with certain people, when you talk
23 about them being secreters, their blood type is actually
24 secreted within other body fluids, such as saliva, or in
25 the case of a man, semen, things of that nature, other

1 fluids, correct?

2 A Yes, sir.

3 Q And isn't it true that as an investigative
4 technique, such as in rape cases where there might be
5 semen or spermatazoa, that that is used to determine the
6 possible blood type of the assailant?

7 A Yes, sir.

8 Q And that's when that's done.

9 A Yes, sir.

10 Q May I say it also true, however, that that
11 is an indication of blood type or can be an indication of
12 blood type of an individual, but the far better indication
13 of a person's blood type is to take their actual blood and
14 analyze that?

15 A Yes, sir.

16 Q And in this case were we obtaining samples
17 of the blood of various individuals?

18 A Yes, sir, we were.

19 Q And upon that analysis, then you would know
20 the blood types, correct?

21 A Yes, sir.

22 Q As to the information concerning the type of
23 the shoe that made these impressions, did we also in June
24 of 1985, receive information that the impression was
25 consistent with this pattern, which was the pattern of a

1 Converse, not New Balance, correct?

2 A Yes, that's true.

3 Q Arizona type 84 Converse type shoe?

4 A Yes, sir.

5 Q We'd like to introduce this, please.

6 (SHOE INFORMATION MARKED AS
7 COMMONWEALTH'S EXHIBIT 360.)

8 MR. NEATON: No objection.

9 Q Did you also receive information that it was
10 not possible to tell the shoe size from the shoe
11 impression there at the house because it was not possible
12 to know how the impression was left on the floor?

13 A Yes, sir.

14 Q Did you also receive information that a
15 shoe, if it is placed directly on the floor, directly
16 down, that it will make a certain size impression
17 reflecting the size of the shoe?

18 A Yes, sir.

19 Q Did you also receive information that in
20 some cases of some shoes, in particular tennis shoes that
21 have wraparound tread around the toes, that if the
22 impression is made walking in that fashion, that the
23 impression can be bigger than the actual size of the shoe?

24 A That's correct.

25 Q And without knowing how the impression was

1 made, standing, walking, it is not possible to get an
2 accurate determination of shoe size from the impression
3 itself

4 A Yes, sir.

5 Q Did we have the shoe to compare with that
6 impression on the floor, whether it was New Balance,
7 whether it was a Converse, whatever it was?

8 A No, sir.

9 MR. UPDIKE: All right, I have no
10 further questions.

11

12 REDIRECT EXAMINATION

13 BY MR. NEATON

14 Q Mr. Gardner, you found out the information
15 about the Converse shoe in June of '85?

16 A I couldn't be sure right now, Mr. Neaton,
17 about when we obtained that information.

18 Q Okay. Well between the time that you had
19 New Balance and the time you had Converse, did you do
20 anything to follow up on the New Balance lead?

21 A No, sir.

22 Q When you interviewed Mr. Soering in October
23 of 1985, did you notice what brand of shoes he was
24 wearing?

25 A Hum, no, sir.

1 Q You didn't think that was important to know?

2 A Well, I possibly did at the time, yes, sir,
3 Mr. Neaton, but I don't recall right now.

4 MR. NEATON: Thank you, I have no
5 further redirect.

6 (Witness stood aside.)

7

8 JEAN BASS, was called as a witness and
9 having been duly sworn was examined and testified as
10 follows:

11 DIRECT EXAMINATION

12 BY MR. NEATON:

13 Q Good morning, Mrs. Bass, I'm Rick Neaton,
14 attorney for Mr. Soering in this case. Would you tell the
15 jury your name?

16 A I'm Jean Bass.

17 Q And in April of 1985 where were you living?

18 A I lived on Holcomb Rock Road just beyond the
19 Haysom house, I guess east of the Haysom house

20 Q And you said in April of 1985 you lived on
21 Holcomb Rock Road just near the Haysom house?

22 A Yes.

23 Q I'd like to call your attention to the
24 evening of Monday; April the 1st, 1985. Do you recall
25 driving by the Haysom house that night?

1 A I'm not certain which night it was. I know
2 the period of time or the frame of time.

3 Q What frame of time was this in?

4 A All right Sometime -- it was either
5 Saturday night, Sunday night or Monday night; April 1st
6 would have been Monday.

7 Q Okay.

8 A I'm almost positive that it was Monday
9 night, and I can tell you why if you want to know.

10 Q Why are you almost positive it was Monday
11 night?

12 A My daughter Julia had worked at Snowshoe,
13 West Virginia all winter, and had come home on Thursday
14 night, March 28th Friday night we went out to dinner
15 with her and my husband was with us. Saturday night I'm
16 not certain, Sunday night I'm not certain, but I believe
17 that had we gone out either of those nights my husband
18 would have been with us. Monday I went with her back to
19 Snowshoe, West Virginia to get the rest of her things, and
20 we came back by the Haysom house, and that's why I'm
21 almost certain that it was Monday night. I know we came
22 by on Monday night.

23 Q Do you know what time it was that you drove
24 by?

25 A I'm not certain of the time, it was just

1 getting dark, a little dark, but not totally dark

2 Q Did you notice anything about the condition
3 of the Haysom house on that particular night?

4 A The night that we saw this, and I believe it
5 was Monday night, we saw every light inside and outside of
6 the house on, and we saw cars parked on the driveway, the
7 back end of the last car was two to three feet from
8 Holcomb Rock Road, and there were cars parked all the way
9 up that driveway as far as we could see I would say
10 there were at least five or six cars.

11 Q Now the following day, April the 2nd, did
12 you have occasion to find any objects in Holcomb Rock Road
13 near your home?

14 A I did

15 Q What did you find?

16 A On Tuesday morning I found a knife, a pocket
17 knife.

18 Q And could you describe to the jury what the
19 knife looked like?

20 A It was a pearl handled knife, approximately
21 five and a half to six inches long, I didn't measure it,
22 but just guessing. A car had run over it, obviously, and
23 one side of the pearl was broken, crushed.

24 Q Did you have any familiarity with pearl
25 handled knives before that day?

1 A My husband had a few of those at that time,
2 and when I saw this knife, I noticed it because I thought
3 it might be one of his and I wondered why it was in the
4 road.

5 Q And what did you do with the knife, if
6 anything, after you saw it in the road?

7 A I picked it up and took it to the house, and
8 that evening I showed it to my husband and asked him if it
9 belonged to him. if it was one of his and why was it in
10 the road. And he said he didn't know, he didn't even
11 think it was his, but if it had been, it was no longer any
12 good, because the pearl was crushed, so I put it in the
13 trash.

14 Q And did you subsequently or then afterwards
15 throw the trash in the dumpster at the end of Holcomb Rock
16 Road?

17 A Yes

18 Q And did you then inform the police of this
19 information after you learned that the Haysoms had been
20 killed?

21 A Yes, on Saturday morning the newspaper said
22 the sheriff was looking for a knife. And I remembered the
23 knife that I had found on Tuesday night. We didn't know
24 about the Haysoms until Wednesday, of course.

25 MR. NEATON: Thank you Mrs. Bass, I

1 have no further questions

2

3 CROSS EXAMINATION

4 BY MR UPDIKE:

5 Q Mrs. Bass, I'm not quite sure, you did what
6 concerning Snowshoe and everything, what was that again?

7 A My daughter Julia had worked at Snowshoe Ski
8 Resort all winter and had come home on Thursday night,
9 March 28th.

10 Q Thursday night?

11 A March 28th. I think that was the 28th.

12 Q And did you all live on beyond the Haysom
13 house or before you got there?

14 A Yes, just a little way beyond.

15 Q At that time, you did?

16 A At that time, yes.

17 Q So if you leave 501, you would pass the
18 Haysom house going to your house?

19 A Yes.

20 Q Each and every time going back and forth, is
21 that right?

22 A Yes, sir.

23 Q And Holcomb Rock Road, I think it goes down
24 there, does it dead end down in there?

25 A No, it goes on around to -- actually to the.

1 village of Holcomb Rock Road on the river.

2 Q I see, downtown Holcomb Rock. But the way
3 that you come out ordinarily, because of the winding roads
4 back there, you come back out to 501, don't you,
5 ordinarily?

6 A Yes, if you turn left. It seems to dead
7 end, you can turn right and go to the village on the
8 river, or you can turn left and go back to 501.

9 Q What I'm trying to get at is do you
10 ordinarily go past Haysom house?

11 A We always did.

12 Q That's what I am asking.

13 A (Witness nods head in the affirmative.)

14 Q So you went in Thursday night with your
15 daughter?

16 A She came on Thursday night. She had her own
17 car, so she drove home

18 Q And she was there Friday?

19 A (Witness nods head in the affirmative.)

20 Q Saturday?

21 A (Witness nods head in the affirmative.)

22 Q And she was there Sunday?

23 A (Witness nods head in the affirmative.)

24 Q Monday?

25 A Yes. Well now on Monday we went back out to

1 Showshoe, I went back out with her to Snowshoe.
2 Q And brought her back?
3 A She was was driving.
4 Q And you all came back to you all s house?
5 A Yes, sir.
6 Q Did she stay with you all there for a while
7 after?
8 A She was there the rest of the summer.
9 Q So on Tuesday and Wednesday, or whenever you
10 all left the house you'd go past the Haysom house?
11 A Uh-huh.
12 Q Now ma'am, this occasion that you're talking
13 about, you can't be certain of the night, if I understood
14 what you said to begin with, is that right?
15 A I'm not certain, but we're almost positive.
16 Julia was positive, I wasn't positive.
17 Q Until you talked to Julia?
18 A I knew it was either Sunday night or Monday
19 night.
20 Q I see We had guests on -- we went out to
21 eat on Friday night, we had guests on Saturday night, so
22 I'm sure, almost positive that it wasn't Saturday night,
23 unless we went out afterwards, and I don't believe we did.
24 Sunday night I m not sure what we did, so it could
25 possibly have been Sunday night. Tuesday night we had

1 guests, so I know it wasn't Tuesday night.

2 Q You all have a lot of company, don't you?

3 A So I know it wasn't Tuesday night, and it
4 had to have been before Wednesday. So it was either
5 Sunday night or Monday night. And we were sure it was
6 Monday night because of that trip to West Virginia.

7 Q I'm not challenging you, you're a citizen of
8 Bedford, right? You live here, I don't want you to have
9 any -- but I just want to be sure. Now there were cars
10 all the way down the driveway?

11 A The end of the last car was within two or
12 three feet of Holcomb Rock Road.

13 Q Lined all the way up the driveway?

14 A Yes, as far as we could see. And now at
15 that time, you know, the people who live there now have
16 cleaned that property up considerably. You couldn't see
17 cars parked in front of the house then, you could just see
18 the driveway.

19 Q And the driveway kind of goes up on --

20 A Sort of curves and goes up on a hill.

21 Q So you couldn't see what was up actually at
22 the --

23 A Couldn't see what was right at the house,
24 no. But I could see the lights on in the house, first
25 floor and second floor, and all the outside lights were

1 on.

2 Q The whole outside, it was all lit up?

3 A And several spotlights were on.

4 Q And you could certainly see that there were
5 cars, and the last car was just a short distance from the
6 street itself?

7 A Uh-huh.

8 Q So it looked like the whole driveway was
9 full of cars?

10 A It was.

11 Q I see. Now this knife you found out in the
12 road, am I correct, a small pocket knife?

13 A No, that was on Tuesday morning.

14 Q What kind of knife was it?

15 A It was a pocket knife, a pearl handled
16 pocket knife.

17 Q How big a knife was it?

18 A The knife was approximately five and a half
19 to six inches long. I didn't measure it.

20 Q Sure.

21 A And the blade -- I think the blade, it was
22 open, the big blade, it had two or three sizes of blade.
23 I'm not positive, but I believe the big blade was open.

24 Q And had been run over by a car?

25 A The pearl had been crushed by something, I'm

1 assuming a car, it was in the road.

2 Q And it got thrown away in the dumpster, and
3 it's gone?

4 A (Witness nods head in the affirmative.)

5 Q Do you remember down there when they were
6 emptying the dumpsters, what schedule?

7 A I don't remember now. Our trash went out on
8 Thursday morning.

9 MR. UPDIKE: Okay, ma'am, thank you
10 very much, no further questions.

11 (Witness excused.)

12 THE COURT: All right, if you've got
13 another short witness we'll take it and then
14 take a break, or if you'd like to stop now
15 for a break that will be fine.

16 MR. NEATON: I don't think the next
17 witness is short, sir.

18 THE COURT: Let's take a little recess
19 at this time, members of the jury.

20 (Whereupon a recess was taken.)

21 THE COURT: The defense will call its
22 next witness.

23

24

25

1 JENS SOERING, was called as a witness and
2 having been duly sworn was examined and testified as
3 follows.

4 DIRECT EXAMINATION

5 BY MR. NEATON:

6 Q Your name is Jens Soering?

7 A Yes.

8 Q When and where were you born?

9 A In Bangkok, Thailand.

10 Q And what year were you born?

11 A In 1966.

12 Q And what day?

13 A August first

14 Q And did you graduate from high school?

15 A Yes, I did.

16 Q What school was that?

17 A It was the Lovett School in Atlanta,
18 Georgia.

19 Q And have you attended any college?

20 A Yes, sir, I went to UVA for one year

21 Q And you have not graduated from college?

22 A No.

23 Q I'd like to call your attention to the date
24 of March the 30th, 1985, do you remember that day?

25 A Yes, Saturday

1 Q Prior to today, have you had any opportunity
2 to testify under oath about the events of that day?

3 A No, I haven't.

4 Q I'd like to call your attention to that day.
5 On that day, did you go to the home of Derek and Nancy
6 Haysom and kill Mr. and Mrs. Haysom?

7 A No.

8 Q On that day, did you go to the home of Derek
9 and Nancy Haysom and see someone else kill Mr. and Mrs.
10 Haysom?

11 A No, I didn't.

12 Q On that day, were you aware of anyone else
13 leaving Washington, D.C. and going to the home of Mr. and
14 Mrs. Haysom to kill them?

15 A No, I wasn't.

16 Q On March the 30th, 1985, were you in
17 Washington D.C?

18 A Yes, on a Saturday.

19 Q Who were you with?

20 A Well first part of the day, Elizabeth
21 Haysom.

22 Q And where were you staying?

23 A We were staying at the Marriott Hotel.

24 Q And what Marriott Hotel in Washington D.C.
25 were you staying at?

1 A The one near Georgetown; there's another one
2 I think near King Bridge.

3 Q And had you and Elizabeth Haysom gone to
4 Washington, D.C. on some other day before that Saturday?

5 A Not together, no.

6 Q On March the 29th, had you and Elizabeth
7 Haysom driven together from Charlottesville to Washington,
8 D.C.?

9 A Yes, we did, yes

10 Q Now I'd like to call your attention to that
11 day, and ask you approximately what time do you remember
12 getting up and starting to do things that day?

13 A It was pretty late in the morning, around
14 elevenish we started getting going, getting breakfast and
15 going out

16 Q And do you recall where you went and what
17 you did first on that Saturday?

18 A Um, we walked around Georgetown; that's the
19 reason we went to Washington, D.C., to have fun, look
20 around, walk around.

21 Q Do you remember anything specific about what
22 you did that morning or early afternoon in Georgetown?

23 A Well we parked the car in the residential
24 area of Georgetown, because there weren't any parking
25 spaces in the center, and we just walked over there and

1 went to the various stores there. I remember we went to a
2 record store, and bought an album by the Chicago Art
3 Ensemble.

4 Q Do you remember anything else about what
5 happened at that point?

6 A We walked past -- I don't know the name of
7 the store, it's a Tai silk store, I remember that because
8 I was born in Bangkok. Just walked around.

9 Q Did you go into any stores and look at any
10 knives?

11 A No, we didn't.

12 Q Did you go into any stores and buy any
13 knives that Saturday?

14 A No.

15 Q Did Elizabeth Haysom ever leave your sight
16 that morning or early afternoon in Washington?

17 A No, she didn't. We stayed together, that
18 was the point.

19 Q Did Elizabeth Haysom ever sell any jewelry
20 in your presence?

21 A No, she didn't, not that weekend, no. The
22 first we had heard of that was in 1987, I think.

23 Q Now after you had walked around Georgetown
24 and did some shopping, did you do anything else?

25 A Well, because we got up very late, we had, .I

1 don't know if you call it lunch anymore, a late meal
2 around the middle of the afternoon, after mid-afternoon.

3 Q Do you have any idea what time that
4 happened?

5 A Three-thirtyish, 4.00, that time frame.

6 Q Do you recall the name of the restaurant
7 where you ate?

8 A No, I don't, but --

9 Q Do you recall anything about the restaurant?

10 A Well I remember that it was -- it had a
11 train motif, everything was sort of connected with
12 trains, the menu, and plate and things like that. I think
13 that was away from Georgetown, we had driven there and it
14 was toward the northern end of Wisconsin, I believe.

15 Q That afternoon while you were driving to the
16 northern end of Wisconsin, did you and Elizabeth Haysom
17 have any conversations about going down to Lynchburg and
18 killing her parents?

19 A No, we didn't.

20 Q In the restaurant, did you and Elizabeth
21 Haysom have any conversations about going down to
22 Lynchburg and killing her parents?

23 A No, we didn't

24 Q In the restaurant, did you have any
25 conversations with Elizabeth Haysom at all about any

1 subject?

2 A Well, yes, obviously. After the meal she
3 started talking about, you know, she confessed to me that
4 she was still using drugs, and that was the subject of the
5 conversation once we began.

6 Q Well what did she say to you, as best as you
7 can remember?

8 A Jens, I have got a confession to make, I am
9 still using drugs, I lied to you about that, is
10 approximately the words she said.

11 Q Did you say anything to her after she said
12 that to you?

13 A Well I was surprised and worried. She -- I
14 knew she had been using drugs before, but she told me she
15 had stopped, I guess when she met me more or less, because
16 she knew I didn't approve of drugs. So I was, you know --
17 I didn't like it and I was surprised by it.

18 Q What else happened after that?

19 A Well I asked her what was she going to do
20 about it, whether she was going to quit now or what, and
21 you know, what was she going to do. And she said that she
22 did want to quit, but that that wasn't the main concern of
23 hers that particular weekend.

24 Q Well what did she say that was the main
25 concern for her?

1 A Well she said that she had ~~basically~~ gotten
2 into debt with the person she said she had been buying
3 drugs from at UVA, and that this person had asked her to
4 go up to Washington, D.C. that weekend, pick up a package
5 from somebody he knew in Washington and drive it back down
6 to Charlottesville.

7 Q And did she say anything else to you at that
8 point?

9 A Well she said that is what -- you know, how
10 she would get out of debt with this guy, and that's what
11 he asked her to do.

12 Q What did you say to her if anything?

13 A Um, well, I mean she told me who the person
14 was, all right, the person was either a sophomore or
15 Junior Echols scholar who both of us knew called Jim
16 Farmer. And you know, I loved her, you know, I told her,
17 if you're in trouble with this guy and he wants money or
18 something, I will give you the money, that's not a
19 problem, let's not do this, because it's ~~unethical~~.

20 Q What did she ~~say~~ to that?

21 A She said that that wasn't possible,
22 basically she had made an agreement to pick the stuff up,
23 and the guy wasn't interested in the money anymore, he
24 wanted the drugs because that's how he was going to make
25 more money in Charlottesville, and she had to do it that

1 weekend, it had all been set up and there was no other
2 way.

3 Q What happened after she said that to you?

4 A Well basically she convinced me that it
5 really was necessary to do it, and I then offered to go
6 along with her at least, since that seemed to be the only
7 thing I could do for her.

8 Q And what did she respond to that suggestion?

9 A Well, she said no. She told me that it had
10 been set up that only she would go meet this person, he
11 was expecting only one person, and he might get suspicious
12 if a second person came along. And she also made it clear
13 that apparently I'm not the kind of person one takes to
14 drug meets or whatever, the person would find me
15 suspicious, and that's why I couldn't go along.

16 Q What happened after she told you that?

17 A Well, I mean I got more worried. I wanted
18 to do something for her, she was obviously in trouble, and
19 you know, I asked her, if there's anything, what can I do
20 for you if you have to do this by yourself, how can I help
21 you.

22 Q What did she say?

23 A Well at that point she explained to me what
24 her real concern was, was that she wasn't worried about
25 getting caught on this particular trip, and that her main

1 worry was being blackmailed basically, being under the
2 power of Jim Farmer once she had done this

3 Q Why did she think she could be under this
4 person's power, or this person's control?

5 A Well Jim Farmer's parents also live in
6 Lynchburg, and she told me that they knew each other
7 socially, the families. And she said that if she did
8 this, Jim Farmer would then be able to blackmail her about
9 it, about threatening to go to her parents. And her
10 parents were very worried about Elizabeth using drugs,
11 because she had used a lot of drugs in the past. And and
12 if somebody who is a friend of the family like Jim Farmer
13 spoke to her parents about it, and not only made an
14 accusation that she was still using drugs, but could
15 actually name the specific date and occasion in which she
16 was doing drug dealing, then her parents would obviously
17 get really furious.

18 Q And that is what she explained to you?

19 A That is what she was worried about, that if
20 she did this, Jim farmer would make her be able to do
21 things like that again, so she claimed.

22 Q After she claimed that to you, what did you
23 do, if anything?

24 A I listened to her and again asked what can
25 we do about this, and if we have to do this this one

1 particular weekend, I guess we have to, but at least let's
2 stop after that.

3 Q And what happened after you told her that?

4 A Well, at that point she said that the best
5 thing for me to do, or the only way that I could help her
6 at that particular time would be for me to basically
7 function as an alibi so that if Jim Farmer ever approached
8 her again to do something like this, she could produce me,
9 take me along to him to convince him that if he tried to
10 speak to her parents, she would have a witness to say that
11 what he was saying was untrue. And if at some time later
12 if he did after all go to her parents, then she would
13 still have me basically to function as an alibi, because
14 as I said, she was terrified about her parents finding out
15 about her using drugs again.

16 Q And then she asked me to go to a specific

17 A Well, she asked me what you all have heard
18 already, to go and buy two tickets to a film, and then
19 meet her back at the hotel afterwards, and to wait for her
20 there, and she said she probably expected to be back in
21 just a few hours, but in case she didn't come back after
22 only a couple of hours or however long it would take, that
23 I should then continue with this alibi production of
24 Elizabeth's, order two meals on room service, go to the
25 other movie and then meet her back at the hotel, because

1 it's a natural place to meet.

2 Q Did you agree to do that?

3 A Well my basic reaction was yes because it
4 seemed to me that was the only way I could help her. And
5 at that point she also said that she had to fight
6 then and there, and time was getting short and she needed
7 an answer, would I do this, and would I help her, and she
8 needed to know right now would I back her up on this, or
9 whether Jim Farmer would be in a position to blackmail her
10 with her parents.

11 Q And what did you do when she said that to
12 you?

13 A Well, I agreed, I thought I didn't have any
14 choice. She had to leave right then and there and she
15 needed an answer, so I gave her the only answer that I
16 could.

17 Q And after you agreed to do this, did she
18 drive off?

19 A No, she -- well we got in the car, she just
20 drove me a bit down Wisconsin and dropped me off at the
21 theater that was playing Witness, which is on the
22 righthand side of the road the theater.

23 Q And approximately what time in the afternoon
24 was this?

25 A About 5:00.

1 Q And when she dropped you off at this
2 theater, what did you do?
3 A Well, I went inside, watched the film.
4 Q And how many tickets did you buy?
5 A I bought two tickets, as we planned.
6 Q And did you watch the entire film?
7 A Yes, I did.
8 Q After the film was over, what did you do?
9 A Caught a taxicab back to the hotel.
10 Q And when you got to the hotel, did you go
11 right to your room or did you stop at the front desk?
12 A I believe it was at that point that I went
13 to the front desk, because the day before Elizabeth had
14 paid for the room initially with her \$95 cash, and had
15 redeemed that with a credit card. And she when she left
16 she kept hold of that money, and when she left she took
17 the money with her and I only had what I had in my wallet.
18 So I think it was at that point that I cashed a check at
19 the front desk of the hotel, using the credit card, they
20 put the credit card number on the back and that guarantees
21 that the check will be paid.
22 (CHECK MARKED AS DEFENDANT'S EXHIBIT
23 19.)
24 Q I'm going to show you Defendant's Exhibit 19
25 and ask you if that's the check you cashed at the Marriott

1 Hotel on March the 30th, 1985.

2 A Yes, it is.

3 Q Move its admission into evidence. I will
4 show it to Mr. Updike.

5 MR. UPDIKE: I'd very much like to see
6 it, Your Honor. Just a moment, please. No
7 objection, Your Honor.

8 Q Did you do anything else when you got to the
9 Marriott?

10 A I went up to the room, waited. I waited
11 I mean I was expecting her, from what she said to really
12 arrive at around that time. I don't have experience with
13 that sort of thing, I don't know how long it takes, so I
14 was expecting her back, and she didn't come, and I waited
15 some more, and it must have been around 9:00, somewhere
16 during that time that I ordered room service.

17 Q Sometime during the evening?

18 A Yes.

19 Q Do you remember an exact time?

20 A I don't know.

21 Q Now at that time, did you -- do you remember
22 what you ordered?

23 A I'm sure I ordered what is it called, shrimp
24 cocktail, one of those, and the other thing I'm not
25 certain about, I think it was Welsh Rabbit, I think is how

1 it's pronounced, but I'm not sure about that. I'm
2 definitely sure of the cocktail, and two drinks,
3 non-alcoholic.

4 Q Was that room service delivered to the room?

5 A Yes, it was.

6 Q Did you sign for it?

7 A On these little booklets they have that they
8 ask you to sign the bill.

9 Q And were you given a receipt or a tab?

10 A Yes, I was.

11 Q Did you sign that tab?

12 A No, I did not.

13 Q Now did you keep that tab?

14 A Yes, I did, that was the point.

15 Q Now after you ordered the room service, did
16 you stay in the room?

17 A Well for a while, yes, but not very long,
18 because at that time I called -- I heard that
19 Elizabeth was not coming on any time soon, and I went on
20 to continue with the extended plan as she explained to me
21 and went to the next set of films, which she said if she
22 wasn't back, I should do.

23 Q And how did you get to that theater?

24 A Again took a taxi up the same road, which is
25 Wisconsin, which is the main road coming out of Georgetown

1 that goes north, it's very long, and began this time it
2 was on the other side of the road, on the right-hand side
3 of the road going north.

4 Q And do you remember the name of the movie
5 that you saw?

6 A Stranger in Paradise.

7 Q And did you buy any tickets for that movie?

8 A Yes, sir, I bought two tickets.

9 Q And did you go in and watch the movie?

10 A Yes

11 Q And did you save the tickets from that
12 movie?

13 A Yes, I did.

14 (TICKET STUBS MARKED A' DEFENDANT'S
15 EXHIBIT 20)

16 Q I am going to show you Defendant's Exhibit 20
17 and ask you if contained on that exhibit are the actual
18 ticket stubs from the Wilne's theater and the Stranger in
19 Paradise theater.

20 A Yes.

21 Q And are those the actual stubs of the
22 tickets that you bought that night?

23 A Yes, they are.

24 Q And also on that exhibit, are there other
25 items?

1 A

2 amount, and there is a restaurant bill, and there are the
3 tickets.

4 Q Okay. I'd move the admission of Defense 20.

5 MR. UPDIKE: Your Honor we are not
6 going to have any objection, I would like to
7 look at it for just a second

8 MR. NEATON: Sure. Okay. I'd ask that
9 this be introduced into evidence.

10
11 BY MR. NEATON: (continuing)

12 Q Jens, would you step down from the witness
13 chair just a minute and point these out?

14 A (Witness complies.)

15 Q Now I'd like you to point out the tickets
16 that you bought for Stranger in Paradise

17 A These two, it says Stranger in it.

18 Q And can you tell me the time and the date of
19 the tickets?

20 A It says 10:15 p.m. and 3-30, it's on March
21 30.

22 Q Now is this item, these tabs, are, the
23 room service tabs?

24 A Yes.

25 Q And are the white tickets the tickets

1 that you bought for witness.

2 A Yes, I believe so, yes. Yes.

3 Q And the brown tickets on that page, do you

4 know what tickets they are for?

5 A Those tickets were for the movie when we

6 went to the night before at I guess the 11:00 showing. It

7 was called Porkey's Revenge or something like that, which

8 was way at the northern end of Wisconsin Avenue.

9 Q And the single green ticket at the bottom?

10 A That's the Rocky Horror Picture Show.

11 Q Did you buy that ticket?

12 A Yes, I did, at -- when the show started.

13 Q Thank you. Now, after you got out of the

14 10:15 showing of Stranger in Paradise, what did you do?

15 A Well I went outside and found a phone,

16 called the hotel, because I was expecting Elizabeth to be

17 back, and I wanted to make sure she was okay.

18 Q Did you get a response at your hotel room?

19 A No, there was no response.

20 Q What did you do after that?

21 A I basically got angry, and I just thought,

22 you know, this is all just more of her nonsense and

23 decided well, if she's going to make me wait for her all

24 evening long, well then she can do some waiting for me,

25 and you know, took a taxi back down south Wisconsin.

1 and right to the center of Georgetown, where I went to the
2 Rocky Horror Picture Show.
3 Q And did you watch that movie?
4 A Yes, I did.
5 Q And how many tickets did you go to that
6 movie?
7 A Well just one.
8 Q After you finished watching the Rocky Horror
9 Picture Show what did you do?
10 A I started feeling guilty while watching the
11 Rocky Horror Picture Show, and went back to the hotel
12 worried whether she was all right.
13 Q And when you got back to the hotel, was she
14 there?
15 A No, she wasn't.
16 Q What did you do after you got back to your
17 hotel room?
18 A Well I got very worried, it was around 2:00,
19 I guess, but she arrived within a pretty short time
20 thereafter.
21 Q And what did you do after -- or what
22 happened when she arrived?
23 A Well, when I went upstairs I asked the
24 keeper of the desk if she had called, and she hadn't. So
25 she came to the room and knocked, and I obviously opened

1 the door. She stormed past me into the room, and sat on
2 the end of the bed. There were two beds, and she sat on
3 one, it was sort of a right angle to the door, and she sat
4 on the one nearer the door, and sort of leaned over with
5 her hands like this on the end of the bed.

6 Q Did you notice anything about [redacted] at that
7 time about the clothes that she was wearing?

8 A Well I wasn't sure about the [redacted], but I knew
9 for sure that she was wearing different jeans. Because I
10 had seen those jeans before earlier, ones [redacted] was wearing
11 the first semester or something, because of [redacted] these big
12 pockets with what do you call, buttons, push [redacted] in buttons
13 on them, and she wasn't wearing those earlier.

14 Q She wasn't wearing them earlier that
15 Saturday?

16 A In the day, right.

17 Q Now did you notice anything else about her
18 appearance at that time?

19 A Well she looked white as a sheet, like she
20 was in shock or something, I mean real bad and in a
21 state.

22 Q And did you notice anything else about her
23 physical appearance at that time?

24 A Well when she was sitting on the bed, I mean
25 there was nothing on her hand or anything like that, but a

1 sort of brown smear of something was on her forearms, but
2 I mean her hands were clean.

3 Q Now she comes in, she sits down on the bed
4 next to you?

5 A (Witness nods head in the affirmative.)

6 Q What happens?

7 A Well she started talking almost as she came
8 in, very monotone. you know, not with a lot of, I guess
9 you'd say with emotion, but I guess you'd be in shock,
10 and basically kept repeating the same thing over and over
11 again. I have killed my parents, I have killed my
12 parents, um, you know it wasn't her, that it was the
13 drugs that made her do it, okay, it wasn't me, it was the
14 drugs that made me do it, and that her parents deserved it
15 anyway, and you have got to help me, if you don't help me
16 they'll kill me, and I knew what she meant by that,
17 execution

18 Q How long did this conversation go on?

19 A Well, it took a while for it to sink in with
20 me. It's not, you know, a believable story at first. But
21 she kept repeating it, she was obviously serious, she was
22 in shock, she was not faking it, and you know, after a
23 while I accepted it. I mean I was terrified.

24 Q What happened after she told you that story,
25 what did you do, if anything?

1 A Well, essentially for the rest of that next
2 four hours, I guess you'd say, or so, the rest of those
3 early morning hours we talked, okay? But I mean there was
4 a lot of back and forth during that time. I suppose my
5 first reaction to the whole thing was that you know, I had
6 to protect her, okay? I could not turn her in.

7 Q Were you in love with her at that time?

8 A Well, of course, and -- I loved the girl,
9 and I don't think anybody could do that, okay, turn
10 somebody in to be executed, and I couldn't do it, anyway.
11 And it wasn't -- it wasn't a decision in that sense, okay?
12 The decision was already made, okay? She came to me, she
13 needed my help, if I didn't help her she'd die. Of course
14 I had to help her. And I mean at that point I didn't even
15 know any details, and I haven't seen what you have seen,
16 and I mean I saw her in a sense -- because I had known
17 about this long conflict between her and her parents -- I
18 almost saw her as a sort of third victim of that tragedy
19 that apparently had happened.

20 Q What did you do, then, to try to help her?

21 A Well that took a long time to narrow down,
22 we talked about it a long time. In the end I decided
23 decided the only way that I could help her that could
24 possibly work was for me to accept the blame for what she
25 had done, because we basically expected the police to

1 arrive within the next few hours kind of thing, okay? The
2 Haysoms are very sociable people, lots of friends, this
3 sort of thing couldn't have stayed hidden for very long,
4 and we thought, we have to make decision now, we have to
5 decide something now, come up with a plan, because we're
6 about to get arrested, at least she was, that's how we saw
7 it.

8 Q So what did you do after you decided that it
9 would be best -- the best plan would be for you to take
10 the blame?

11 A Well we spent the rest of the evening
12 talking about exactly how I would have done it and what
13 for me to tell the police to make the whole story
14 believable, and, you know, what were we doing in this
15 basically, I guess script of what had happened that day.

16 Q Did you write, or did she write any of this
17 down?

18 A Yes, we made notes that evening and she
19 wrote herself an outline down of basically what I had
20 done, okay, to make sure that she would be able to
21 memorize it, and that piece of paper apparently is gone

22 Q Okay. Did you write any notes down that
23 morning?

24 A No, not that I recall, no.

25 Q Did she tell you any of the details of what

1 happened at that time?

2 A It really wasn't like that. The way it
3 worked is that, you know, she would tell me what I would
4 say to make it believable, and obviously from that you can
5 tell some of the things that must have happened.

6 Q Well give the jury an example of how that
7 conversation took place.

8 A Um, for example, this business about, you
9 know, what happened at the house, where was -- what was
10 her mother doing, what did you do next, what did you talk
11 about, what room did you move into next, the business of
12 moving from the living room into the dining room, what did
13 you do then, well, you know, you had a meal, and I'd say
14 okay, and put that into my story and repeat it back to her
15 and try it out on her, okay? I mean the tapes you have
16 heard, I mean that's what we did, Elizabeth and I on that
17 night, okay?

18 Q Now as the night went on, were there any
19 other reasons why, other than -- any other reasons why you
20 agreed to put yourself in the middle of this?

21 A Again, I mean I want to make sure you
22 understand, the decision to protect Elizabeth, okay, was
23 immediate, okay? But as the evening progressed
24 obviously, you know, all sorts of thoughts went through
25 my head. One of them was that basically I listened to me I

1 freedom, okay? And every country has something like that,
2 and the exception to that rule is Germany, because there's
3 no theme to being German like that, the only thing that
4 comes to mind to anybody when you think of being German is
5 World War II and the holocaust, okay? And that is
6 something that's drummed into German school kids, it was
7 drummed into me, the two main conclusions from that, there
8 must never again be war from German soil, and secondly,
9 the worst and absolutely worst form of murder is if a
10 government kills people in the name of its citizens, all
11 right, which is what execution is, all right? Now again,
12 I understand that people may feel differently here, but
13 that's a general feeling in Germany, and it's a personal
14 feeling, because I mean my grandparents' generation were
15 there, okay? And you know, if affects me personally as a
16 German, it's just as important to me as the idea of
17 freedom is to Americans for example, okay? And you know,
18 it's important to understand that.

19 Q Were you thinking -- was that thought
20 crossing your mind that Sunday morning, March the 31st as
21 Elizabeth and you were working out this story?

22 A Well, to me, if I had turned Elizabeth in,
23 all right, and become part of the process that would lead
24 to her execution, that to me, all right, would be myself
25 becoming a murderer, not just a murderer, but the worst

7
1 form of murderer, okay, because that's basically exactly
2 what happened 50 years ago in Germany, people turning
3 other people in and the government killing them. And as a
4 German, I just simply couldn't do that, okay? That's, I
5 mean -- that's what it means to be German to me, anyway.

6 Q Jens, did it occur to you at that time that
7 you might face execution?

8 A No, it didn't.

9 Q Why not?

10 A My father is, or was at that time vice
11 consulate, consulate general in Detroit, and because of
12 his position as a diplomat, I myself had a U.S. diplomatic
13 passport with a U.S. diplomatic visa inside, right?
14 And there was no restrictions that -- I mean I had seen it
15 in my passport, there were no restrictions on it or
16 anything like that, and I believed that -- I had diplomatic
17 immunity, and I was more being
18 industrialized countries, but there's a form of diplomatic
19 immunity which I thought applied to me because of my
20 father.

21 Q What would that have resulted in that you
22 thought back in March of '85?

23 A Well strict diplomatic immunity means that
24 you could actually not be arrested and not tried anywhere,
25 okay? Now that doesn't exist anymore. But what happens

1 amongst industrialized countries, is that you are arrested
2 in that country and deported to your own country to stand
3 trial. So what I expected to happen to me, that I would
4 be sent back to Germany. From reading German newspapers
5 before, I got the impression that as an 18 year old, okay,
6 the worst that could happen to me, under this limited form
7 of diplomatic immunity would be for me to be arrested in
8 America, shipped back to Germany and to spend five years
9 in jail over there as a sentence, because that's the
10 maximum for 18 years olds over there, that is what I
11 thought would happen.

12 Q Were you willing to do that to save
13 Elizabeth Haysom at that time?

14 A Well of course. We expected that the police
15 would basically arrive within the next few hours,
16 certainly on Sunday, okay? And it seems to me that
17 five years of my life in jail to save Elizabeth seemed
18 like the right thing to do. I mean think about it, think
19 there was anything else I could do.

20 Q How old were you then?

21 A I was 18.

22 Q So you agreed to do that, is that right?

23 A Yes, I did.

24 Q And did the police come into the hotel that
25 day and arrest you?

1 A No, they didn't.

2 Q Later that Sunday did you drive back to
3 Charlottesville?

4 A Well, we finished talking, early morning
5 hours, six-ish, seven-ish, and then we tried to get some
6 sleep, and we were pretty late leaving the hotel, because
7 we both had obviously stayed up all night, and both of us
8 were in a real mess. So we left, I guess the hotel around
9 noon, close to checkout time.

10 Q And where did you go?

11 A We drove to Georgetown and walked around for
12 about an hour. We were trying to find basically like a
13 sports store or something like that. Part of the story,
14 one of the things that we thought would be important to
15 convince the police would be if both of us would be able
16 to describe a knife that was used, so we were trying to
17 find some type of store we could see a knife in the window
18 or something like that, and we could both describe it to
19 the police.

20 Q Did you ever see such a knife in a store
21 window in Georgetown?

22 A Yes, we did.

23 Q Did you ever buy that knife?

24 A No, we didn't, it was Sunday.

25 Q Did you then drive back to Charlottesville?

1 A Right. I mean it's because of that, if you
2 look at the -- the drive back to Charlottesville is two
3 hours, right? And we were about an hour late returning
4 the car. And it was that hour we lost looking around
5 Georgetown that ended up, you know, on the Visa bill when
6 we turned in the car an hour late.

7 Q Now I'd like now to direct your attention to
8 the time when you first met Elizabeth Haysom, so that we
9 can have some background that preceded the night of March
10 the 30th. When was it that you first met her?

11 A Well, I was able to reconstruct it later on.
12 August the 25th, 1984, this was the first night that we
13 all met, all the Echols scholars at UVA.

14 Q Prior to you meeting Elizabeth Haysom, had
15 you ever had a steady girlfriend?

16 A Well, I suppose not really. Over the summer
17 I had been to Mexico to visit with friends of my parents,
18 and I briefly fell in love with their daughter, but I
19 haven't had a steady girlfriend, no.

20 Q In high school did you have a steady
21 girlfriend?

22 A No, I didn't.

23 Q Was Lovett a co-ed high school?

24 A Yes, it was, strictly co-ed

25 Q And was -- had you gone out on any dates at

1 Lovett?

2 A Well, I guess I went to my senior prom, but
3 that's about it.

4 Q So on August the 25th, you had met Elizabeth
5 Haysom. Tell the jury how, if anything this relationship
6 developed and over what period of time

7 A Well, in the first third of the semester, I
8 guess we had been seeing too much of each other.

9 Elizabeth was two years older than everybody else in the
10 dormitory, she was a freshman like the rest of us, but she
11 was two years older, so she would spend a lot of time with
12 older students. And toward the middle of the semester she
13 started going out more with people in the dormitory, and
14 we went out in groups, and that's how I met her, because
15 she and Christine Kim were-friends, and John Keen, the
16 group of us would go out together. And toward the end of
17 the semester we started becoming much better friends and
18 spent a lot of time talking

19 Q What would you talk about?

20 A Well, lots of things. I mean Elizabeth had
21 a very interesting life I mean that's something she
22 shared with me, I guess we lived all over the world, but
23 she had also done dumb things, okay, which I hadn't at 18.
24 She went away to Europe for six months and had all sorts
25 of adventures, and she just had lots of fascinating

1 stories to tell, and other people were fascinateed by her
2 in that way as well. She just used to really -- she was
3 just really, you know, a striking person

4 Q What kind of stories -- give the jury an
5 example or two of some of the stories that she told you.

6 A Well, hitchhiking around Italy, going to
7 Berlin, living with these kind of druggie people, and sort
8 of -- I guess you'd call it a commune in Berlin near the
9 Berlin wall, stories like that, just things which I hadn't
10 done, and just seemed fascinating.

11 Q Did she talk about her parents to you?

12 A Yes, that was a major theme all along with
13 Elizabeth, she had a lot of resentment, and I mean I
14 sympathized with her. And she felt that they had sent her
15 off to these boarding schools and hadn't really cared
16 about her, and things like that.

17 Q And did she talk about her parents often?

18 A Increasingly, yes.

19 Q Did she mention anything else to you in say
20 November or early December of '84 about her parents?

21 A Nothing specific that I recall.

22 Q Just same general theme?

23 A Right.

24 Q Did there come a time when you and Elizabethn
25 each went to your parents' homes for Christmas break?

1 A well I guess you ought to preface that, we
2 sort of decided we were in love in the first week of
3 December, which was right before Christmas vacation, and
4 then we split up and she went to Lynchburg and I went to
5 Detroit where my parents were living.

6 Q Did you and she at that time discuss getting
7 married?

8 A No, we didn't

9 Q After you got back to Detroit, did you
10 communicate with Elizabeth?

11 A Yes, we wrote -- well what actually happened
12 was that -- to reconstruct it, she started writing her
13 letter on December 20th, then you can tell from my letter
14 that she telephoned me either on the 26th or the 27th and
15 told me that she was writing me a letter, and it was at
16 that point that I started writing her.

17 Q Now before you went home for Christmas, how
18 long had you lived in Detroit? How much time had you
19 yourself actually spent in Detroit?

20 A About a month or something like that. I had
21 spent my entire school time in Atlanta, Georgia until I
22 graduated, and in that time my father moved up to Detroit
23 with my brother, and I didn't know anyone in Detroit at
24 all.

25 Q Your senior year in high school, was your

1 family together in Atlanta?

2 A No, my mother and I were living in Atlanta,
3 and my father and my little brother were living in
4 Detroit.

5 Q And was that so that you could finish high
6 school at Lovett?

7 A Yes, it was.

8 Q Before that time, had the German government
9 transferred your father up to Detroit?

10 A Yes. I guess he went up in the spring of
11 '83, I think. And I graduated in the spring of '84, so
12 that year my mother and I spent in Atlanta while they were
13 living in Detroit.

14 Q Did you have any friends in Detroit?

15 A I didn't know anybody. You know, I had
16 grown up in Atlanta, and then I had my friends from
17 college, but they were spread out all over the place, they
18 were in Virginia, or wherever, there was nobody in
19 Detroit.

20 Q How did you feel over that Christmas
21 vacation?

22 A I guess I got into this depression, as do a
23 lot of 18 year old teenagers I didn't know anybody, I
24 was basically stuck in the house, no place to go, I felt
25 there were a lot of conflicts within the family and things

1 like that which just weighed on me very heavily, and, you
2 know, got depressed.

3 Q Now this is a copy of what's been referred
4 to as the diary letters, and I have no idea what the
5 Commonwealth's Exhibit Number in that is. The diary
6 letters are part of the correspondence in the
7 Commonwealth's Exhibit 43. Did you write that 30-some
8 page diary letter that has been shown -- well I think I
9 have found it here

10 A Yes, I did write that, right. I mean some
11 people smoke pot, some people get drunk, and I write long,
12 boring letters.

13 Q What prompted you to begin that?

14 A Well, it's right at the very beginning, I
15 talk about, you know, getting a telephone call from her,
16 it's right here, I despise telephones, but I am grateful I
17 can at least listen to Elizabeth, that is at the beginning
18 of the December 27th letter.

19 Q And that's part of the basis that you
20 conclude that Elizabeth called you on the 26th or the 27th
21 of December?

22 A Yes.

23 Q And did you understand that Elizabeth was
24 leaving the country sometime during this Christmas break?

25 A Right. She was going skiing in Yugoslavia.

1 Q And during your telephone conversation with
2 Elizabeth on the 26th or 27th of December, did you and she
3 discuss her parents, for example?

4 A Yes, we did. I mean this was, as I said, we
5 talked about her parents before, and I knew what her
6 resentments were, and she jsut basically said the same
7 sorts of things that she said in that letter, you know,
8 how desparately unhappy she was, which I sympathized with,
9 because I felt desperately unhappy, too. And you know,
10 this business about her father being cold and unfeeling,
11 and her mother being very cruel, and interfering, and
12 fantasizing about them dying, you know.

13 Q Did she tell you that she was writing her
14 own diary letter at that time?

15 A Yes. I mean I assume that's what gave me
16 the idea, because her letter is dated December the 20th
17 and 25th, I think And I started mine in the same style
18 of writing something every day, she told me she was doing
19 that.

20 Q Now the Commonwealth has referred to various
21 parts of this letter for whatever reasons they choose, and
22 I'd like you to turn to Page 6 of the letter and talk
23 about -- can you explain to the jury, maybe step down with
24 the letter in your hand, and maybe it s a better way to
25 explain what's going on here.

1 A Okay.

2 Q First off, show the jury Page 6.

3 A Right.

4 Q Now there's stuff in parentheses on that
5 page, right?

6 A Right. In fact from there to there, and
7 then the next bit is without parentheses, and then there's
8 parentheses again, and it goes on like that.

9 Q And what are you doing when you're
10 putting -- you put half of it in parentheses and half of
11 it as not in parentheses, what are you doing there?

12 A Well it's something that -- there is a word
13 for it in German, selbstgesprach. It's a word in German
14 that means having a conversation with yourself, all right?
15 There's nothing weird about it, it's just a way of
16 bringing ideas out and putting them down on paper. So
17 putting in parentheses would be like one voice, and then
18 it's like almost like writing a play. Then the next
19 paragraph without parentheses would be the other voice,
20 okay? It's having a conversation with yourself, like I
21 said, selbstgesprach, that's all that is.

22 Q Okay, you can resume the stand. Now on Page
23 6, you talk about there's something in the -- at the top
24 of the page in parentheses, it says, well I'm still
25 hopeful, remember that test she was talking about doing at

1 the beginning of next semester?

2 A Right.

3 Q My hope is that it will help you begin to
4 respect yourself. What are you talking about there?

5 A The you is me, right, I mean it's me talking
6 with myself. May I have the other letter, please? I mean
7 this test business, it's all in the next -- it's right in
8 there.

9 Q Well, why don't you find it out of this

10 A All right, this one right here. This is a
11 letter which says at the top, January 20th, '85. So we
12 returned to college around January 15th, okay? And she
13 left a note, we left notes in each other's rooms, you
14 know, at the dormitory, and she was in and I was out or
15 something like that, leaving notes to each other. And it
16 explains right here what the test is. As to the test.
17 The real test was nothing to do with our relationship, it
18 was to do with working together, the test of your
19 dedication to art, a little trite. I was curious to see
20 if you were really an artist or a fake artist, and it
21 didn't really matter to me one way or another.

22 Q So the test wasn't to kill her parents?

23 A No, she was writing a novel, and I was
24 thinking about writing a movie, and I mean this is the
25 kind of thing I was doing. When I graduated from high

1 school I got an award for I think best art student in my
2 class or something. Art is something I was interested in.

3 Q Now down at the bottom of Page 6, the
4 statement in parentheses, you know that certain instrument
5 in quotes for a certain operation in quotes, on somebody's
6 relatives? And then yeah?

7 A That's the other voice, right.

8 Q And then in parentheses again, use it on
9 yourself?

10 A Yourself is me, right?

11 Q What are you saying there?

12 A I'm basically talking about suicide, all
13 right? I'm basically talking about suicide, all right?
14 This is a reference to her telephone call when she was
15 talking about, or fantasizing about her killing her
16 parents, and that's all it was to me, it was -- . And
17 then I refer to that here, and I'm saying use it on
18 yourself, meaning myself, because I was, like I said,
19 really depressed during this vacation. And this whole
20 letter, December 27th, it's full of a lot of self-hatred.
21 I mean I used to have it and I still have it, sort of an
22 inferiority complex, and I write things like about how
23 stupid I am and things, which is nonsense, I was an Echols
24 scholar and a Jefferson scholar, I just got really down on
25 myself for no particular reason. And that's what I was

1 talking about here, I was was talking about su

2 Q Page 8, Jens, I think there was

3 reference to this, again by the Commonwealth

4 were I to meet your parents I have the ultimate weapon in

5 quotes. Strange things are happening within me, I'm

6 turning more and more into a Christ figure, a small

7 imitation anyway I think. I believe I would either make

8 them completely lose their witts, get heart attacks, or

9 they would become lovers in an agape kind of way of the

10 rest of the world. What do you mean by that?

11 A Right.

12 Q I mean were you plotting at that time to

13 kill her parents?

14 A No. This is again, see what happened was

15 that I started writing this letter on December 27th, all

16 right, and then I wrote it out in longhand, and then on

17 December 31st, I typed it out and I start -- the whole

18 page starts on December 31st with a little introduction,

19 and then the letter of December 27th comes, and then it

20 lasts for 6, 7 pages, and then it continues on here with a

21 letter of December 31st. And the passage you're talking

22 about is right at the beginning of the December 31st

23 section. So what I am talking about here is the same

24 topic as on Page 6, this telephone call I had had with

25 her, okay, where she was talking as she did in the letter.

1 about willing her parents to death and stuff like that.

2 And I took that as a fantasy, as a joke I
3 mean I don't believe -- I don't know whether anyone else
4 does, but I don't believe in that sort of thing. And it's
5 on the previous page, okay, I make a joke about ghosts for
6 example, it's 22 minutes past midnight, ghosts dancing all
7 around. Okay? And then the page before that, Page 6, I'm
8 talking about ESP, all right, some sort of contact beyond
9 the level of behavior which can be observed through the
10 senses, okay? ESP And then I write, that's bullshit,
11 coincidence, what's next, UFO's? Pardon, the language,
12 but that is how I felt about this sort of thing. And then
13 later on I put the word supernatural on Page 11 in
14 quotation marks at the bottom of the page, because it's
15 not real, it's figurative,--and stuff like that doesn't
16 exist, and I took it as a joke. And that's what I was
17 making it, I was making it a joke basically, and I thought
18 that was clear.

19 Q What's the next sentence after that
20 paragraph on Page 8 that I just read to you?

21 A Beside the point, sorry fact of what I was
22 jabbering about. And the word weapon is in quotation
23 marks. There's no question here that I meant this
24 seriously, I meant it figuratively as a joke, okay? And
25 this line here, strange things are happening within me, I.

1 mean that's sort of like from Frankenstein. It seemed
2 obvious to me, but it's not meant seriously.

3 Q Now Mr. Updike has referred to these
4 initials called SRAPON.

5 A That's something I'd like to explain here.

6 Q What is that? Because I'm from the city,
7 and I don't know what it means.

8 A The only way that I sort of felt I had of
9 sort of getting myself out of depression, and this is
10 something I do a lot, is to poke fun at myself, all right?
11 And if you look at these letters, 98 percent of these
12 letters is long, boring rambling about myself and books
13 about philosophy that I have read, and art and nonsense
14 like that, okay? Basically naval gazing, all right? And
15 that's what SRAPON means, naval gazing, I was making up
16 little acronyms, a funny little word to poke fun at
17 myself, that's what this is, all right? If you look at
18 the beginning letter it's spelled in capital letters, all
19 right? Self reflective analysis, all right, looking at
20 yourself, thinking about yourself, and perpetuation of
21 neurosis, all right, SRAPON, right? Looking at yourself
22 too much and driving yourself crazy that way. And just
23 naval gazing is all that means. And it's like in the Army
24 they call food, they don't call it food, they call it MRE,
25 light meals ready to eat. That's what SRAPON is, it's

1 just a word invention for naval gazing.

2 Q Now on the top of Page 10, the dinner scene,
3 the famous dinner scene that Mr. Updike wants to talk
4 about.

5 A Right.

6 Q Where you say, Elizabeth, I love you
7 completely -- well why don't you read it.

8 A Elizabeth, I love you completely,
9 passionately, wholly. If I repeat this some more I will
10 get out of SRAPON. Love is a form of meditation, and the
11 ultimate quote weapon, then again quote, against, unquote,
12 your parents. My God, how I have got the dinner scene
13 planned out. Unfortunate for you, result, dad might leave
14 me all his loot. Um, the first thing to realize about
15 this, all right, is --

16 Q Well let me ask you this: Was this dinner
17 scene a dinner scene that you planned to do with Mr. Haysom
18 in?

19 A Of course not. This is -- what I was -- the
20 dinner scene, okay, at that point I had met Elizabeth's
21 mother once, okay? That was, I think in the first week of
22 September, and at that point I was -- we were a boyfriend
23 and girlfriend. Sooner or later, all right. I was going
24 to have a -- at -- I could -- my
25 girlfriend, it just happens, right? And she had taken

1 other people home, like Harry Engels, she took him home
2 for dinner and that's all it was, talking about meeting
3 her parents. But it says right here, love is a form of
4 meditation, and the ultimate quote unquote, weapon
5 against your parents. So love, our love, Elizabeth's love
6 for me and mine for her, that was supposed to be the quote
7 unquote weapon against her parents, and this again was her
8 telling me how cold and unfeeling her father was, and what
9 had sort of -- what's the right word, cruel her mother
10 was, okay?

11 And now obviously, love isn't a weapon in
12 the literal since that you can kill someone with, okay?
13 That's why I put it in quotation marks. And what I
14 basically meant is like all the love songs written in the
15 world, love will overcome all our problems, okay, and when
16 I meet your parents, the dinner scene, okay, when they see
17 how much, you know, we love each other and how great our
18 love is, all of your problems with your parents will be
19 swept aside and they'll basically take me into the family,
20 write me into their will so they can leave me all their
21 loot. There's no question of killing them for money or
22 anything, there's just a question of meeting them and them
23 accepting me into the fold, which is something she was
24 worried about, because she felt her parents were always
25 interfering in her life.

1 Q On Page 11, beginning with at the top
2 paragraph, but I don't see it clearly and I want to, this
3 that carries with it some powers, depending on his mental
4 and emotional flexibility your father, for example, could
5 quite well die from a confrontation with it if he is too
6 entrenched in hate, and/or SRAPON, same thing in many
7 cases, or he could do something silly like trying to give
8 me all his dough. I'm not over estimating, I think. What
9 do you mean by that?

10 A This is the same thing as on the previous
11 page basically, all right? This is what she had been
12 telling me about her father, that he was entrenched in
13 hate, a cold unfeeling person, all right? And again, this
14 that carries with it some powers, your father could quite
15 well die from it, okay? It, again is like on the previous
16 page, love. All right? And basically what I was saying
17 here is if your father is such a hateful person as you
18 describe him, all right, and he sees us and sees how much
19 in love we are, he might just keel over and have a heart
20 attack, which is what I wrote on Page 8. I mean it's a
21 continuation of the same theme, all right?

22 Where I said completely make them lose their
23 wits, get heart attacks, or become lovers of the rest of
24 the world, and is basically a repetition of the same
25 thing, doing something silly like trying to give me all

1 his dough, is this business about taking me into the
2 family and all that sort of business. Those are the two
3 possibilities, either he becomes overwhelmed by how much
4 we love each other and accepts that, or like I said on Page
5 8, he might have a heart attack, because according to
6 Elizabeth, the guy is such a hateful person, according to
7 her.

8 Q Now on Page 12, there is a passage that
9 says, I don't know whether I can resist this, I can see
10 myself depriving people of their property quite easily,
11 your dad for instance.

12 A Right. This starts on the previous page.

13 Q What is this that you're talking about?

14 A If you read this, I don't know whether I can
15 resist this, okay? You don't know what this is, it's a
16 pronoun, it refers to something that comes before, and you
17 have got to refer to the previous paragraph. I'm
18 absolutely convinced that the combination of hypnosis and
19 neurolinguistic programming. Maybe I should expand on
20 hypnosis and neurolinguistic programming. My major at
21 that time at the UVA was psychology, that's what I was
22 studying, okay?

23 Hypnosis is a recognized tool of psychology
24 nowadays, even dentists use it for people who can't take
25 novocaine, they'll hypnotize them and then drill their

1 teeth, okay" There's nothing weird about hypnosis, just
2 part of what I was studying in psychology.
3 Neurolinguistic programming is a form of hypnosis,
4 developed by a couple of California scientists called
5 Fanny and Grinder. Anyway, I'm absolutely convinced that
6 a combination of hypnosis and neurolinguistic programming,
7 for example, now being experimented with is among --
8 sorry -- is along with modern subliminal suggestion
9 techniques, one of the most powerful things invented by
10 man. Within a hundred years at the very most you will see
11 I bombs instead of A, atom, or H, hydrogen bombs; I bombs
12 are ideology bombs, okay?

13 I don't know how they will be delivered or
14 deployed, but they will change what people think instead
15 of what the countryside looks like. Don't think this is
16 bullshit, Elizabeth, I'm quite serious, and so are some
17 highly informed other people, not implying that I'm highly
18 informed. I'm not sure I care whether they are on our side
19 or theirs, or if it will make that much difference. Crude
20 forms of these quote, bombs, unquote, bomblets, if you
21 will, are already telling us not to steal in department
22 stores without anyone knowing about it; 50 percent
23 reduction in shoplifting I think is the response they are
24 getting.

25 Q So that is what you thought you couldn't

1 resist?

2 A Well, yes. But to explain what that is
3 saying, I mean in department stores, nowadays, in large
4 department stores they do have subliminal suggestion tapes
5 that they play under the music which deliver messages that
6 people aren't supposed to steal, and apparently they do
7 work. They have had like 50 percent reduction in
8 shoplifting by playing these tapes, telling people not to
9 steal.

10 Now, sooner or later, that sort of
11 technology will be developed further, and sooner or later
12 it's going to be used as some sort of weapon or bomb by
13 somebody. It inevitably will. Every form of technology
14 sooner or later finds a military application. And that's
15 what I was saying here. And I don't know whether I can
16 resist this. That's what I am referring to, this sort of
17 technology, neurolinguist programming. If you can make a
18 tape that tells people not to steal, conceivably you can
19 make a tape that tells people to steal, and drop the stuff
20 stuff off at my door.

21 And I think that that's possibly, you know,
22 an enticing thought. And I don't know whether I can
23 resist this, you know. And I refer to her father here, he
24 died, for instance, because Elizabeth portrayed her father
25 to me at this point in December, '84, as a very rich

1 businessman who had made his money basically by exploiting
2 people in Africa, and after that, breaking up unions in
3 Canada, and being a bit left wing, deomocrat at that time.
4 It didn't sound like a wonderful thing to to do me, and it
5 sounded like this was the kind of person who -- you know,
6 had made his money by immoral means and probably deserved
7 to have it either taxed or stolen or something, I mean --

8 Q Okay, Page 19. The Commonwealth brought up
9 some passages on that which were in response to
10 Elizabeth's letter.

11 A (Witness nods head in the affirmative.)

12 Q And one of your statements about the
13 burglaries, the fact that there have been many burglaries
14 in the area opens the possibility for another one with the
15 same general circumstances, only this time the unfortunate
16 owners, dot, dot, dot. What did you mean by that?

17 A Exactly what it says. I mean if you hate
18 your parents that much, maybe you'll be lucky and they'll
19 get burgled. And if you hate them so much that you want
20 them dead, maybe they'll die that way, that's all that
21 said. Because that's what she wrote to me There had
22 been many burglaries in the area.

23 Q Okay, the next sentence says, by the way,
24 yes, voodoo, et cetera is possible. In a real sense, we
25 are the victims, I'll explain in person.

1 A Yes, that's why it said yes in quotation
2 marks, and voodoo in quotation marks.

3 Q Well explain that.

4 A It's meant figuratively, all right? Now
5 voodoo, as far as I'm concerned, as I have explained, all
6 right, I don't believe in that sort of thing. It's showed
7 up here, but something like voodoo, obviously, in the
8 figurative sense is possible. Because there have been
9 documented cases of this, I have read about studying
10 psychology. In these Carribbean countries where voodoo
11 apparently comes from, people apparently become so
12 convinced of the power of voodoo that this witch doctor
13 person or whatever tells them that they are going to die,
14 they convince themselves that they will die, and they will
15 die from that, okay, they simply fade away, because
16 they've convinced themselves. And that's why in a real
17 sense, we are the victims, because the only way you can
18 become a victim of voodoo as far as I'm concerned, okay,
19 is if you actually believe in the power of this person who
20 supposedly has these witch casting powers, or whatever,
21 and that's all I meant.

22 Q Well did you intend by that sentence to plot
23 with Elizabeth Haysom to voodoo her parents to death?

24 A No. There have been documented cases of
25 this that I have read about through my psychology studies,

1 It's got nothing to do with voodoo, it's got something to
2 do with the power of suggestion, and how suggestable
3 people are. If they believe something strong enough, they
4 can actually die from it.

5 Q The January 10th entry beginning on Page 28
6 was read, I believe by Detective Constable Wright that you
7 talked about war criminals and crushing and things like
8 that?

9 A Right.

10 Q Can you explain to the jury the context of
11 that?

12 A Okay. I mean I think if anybody reads the
13 whole letter, you get the exact sense of what's happening
14 here, and I just don't understand why -- well I do
15 understand why. The letter starts out, I just got through
16 reading two excellent articles on World War II and its
17 ending, okay? That's what the letter starts out with,
18 that's what the letter is about, World War II, okay? And
19 it says right here, Hitler killed millions, Stalin killed
20 millions before and after them, okay? Genocide during
21 World War II. And then it says, the conclusion one of the
22 articles draws, and mine for some time now, every man is a
23 potential quote, war criminal, unquote. Okay? It might
24 not be something everybody agrees with, but it's something
25 that the articles said, and it's something I agreed with.

1 And what's my reaction to that, okay, it's not that I want
2 to go out and kill lots of people, it says right here,
3 Elizabeth, I find this thought, that every man is a
4 potential war criminal, I find this thought so
5 overwhelmingly horrible it's hard to describe. That's my
6 reaction, okay? And that is the vein in which this letter
7 continues.

8 Q And then you go on for what, four or five
9 pages writing about that?

10 A Right. I mean what I am -- do we need to
11 discuss this?

12 Q The jury can read that.

13 MR. NEATON: Judge, this might be a
14 time in my direct where a break might be in
15 order.

16 THE COURT: Let's take a 10-minute.

17 (Whereupon a recess was taken.)

18 THE COURT: All right, bring the jury
19 in. We'll go until 1:00 and then we'll
20 stop for lunch.

21
22 BY MR. NEATON: (continuing)

23 Q Jens, did you ever give the -- or mail the
24 so called diary letter to Elizabeth?

25 A No, I didn't. I gave it to her when we

1 returned to college in the middle of January

2 Q And when you returned to college in the
3 middle of January, did you and Elizabeth resume the close
4 relationship that you had developed in December?

5 A Yes, we did.

6 Q Did you and she at that time discuss killing
7 her parents?

8 A No, we didn't.

9 Q Did she at that time continue discussing
10 with you any anger or resentment she had toward her
11 parents?

12 A Yes, yes, she did.

13 Q I'd like to call your attention to the month
14 of February of 1985. Was there any occasion when in
15 January, February or March of 1985, when you burst into
16 her suite or dorm room and said, I think I could blow
17 their heads off or whatever she said?

18 A No, I didn't. The first time I heard about
19 that was in 1987. It was a different version, though.

20 Q In March of 1985, was there a spring break
21 at that point?

22 A Yes, there was.

23 Q Did you stay at Charlottesville during the
24 spring break?

25 A Right, yes, I did.

1 Q Did Elizabeth stay in Charlottesville during
2 spring break?

3 A No, she went skiing with her brothers in
4 Colorado.

5 Q And during that time, did Elizabeth write
6 you any letters?

7 A Yes, she wrote me, I guess the March 8th
8 letter, the Colorado Ramada Inn letter.

9 Q In calling your attention to that letter,
10 was there any discussion in that letter about killing her
11 parents?

12 A No, there isn't.

13 Q What was significant in your mind about that
14 letter?

15 A Well, I guess what mostly stuck in my mind
16 was the final two pages in which she did this long
17 confession about having lied, and how terribly, terribly
18 sorry she was, and she'd never do it again and all this
19 nonsense, and at the same time at the beginning of the
20 letter having all these other stories about, you know,
21 \$25,000 book contract, and \$500,000 insurance contracts
22 and things like that.

23 Q And you later learned that those turned out
24 to be false?

25 A Right.

5
1 Q Now after Elizabeth returned from the spring
2 break vacation in Colorado, did you and she again discuss
3 her parents at any time?

4 A Not immediately, not that I can specifically
5 recall, no.

6 Q Calling your attention to the weekend of the
7 23rd of March, 1985, did you remain in Charlottesville
8 that weekend? The weekend before you went to Washington,
9 D.C.

10 A Yes, I did.

11 Q Prior to that weekend, had you been to the
12 Haysom home on Holcomb Rock Road on one occasion?

13 A Yes, we had just gone down there, because
14 again, like the trip to Washington, someplace to be
15 private, where we could go while her parent were out.

16 Q And when you were at the Haysom home, did
17 you have occasion to -- or where did you stay when you
18 were at the Haysom home that time?

19 A In her bedroom, which is the upstairs
20 bedroom.

21 Q I am going to show you some photographs, if
22 I can find them someplace. I'll ask some more questions.
23 Did Elizabeth ever tell you that she had -- the weekend of
24 March the 23rd and 24th, she had come to a new
25 understanding with her parents that weekend?

1 A Well she told me that for her birthday they
2 had set up an account, they would be setting up an account
3 for her, but -- .

4 Q Did she tell you that she would be going to
5 Eurpoe to study in the summer?

6 A Absolutely not. I mean Elizabeth had run
7 away to Europe when she was I guess 19, and that nearly
8 six months she did run away in Europe, and absolutely the
9 last place her parents wanted her to go was to Europe.
10 And there is a specific reference to it in the letter she
11 sent me just two weeks earlier, they wanted her to go to
12 UVA for summer school, and Europe was the last place they
13 wanted her to go. Understandably, she got into a lot of
14 trouble with drugs and things like that.

15 Q That was the Ramada Inn letter you were
16 referring to?

17 A Yes.

18 Q And do you know where that passage is in
19 here?

20 A Here's the passage. This is the reason she
21 wrote me the letter, see? You know, my parents wanted me
22 to go to Europe that summer, because I'm German, and they
23 wanted me to visit Germany again. Her parents didn't, and
24 we talked about that in the Christmas letters. And in the
25 meantime she told me that she would be able to go to

1 Europe, and in this letter, basically, that's what this
2 letter is about, a confession that she had lied about
3 that, and that she would not be able to go to Europe
4 because her parents wanted her to stay in the United
5 States, not get into trouble again.

6 Here's the ultimatum my parents have put
7 down. If I go to Europe with you, anybody else or alone
8 to bum around, I can kiss lot's of lolly goodbye. If I go
9 to summer school or work as an assistant editor to the New
10 Yorker, Harpers, I will be on the right road to wealth, is
11 what she says.

12 Q Now getting back to the time that you spent
13 in the Haysom home the one weekend you said that you and
14 Elizabeth stayed in her room upstairs?

15 A Yes.

16 Q I am going to show you Defendant's Exhibits
17 4 through 8, I believe, and it looks like Number 11 as
18 well, and ask you if these are photographs of Elizabeth's
19 room at the Haysom home on Holcomb Rock Road

20 A Um, yes, they are. I mean there's only two
21 bedrooms in the house, and the bottom bedroom is the
22 master bedroom this is the upstairs bedroom, which is
23 Elizabeth's.

24 Q Now the week of March the 23rd through the
25 29th, did you ever complain to Elizabeth that she owed you

1 a weekend during that time?

2 A No.

3 Q Can you tell the jury how the decision to go
4 to Washington, D.C. came about?

5 A I had recalled it as sort of a joint
6 decision, we just wanted to go and have a good time. And
7 I mean we just went, you know, we had done as we had done
8 before, we rented a car to go down and stay at her
9 parents' house, we had rented a hotel room on a couple of
10 occasions. As I recall, she was the one who did all the
11 organizing, making calls, reserving a room and things like
12 that, but --

13 Q Okay. Was there any specific discussions
14 before you left about going to Washington, D.C. in order
15 to set up an alibi to kill her parents?

16 A No.

17 Q Now we have already gone through the day of
18 March the 30th and your return to Charlottesville on March
19 the 31st.

20 A (Witness nods head in the affirmative.)

21 Q Did you then go back to Lynchburg in order
22 to attend the funeral of Mr. and Mr. Haysom?

23 A Yes, I did.

24 Q And with whom did you go?

25 A Well, as I recall, the Massies drove us

1 back, and it was Elizabeth, Christine and myself

2 Q And did you stay with the Massies at any
3 time when you were there in Lynchburg?

4 A Yes. As I recall, it was two or three
5 nights that we stayed at Mrs. Massie's house.

6 Q Now during that time, let me ask you this:
7 Did you have any bruises on your face from being hit by
8 Mr. or Mrs. Haysom?

9 A No, I didn't.

10 Q Did you have any bruises on your face at
11 all?

12 A No, I did not.

13 Q Were you wearing any band aids on your
14 fingers, bandages to cover up any stab wounds or cuts?

15 A No, I didn't.

16 Q Do you have a particular complexion problem
17 with your cheeks?

18 A I think a problem is a little bit strong.

19 Q Feature?

20 A I blush easily, I guess. My brother has it,
21 too.

22 Q I m going to show you -- let's make it one
23 exhibit.

24 (PHOTOGRAPH MARKED AS DEFENDANT'S
25 EXHIBIT 21.)

1 Q I am going to show you Defense Exhibit 21,
2 which consists of four photos. Are those photos of you?

3 A Yes.

4 Q When were they taken?

5 A Thursday, that is last Thursday, Friday;
6 last week anyway.

7 Q And where were they taken?

8 A In the back room back there.

9 Q And who took them?

10 A Mr. Cleaveland.

11 Q And were these taken after the testimony
12 concluded on Wednesday or Thursday or whatever?

13 A Yes, I think that was the day Elizabeth was
14 up, wasn't it? I think it was, yes.

15 Q And is this how you looked on this day?

16 A Yes.

17 Q To the best of your ability?

18 A (Witness nods head in the affirmative.)

19 Q I'd move their admission.

20 MR. UPDIKE: No objection.

21 THE COURT: Admitted.

22 Q I will show these to the jury. If you want
23 to look at them, you can feel free to do so. Had anyone
24 punched you in the cheeks before those photos were made?

25 A No.

1 Q Now was there a lot of tension at the
2 funeral service between you and Elizabeth and her family?

3 A Well, I don't specifically recall any
4 tension between myself and Elizabeth, but, you know, it
5 was a very, very bad time for both of us, and obviously
6 incredibly worried. And I wouldn't say it was tension
7 between me and her family, but the subject of her brothers
8 and sisters and the problems they might cause came up
9 repeatedly.

10 Q Repeatedly?

11 A Yes.

12 Q Had Elizabeth told you anything about her
13 brothers?

14 A Well the plan, as she told it to me, was
15 that they were thinking now -- Dr. Howard, I think it is,
16 lives in Houston, and the plan was that they would move
17 Elizabeth to live with them in Houston.

18 Q At least that's what Elizabeth was telling
19 you?

20 A Right. And I wasn't particularly pleased by
21 that thought, okay? I had, after all, agreed to take the
22 rap if, you know, she started having problems and we
23 started having problems with the police, and sort of then
24 losing her and her going off to Texas wasn't something
25 that I wanted, it was the last thing that I wanted. I

1 mean what was the point of it all, you know, and she told
2 me she didn't want it either. But that's what we were
3 worried about at that time.

4 Q Jens, I think the prosecutor, Mr. Updike
5 referred to a letter in April of 1985 that Elizabeth wrote
6 to you?

7 A Right.

8 Q And she talks about your demanding money?
9 Had you made any demand on her for money?

10 A Absolutely not. Certainly not in the terms
11 that she said there, and that's why I wrote that note at
12 the beginning of the letter. I mean do you have the
13 letter there? Here it is. Apparently a massive failure
14 to communicate, her misunderstanding a lot of my
15 unqualified statements, my rather nasty letter in reply,
16 destroyed upon my insistence. I mean that comment of hers
17 really made me angry, because what I was saying, okay, was
18 what I told her in this conversation is that you know, as
19 she didn't want to go back to Houston, obviously I didn't
20 want her to go back to Houston either, and that she better
21 speak with her brothers to make sure that they got used to
22 the idea that she would be staying in Virginia so that she
23 would be living with me.

24 And that's why the previous page she quotes
25 me, it's a direct quotation, me saying this, I didn't do

1 this for your brothers to take you away And
2 that's the truth. I did not like the idea, and
3 did she, of her brothers moving her to Houston
4 wasn't -- I wasn't very happy with that, for obvious
5 reasons.

6 Q She uses the word sacrifice in that letter?

7 A Right. That's what this is. I didn't do
8 for your brothers to take you away. I mean that's what I
9 was doing. I don't want your sacrifice to be a burden to
10 either of us, okay?

11 A I had agreed on that weekend, on the Sunday
12 to sacrifice five years of my life basically, to save her
13 life, okay? And I mean, going out and killing two people
14 is not a sacrifice. All right? Agreeing to take the
15 blame for it is a sacrifice. And it's pretty obvious to
16 me, and that's what I was referring to.

17 Q Okay. Now did you and Elizabeth finish out
18 your terms at UVA that year?

19 A Yes, we did.

20 Q And what did you do after you finished out
21 your terms there?

22 A Well I went back to Detroit, and she went to
23 Lynchburg, I guess, with her family.

24 Q Now while she was in Lynchburg, did you have
25 occasion to talk with her on the telephone when you were .

1 in Detroit and she was in Lynchburg?

2 A I don't recall that. I recall her writing
3 me a letter.

4 Q Now during the summer of 1985, did you and
5 Elizabeth travel together anywhere?

6 A Well she came up to Detroit to visit with my
7 family. My parents didn't like her at all. And then we
8 went to Europe together for, I guess three and a half
9 weeks, something like that.

10 Q And did you visit anybody in particular in
11 Europe?

12 A The person who picked her up when she ran
13 away on the last occasion, Colonel Harrington, we dropped
14 by there; otherwise, no.

15 Q And then when you returned to the United
16 States, what did you and she do, if anything?

17 A We went to UVA summer school in
18 Charlottesville, took classes.

19 Q Where did you live at that point?

20 A It was just normal residential housing, it
21 wasn't student housing.

22 Q And did you and she share the same house?

23 A Yes, we did.

24 Q When class began in the fall of 1985, did
25 you and she share the same housing at that point?

1 A No, we didn't.

2 Q Where did she live at that point?

3 A She lived at 803 Rugby Road, which was a
4 residential house nearest end of the campus, and I lived
5 at Faulkner Dormitory, which was a good bit away, student
6 housing.

7 Q With whom did Elizabeth live at Rugby Road,
8 if you can remember.

9 A Christine Kim and two other undergraduates.

10 Q Now did there come a time in the fall of
11 1985 when you became aware that Elizabeth was being
12 questioned again by Investigator Gardner in this case?

13 A Well, it was the end of September, yes.
14 That was a big shock to us, because we hadn't heard
15 anything, at least I certainly hadn't heard anything for
16 the last six months, since April. And we were living
17 quite openly at the university, and we thought everything
18 was clear, and all of a sudden they were back.

19 Q Now going back to the spring of 1985, were
20 you doing anything to conceal your whereabouts at UVA?

21 A Not at all. In fact we kept on living in
22 the same dormitory, all you had to do was call the
23 university.

24 Q And in the fall of 1985, were you doing
25 anything to conceal your whereabouts at UVA?

1 A Not at all.

2 Q Now what did -- what was Elizabeth's
3 reaction when you both learned that Investigator Gardner
4 had come back to you as suspects?

5 A Well we were both extremely worried, because
6 the real main cause of concern was that they confronted
7 her with the mileage discrepancy on the car, which I think
8 was 449 or something like that miles, which you know, it
9 was very, very clear that they were onto us, okay? And
10 there was no explanation for that mileage discrepancy, she
11 gave them some cock and bull story about Warrenton,
12 Lexington, because it was a sort of a spur of the moment
13 thing, I guess, and it was clear to us that we were going
14 to get arrested soon, they were going to figure it out,
15 that we were involved.

16 Q What if anything did you and Elizabeth talk
17 about after she came back from her interview with
18 Investigator Gardner in September of 1985?

19 A We basically started making plans to leave.

20 Q Why couldn't you leave right then?

21 A First of all, we had to organize some money
22 and figure out where you're going, it's not a good idea to
23 just leave without a plan.

24 Q And did you have your passport at that time?

25 A No, I had one of my passports, my other

1 passport was in Detroit, and that took a while to get
2 down.

3 Q And then were you asked by Investigator
4 Gardner to come to Bedford and be interviewed by him in
5 October of 1985?

6 A That's correct. And that got us worried
7 even more, because Elizabeth had given -- Elizabeth told
8 me that there would be no forensic evidence at the house
9 to link her, and that would be no problem, so she went in
10 to give her forensic, and we assumed that since she hadn't
11 been arrested, that there really was no forensic evidence
12 on her, all right? And yet they still came back and
13 questioned me further, and it seemed to us that, you know,
14 if they were that intent, it really was getting very, very
15 close, and we were very concerned about that.

16 Q Well why were you concerned about that if
17 you hadn't committed the crime?

18 A Because I had agreed to take the blame as
19 soon as we were arrested, okay, and the whole point was we
20 were going to put that time off as long as possible. I
21 mean it's not something I wanted to do. If I had to do it
22 if we were arrested, then I would do it, but only if it
23 really came to that.

24 Q So why did you go and talk to Investigator
25 Gardner on October the 6th?

1 A To stall them, to gain time to get ready do
2 leave.

3 Q And at that time, were you and Elizabeth
4 making plans to leave?

5 A Yes, we were.

6 Q Did you -- after you talked to Investigator
7 Gardner, did you agree to give him forensic evidence?

8 A No, I didn't.

9 Q Did you agree to think about it?

10 A Yes, I did.

11 Q And did you go back to Charlottesville and
12 think about it?

13 A Well, not really, we had already decided
14 that I wouldn't do it And the reason for it actually is
15 in the diary.

16 Q I mean why wouldn't you give forensic
17 evidence if you were innocent?

18 A At that point we had already decided we were
19 leaving, all right, and for something this big, what we
20 assumed was that we would basically have to live
21 underground and go into hiding kind of thing and live
22 underground for the rest of our lives. And I did not want
23 these people here to have any records of me if I could
24 possibly avoid it. And that is why I said in the diary
25 that I wiped fingerprints off the flat and my car, okay?

1 Because if you think about it, at that point after we had
2 left, by leaving. okay, we had already advertised our
3 guilt to the world, all right, in that sense. So there
4 was no point in wiping fingerprints away from a flat,
5 because if they had the fingerprints there to match, it
6 wouldn't have been any difference. By our leaving, we
7 were already telling them, you have got the right people,
8 basically. And the reason I wiped away fingerprints from
9 the flat and from the car was because I was worried about
10 them getting any fingerprints of mine which at some later
11 stage in our lives if we got arrested could be used to, to
12 link me back to this business here in Bedford.

13 Q Now at this particular point in time, you
14 then left Bedford, right, or left Charlottesville?

15 A Right, we left the United States.

16 Q And you went to Europe?

17 A That's right.

18 Q Was there any doubt in your mind that
19 Elizabeth was going to follow you?

20 A I had no reason to doubt it at all.

21 Q She told you that she would?

22 A Yes.

23 Q Did you both leave on the same day?

24 A No, we didn't.

25 Q Why did you leave on different days?

9
1 A Basically, to -- what is it called -- not
2 cast suspicion on ourselves, had this whole story about
3 going up to Washington, D.C. was intended to not make her
4 roommates in the house suspicious of why we were packing
5 things and leaving.

6 Q And you met each other in Europe, then?

7 A Right, in Paris.

8 Q And for the next what, six or eight months
9 you traveled all over the world world?

10 A Yes.

11 Q Did you come to London, England, or England
12 in 1986?

13 A Yes.

14 Q How long were you in England in 1986?

15 A With an interruption, break in between, I
16 guess -- well free, for about four months, I guess, then
17 we got arrested.

18 Q And you got arrested on an unrelated fraud
19 charge?

20 A Yes.

21 Q And did you plead guilty to that charge?

22 A Yes, I did.

23 Q And you were convicted of that charge in
24 England?

25 A Yes.

1 Q And can you tell the jury how it came about
2 that you learned that you were going to be questioned
3 about this case?

4 A Well I didn't know anything about it until
5 the Thursday when I was in the holding cell at Richmond
6 Magistrate's Court and my lawyer walked in and put the
7 newspaper with the headline on this sort of bench thing
8 they have there.

9 Q What did the headline say, if you can
10 remember it?

11 A Well I remember it as saying voodoo murders,
12 two held, referring to Elizabeth and me, but apparently
13 that's not exactly right.

14 Q Did your lawyer tell you anything at that
15 point?

16 A He said something like, I have got some
17 really bad news for you or some silly thing like that.
18 And he just gave me standard advice, you're going to go to
19 court, they're going to take you back to the police
20 station, keep are your mouth shut, I will be there, you
21 know, very shortly.

22 Q And then did you go into -- were you
23 remanded by the Magistrate to the Richmond Police Station
24 in England?

25 A Yes, I was.

1 Q And while you were there at the Richmond
2 Police Station, were you questioned by Mr. Gardner, Mr.
3 Beever and Mr Wright?

4 A Yes, right.

5 Q And during that time, did you make the
6 statements that have been played on tape to the jury?

7 A Of course

8 Q Are those statements true?

9 A No.

10 Q Why did you make the statements if they
11 weren't true?

12 A Well, the first reason is the same one why I
13 agreed to do it in the first place on the Sunday, I loved
14 Elizabeth, and I believed that the only way that I could
15 save her life from the electric chair was for me to take
16 the blame, and that I personally really faced no more than
17 a few years in a German prison. And I had done a lot of
18 thinking about our relationship in the months preceding
19 that, and I felt from my point of view that my love for
20 her had become more mature, and had become less of a
21 needing thing and sort of an interdependence and more real
22 love, that's how I felt about it anyway.

23 Q And were there any other reasons that you
24 made these statements?

25 A Well, I mean there was concern of mine that

1 she might come to some immediate physical harm, and you
2 know, I didn't know any better.

3 Q During those statements did you at times
4 make requests to speak with an attorney?

5 A Well it's the first thing I ever said when I
6 walked in on Thursday. And again, over and over and over
7 again after that.

8 Q Did you in fact talk to your embassy in
9 London during that time?

10 A On Thursday I spoke with a janitor, and on
11 I guess it was Friday, I spoke with a consulate official.

12 Q And --

13 A Mr Wright was in the room, though

14 Q Now were you concerned with what the outcome
15 of your statements might cause you in other words, were
16 you concerned with where you were going to end up if you
17 made these statements?

18 A Sure, I wanted to know as many details as
19 possible about exactly what would happen to me next.
20 Obviously, I was concerned about that, because I worked
21 from the assumption that what I believed my father's
22 status to be, I would have a form diplomatic immunity.

23 Q Now during the statements I believe at one
24 point, or on two occasions, I think you mentioned to the
25 police that you might confess to a crime that you didn't

1 commit?

2 A That's correct. Well the first occasion,
3 Mr. Beever was actually the one that put it to me, and I
4 mean I always thought the game was up at that point, I
5 thought he had figured it out, but obviously not, and yes,
6 I did say that on two occasions.

7 Q Also, you were asked to draw a picture of
8 where the bodies were located, is that right?

9 A That's correct, yes.

10 Q And you drew the picture that's in evidence
11 right now?

12 A That's correct. Well the picture isn't
13 correct, it's correct that I drew a diagram.

14 Q The diagram -- well we'll go on. How did
15 you acquire the information about where the bodies were
16 supposedly located in the house?

17 A This was really the first major -- what is
18 the right word, mistake. Elizabeth told me that, you
19 know, if and when it was necessary to tell the police that
20 I did it, that Mr. Haysom's body was in the doorway
21 between the living room and the dining room, okay? So
22 when I drew this picture, that's what I drew, that's what
23 I understood what she meant by saying in the doorway.

24 Q Okay. Will you step down and perhaps we can
25 explain?

1 A That s the phrase I used, if you recall the
2 German, interview, too the doorway This is the living
3 room, right? And the bedroom would be over here, okay,
4 And that would be the dining room and that would be the
5 kitchen, okay? Now when she said in the doorway. I
6 naturally thought she meant in the doorway like that,
7 right, which is wrong What she meant in the doorway was
8 that Mr. Haysom was lying like that, blocking the doorway
9 It was just basically miscommunication, bad, bad mistake
10 okay?

11 C Now why did you make the change in the
12 location of Mrs. Haysom s body?

13 A All right this is the whole -- this voodoo
14 thing is a big red herring After the murders happened
15 here in Bedford County, Mr. Haysom, one of the brothers
16 who told me that the police thought that there was some
17 sort of occult involvement, and I think it may have been
18 in the newspapers as well And this had me very worried,
19 okay, because what I had agreed to do for Elizabeth was to
20 take the blame for murder okay? And as I said, in
21 Germany the maximum sentence for an 18 year old is 10
22 years, out of which you serve five. But if there s
23 something like voodoo involved and there's something sort
24 of weird, okay, obviously, in Germany as well, throw you
25 in a mental hospital and throw away the key. And that I

1 wasn't willing to go, and that I was very worried about.

2 And what happened was that when Elizabeth
3 went to Lynchburg in I guess it must have been in early
4 June of '85 to clean up the house with her brothers, she
5 wrote me a letter in which she said that the house was
6 different from when she had left it, that somebody else
7 must have come after her, and that's what I was supposed
8 to say, okay? And the person that she suggested to me
9 was -- am I allowed to say the name? A close friend of
10 the family she said was the person who must have come to
11 after her to the house, and that was what I was to say as
12 well.

13 Now when I got to England, that's what the
14 headlines said in the newspaper, voodoo murders, so I
15 thought it was all true, okay? And what she told me was
16 that in the house she said there were waxed alters, and
17 things drawn in the blood is what she said, figures and
18 things. I mean apparently it's not there, but that's what
19 she wrote to me. And she also said that the bodies in the
20 house were lying along the same axis, okay, to point north
21 or west or something, I don't know. So what happened was
22 the first time I drew Mr. Haysom like this, okay, because
23 it seemed to me that's the only way she could fit into the
24 kitchen from what I remembered in the house. And then I
25 went back to my cell and thought about it some more in the

1 police station, and that's why I changed her position,
2 because I knew or I believed that Mr. Haysom was laying
3 like that, okay? And if there was voodoo, and there was a
4 headline in the newspaper that said that there was voodoo,
5 then the bodies would have to be lying this way if
6 Elizabeth said it was voodoo, and that's why I changed
7 Mrs. Haysom's body from that to that, okay, so that it
8 would be aligned, because that's what she told me.

9 Q Okay, you can resume the stand.

10 A (Witness complies.)

11 Q Now you said that Elizabeth wrote you a
12 letter that described --

13 A Correct.

14 Q -- some of the voodoo?

15 A Yes, that was like I said, in that period
16 when I was in Detroit and she was in Lynchburg. And I
17 remember she drew a picture of all the letters in Mr. and
18 Mrs. Haysom's name, D-e-r-e-k and all this, and that they
19 all sort of fitted together in the picture of a face and
20 and she drew that, and she said that was found drawn in
21 the blood. And she said in the dining room there were wax
22 alters.

23 Q Whatever happened to that letter?

24 A And masks, African masks, she said.

25 Q What has happened to that letter?

1 A I threw that away, because I received that
2 in Detroit and I thought this letter is definitely one
3 that -- I mean it made it quite clear that she killed the
4 Haysoms, and that it was a very dangerous letter. I
5 didn't think that she should have sent it in the first
6 place.

7 Q Okay Did she ever refer to that letter in
8 correspondence with you when you were in England?

9 A Yes. In the very first letter after our
10 arrests, I think it was the 9th of June letter of 1986,
11 sorry, the very first letter of our rearrest for the
12 murders, because on April 30th we got arrested for the
13 fraud, then on June we were rearrested for the murders.
14 then on June the 9th after the interviews were over she
15 wrote me, and she mentioned this letter.

16 Q And then you spent some time in England in
17 prison there?

18 A Yes, I did.

19 Q Now did there come a time in December of
20 1986 that you were interviewed by the public prosecutor of
21 the City of Bonn, West Germany?

22 A Yes

23 Q Now what was your legal position at that
24 time as you understood it?

25 A Well, I was told that the best way for my

1 legal situation to be handled would be for me to be
2 extradited directly from England to Germany, and that the
3 only way to get extradition is if there are actually
4 charges brought against you in the country to which you
5 are to be extradited. So in order for me to be extradited
6 from England to Germany there had to be charges brought in
7 Germany. And to bring charges you need evidence And
8 obviously they weren't going to get any evidence from
9 Bedford, so they had to develop their own evidence to
10 charge me with this crime to make extradition to Germany
11 possible

12 Q Did you know at that time what you had been
13 indicted on in Bedford County?

14 A Yes I had been told capital murder

15 Q And to your knowledge, did West Germany have
16 capital punishment?

17 A No

18 Q And did you have the advice of a German
19 attorney at the time that you made the statement in
20 December of 1986?

21 A That's right And I had your advice as
22 well

23 Q What did the German attorney tell you?

24 A Same thing The only way that I could get
25 to Germany would be to repeat the confession, make sure

1 that the German prosecutor has enough evidence to charge
2 me in Germany to request my extradition. And he said it
3 was particularly important that they make sure that I got
4 charged with murder in Germany, okay, because if they
5 charged me with something less than murder in Germany the
6 English authorities would be more likely to send me to
7 America, simply because that's the heavier charge, okay?

8 Q Did your attorney also advise you to
9 emphasize certain other factor about the offense?

10 A He told me to emphasize the role of alcohol,
11 and he in the meantime also read the psychiatric reports
12 to emphasize Elizabeth's, you know, her manipulation and
13 her illness, and that's what I did. Those are mitigating
14 circumstance in German law

15 Q So you made the statement to the German
16 prosecutor in order to get yourself extradited to Germany?

17 A Yes, it was the only way

18 Q Were the statements contained in that
19 statement that was read to the jury last Friday, are they
20 true?

21 A Well, certainly nothing about the events is
22 true

23 Q But did you make those statements?

24 A Yes, I made the statements, sorry.

25 Q Now in the statement to the German

1 prosecutor you said that you took the cutlery and dishes
2 out of the house.

3 A That's correct, yes.

4 Q Did you make that statement to Investigator
5 Gardner in June of 1986?

6 A No, the exact opposite

7 Q What did you tell Investigator Gardner?

8 A I told him that the dishes and eating
9 utensils should still be on the table or perhaps they had
10 fallen on the floor. And that's in his notes as well

11 Q I just have a couple of other questions and
12 then we can take a break. Did there come a time during
13 any of the interviews with Investigator Gardner that you
14 showed scars on your hands to Investigator Gardner?

15 A Yes, I did.

16 Q Could you step down from the --

17 A Right I think I better draw a little arrow
18 towards them, is this a good idea?

19 Q Just step down and point them out

20 A They are so small I can hardly see them
21 myself. Okay where do I start?

22 Q You can just walk in front of the jury and
23 show them the scars you said were knife wounds that night

24 A This was supposed to be a knife wound, and
25 that was supposed to be a knife wound right there. That

1 one, and that one. That one right there, and that one
2 right there. That one right there, and that one right
3 there.

4 THE COURT: Weight just a minute.
5 I don't think he should say anything. You
6 may show it, but if he's saying anything,
7 she's got to pick it up on the record, and I
8 can't hear.

9 THE WITNESS: I'm just saying that one
10 right there and that one right there.

11 THE COURT: Just point.

12 THE WITNESS: Sorry.

13 MR. NEATON: You can't go up in there.

14 MR. UPDIKE: I'd like to see it, too.

15 THE WITNESS: That thing right there,
16 and one right there.

17 MR. UPDIKE: If you'd just designate
18 for the record which fingers he's been
19 pointing to.

20 MR. NEATON: The left index finger and
21 the left little finger.

22

23 BY MR. NEATON: (continuing)

24 Q Jens, are either of those knife scars?

25 A Absolutely not.

1 Q The scar on your index finger, do you know
2 how that came about?

3 A Well I'm not sure, obviously, but I'm pretty
4 sure. When I was, I guess four or five years old in
5 Cypress, we were living in Cypress at the time because of
6 my father's job, and there was a very small swimming pool
7 in the front yard. And it was a grasshopper, cricket type
8 of thing on the swimming pool, and I took a marmalade jar
9 and tried to catch the grasshopper with the marmalade jar,
10 which is not very clever, but that's what I did, and I cut
11 my finger, and my mom gave me a big bandage and I went to
12 school and showed all my friends.

13 Q What about the thing on your little finger,
14 do you know what that is?

15 A I have no idea. I think it looks like a
16 wart to me, but I don't know.

17 THE COURT: Let me see it, I haven't
18 seen it.

19 THE WITNESS: Sorry, I apologize

20 THE COURT: All right.

21 MR. NEATON: This would be a good point
22 for the lunch break. I might have a bit
23 more direct after lunch.

24 THE COURT: All right. Members of the
25 jury, we'll take our luncheon recess at this

1 time, one hour.

2 (Whereupon a luncheon recess was
3 taken.)

4 THE COURT: All right, let's proceed.
5

6 BY MR. NEATON: (continuing)

7 Q Jens, in December of 1986 when you stated to
8 the German public prosecutor that you had taken the dishes
9 and cutlery out of the house?

10 A (Witness nods head in the affirmative.)

11 Q Why did you make that statement if it was
12 different than in June of '86?

13 A Well, after the June '86 statements,
14 obviously Elizabeth and I would continue to record and
15 pass notes, and we compared notes, some of which were
16 intercepted earlier, and we compared what we had told the
17 police, and I asked about specific questions, I wanted
18 clarification from her on. And one of the problems that
19 she pointed out to me about what I had said to the police
20 was when I had described the meal in the dining room was
21 that I had basically placed myself on the wrong side of
22 the dining room table, okay? If you look at the
23 photographs, the dishes are on one side of the table, and
24 I had sat on the other side of the table, okay?

25 Q How was this information passed, was it by

1 letters like the tons that we have already put in
2 evidence?

3 A No. There is a mention in one of the later
4 interviews with Elizabeth, someone's cigarette note paper,
5 just we were trying to compare notes to what we had said,
6 and make sure that I got everything right. And this was
7 one point on which there was a major discrepancy, and
8 somehow that had to be explained away, why were the dishes
9 on the wrong side of the table, and especially since I had
10 said that the dishes were still there and they were then
11 found on the wrong side of the table.

12 So the only explanation that I could come up
13 with is that the next time, is that I took one set of
14 dishes with me. Now that helped a little bit, but the
15 problem is there is still one set of dishes unexplained on
16 the table, because at no point did I ever say that Mrs
17 Haysom had eaten anything. But it was the only thing that
18 I could think of to clear that discrepancy up.

19 Q In your statement to the German prosecutor
20 you talked about knowing that Elizabeth was a pathological
21 liar in Decemer of 1986, is that right?

22 A That's what a psychiatrist had told me.

23 Q Had Elizabeth also told you that?

24 A That's correct, they told both of us.

25 Q Now I'm going to show you what's been marked

1 as Defendant's Exhibit 22 and ask you if is that a letter
2 that you received from Elizabeth Haysom.

3 A That's the 6th of August, 1986.

4 Q And is that in her writing?

5 A Yes, it is.

6 Q And is it addressed to you?

7 A Yes, it says Dearest, but it's addressed to
8 me, I guess.

9 Q And that was right -- I asked that it be
10 introduced into evidence. I'll show it to you, Mr.
11 Updike. The 6th of August, 1987.

12 MR. UPDIKE. Did I receive a copy of it
13 beforehand?

14 MR. NEATON: Sure.

15 MR. UPDIKE: I didn't have any of her
16 letters to him.

17 MR. NEATON: I thought you gave us a
18 copy of this. We just have the originals.
19 I'd be happy to have a copy made for you.

20 MR. UPDIKE: If I could have a copy
21 made of this, Your Honor, because I don't
22 recognize that.

23 THE COURT: If you will give it to Mrs.
24 Black, we can have it done right now.

25 MR. NEATON: I had a question about the

1 letter and then I could --

2 THE COURT: Go ahead.

3 MR. NEATON: And then she could make
4 the copy.

5 MR. NEATON: Do you have any objection
6 if this goes into evidence?

7 MR. UPDIKE: I don't know, because I
8 haven't read it.

9 MR. NEATON: All right, make a copy.

10 MR. UPDIKE: Or I could read the
11 original first.

12 (LETTER MARKED AS DEFENDANT'S EXHIBIT
13 22.)

14 MR. UPDIKE: Judge, I withdraw any
15 objection, I don't know what it says, but I
16 don't wish to hold things up anymore.

17 THE COURT: Proceed.

18

19 BY MR. NEATON: (continuing)

20 Q I'd like you to read the highlighted passage
21 on Page 1 of that letter.

22 A I promise not to write anything definite and
23 since my psychosis makes me lie pathologically and forget
24 huge segments of history, I don't think it matters what I
25 write. And that's a reference to what the psychiatrist

1 had been telling us, and that's in the top corner,
2 Hamilton, that refers to Dr. Hamilton, the top lefthand
3 corner.

4 Q Now you heard some reference by Elizabeth
5 Haysom in her testimony about selling certain jewelry in
6 Washington, D.C., is that right?

7 A Yes, I heard that

8 Q And I would ask you, did there come a time
9 at all in your travels before your arrest in England in
10 April of '86 when Elizabeth Haysom did sell jewelry?

11 A Right. I mean she didn't sell any jewelry
12 that weekend, that jewelry was sold in January or February
13 of the next year while we were in Canterbury, England, and
14 it's in the travel diary.

15 Q Is there a reference in that diary to the
16 sale?

17 A Yes, there is.

18 Q If you could locate it and find it

19 A Here we go Saturday, January 18th through
20 Tuesday, January 28th. Formulation of new plan to sell
21 jewelry. Jeweler Slethers, that's the name of jeweler,
22 buys two gold chains, one silver chain and mother's watch,
23 apparently not a real Omega, for a total of 300 pounds. L,
24 that's Lizzy, Elizabeth, goes to Brighton to sell other
25 jewelery, but silver price is too low, since silver is not

1 hallmarked first of all, she gets offered too little, 20
2 pounds.

3 Q Did you make that entry in the diary?

4 A Yes, this is in my handwriting.

5 Q And is that based on what Elizabeth Haysom
6 told you?

7 A Yes.

8 MR. NEATON: Your witness, Mr. Updike.

9

10 CROSS EXAMINATION

11 BY MR. UPDIKE

12 Q Mr Soering, I might want to ask you about
13 some of your statements on previous occasions, and things
14 might move along better if I just leave some of these up
15 here.

16 A Sure.

17 Q The October '85 statement, June 5, June 6,
18 June 7, June 8, 1986, and the translation of the German
19 statement should you wish to refer to them. Mr. Soering,
20 in October of 1985, at that time you were interviewed by
21 Investigator Gardner and Investigator Reid of the Bedford
22 County Sheriff's Department concerning the events of this
23 weekend?

24 A Right.

25 Q And they of course asked you about the

1 discrepancy in the mileage in the car?

2 A Yes, yes, sir.

3 Q As shown on the rental agreement. And at
4 that time you lied, didn't you?

5 A That's correct, yes. I repeated the same
6 thing Elizabeth said in her letter.

7 Q Elizabeth had lied to protect herself, you
8 lied to protect yourself, correct?

9 A Yes, we had to escape

10 Q And you lied?

11 A Yes, correct, yes

12 Q Because you came up with this business about
13 the trip down the Blue Ridge, and maybe headed towards
14 Lexington, and going back in the opposite direction?

15 A That's correct, sir.

16 Q That was absolutely untrue?

17 A True.

18 Q Just an attempt to come up with some false
19 explanation to explain the mileage?

20 A Correct.

21 Q So, sir, then you admit that you have the
22 capability of lying to protect yourself, don't you

23 A I think that's on a rare occasion I actually
24 did lie to protect myself.

25 Q That was not my question, Mr. Soering. My

1 question is, you admit that you have the capability of
2 lying to protect yourself, don't you?

3 A I suppose so.

4 Q You suppose?

5 A Yes.

6 Q And you have the capability of lying to
7 accomplish a certain goal, don't you?

8 A To protect Elizabeth, right.

9 Q To protect Elizabeth?

10 A Yes, sir.

11 Q Then it would follow if you have the
12 capability of lying to protect Elizabeth you most
13 certainly have the capability of lying to protect
14 yourself, correct?

15 A That would be logical

16 Q And if there is a goal to be achieved,
17 protecting Elizabeth, you can lie to accomplish that, you
18 can, then, lie to achieve a particular objective, can't
19 you, sir?

20 A Yes.

21 Q And your objective here?

22 A Is to tell the truth.

23 Q Is to beat these charges, isn't it?

24 A Is to tell the truth.

25 Q And to convince these jurors that you didn't

1 do anything, correct?

2 A That's the truth, yes.

3 Q You are capable of doing that, right?

4 A Of telling the truth.

5 Q It follows logically, doesn't it, if you
6 capable of lying to protect yourself, capable of
7 protecting Elizabeth, capable of lying to accomplish a
8 certain goal?

9 A (Witness nods head in the affirmative.)

10 Q Then you're certainly most capable of lying
11 to these people.

12 A (Witness nods head in the affirmative.) But
13 that's not what I am doing here.

14 A In order to beat these charges, get out from
15 under them, aren't you?

16 A That's not what I m doing.

17 Q Aren't you capable of doing it?

18 A Theoretically, but that's not what I am
19 doing.

20 Q You are, then, the answer is ?

21 A Theoretically, yes.

22 Q Theoretically, yes?

23 A Yes.

24 Q Why is it theoretically here where as to the
25 other instances you had to readily admit to your

1 capability of deception and your capability for lying?

2 A Because in one case I'm lying to protect
3 Elizabeth, and the other I'm just telling what happened.
4 As of this point you cannot do anything to Elizabeth
5 anymore.

6 Q Well I would like to discuss that with you a
7 little bit more later. You have thought about this quite
8 a bit, haven't you, Mr. Soering?

9 A Four years.

10 Q Since 1986?

11 A I have been in jail for four years.

12 Q Since 1986?

13 A Right.

14 Q And during that period of time you
15 received -- well the extradition documents that I
16 prepared, and were forwarded to the country of
17 England, right?

18 A Those were very limited, but yes.

19 Q Very limited?

20 A Sure.

21 Q And you also received documents that were
22 prepared in England as to your extradition, right?

23 A The documents that I received for
24 extradition as I recall consisted of the June 5th, 6th,
25 7th and 8th statements, and that was it as far as the

1 evidence was concerned. That's what I recall.

2 Q But I mean I know I did them, but they
3 weren't all that limited, were they, Mr. Soering? Do you
4 recognize these things? They now have the ribbons of our
5 country on them, and of England.

6 A Uh-huh.

7 Q And that's a lot of information in there
8 that first came to England in 1986, correct?

9 A It looks more or less the same size to me.

10 Q And during your period of incarceration, you
11 had nothing else to do other than to study these?

12 A Those four statements, yes I did not have
13 access to the forensic evidence, for example

14 Q And there were statements of witnesses in
15 here, correct?

16 A Like who?

17 Q Like Annie Massie, like Clarence Meadows,
18 like Crenshaw, Doug Crenshaw?

19 A As I recall, those witnesses just said about
20 finding the bodies.

21 Q My question to you was there were statements
22 from witnesses in here

23 A Not anything that was of any help, if that's
24 what you mean.

25 Q The autopsy report, an affidavit from Dr. .

1 Oxley, that was all there, wasn't it?

2 A I don't recall; if you say so.

3 Q If I say so? Autopsy pictures were
4 enclosed, these are actual photographs, aren't they?

5 A I was given back black and white copies, I
6 think my lawyers were, too.

7 Q Exhibit 14, affidavit of Dr. David W. Oxley,
8 that was included, right?

9 A Yes.

10 Q And there are the autopsy reports as to
11 Derek Haysom and Nancy Haysom, right?

12 A Yes.

13 Q And those were forwarded in July of 1986?

14 A Right

15 Q And then we forwarded additional information
16 in December of 1986, didn't we, including the copies of
17 the tapes which these ladies and gentlemen have heard,
18 they're still sealed the way Ricky sealed them December 1,
19 1986?

20 A Right.

21 Q Transcripts?

22 A Uh-huh.

23 Q You have had a lot of information to
24 consider and nothing else to do but consider it for these
25 past four years, isn't that correct, Mr. Soering?

1 A I have had some of the information, yes.

2 Q Well this information?

3 A That information that I have got, yes.

4 Q And then you began developing different
5 plans as to how you were going to get out of this, or how
6 you were going to try to get out of this, didn't you,
7 based upon your thoughts and your analysis of the best lie
8 that you could tell?

9 A No.

10 Q You did not?

11 A No.

12 Q In fact you had more than one plan, you had
13 some several plans, didn't you?

14 A Well, there were various legal possibilities
15 of getting myself extracted to Germany, but that is it, if
16 that's what you mean.

17 Q And in June of 1986, specifically June 5,
18 1986, you stated on Page 25 of the transcript when you
19 stated initially that you didn't have a good memory and
20 Investigator Gardner challenged you, well aren't you an
21 Echols scholar and you came back and said yes. And he
22 came back and said, well don't you have a good memory?
23 And you said, that's right, that's why I didn't do very
24 well in math, because in other subjects I could talk my
25 way or write my way out of a corner, even if I didn't have

1 the facts, didn't you say that?

2 A Yes, sir, that's part of history term
3 papers, I suppose that's true.

4 Q And that's what you have tried to do for
5 these people, isn't it, to talk your way out of this
6 corner that you're in?

7 A No.

8 Q And you wrote concerning your different
9 plans -- let me show you the letter of October 4, 1986,
10 you're telling Elizabeth that you had these different
11 plans, and that she should keep quiet so as to not
12 jeopardize them or spoil them, am I correct? I'll refer
13 you to a specific entry.

14 A Right.

15 Q We'd ask that this letter be introduced, we
16 have previously provided it. And I am going to ask you
17 about an entry on the first page. If I go to Germany.

18 (LETTER MARKED AS COMMONWEALTH'S
19 EXHIBIT 361.)

20 A If I go to Germany and get convicted I will
21 go away only a few years, and the trial if it takes place
22 in Europe, will not be a hyped up emotional publicity
23 case, since the star attraction, me, is missing.

24 Q Thank you.

25 A I was hoping to go to Germany, like I said.

1 Q You're the star attraction, Mr. Soering?

2 A Well, yes, obviously.

3 Q Because you're the one who did it?

4 A I was the one who said I did it, yes.

5 Q The next page as to these plans, the first
6 full paragraph where it begins, Barker, and doesn't it
7 read, Barker may have spoken with you about other aspects
8 of our past, and I sincerely hope you keep 100 percent
9 quiet and non-committal. If not, at least one plan of
10 mine may have been permanently scuttled.

11 A Sure.

12 Q You wrote that to Elizabeth Haysom?

13 A That's correct, yes, sir.

14 Q Telling her to keep quiet, because if she
15 doesn't, at least one of your plans may be scuttled?

16 A That's correct. That was the point, that I
17 was extremely worried Elizabeth might tell the truth, and
18 there's reference to that in these interviews, too.

19 Q She might tell the truth?

20 A That's right.

21 Q Down that same page you write to Elizabeth,
22 for now, have you found that, for now, trust me that I am
23 doing what's best for both of us, I have been working
24 very, very hard on several different practical plans, as
25 has my father, the embassies here and in Washington?

1 A Oh, I see that, okay.

2 Q And the German and American State
3 Departments?

4 A Right This is the information I was given
5 about extradition, yes. trying to get to Germany

6 Q Trying to work on different plans to get to
7 Germany?

8 A That's right.

9 Q And you have already stated that at the time
10 of the German interview in December of 1986 you had a
11 German counsel there, and you also had the counsel of Mr.
12 Richard Neaton at that time.

13 A Yes, sir, he advised me to give that
14 interview with the German police so I could go to Germany.

15 Q So that you could go to Germany?

16 A Right.

17 Q Did they advise you, Mr. Neaton and your
18 German counsel, to lie so as to go to Germany?

19 A No, they told me to --

20 Q And you didn't didn't lie, did you?

21 A They told me to say what I did to the
22 American police, and I did.

23 Q They told them that you, to go to Germany,
24 had to tell them enough of the truth to warrant a case of
25 extradition to Germany.

1 A They said I had to provide enough evidence
2 for them to charge me, yes.

3 Q And you say that you lied to them anyway?

4 A That's correct, sir, to the German police.
5 That's the only way I would go back to Germany, I had to
6 give them evidence.

7 Q And the only way according to you that you
8 could escape a decision by a jury in Bedford County,
9 Virginia?

10 A Yes.

11 Q Was lying?

12 A That's correct.

13 Q It didn't work?

14 A No, it didn't

15 Q So you're lying to persuade them and confuse
16 them and mislead them?

17 A No, I'm not.

18 Q These plans of yours, Mr. Soering, you got
19 together and you thought about and you went through these
20 extradition papers?

21 A That was with the advice of my lawyers.

22 Q With the intent of misleading country
23 people?

24 A Huh?

25 Q Misleading country people here in Virginia..

1 A I don't think it makes any difference where
2 you're from, but I mean yes, of course, the point was to
3 go to Germany.

4 Q Because in your next letter you write, don't
5 you, concerning your American connections, and what you're
6 trying to do with American connections, you write to
7 Elizabeth Haysom, my optimism is well founded, sweetie,
8 remember, I'm always the pessimist, not you. Those yokels
9 don't know what's coming down.

10 A I wrote that, yes.

11 Q And you wrote that right after you made a
12 reference to me, didn't you? Here's the actual letter.

13 A Mr. Updike, the reason why I wrote that is
14 that I was personally surprised that we managed to
15 convince you people, if that's all right.

16 Q But those yokels don't know what's coming
17 down?

18 A Is this the one?

19 Q Yes, sir. And I will refer you to the page.
20 Have you found it?

21 A Yep, the very top.

22 Q It's a letter that you wrote to Elizabeth
23 Haysom on October 22, 1986, didn't you?

24 A Yes.

25 Q And you continue after the reference to me, .

1 anyway, let me tell you about some interesting friends of
2 ours in the U.S., a federal judge, a DA in Virginia, but
3 that wasn't me, now was it?

4 A No, sir, that's what I was told.

5 Q Certainly not. A DA in Virginia, and
6 various German and U.S. governmental agencies, things are
7 going to be okay. My optimism is well founded, sweetie,
8 remember, I'm always the pessimist, not you, those yokels
9 don't know what's coming down.

10 A That's right, I wrote that.

11 Q And you still think we don't know what's
12 coming down, don't you?

13 A Absolutely not. I don't think you do,
14 that's correct, yes. I mean to put it bluntly, I don't
15 know how you can believe me.

16 Q Mr. Soering, what it comes down to is what
17 these jurors believe at the end of this case in their
18 deliberations. We'd like to introduce this, too, Your
19 Honor, thank you.

20 (LETTERS MARKED AS COMMONWEALTH'S
21 EXHIBITS 361 & 362.)

22 Q Mr. Soering, are you trying to say that
23 before these murders, that you and Elizabeth didn't talk
24 about the death of her parents?

25 A Um, Elizabeth fantasized about them, yes,

1 that's true

2 Q Excuse me?

3 A We talked about it in the way of her

4 fantasizing about it as in the letters, yes.

5 Q Her fantasizing about it?

6 A And I responded to that

7 Q And you responded as well.

8 A That's correct.

9 Q Because in the German interview you had all

10 kinds of fantasies about the death of Derek and Nancy

11 Haysom, didn't you? It's there, and I can refer you to

12 the page.

13 A Oh, in the other letters.

14 Q Yeah You talked about Mr. Derek Haysom,

15 rolling him off a hill in a car?

16 A That's correct, yes.

17 Q You said that, didn't you?

18 A Yes, I did.

19 Q About a bomb to their house, you said that,

20 didn't you?

21 A Yes, I did.

22 Q You said something about piranha fish in the

23 bathtub for the Haysoms?

24 A That's right.

25 Q So before their deaths, you were fantasizing

1 about their deaths as well, weren't you?

2 A No, that's what I told the German police.

3 Q But you admitted a minute ago that you were
4 communicating with Elizabeth as well

5 A Elizabeth and I talked about her parents,
6 yes.

7 Q And you responded?

8 A In the letters, yes.

9 Q And you were fantasizing about their deaths?

10 A She certainly was. I knew that she was very
11 unhappy.

12 Q Have you still got your Christmas diary out
13 there? I don't see it in here now.

14 A No, I don't think so.

15 Q Mr. Neaton, would you have that?

16 MR. NEATON: The exhibit?

17 MR. UPDIKE: Yes, that came out of this
18 package. Unless I'm overlooking it, and I
19 may very well.

20 MR. NEATON: I think I have it here.

21 MR. UPDIKE: Thank you.

22

23 BY MR. UPDIKE: (continuing)

24 Q There is yours, here's hers?

25 A Right.

1 Q And sir, where she says in that letter, I
2 think we can all recite it without any of us finding it,
3 would it be possible to -- second page of the letter,
4 would it be possible to hypnotize my parents, do voodoo on
5 them, will them to death. It seems my concentration on
6 their death is causing them problems.

7 A Sure.

8 Q She was writing that to you, wasn't she?

9 A That's correct.

10 Q She was fantasizing about the deaths of her
11 parents, wasn't she?

12 A That's right.

13 Q She was trying to manipulate you, wasn't
14 she?

15 A I think she was trying to gain sympathy, and
16 that's manipulation in itself, yes.

17 Q She says as this continues she was trying to
18 manipulate you, and you agree with that?

19 A In the letter? Sorry.

20 Q Through the letters and throughout this
21 period of time leading up to --

22 A Sure, she was trying to get my sympathy and
23 things like that.

24 Q Was she trying to manipulate you?

25 A Yes.

1 Q Yes, of course. She's trying to manipulate
2 you to kill her parents, wasn't she?

3 A Of course not.

4 Q Well here she's stating, would it be
5 possible to hypnotize my parents, do voodoo on them, will
6 them to death? My concentration on their death is causing
7 them problems. She's writing this to you at Christmas
8 time?

9 A That's right.

10 Q She wants them dead, and she's telling you
11 that?

12 A That's right.

13 Q She follow with the manipulations
14 concerning --

15 A That's why I sympathized with her
16 afterwards. I mean I knew that she had a deep and bitter
17 resentment toward her parents.

18 Q But at the top of the page there, before we
19 get to that reference she makes the statement that we
20 refer to, there have been many burglaries in this area,
21 right?

22 A That's right.

23 Q And then on the Page 19 of your diary, you
24 respond as you have indicated?

25 A That's right.

1 Q And you're writing a written response to her
2 statement, there have been many burglaries here.

3 A Right.

4 Q And you come back, you come back and say
5 that the fact that there have been many burglaries in this
6 area -- the fact that there have been many burglaries in
7 the area opens the possibility for another one with the
8 same general circumstance?

9 A Yes.

10 Q Only this time the unfortunate owners...

11 A Right.

12 Q You write that?

13 A That's right In the same general vein.

14 Q And on June the 8th, 1986 when Detective
15 Constable Terry Wright shows you that same letter and asks
16 you about that same entry, you say that the reason that
17 you wrote that was to make the murders look like something
18 else, didn't you?

19 A Pardon me, when was that supposed to be, on
20 June the 8th?

21 Q The very last interview with you, June 8th,
22 1986 when all three officers were there, Wright, Beever
23 and Gardner.

24 A (Witness shakes head in the negative.)

25 Q He has testified to that.

1 A They did? I'm surprised, that's not
2 accurate.

3 Q Do you recall him reading that from his
4 notes?

5 A Sure, I believe they were handwritten notes.
6 They're probably accurate notes. I mean I know what I
7 said.

8 Q Wait a minute. Now we are so anxious to
9 solve this, and these guys are not going to take down
10 accurately what you have got to say, not interested
11 enough?

12 A (Witness nods head in the affirmative.)
13 Repeat handwritten notes.

14 Q First of all, let's clear up, did you say
15 that?

16 A Pardon me, say what, the June 8th?

17 Q Did you say that this entry that you wrote
18 concerning burglaries, that you wrote that because of
19 trying to make the murders look like something else?

20 A But that's not what happened, is it.

21 Q I'm asking you whether you said it. Did you
22 say it or are you saying Detective Constable Wright lied?

23 A I'm saying that they probably misinterpreted
24 these notes that they made at the time of the interview.

25 Q All right. Let me show you a copy of the

1 notes. Here's at the very end of the interview that
2 Sunday night, he asked you about the voodoo reference, he
3 writes down your response. He refers you to the
4 burglaries and he's got your response there, hasn't he,
5 written in his own handwriting.

6 A J. to make the murders seem like something
7 else.

8 Q Yes.

9 A Yes. Well that's what he's got written
10 there.

11 Q And he said that he wrote down your
12 responses. So my question remains, did you say this to
13 those three police officers on June 8th when asked about
14 that entry concerning burglars, that that was to make the
15 murder seem like something else?

16 A Well I think that's probably another
17 misunderstanding

18 Q Did you say it?

19 A No. It's the same as their misunderstanding
20 about the voodoo business.

21 Q So you're disputing what the officer said?

22 A I'm disputing the interpretation of the
23 notes five years later

24 Q Well if you were just trying to protect
25 Elizabeth, you would have gone on and said that, wouldn't,

1 you? Who are you protecting now when you say that you
2 didn't say that, are you protecting Elizabeth or are you
3 protecting Jens Soering?

4 A I'm stating now what I think I had in my
5 mind when I wrote these letters.

6 Q What you think now?

7 A That right.

8 Q After four years of incarceration in
9 England, after going through those papers, after thinking
10 about it, after formulating the plans and knowing that
11 you're coming back before some yokels?

12 A Look. These letters were in response to
13 Elizabeth to her fantasies, okay? And that's all they
14 were and that's all I took them to be. Now there was no
15 burglary staged at the scene of crime, okay?

16 Q I'm not saying there was.

17 A And on June 8th, during a very long
18 interview, this policeman made brief note. For example,
19 when I explained --

20 Q I'm not asking you about exonerations, I'm
21 asking you about this particular entry. I am not saying
22 that there was a burglary. I am going back to my original
23 question, and that is before the murders, and
24 Elizabeth Haysom were talking about the deaths of her
25 parents, not only Elizabeth, but you as well.

1 A In fantasy. She said thing that. if
2 that's what you mean.

3 Q Whether it's a fantasy, whether it's reality
4 you admit that you were saying it?

5 A Well there's a possibility we could find
6 murder.

7 Q Do you admit that you were saying it, Mr.
8 Soering?

9 A I said those things in the letters, yes.

10 Q And in regards to her speaking as to the
11 voodoo, willing them to death, whether it's fantasy,
12 whether it's reality, you admit that in response to her
13 statement, you come back and say yes, it's a possibility.

14 A That's right.

15 Q And you admit in this letter that you write
16 that in other places you're talking about their deaths?

17 A (Witness nods head in the affirmative.)

18 Q Now you have offered your long explanations
19 to these people, but you still admit, don't you, you were
20 talking about Derek Haysom's death?

21 A Sure, yes, I did.

22 Q At this point in time, you haven't even met
23 the man, had you?

24 A That's correct, yes, sir, I only know what
25 Elizabeth told me about him.

1 A In fantasy. She said things like that, if
2 that's what you mean.

3 Q Whether it's a fantasy, whether it's reality
4 you admit that you were saying it?

5 A Well there's no question we discussed
6 murder.

7 Q Do you admit that you were saying it, Mr.
8 Soering?

9 A I said those things in the letters, yes.

10 Q And in regards to her speaking as to the
11 voodoo, willing them to death, whether it's fantasy,
12 whether it's reality, you admit that in response to her
13 statement, you come back and say yes, it's a possibility.

14 A That's right.

15 Q And you admit in this letter that you write
16 that in other places you're talking about their deaths?

17 A (Witness nods head in the affirmative.)

18 Q Now you have offered your long explanations
19 to these people, but you still admit, don't you, you were
20 talking about Derek Haysom's death?

21 A Sure, yes, I did.

22 Q At this point in time, you haven't even met
23 the man, had you?

24 A That's correct, yes, sir, I only know what
25 Elizabeth told me about him.

1 Q You only knew what she told you?
2 A Right.
3 Q She wanted you to kill them.
4 A No, she didn't
5 Q Because she couldn't kill them herself.
6 A I think Elizabeth is quite capable of that.
7 Q Well if she could kill them herself, she
8 didn't need you, did she, Jens Soering?
9 A She needed me to be the alibi.
10 Q She didn't even manipulate you, did she?
11 A Yes, she did, needed me to be the patsy to
12 provide the alibi for her.
13 Q Not if could do it herself.
14 A She'd still need an alibi.
15 Q All right, now Mr. Soering, you do write at
16 the page of that top -- the bottom of Page 6, you admit
17 that you wrote that about you know that certain instrument
18 for a certain operation about somebody's relatives?
19 A Right.
20 Q I don't care whether it's got quotation
21 marks around it, parenthesis or whatever, you wrote that,
22 the bottom of Page 6?
23 A Yes, sir, yes.
24 Q And when you wrote that, you were talking
25 about Elizabeth Haysom's parents, weren't you?

Q: 218 - Cont'd

" "

1 A It was a reference to the telephone
2 conversation.

3 Q Wasn't it a reference to Elizabeth Haysom's
4 parents?

5 A Yes.

6 Q On the top of Page 8 when you state, by the
7 way, were I to meet your parents I have the ultimate
8 weapon, you write that in January, 1985?

9 A (Witness nods head in the affirmative.)

10 Q And you're writing it about Elizabeth
11 Haysom's parents, correct?

12 A Yes, that's right.

13 Q And on the top of Page 10 that you have been
14 asked about when you say, and the ultimate weapon against
15 your parents, my God, how I have got the in dinner scene
16 planned out, unfortunate result for you, dad might leave
17 me all his loot and so forth, you're writing that, and
18 you're writing it about her parents?

19 A Love is the ultimate weapon; love, yes.

20 Q The question was, you were writing this, and
21 you were writing it about Elizabeth Haysom's parents.

22 A That's right.

23 Q All right, now sir, here at Christmas time,
24 she's gone to Loose Chippings and you have gone to
25 Detroit?

1 A Uh-huh.

2 Q Both of you all of a sudden didn't start
3 writing about the deaths of Derek and Nancy Haysom, now
4 did you?

5 A Well that's correct, she started it.

6 Q There were some discussions beforehand?

7 A Right at the beginning of the letter, the
8 telephone conversation.

9 Q I'm talking about before the letters are
10 ever written.

11 A Well I knew she hated her parents, yes.

12 Q You knew that she hated them?

13 A Yes.

14 Q You came to hate them as well, didn't you?

15 A I think I came to share her resentment,
16 that's why I sympathized with her. And you shared her
17 hatred, her resentment and her anger.

18 A I had only met the people once.

19 Q I know. But you shared her resentment, her
20 anger, her hatred because of what she had told you?

21 A I think I sympathized with her. There's no
22 reason for me to hate them.

23 Q Don't you state later in your statements
24 there in England, in fact the very first one, October 5?

25 A (Witness nods head in the affirmative.)

1 Q That there was resentment and anger building
2 up in you, not only the night of you going to Loose
3 Chippings, but in the months ahead of time?

4 A That's what I said in the statement,
5 correct.

6 Q And one of the problems that we have is that
7 we had to convince --

8 Q That's not my question to you, sir. Then my
9 question to you remains the same. You came to hate these
10 two people because of what Elizabeth told you?

11 A I think I came to sympathize with
12 Elizabeth's resentment. I didn't hate them myself, I
13 didn't have any reason to hate them.

14 Q In June of '86, June 5 of '86, why did you
15 say I think I came to sympathize, rather than I-rather
16 came to hate?

17 A Because I was trying to convince the police
18 to make them believe I did it; I had to give them some
19 sort of motive, didn't I? And that was one of the hardest
20 things, trying to get some sort of motive.

21 Q You were trying to get us to think that you
22 did it?

23 A That's right. That's where the yokel remark
24 comes about, I was amazed that you all believed me. I
25 mean I couldn't even tell you where the bodies were, and

1 you believed me. I just don't understand that. I mean
2 it's Elizabeth's fingerprint in the house and you still
3 think I did it.

4 Q It's your footprint there, too, isn't it,
5 Mr. Soering?

6 A Well what does it mean, it's a --

7 Q It's your blood type there as well, isn't
8 it, Mr. Soering?

9 A 45 percent of the people have O type blood.

10 Q 45 percent of the people, half the
11 population, though, don't have O type blood, and their
12 footprint is there, and they admitted to doing this
13 either, now did they, Mr. Soering?

14 A That's not my footprint.

15 Q My question to you was, that narrows it down
16 a whole lot, now doesn't it?

17 A Well an admission of O type blood, I mean
18 look, Mr. Updike.

19 Q Next question, if I might, Mr. Soering,
20 please?

21 A Okay.

22 Q I'm interested in what you were writing at
23 the end of this document. You were saying a little bit
24 this morning that you're writing about the -- about World
25 War II?

1 A Could I have a copy of the letter, I don't
2 have it up here.

3 Q Page 28, here's the original.

4 A Right.

5 Q Continuing over into Page 29. After you
6 write about the horrors on Page 28, the horrors of World
7 War II, Hitler killing millions, Stalin killing millions?

8 A Right. And every man is a potential war
9 criminal.

10 Q And you continue over on Page 9, saying to
11 Miss Haysom, this is real, it's happening.

12 A Right.

13 Q It will happen again. Right, you're saying
14 that?

15 A Yes.

16 Q And then you continue by saying I felt this.

17 A Sure.

18 Q I feel it now inside me, this need to plant
19 one's foot in somebody's face, to always crush; you're
20 saying that.

21 A Thanks George Orwell for that metaphor you
22 borrowed, I borrowed that from 1984, it's a novel by
23 George Orwell.

24 Q Yes, sir, but there are all kinds of
25 quotations and all sorts of literature, you chose the

1 and are writing this to Elizabeth Haysom.

2 A Because that's what the book 1984 was about,
3 it's about that every man is potential war criminal.

4 Q I understand that, Mr. Soering, I didn't ask
5 you that, I am saying you chose this quote, you wrote it
6 at this time to Elizabeth Haysom.

7 A That's right.

8 Q After getting her Christmas letter about how
9 she wishes her parents dead?

10 A But her parents aren't mentioned anywhere
11 for the last 10 pages. The last time her parents appear
12 is 10 pages earlier on Page 19.

13 Q Then you talk at the middle of the page
14 about the taste of death of your ubiquitous enemies' blood
15 that you drank in your sleep.

16 A D.H. Lawrence, Oppression Officer.

17 Q I don't see any quotation to that. But at
18 any rate, whether someone else wrote it or not, you're
19 incorporating it and you're using it, correct?

20 A That's right, yes. It's a valid point.

21 Q You're talking about this side of you that
22 wishes to kill, aren't you?

23 A I think every human being has that
24 potential, and that's why I said, every time we cheer
25 Charles Bronson in the movies, that's that part of you.

1 And it's the part that I say I find overwhelmingly
2 horrible, that aggressive part of everybody.

3 Q But continuing with that quote, you say, I
4 have not explored the side of me that wishes to crush to
5 any real extent.

6 A That's correct.

7 Q I have yet to kill.

8 A Right.

9 Q You're saying in January you have yet to
10 kill?

11 A That's right. It's an exaggeration, it's an
12 exaggerated statement of my point.

13 Q And you continue down that page about four
14 lines from the bottom stating that you're standing in
15 front of a door in some huge wall?

16 A Uh-huh.

17 Q You continue on the next page?

18 A I hope that I will be released, and absolved
19 of this side, because I find it overwhelmingly horrible.

20 Q And the next page you state the last to the
21 second paragraph, regarding that door, I feel I have been
22 standing here too long, it's time to move but I'm deadily
23 afraid. For what will happen to me when I cross that
24 threshold?

25 A (Witness nods head in the affirmative.)

1 statement to the Germans.

2 A That's right. And at that point --

3 Q And you still continued, didn't you?

4 A That's right, because that was the only way
5 to get to Germany.

6 Q You still continued with this statement of
7 exactly what you did.

8 A It was the only way to get to Germany.

9 Q Only way you could get to Germany.

10 A Right.

11 Q The letter that she wrote you from Colorado,
12 the Ramada Inn letter?

13 A Right.

14 Q That's up there?

15 A No, it isn't, I have just got that one right
16 there, sorry.

17 Q She's trying -- Elizabeth Haysom has
18 testified before these people, she has admitted that what
19 she was trying to do when she wrote that letter was
20 manipulate you.

21 A That's true, yes.

22 Q Do you agree with her that she was
23 manipulating you?

24 A Yes, sure.

25 Q Of course she wasn't, was she?

1 and are writing this to Elizabeth Hayson.

2 A Because that's what the book is about,
3 it's about that every man is potential war criminal.

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5 you that, I am saying you chose this quote, wrote it
6 at this time to Elizabeth Hayson.

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9 she wishes her parents dead.

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11 for the last 10 pages. The last time her parents appear
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14 about the taste of death or your ubiquitous enemies' blood
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24 potential, and that's why I said, every time we cheer
25 Charles Bronson in the movies, that's that part of you.

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2 horrible, that aggressive part of everybody

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10 kill?

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12 exaggerated statement of my point.

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14 lines from the bottom stating that you're standing in
15 front of a door in some huge wall?

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19 of this side, because I find it overwhelmingly horrible.

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21 second paragraph, regarding that door, I feel I have been
22 standing here too long, it's time to move but I'm deadly
23 afraid. For what will happen to me when I cross that
24 threshold?

25 A (Witness nods head in the affirmative.)

1 That's right. And I'm talking about Taoistic attitude,
2 which is basically about peace, and Buddhism and things
3 like that.

4 Q That's all in terms of the D.H. Lawrence,
5 T.S. Elliott?

6 A Well I can't help my upbringing.

7 Q Mr. Soering, what I am saying is you are
8 writing at this point after you have received this most
9 horrible letter from Elizabeth Haysom.

10 A That's right.

11 Q Concerning voodoo, willing her parents to
12 death and everything, as a result of her manipulations in
13 January you're writing about standing on the threshold of
14 violence.

15 A No, I'm not, exact opposite.

16 Q And you're contemplating whether you will
17 cross that threshold into violence or not.

18 A But you didn't read the end of the sentence,
19 the unlocked doors as you were talking about, the rest of
20 the sentence reads, I keep feeling, maybe hoping that I
21 will be released, absolved of this side, and why, because
22 I find this overwhelmingly horrible. See, you're picking
23 little bits of sentences out when I'm making exaggerated
24 points, and I mean the whole point of the letter is in the
25 first paragraph. Everybody has a violent side, every man

1 is a potential war criminal, and I find that
2 overwhelmingly horrible. And then I discuss that, because
3 it's part of everybody

4 Q But you were writing this at that point,
5 though, you were contemplating doing it.

6 A What, war crimes?

7 Q You were contemplating walking through that
8 door.

9 A Absolutely not. Absolutely not. I'm
10 saying, it's overwhelmingly horrible, it's right here.

11 Q I'm not disputing that with you, Mr.
12 Soering. To do this to two people such as Derek and Nancy
13 Haysom, it is overwhelmingly horrible, isn't it? You
14 can't dispute that, now can you?

15 A I didn't know. If I had known, maybe I
16 would have turned Elizabeth in. All she told me is that
17 she killed them.

18 Q You got these extradition papers with all of
19 the pictures, some of the same ones --

20 A It was too late at that point, I had already
21 said all these things in all these statements. I mean
22 it's pretty clear that by December '86 I didn't love her
23 anymore.

24 Q You had them, and most certainly your
25 attorneys had them in December of '86 when you made the

1 statement to the Germans.

2 A That's right. And at that point --

3 Q And you still continued, didn't you?

4 A That's right, because that was the only way

5 to get to Germany.

6 Q You still continued with this statement of

7 exactly what you did.

8 A It was the only way to get to Germany.

9 Q Only way you could get to Germany.

10 A Right.

11 Q The letter that she wrote you from Colorado,

12 the Ramada Inn letter?

13 A Right.

14 Q That's up there?

15 A No, it isn't, I have just got that one right

16 there, sorry.

17 Q She's trying -- Elizabeth Haysom has

18 testified before these people, she has admitted that what

19 she was trying to do when she wrote that letter was

20 manipulate you.

21 A That's true, yes.

22 Q Do you agree with her that she was

23 manipulating you?

24 A Yes, sure.

25 Q Of course she wasn't, was she?

1 A Sure. Could you give me a second so I can
2 find it? Right, okay

3 Q You have found it?

4 A Yes.

5 Q And she tells you this -- well this rubbish
6 about Lady Astor, Eaton Square.

7 A (Witness nods head in the affirmative.)

8 Q Well she was related to Lady Astor, wasn't
9 she?

10 A I don't know.

11 Q But as far as Eaton Square?

12 A Yes, all that nonsense, yes.

13 Q She says on Page 3 about her parents, they
14 are now ruling over me, because if I'm a good girl I will
15 be rich, but until they die, they will hold out?

16 A That's right.

17 Q While she's manipulating you she's talking
18 about her parents' death?

19 A That's correct. But not about killing them
20 at all. She wants to run away, she says that later on.
21 And the key line is this one

22 Q I didn't ask you about that, Mr. Soering,
23 you're obviously extremely well familiar with these, aren't
24 you?

25 A I certainly am.

1 Q I would suggest moreso than I am, certainly,
2 aren't you? I just ask you about one entry and you want
3 to refer to another one, why is that, Mr. Soering?

4 A Because you're misinterpreting the letter.

5 Q I just asked you about that one sentence
6 written by Elizabeth Haysom, that wasn't even written by
7 you.

8 A That's right.

9 Q Why did you want to jump and talk about
10 something else?

11 A Because you're saying that her letter
12 manipulated me, and I'm trying to explain what I got from
13 this letter.

14 Q My question was she was writing to you about
15 her parents dying.

16 A Yes, that's right, but not about killing
17 them.

18 Q And fine, that's the answer to my question.

19 A Okay.

20 Q But you didn't pay any attention to the
21 manipulations, did you or didn't you?

22 A Well I certainly didn't leave UVA for them.
23 But the problem was resolved approximately two weeks
24 later.

25 Q You realize she makes reference in this

1 letter to her perversions of truth?

2 A That's right, yes. The whole last section
3 is about that.

4 Q By that time, you were used to her
5 perversions of truth, weren't you?

6 A Yes. And unfortunately, I participated in
7 that, it sticks with my whole life.

8 Q And you come back and write a letter in
9 response to this in which you state that you have become
10 accustomed to her, I think you call it POT's, perversions
11 of truth.

12 A I don't think I said that in that letter,
13 but I think it's quite possible.

14 Q Terry Wright showed it to you on June 8,
15 1986 and asked you about it, don't you remember?

16 A No, I don't. But please.

17 Q The one that he read begins Dear Liz, hm, do
18 you remember it now?

19 A No.

20 Q Hm, hm for -- I have got a copy of it here,
21 and I think that the original should be right there in
22 front of you.

23 A I don't think I have ever seen a copy of
24 this one.

25 Q Well I'll show you the copy of it. This

1 should be it right here.

2 A Right.

3 Q You have seen it, haven't you, and you wrote
4 it?

5 A Actually, I don't recall seeing it, but
6 obviously it's mine, yes.

7 Q If I can have the copy and you can have the
8 original.

9 A Sorry.

10 Q That was in that same package with the rest
11 of them?

12 A Right.

13 Q The Paragraph C that you write about the
14 perversions of truth?

15 A Right.

16 Q Paragraph D about the manipulativenness of
17 the letter situation?

18 A Right.

19 Q When you say -- you were responding to her
20 Ramada Inn letter in which she talks about she's
21 manipulated you, she's a apologized for that, for her
22 perversions of the truth, about the manipulativenness of
23 the letter situation, I'll explain in more detail. But to
24 ease your mind somewhat, when I read that I laughed
25 without sarcasm, bitterness for one-haugh hour after

feeding them?

A Right

Q You wrote that?

A Right

Q So Elizabeth Haysom was trying desperately to manipulate you, but you knew that she was doing that?

A Well she admitted that yes, of course.

Q I'm asking if you admitted it by writing this letter?

A I knew some of what she was up to, yes, obviously

Q You knew that she was manipulating you

A About some things, sure Most particularly about that trip to Europe

Q And what this letter is all about is you got upset when the Haysoms went to pick her up instead of you on her trip back from Colorado, did it you? You had even bought a bottle of Champagne

A Yes I remember that yes

Q That's the Paragraph 4 on the last page of your letter. Airport, one bottle of V.S. not the cheap German stuff You had bottle of champagne to greet Elizabeth home

A Right.

Q And she didn't show up, she was with her

1 parents You didn't go to buy her the cheap stuff

2 A Right. Well we drank it afterwards, there
3 was no problem there

4 Q But that's what you wrote I don't know how
5 much it cost, Mr. Soering.

6 A Right.

7 Q Taxi, hyphen, explanation of foolproof plan
8 for acquiring our lolly.

9 A That's right

10 Q Again, she wrote about lolly in the Ramada
11 Inn letter you're writing about it too?

12 A But that's -- I mean I know what you're
13 getting at

14 Q Just answer my question, regardless of what
15 I am getting at Mr. Soering, you wrote that, didn't you?

16 A Yes that's right.

17 Q So at this point, this is the middle of
18 March she's trying to manipulate you you know what's
19 going on?

20 A Some of it, yes, sure But I loved her
21 anyway.

22 Q You wanted to prove your love for her?

23 A Uh-

24 Q Didn't you want to prove your love for her?

25 A Not in the sense that you mean

Q Was it really the only way that you could prove your love for her?

A Of course not. Going out and killing her parents, that's bizarre.

Q I'm asking you. There was no physical way that you could prove your love for her, now was there?

A Of course there was. You want me to show it to you? Could I have the Christmas diary letter. I'll show you.

Q You talk about sexual dysfunction in your diary letter, don't you?

A That's right. The first time Elizabeth and I tried to make love I lost my erection.

Q I'm not asking about any specifics, Mr. Soering.

A Un-huh.

Q Isn't it true that the first time that you made love to Elizabeth Layson was the night that her parents were buried?

A Absolutely not.

Q Or excuse me, the memorial service.

A Absolutely not. There's a reference to having sex in the diary, full intercourse.

Q You write quite a good game, don't you, Mr. Soering. You write about it.

1 A Okay, how about that sheet that Christine
2 wrote up, there is a reference in there as well.

3 Q It's in the writing, I understand that, Mr.
4 Soering

5 A Yes.

6 Q It's throughout your writing. In fact you
7 write in England a 20-page letter.

8 A In response to hers, yes Here of May 28th
9 and of June 3rd.

10 Q You were afraid you were going to lose
11 Elizabeth Gaysom, am I correct there?

12 A What? When during 1985?

13 Q Uh-huh

14 A Absolutely not, no. why? We were very much
15 in love

16 Q So you all go to Washington And I'm
17 interested in what you're saying now that the alibi was
18 all about First of all, you do agree that an alibi was
19 prepared in Washington D C?

20 A That's correct.

21 Q So you are in agreement with Elizabeth
22 Gaysom there?

23 A Well I mean that's what I thought, I
24 thought I was part of the conspiracy to commit murder,
25 that's why I accepted that, it was something we did.

1 Q The Washington trip was an alibi, yes?

2 A No. The trip wasn't, no

3 Q While in Washington, did it become an alibi,
4 was it an alibi?

5 A Sure, on Saturday afternoon.

6 Q On Saturday?

7 A It was discussed

8 Q Okay, need to understand exactly what you're
9 saying. This was about Elizabeth wanted to come from
10 Washington to Charlottesville to deliver some drugs to
11 someone?

12 A That's correct, yes.

13 Q That she picked up?

14 A Oh, no, she was supposed to pick up drugs
15 in Washington, D.C. she wasn't driving back straight to
16 Charlottesville.

17 Q Tell me again, please, just briefly and
18 was she supposed to do?

19 A Okay, she was supposed to pick up drugs in
20 Washington, D.C. and bring it back to Charlottesville to
21 pay off her debt to the person that she told me was her
22 drug dealer, Jim Farmer. And I knew that Jim Farmer had
23 been giving her drugs.

24 Q And she told you that, you say on Saturday?

25 A That's correct. But I knew that Jim Farmer

1 had been giving her drugs before that but I thought she
2 quit.

3 Q Why are you so interested in catching that
4 individual? I haven't asked you about him.

5 A Well, I know he's one of the dangerous. I
6 don't believe it's a coincidence. I've seen him at a time.

7 Q Let's not talk about it. When did you see
8 him? Is it a time? Let's not talk about it. You know it's
9 a time. All right.

10 A Yes.

11 Q Now, so you're saying that you're saying to you, well,
12 and you're saying that Elizabeth Taylor says to you, well,
13 now that you're saying to her, well, but I don't want
14 to take some drugs and I'm not interested in
15 Charlotteville.

16 A That's correct.

17 Q You don't believe that you say.

18 A That's correct.

19 Q But you go along with it. You say.

20 A Yes.

21 Q Then why don't you say, well, Elizabeth, if
22 I'm going to be alone, let's just you and I, let's go down to
23 Charlotteville.

24 A Well, that's what I said to her. She said
25 that that person she was supposed to meet was expecting

1 one person, her, and apparently I'm the kind of person who
2 is suspicious to drug dealers, that's why I couldn't come
3 along

4 Q That's your explanation?

5 A That's what she said to me

6 Q Haven't you dressed that up quite a bit?

7 I mean -- Soering -- she absolutely had to do this, you
8 lived in Charlottesville, didn't you?

9 A That's right

10 Q You could have ridden down from Washington

11 to be with --

12 A No

13 Q You didn't absolutely have to be present

14 when a delivery of drugs was made to this individual, now
15 did you? She could have let you off at your dorm.

16 A You're confusing two things. What happened

17 in Washington D.C. was she was supposed to pick up a

18 package of drugs that afternoon on Saturday. We were

19 supposed to drive them down on a Sunday. So on that

20 actual Saturday, there was no driving down to

21 Charlottesville. What she said was she was going to go

22 pick up some drugs and then they were going to be brought
23 down to Charlottesville

24 Q There was no driving to Charlottesville on

25 Sunday.

1 A That's what she told me, yes.

2 Q I mean on Saturday?

3 A That's why I expected her back to the hotel
4 at sevenish eightish. I didn't think it would take that
5 long. All she wanted to do on Saturday in Washington, was
6 pick up the drugs, what she told me.

7 Q Did you state that to Mr. Soering?

8 A I did, yes.

9 Q That she wasn't telling you that she was
10 coming from Washington down to Charlottesville on
11 Saturday?

12 A The drugs were supposed to be delivered to
13 Charlottesville but not on that Saturday, okay?

14 Q On Sunday?

15 A Well whatever that weekend, yes.

16 Q Monday, Tuesday?

17 A That weekend.

18 Q You weren't going to be present when they
19 were delivered, you were going to be in Charlottesville
20 but not present?

21 A Well, I don't know whether I was going to be
22 present when the --

23 Q What do you mean you don't know?

24 A It never came to that.

25 Q I thought you said that Elizabeth said that

1 you were the type that would cause suspicion on the part
2 of a drug dealer?

3 A That's correct, but I knew Jim Farmer

4 Q You're getting confused, aren't you, Mr
5 Soering?

6 A No you are, because you're trying to
7 confuse the jury

8 Q I want you to explain to me. Is this
9 funny Mr Soering? You're on trial for first degree
10 murder, two counts of it.

11 A That's right

12 Q Is it humorous to you? It is not to me, is
13 it to you?

14 A No, of course not. Mr Updike, I did not
15 know --

16 Q Is this a game?

17 A -- the drugs were in Washington, D.C

18 Q Is this a game to you?

19 A Of course not

20 Q Is it an intellectual challenge for you?

21 A No, it isn't

22 Q It certainly wouldn't be a challenge for you
23 with your intellect to outwit me, would it?

24 A Well I think so far you have been outwitting
25 me

Q I just can't understand why you and other
times are sitting up there under these circumstances
trial for murder laughing.

A I'm not laughing

Q Haven't you laughed didn't you laugh just a
few minutes ago?

A I smiled because you were trying to mislead
the jury. There was a man in Washington D.C. who she
told me. I didn't know this person, obviously. This is
all nonsense anyway, this is a lie she told me to
manipulate me. But she told me that I could not go alone
to see this person in Washington D.C., because that person
would find me suspicious. I already knew who Jim Farmer
was, obviously Jim Farmer would not find me suspicious
because he already knew me. And he was in
Charlottesville

Q So then you agreed to this deal

A That's correct yes

Q Were you supposed to buy 12 first class
tickets?

A That's right yes

Q For what film?

A The five o'clock show. Witness was the 12
one.

Q Five o'clock show of Witness.

Q Which night?

A Which studio?

A Which studio? If you're facing north, it's on the left-hand side of the road as I recall. It's a modern theater, I recall the outside of it being white, gray, it's a first-run movie theater.

Q And the second one, please, which one is that?

A After I returned to the hotel I expected her to be -- well, first of all I cashed the check as I recall. Then I went upstairs, waited for her, she didn't come for a couple of hours, then I ordered the room service etc., left at about 4:30 and went to Stranger in Paradise, which is just on Wisconsin Avenue on the right-hand side facing north.

Q Do you know the name of that theater?

A I don't know the name of it, I can describe it to you. It's older architecture, it's a big stone set in somewhere as I recall, and sort of -- I guess sort of an angled roof. It's a much smaller theatre.

Q Elizabeth said the other day that she was supposed to take notes for you to be able to describe the architecture. Is that just a coincidence that you know it so well?

A No, I think that is another one of her total

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Q But you nevertheless know it, don't you?

A That's correct.

Q And the third film?

A Rocky Horror Picture Show.

Q Location?

A As I recall it, it's right in the center of Georgetown. Only thing I remember about that is going through some kind of arcadeish sort of place, it's not sort of a real theater, that's how I remember it anyway.

Q It's above W Street, isn't it?

A I have no idea where W Street is.

Q You know a lot of details now five years later about these movies, the order in which they attended them and the descriptions of the theaters.

A I have reason to remember it, it was a terrible night.

Q So in October of 1985 you knew those details then concerning the movie?

A That's correct.

Q During the interviews in June of '86 you knew those details then?

A Yes.

Q You knew those details in December of '86 during the German interview?

Q Assume so, yes.

Q Assume so?

A Obviously, sorry, yes.

Q The question is, "did you buy two tickets and keep them from the night before, though, Friday night?"

A Well, unfortunately Elizabeth and I -- well, I was a member of if you want to call it that. When I was arrested in England they arrested us with this gigantic big folder --

Q I'm not asking you about England. My question was simply you went out on Friday night?

A That's right.

Q You bought and kept the tickets to that theatre?

A That's right.

Q And the reason that you did that was not just Saturday. This entire weekend was supposed to be an all-out, was it?

A Yes.

Q But nevertheless, you have had since April of '85, March of the end of March of '85?

A Right.

Q You have kept the tickets for Friday night, March 29th?

1 A well it seemed important, yes

2 Q Because you wanted the entire weekend to be
3 an alibi to cover up your activities, didn't you?

4 A Well I don't understand that, how an eleven
5 o'clock show on Friday would make any difference.

6 Q I don't understand why a man keeps tickets
7 to a movie for better than five years, can you explain
8 that to me if it doesn't mean anything?

9 A I didn't. Actually we left them behind in
10 Charlottesville. They were forgotten. That's where my
11 father found them. I didn't keep them.

12 Q He found them in December, so at least in
13 October you still had them?

14 A That's right.

15 Q Your father turned them over to your
16 attorneys in December of '85?

17 A Right.

18 Q And the first that anybody other than you
19 and your lawyers have seen of any of these tickets, the
20 originals, was today?

21 A That's right.

22 Q And you claim that these tickets are an
23 alibi for you, or excuse me, establish your innocence?

24 A That's correct, yes.

25 Q I have a little difficulty understanding,

1 perhaps you can tell me Mr. Soering. If you have got
2 evidence that you feel will establish your innocence, why
3 are you sitting in jail over there for such a long period
4 of time, since April of 1986 holding and having control
5 over evidence that you feel will establish you're
6 innocent?

7 MR. NEATON: Objection, he assumes
8 facts not in evidence; Mr. Soering did
9 not have control of those tickets when he
10 was in England.

11 THE WITNESS: I didn't actually know
12 about them.

13 MR. NEATON: Shut up.

14 MR. UDDIKE: I couldn't say that.

15 MR. NEATON: Well, he's my client,
16 and --

17 MR. UDDIKE: And I'm not criticizing
18 you for saying it. I encourage him to say it
19 any time he wants. Your Honor, my
20 question --

21 THE COURT: Well, I'm not sure that I
22 know whether he had the tickets or had
23 control of the tickets at that point, that's
24 a threshold factual point that I need to
25 know before I can rule.

1 P. NEATON Well, the testimony in the
2 prosecution's case was that Mr. Soering's
3 father had found the tickets in December of
4 1985, and had control of the tickets and
5 turned them over to various attorneys,
6 that's already been established in the case.
7 He cannot now ask this witness, well, because
8 your lawyers or something had these tickets
9 and didn't turn them over to the
10 prosecution, that somehow that can be
11 implied to -- implied to this particular
12 witness.

13 MR. UPDIKE: Your Honor, I don't care
14 that's fine, the father found them, the
15 father turned them over to the attorneys for
16 the Soering family.

17 MR. NEATON: Well, that's already been
18 established. He's asking the witness --
19 he's asking the witness a question that
20 assumes a fact not in evidence.

21 MR. UPDIKE: I'll rephrase the
22 question. Your Honor, I didn't mean that

23 THE COURT: All right, rephrase it.

24
25 BY MR. UPDIKE: (continuing)

Q So we have already established that, haven't we, that during the interviews in June of '86, you knew these particulars about all the movies?

A That's right.

Q In the December of '86 German interview you knew about the particulars as to all these movies?

A Right.

Q Then you also knew about the tickets themselves, didn't you?

A We didn't know where they were, no.

Q You didn't know?

A That's correct. We didn't have them with the papers left behind in Charlottesville and that was seen somewhere in Charlottesville.

Q I see. When did you discover where they were?

A I guess I found out last year.

Q Last year?

A Yes.

Q About what time last year, I'm curious who told you?

A Mr. Keaton, as I recall.

MR. KEATON: I am going to object to any further questions because it gets into attorney-client privilege.

1 MR. UPDIKE I'm not asking anything
2 that his attorney told him. I'm just asking
3 who told him --

4 THE COURT So far there's no question
5 calling for a statement dealing with a
6 conversation between attorney and client
7

8 BY MR. UPDIKE: (continuing)

9 Q Mr. Soering, the fact of the matter is
10 isn't it, anything regarding these tickets and different
11 things, Elizabeth Haysom pled guilty in 1987 that's the
12 evidence, August of '87?

13 A Right, she pleaded to something she didn't
14 do. She pleaded guilty to being an accomplice before the
15 fact; she actually did it.

16 Q She pled guilty to offenses which carried
17 the same range of punishment as the ones with which you're
18 charged, 20 years to life.

19 A I can only believe that she did that because
20 she was afraid of the death penalty.

21 Q You do not know what her thinking was

22 A Yes, I do.

23 Q She admitted her responsibility, didn't she?

24 A No, she didn't.

25 Q She pled guilty, didn't she?

1 A "I was a right to something she didn't do."

2 Q "I won't argue with you, that's all

3 right. I was asking you, Mr. Soering, the fact of the
4 matter is, once Elizabeth Rayson pled guilty in August of
5 '87, there was no need to protect her any further. Would
6 you agree with that?"

7 A "That's correct."

8 Q "All right. So that means in August of '87
9 that's almost three years ago?"

10 A "That's correct."

11 Q "This information concerning these -- this
12 subject, the murder, all of that type of thing, you have
13 been sitting in jail for almost three years since she pled
14 guilty, haven't you?"

15 A "I knew it was true, I didn't know I could
16 prove it."

17 Q "So, I don't understand if a man is sitting
18 in prison for three years with evidence that he thinks
19 will establish his innocence, why he sit's there and keeps
20 quiet?"

21 A "That's the point, I didn't know."

22 "REASON: Objection, he has the
23 constitutional right to keep quiet, number
24 two, it assumes facts not in evidence, and
25 that is that this witness knew about the

1 tickets, and number three, if Mr. Updike is
2 going to say he would have dismissed the
3 indictments if we showed him tickets three
4 years ago, then it would have relevance in
5 the case, but only then.

6 THE COURT: Well you're correct that he
7 had a right to not talk about it. The
8 point A is correct anyhow.

9 MR. UPDIKE: Your Honor, I have the
10 witness on cross examination. If he wants
11 to say that he was relying on his
12 constitutional right he can certainly say
13 that.

14 MR. NEATO: That's an improper
15 question, Judge, because the police had
16 interrogated him in 1986, he can impeach him
17 with statements that he made in 1986, but
18 there is no reason after formal proceedings
19 have begun against this man in England to
20 extradite him back to the United States that
21 he has to say anything more at that point.
22 I mean --

23 MR. UPDIKE: Your Honor, it's a matter
24 of common sense. Now he has also been
25 locked up for three years. We saw these

I direct the Commonwealth of Virginia for
 the first time today. Now I have a right to
 ask this man about why it took so long.

MR. WEAVER: This man didn't know about the tickets until last year. He is already satisfied.

NR. JPDIE: You were his attorney,
didn't you tell him?

1000 1000 1000

Q. JUDGE: You didn't tell your own
client?

THE COURT. Gentlemen, I think we have
done as far as I am going to let either
side go on that point. I think we
have gotten to the place on this point where
we're going to stop. Objection sustained to
any further questions on this particular
point.

to be continued

2 had sold for the things in Washington. Mr.
Soering.

I think the morning while we were together.
I assume that after the \$95 --

Q You assume?

1 A Well she had the money. I had money as
2 well. But my recollection is that I cashed the check when
3 I returned to the hotel precisely because at that point
4 she had gone off with the rest of the money

5 THE COURT: Just a minute This seems
6 a good time for a break Let's take a break
7 at this point

8 (Whereupon a recess was taken.)

9 THE COURT: Mr. Cleaveland is not here,
10 is that all right?

11 MR NEATON: That's all right.

12 THE COURT. Proceed.

13
14 BY MR. UPDIKE (continuing)

15 Q Mr. Soering, this check of course doesn't
16 have the time and day on it, does it?

17 A That's right

18 Q Nothing to indicate whether it was even
19 postdated, perhaps, or anything of that nature?

20 A (Witness shakes head in the negative.)

21 Q Nothing to say when it was cashed, right?

22 A Yes

23 Q I'm a little curious about the signature on
24 that

25 A (Witness nods head in the affirmative)

1 Q Jens, is it a J-E-N-S?

2 A J-E-N-S.

3 Q I was just going through these Miranda forms
4 that you signed five of them with your signature on it,
5 and I don't see an E after any of the J's.

6 A (Witness shakes head in the negative.)

7 MR. NEATON: Is that a question, Judge?

8 Q Do you see them?

9 A Correct. The Jens part of this is on each
10 one of these different from that one on there. That was
11 written a year earlier.

12 Q You changed your signature within a year's
13 time?

14 A Yes.

15 Q The Soering, too, seems to have an E up in
16 the air off of -- what happened to the writing after the
17 E did something happen to it?

18 A It's three dots, it's in German spelled J
19 with two dots over it, and I used an extra dot, so that's
20 three dots.

21 Q But is this an E there, see?

22 A I'm sorry, I don't -- That is just a
23 slur, I think, from one dot to the next.

24 Q But you would agree that the signature on
25 that check is different than the signatures on these

1. Mirance warnings, you have already said that, have you not?

2. A Yes, slightly different. The writing's
3. mine, though

4. Q Elizabeth Haysom said that you wanted her to
5. forge your signature in Washington to establish an alibi
6. for you.

7. A She said that, yes.

8. Q And you admit the signatures are different?

9. A They appear different, yes

10. Q I'm curious just why you kept the receipt on
11. Friday night for a couple of hamburgers, why?

12. A As I said earlier we kept things like that,
13. we kept all the tickets from our travels.

14. Q But Mr Soering on Friday night, showing
15. you Commonwealth's Exhibit Number 349, the copies of the
16. tickets which you got on Tuesday we got on two --

17. A Right

18. Q If you look at those, you're saying there
19. was no intent on Friday night to establish an alibi in
20. Washington, correct?

21. A That's right.

22. Q Yet the two tickets from the Jennifer Cinema,
23. Porkey's Revenge Friday night were kept, correct?

24. A That's right, yes.

25. Q And for Friday night, the Hamburger Hamlett,

18 89 you want to see why? You take your girlfriends to a
19 movie and a burger afterwards. Why do you need a receipt
20 and why do you keep it?

21 A Well, um, as I said for example when we
22 would travel in England we kept every single scrap of
23 paper, every ticket, every street map, we just kept things
24 like that for a memento.

25 Q I wasn't asking about England I'm talking
26 about this case here.

27 A Right.

28 Q See a movie, go get a hamburger at Hamburger
29 spaghetti and you get a receipt and keep it?

30 A That's right.

31 Q Is that logical to you?

32 A It isn't, but unfortunately I didn't do
33 many logical things.

34 Q We don't have any logical explanation
35 them for doing that?

36 A We kept mementos like that. We kept all our
37 notes that we wrote each other, all our letters.

38 Q At a hamburger?

39 A That's right.

40 Q In Soering, what happened was that you all
41 had discussed that was going to happen that weekend that
42 Derek and Nancy Haysom were going to die that weekend.

1 A No.

2 Q And you wanted an alibi for the entire
3 weekend?

4 A No, that's not what happened.

5 Q But yet you have no logical explanation for
6 a hamburger receipt on Friday night.

7 MR. CLEVELAND: Objection It's
8 argumentative Judge

9 MR. NEATON: And it's been asked and
10 answered.

11 MR. UPDIKE: I will withdraw it, Judge

12 THE COURT Sustained

13 BY MR. UPDIKE: (continuing,

14 Q So since I misunderstood you earlier Mr
15 Soering, if the drugs were going to be delivered to this
16 individual in Charlottesville on Sunday and you were
17 concerned about this individual blackmailing Elizabeth
18 thereafter with her parents?

19 A Right.

20 Q The activities in Washington on Friday and
21 Saturday were not going to be of any help to you in
22 disputing what would have had to have happened in
23 Charlottesville on Sunday or thereafter, would it?

24 A That's right what you're saying, but that's
25

1 What Elizabeth told me

2 Q I'm asking you, you agreed to this alibi?

3 A That's right. Elizabeth wanted to have an
4 alibi for Saturday.

5 Q Then my question is, if you were concerned
6 about protecting Elizabeth when she delivered these drugs
7 to an individual in Charlottesville on Sunday, you as an
8 intelligent individual would come back and say, Elizabeth
9 tickets to movies in Washington on Saturday are not going
10 to have to anything to do with the delivery of drugs in
11 Charlottesville on Sunday.

12 MR. NEATON: Objection, asked and
13 answered.

14 MR. LINDIKE: It has not been

15 MR. NEATON: He just asked it and the
16 question was answered about two or three
17 questions ago.

18 MR. LINDIKE: I haven't, Your Honor.

19 THE COURT: Objection overruled. Now I
20 allowed great latitude on other cross
21 examination of witnesses, the same rules
22 apply. You cannot repeat, but you're
23 allowed a certain amount of latitude here.

24 A What Elizabeth told me was that she was
25 afraid of Jim Farmer revealing to her parents that she was

1 still using drugs and that she was in Washington, D.C.
2 picking up drugs and dealing drugs. And she said to me
3 she needed an alibi, so that if Jim Farmer made such a
4 specific accusation to her parents --

5 Q But this Jim Farmer as you say, is in
6 Charlottesville?

7 A Charlottesville, right. And she was picking
8 up the drugs in Washington, D.C.

9 Q So tickets on Saturday in Washington didn't
10 going to help you any

11 A That's when she was picking up the drugs in
12 Washington D.C., on Saturday. And she wanted an alibi for
13 picking up the drugs

14 Q If you do that, then you're going to be
15 concerned about an alibi on Sunday when this Jim Farmer is
16 going to say that drugs were delivered to him, that's the
17 time that you're going to want the alibi.

18 A No. She told me she wanted an alibi for the
19 time that she was picking up drugs in Washington, D.C.
20 and that was on a Saturday.

21 Q So you had no alibi, then, for when the
22 drugs were supposed to be delivered to this individual
23 that you were concerned about?

24 A Well he couldn't say anything anyway.

25 Q Then if he couldn't say anything anyway,

1 there wasn't an alibi for the alibi to begin with, now was
2 there?

3 A Not about his own role. Jim Farmer couldn't
4 admit his own role supposedly.

5 Q That's right. So you didn't need an alibi
6 from Jim Farmer. Jim Farmer, or this individual was not
7 going to go to her parents and say Elizabeth brought me
8 drugs. He wouldn't do that, would he? He'd be admitting
9 it —

10 A That's correct, according to her he would be
11 claiming that she was in Washington, D.C. on a particular
12 weekend buying drugs. And she wanted an alibi for that.

13 A So as concern for that, you were going to
14 produce iron clad evidence that the two of you were in
15 fact in Washington?

16 A Only to convince her parents.

17 Q How would that convince her parents? You
18 have got movie tickets as to specific hours, but later,
19 going around Washington, sightseeing, seeing the
20 monuments, doing the different things, that's not going to
21 provide you with an alibi as to purchasing drugs in
22 Washington, now is it?

23 A It would corroborate the story that she was
24 with me on the weekend, and that's what we wanted to do,
25 according to her

1 Q It would come down to you though, you
2 credibility with her parents?

3 A Yes

4 Q Then if that were all that were involved
5 all you had to do was to say to Elizabeth, look,
6 Elizabeth, let's have fun in Washington this weekend, you
7 and I, let's stay together, we won't buy any drugs, I
8 disapprove of drugs, I don't want you using drugs, and if
9 your parents later say that Jim Farmer claims that you did
10 get drugs, I will tell them the truth, and that is you got
11 no drugs in Washington, right?

12 A Yes.

13 Q You didn't need all these tickets and all of
14 these written documents for you to tell her parents that
15 she didn't get drugs, now did you?

16 A Elizabeth --

17 Q Did you?

18 A Elizabeth told me on the way --

19 Q Did you need them? I'm not asking you what
20 Elizabeth told you, did you need them?

21 A I thought I did.

22 Q The reason that you wanted these tickets,
23 Mr. Soering, isn't the only logical explanation is not
24 anything about any drugs or anything like that, you wanted
25 prove that you were in Washington when in fact you were

1 coming down here to tell her parents.

2 A No.

3 Q You admit then, the more logical explanation
4 is what you have just told these ladies and gentlemen
5 concerning Jim Farmer, drugs to be delivered on Sunday,
6 and activities in Washington concerning the purchase of it
7 were on Saturday?

8 A That's what happened.

9 Q That, you're saying is more logical, and it
10 makes sense? All right. And you thought that that would
11 protect you, then, concerning any allegation of drug use?

12 A Yes.

13 Q Yes, and Elizabeth.

14 A The point was that --

15 Q Answer that question.

16 A Yes.

17 Q So if Elizabeth had come to Loose Chippings
18 and she had come at you all could have just said with
19 these tickets, once you realized that the murders had
20 happened, used these tickets and just simply said both of
21 us were in Washington the entire time, neither one of us
22 went to Loose Chippings.

23 A (Witness nods head in the affirmative.)

24 Q Right?

25 A That was not in our opinion, a believable

1 story.

2 Q And the reason that was not a believable
3 story was that it wouldn't make sense that both of you
4 were in Washington doing these things, or that one of you
5 left and came to Loose Chippings without the other one
6 knowing about it, do you follow?

7 A Sir, could you repeat that?

8 Q Do you see the point that I am getting at?

9 A No, sir

10 Q You realize that this business about the
11 movie tickets, the only way that that would work as an
12 alibi for Loose Chippings for one of you, regardless of
13 which one, regardless of whether it's you going to Loose
14 Chippings or Elizabeth going to Loose Chippings, the only
15 way that that would work as an alibi for the murders was
16 that the one staying in Washington knew what was going on,
17 isn't that true?

18 A But we didn't discuss Loose Chippings before
19 she left.

20 Q And Elizabeth has said that. But if you
21 admitted that, Mr. Soering, you would have to be admitting
22 that you were providing an alibi for Elizabeth to do the
23 killing if you were to say that you stayed in Washington
24 and bought the tickets.

25 A Yes.

1 Q And kept two of them and did the room
2 service?

3 A Right.

4 Q You would have to say that you were
5 providing an alibi for Elizabeth to commit the murders at
6 Loose Chippings, wouldn't you?

7 A But I didn't even know about that.

8 Q I'm asking you if you had said that.

9 A (Witness shakes head in the negative.)

10 Q And if you had said that, Mr. Soering, then
11 you would be admitting guilt to the same thing that she
12 had to admit guilt to, and that was an accessory before
13 the fact wouldn't you?

14 A I'm sorry, you have lost me.

15 Q You're smarter than I am

16 A If I were to admit that I would provide an
17 alibi for her if she were to kill, that would make me an
18 accessory before the fact?

19 Q Right.

20 A Yes, I guess so, yes.

21 Q Yes, you guess so.

22 A (Witness nods head in the affirmative.)

23 Q And you don't want that, because you want to
24 beat this thing completely.

25 A It's not what happened.

1 0 But you understand at this point in time,
2 don't you, as a result of what happened to Elizabeth, that
3 whether you're an accessory before the fact to first
4 degree murder, or whether you actually committed the acts,
5 you're still guilty of the same thing carrying 20 years to
6 life, you know that.

7 MR. NEATON: I am going to object,
8 Judge. The question is irrelevant, given
9 the bill of particulars filed in this case.

10 MR. UPDIKE: It's not irrelevant
11 concerning any bill of particulars in the
12 case, Your Honor.

13 THE COURT: Well the question has been
14 asked and explored before without objection.
15 He's asked him this before.

16 MR. UPDIKE: Your Honor, the witness, I
17 have the right to test on cross examination
18 his explanation of this alibi, and this is
19 the purpose of this question.

20 THE COURT: I think the question is a
21 proper question, but I do want to note for
22 the record that I think it's been asked
23 before, answered before without objection.

24 MR. NEATON: And I would then also
25 object on the ground that it was asked and

answered

BY MR. UPDIKE (continuing)

Q The question really is, when the police came to you in October of '85, why didn't you express this knowledge that you had concerning all of the movies, the tickets --

A (Witness nods head in the affirmative.)

And say to Ricky Gardner --

A (Witness nods head in the affirmative.)

Q -- and Chuck Reid, neither one of us had anything to do with murders, because both of us --

A (Witness nods head in the affirmative.)

Q -- were in Washington seeing these movies, here are the tickets, here's what we did?

A (Witness nods head in the affirmative.)

Q Here's a writeup, here's what the movie theaters looked like?

A (Witness nods head in the affirmative.)

Q And that way, neither one of you would have been here.

A No, that's why we had to leave, that is the whole point. They came to us and waved that mileage discrepancy at us, and there was no way around that. It meant a trip to Warrenton or Lexington doesn't explain it.

1 For six months we hadn't seen anybody. Suddenly they show
2 up and Ricky Gardner said he suspected me. I lied things
3 like that. We had to leave

4 Q So the explanation of a trip to Lexington
5 made no sense?

6 A Witness nods head in the affirmative

7 Q Then why in the world did you say that
8 then. If it made no sense?

9 A Because Elizabeth had already told them that
10 when she gave them her statement and I basically had to
11 repeat what she said.

12 Q But you provided an explanation that you
13 sometimes made no sense

14 A That's right. I had to choose. I didn't
15 want to disagree with Elizabeth

16 Q And you intentionally lied to them.

17 A Yes.

18 Q Were you proud of your performance during
19 the interview with Investigators Gardner and Reid?

20 A No.

21 Q Did you come back and tell Elizabeth that
22 you felt that you had convinced them?

23 A Witness shakes head in the negative. No

24 Q Did you get a cup of coffee during that
25 interview?

1 A Yes, I did.

2 Q And you later became concerned that they
3 would get your fingerprints off of that cup?

4 A No, I didn't. I made a joke about it

5 Q There is the entry in the diary?

6 A That's correct.

7 Q That the case is about to be solved, perhaps
8 Jens's fingerprints on the coffee cup?

9 A (Witness nods in the affirmative) There is
10 that entry, yes

11 Q You have admitted here today that you wiped
12 your fingerprints from the room when you left?

13 A That's correct, yes

14 Q You also, as stated in the diary, wiped your
15 fingerprints from the Scirocco at the airport?

16 A Yes.

17 Q The police had had Elizabeth Haysom's
18 fingerprints since April 16?

19 A Yes

20 Q You were concerned, therefore, about the
21 police getting your fingerprints, correct?

22 A Yes

23 Q You were concerned that your fingerprints
24 would be at the house

25 A No.

1 Q Isn't it true, based upon what Elizabeth
2 Haysom told you, that you knew Elizabeth Haysom was not
3 concerned about giving her fingerprints, because she
4 wasn't there and that's why she gave them so quickly,
5 April the 16th?

6 A No

7 Q You, however, did not want to provide yours.
8 As to the fingerprints of the blood Elizabeth Haysom
9 provided hers on September 25th.

10 A (Witness nods head in the affirmative.)

11 Q Based upon what you did, and what you know,
12 Elizabeth Haysom was not there at that scene, isn't that
13 correct, at Loose Chippings?

14 A No, not at all, quite the opposite.

15 Q And isn't it true, based upon your
16 discussions with Elizabeth Haysom that the reason that she
17 gave her fingerprints and her blood was she wasn't worried
18 about it because she wasn't there and she knew it would
19 not incriminate her?

20 A Well, what she told me is that she wasn't
21 worried about physical evidence, because she said there
22 would be none.

23 Q And yet you would not give your blood?

24 A That's right.

25 Q And your fingerprints?

1 A Correct. And my fingerprints.

2 Q And the reason was that you knew that you
3 were there and you knew that it would incriminate you if
4 you did so?

5 A Not at all, no.

6 Q And you're aware of the footprint that was
7 seen there LR-5, and photographed as LR-5?

8 A Uh-huh.

9 A And you're aware of when they took the
10 transparency of your footprint and laid it overtop?

11 A Yes, I saw that at court.

12 Q And this Mr. Soering, is the very reason
13 you didn't want to give your footprint, isn't it?

14 A No, it isn't.

15 Q You were a Jefferson scholar at that point?

16 A That's right, yes.

17 Q You had a scholarship that you stated in
18 your interview that was worth 42, \$4,300 per semester?

19 A I don't recall precise figures, that range
20 two through --

21 Q A total value over four years would be in
22 excess of \$30,000?

23 A Yes.

24 Q You were very proud of that scholarship,
25 weren't you?

1 A Yes.

2 Q You had to have a good reason for running
3 off and leaving, didn't you?

4 A Yes, that's true.

5 Q And you left first, didn't you?

6 A Yes.

7 Q And you were the one that they wanted the
8 footprints and the blood from?

9 A That's true, yes they wanted my footprints
10 and blood.

11 Q You were the one that wanted to get out of
12 town the fastest and the reason was because you were
13 there?

14 A No, it isn't.

15 Q What was your reason, Mr. Soering?

16 A Before I had went down to Bedford and spoke
17 to the detective, we had already decided that we had to
18 leave, based on mileage discrepancy. There was no doubt
19 at all after six months of silence, they were suddenly
20 back again, we had to go, they were onto us. The reason I
21 didn't want to give physical evidence was because we
22 assumed we had to basically live on the run for the rest
23 of our lives, and to have physical evidence here in
24 Bedford that could be used to trace me would be very
25 damaging. I actually even wrote that in the letters to

1 Mr. Reid and Gardner, I think

2 Q I am a little intrigued by your statement
3 there that you knew they were onto us.

4 A That's correct. I consider myself part of
5 this. I thought I was a part of the conspiracy to commit
6 murder, because I provided an alibi when she went off and
7 lied her parents. That's what I thought, it turned out
8 to be wrong.

9 Q But you went out and provided an alibi.

10 A That's correct, yes.

11 Q So you're admitting, then, that even if you
12 didn't kill Derek and Nancy Haysom, you are guilty of the
13 same thing that Elizabeth Haysom pled guilty to

14 A No, I'm not admitting that. That's what I
15 believed. That is what I believed for, I guess four years
16 I believed that. But it apparently is not true. It's one
17 of those situations where common sense and the law don't
18 match.

19 Q So when you wrote that letter to your
20 parents saying that you were leaving the University of
21 Virginia because you weren't happy with the circumstances
22 there, you lied to them, too, didn't you?

23 A Yes

24 Q And I'm a little bit interested in how these
25 footprints and fingerprints of yours were going to help

1 find you in Europe

2 A The only way to support yourself would the
3 way is by committing crimes. If you're arrested and they
4 take fingerprints and match them, if it was a major
5 investigation, which is what we thought this was then we
6 could be traced. Now you have fingerprints of mine on
7 record here and you put them out and about and say we're
8 looking for this person and then somebody else even
9 using a false name as I was as arrested in England for
10 example, I think I was calling myself Christopher Platt
11 Lee, and those fingerprints then are matched to this
12 investigation in Bedford, then I'm traced, and I didn't
13 want that. I wanted to be completely anonymous.

14 Q So you admit then that when you left this
15 country, you left this country with the intent of
16 committing crimes in Europe.

17 A There was no other way for us to support
18 ourselves in Europe.

19 Q My question was, you admit that you left
20 with the intent of committing crimes in Europe.

21 A Yes, frauds.

22 Q And we already had Elizabeth Haysom's
23 footprints and her blood?

24 A Unfortunately yes.

25 Q The two of you were together?

1 A That's right.

2 Q So do I understand it correctly, then, at
3 that point in October of '85, all this alibi stuff was no
4 good?

5 A Well it was clear to me, anyway, that I
6 believed --

7 Q Because of the mileage on the car?

8 A That's correct, yes.

9 Q It was no good?

10 A That's what I believed, yes.

11 Q So then you had to come up with a different
12 alibi?

13 A It was never intended as an alibi for
14 murder. I mean I did that intending it as an alibi, to be
15 an alibi to be used with that drug dealer in
16 Charlottesville and her parents.

17 Q Then you're arrested for fraud?

18 A That's right.

19 Q Did it ever occur to you then in Europe just
20 to obey the law and then you wouldn't get caught?

21 A There is no way to do it. If you find work
22 in Europe you have to register with the police, and you
23 have to get employment cards and things like that, you're
24 traced instantly. Especially, if as we assumed, everybody
25 was looking for us, there was no way to get work needed

1 Q Looking for both of you?

2 A Yes, of course. We left together.

3 Q Well then you must have been assuming that

4 we had incriminating evidence as to both of you

5 A Of course, the mileage discrepancy

6 Q Evidence which you felt would incriminate

7 both of you

8 A The mileage discrepancy

9 Q Not just Elizabeth, but both of you

10 A That's correct, that is what Ricky Gardner

11 said in the interviews. He said you're a suspect,

12 basically, and we've got probable cause because of the

13 mileage discrepancy.

14 Q All right, so you're arrested. You go

15 through the remand hearing?

16 A Right.

17 Q We have an interview on June 3, 1986

18 A Right

19 Q What is your plan of action there, Mr.

20 Soering?

21 A Well after some hesitation in the afternoon,

22 I decided to make the police believe that I had done this

23 and I did it to the best of my ability in that interview.

24 Q Why?

25 A Because I thought that was the only way to

1 protect Elizabeth from the electric chair.

2 Q The only way to protect Elizabeth?

3 A That's right.

4 Q If you wished to protect Elizabeth you could
5 have done it, then, couldn't you?

6 A I did.

7 Q All you had to say, Mr. Soering, was I did
8 it, Elizabeth Haysom had no involvement, knew nothing
9 about it, I did it, she didn't do anything concerning it.

10 A (Witness shakes head in the negative.)

11 Q Couldn't you?

12 A We didn't think so, no.

13 Q You could have taken the blame on yourself,
14 admitted what you did?

15 A (Witness nods head in the affirmative.)

16 Q And they'd never say a word about Elizabeth
17 Haysom?

18 A We didn't think so.

19 Q And my question is if you intended to
20 protect Elizabeth, why didn't you do it?

21 A I did do it. That's what I did, she didn't
22 go to the electric chair.

23 Q The October 5 statement, very early in the
24 statement itself, I think on Page 15, and in fact even
25 before that on Page 2, you're talking about the trip to

1 Washington, correct?

2 A In the middle of the page?

3 Q In the middle of the page

4 A On Page 17

5 Q Uh-huh

6 A This one's got something about yes I am
7 really pleased with that. I understand, Paul. Lucky. What
8 are you majoring in?

9 A Is this the one that starts with, we're
10 going to have to get it down and this is a whole lot
11 easier with Mr. Reitz?

12 Q Is that the June 5 interview? No, this is
13 the one that starts out, the following is a statement
14 taken from Jens Sperling on June 5, 1986.

15 A I thought you were talking about --

16 Q June 5, 1986?

17 A I thought you were talking about October 5.

18 I'm sorry. Right. That's correct. Yes.

19 A At that point you're talking about Elizabeth
20 staying in Washington and going to cinemas while you drove
21 on the rented car back to Washington.

22 A That's the only story we thought would be
23 believable. We didn't think it would be believable to say
24 that Elizabeth was completely involved for obvious
25 reasons.

1 Q And that's what I was getting to earlier,
2 that you realized that there was no way of providing a
3 statement that you went to Loose Chippings to do the
4 killings and Elizabeth stayed in Washington with no
5 involvement, knowing nothing about it?

6 A Right.

7 Q Because that would make so sense?

8 A That's correct, yes.

9 Q But you, Mr Soering, are now doing the same
10 thing. You are saying that Elizabeth Haysom went to Loose
11 Chippings and that you stayed in Washington and that you
12 knew nothing about it and you had no involvement, so
13 therefore your explanation makes no sense, correct?

14 A That is not true, no.

15 Q It is the same thing, only reversing roles.

16 A But there is a crucial difference. It was
17 completely unbelievable to me at that time, even if it had
18 occurred to me that Elizabeth might drive down to kill her
19 parents it was completely out of the question as far as I
20 was concerned.

21 Q But it's the same thing reversed, just
22 changing the names. It made no sense in instance A, but
23 you're saying it does make sense to these ladies and
24 gentlemen as it applies to you, with you as the alibi?

25 A Yes. And I will explain that if you want me

1 to

2 Q So on Page 2, you're talking about her
3 providing -- you begin talking about her providing the
4 alibi for the trip?

5 A That's right.

6 Q And you continue on, you provide a lot of
7 details as to what happened at Loose Chippings, even in
8 that first interview, don't you?

9 A That's right.

10 Q You state that you went down there on
11 Saturday evening, Page 7, correct?

12 A That's right, yes. I said that.

13 Q Page 8, you're talking about Derek Haydon
14 answering the door, correct?

15 A That's right.

16 Q You later down, three-quarters of the way
17 down you're talking about the gun that you shot, Shedle's
18 gun.

19 A I say that, yes.

20 Q Page 10 you're talking about they offered
21 you something to eat, correct?

22 A I said that, yes.

23 Q You said that it was leftovers, correct?

24 A That's right, yes.

25 Q And on Page 11 you're talking about you

1 sitting with your back to the window, looks down over
2 behind the house?

3 A That's right.

4 Q And that is this chair that we have been
5 talking about. This is not the best photograph, but
6 Commonwealth's Exhibit 109, this chair over here, setting
7 there, you would have had your back to the window?

8 A Yes.

9 Q Looking down. That chair right there. You
10 state there on that same page that Derek Haysom was
11 sitting at the head of the table?

12 A That's right, I said that, yes.

13 Q You know now from the analysis that has been
14 done that there at the head of the table, that wine glass
15 has Derek Haysom's fingerprints on it, don't you?

16 A Yes.

17 Q You state that Derek Haysom was eating ice
18 cream?

19 A That's right.

20 Q There is a bowl with a spoon in it sitting
21 there where you indicated at the time where Derek Haysom
22 was sitting.

23 A That's right, I said that.

24 Q You said that Nancy Haysom was sitting
25 directly across from you.

1 A I said that, yes.

2 Q You're aware now that through the analysis
3 done, that at that place setting where you said Nancy
4 Haysom was sitting, that her fingerprints were found on
5 the little sauce cup, and her fingerprints were found on
6 the plate?

7 A Yes. That's what I said in court.

8 Q You were telling on June 5, 1986 exactly
9 what happened, weren't you?

10 A No. I wasn't. Absolutely not.

11 Q It's just a coincidence that it developed
12 like that?

13 A Well of course not. Ellsworth told me many
14 details to make of what to say to make it match the scene
15 of the crime.

16 Q And you continued by stating -- well Page 11
17 of the statement where you're saying that Daryl was eating
18 ice cream?

19 A Yes.

20 Q And then you take a break. On Page 14,
21 you're talking about where the movies were, this is just
22 Page 14.

23 A Witness had read in the affirmative.

24 Q At top of the page you talk about the movie
25 Witness and the newly one Back to Back Horror Picture Show.

1 A Yes.

2 Q You don't mention Stranger in Paradise, you
3 remember that now, why didn't you then?

4 A (Witness shakes head in the negative.)
5 Heaven knows

6 Q Isn't it true, Mr. Soering, that you held
7 onto these things concerning the movies and going to buy
8 the tickets to the different movies because you were the
9 one who needed to remember about the movies, which ones,
10 where they were located?

11 A No.

12 Q And Elizabeth Haysom did not need that
13 information, because Elizabeth Haysom is the one who
14 actually went to the movies.

15 A That's not true, no.

16 Q But yet at that point in time now, better
17 than five years from the event you can remember Stranger
18 in Paradise, but on June 6, 1986, only a year later you
19 could not remember it?

20 A I didn't remember it in that interview,
21 correct

22 Q And at the bottom of that page you don't
23 even remember what street it's on, you talk about Michigan
24 Avenue?

25 A It was Wisconsin.

1 Q You remember Wisconsin today, but you in
2 1986 did not remember Wisconsin.

3 A I have seen the tickets.

4 Q And you have said the streets have got the
5 name of one of the states. Well almost all of the streets
6 up there have got names of states on them, haven't they?

7 A (Witness shrugs shoulders.)

8 Q You say that Elizabeth Layson, on Page 15
9 got to the movie by way of a taxi, top of the page?

10 A Yes.

11 Q And after saying all those things, Gardner
12 asked you, are you ready to proceed with what we were
13 talking about. You say no-sir. Well what is your
14 feelings. You say after all that I like to spot a bit
15 about Elizabeth's involvement.

16 A Could you point that out please?

17 Q Sure, the middle of the page, Page 15

18 A 15 Well that was my primary concern,
19 Elizabeth's involvement, yes.

20 Q Well sir, if you were trying to protect
21 Elizabeth, I can't understand why you want to talk about
22 her involvement rather than saying she didn't have
23 anything to do with it.

24 A That was the whole point of this discussion.
25 It was to make sure that the tickets placed Elizabeth at

1 Washington, D C., and not at the scene of the
2 crime.

3 Q Establishing an alibi?

4 A For herself, yes I wanted to make sure
5 that the police believed that she wasn't there.

6 Q But establishing an alibi for you to commit
7 the murder.

8 A That was the story we told them, yes

9 Q Then sir, this girl that you loved so much,
10 because Elizabeth Haysom hadn't even been interviewed on
11 June 5

12 A That's right.

13 Q This woman that you say that you love so
14 much, you were giving the police information to
15 incriminate her on two counts of first degree murder
16 carrying 20 years to life on each. Now is that love, Mr
17 Soering?

18 A That is correct. That was the only way I
19 thought we could keep her out of the electric chair.

20 Q Is that protecting her, Mr. Soering?

21 A That was the only believable thing to say.

22 Q You could have said that she had no
23 involvement.

24 A No, we couldn't have, because in that case
25 we would have to turn me in, obviously, if we said that.

1 that wouldn't be believable

2 Q But it is believable -- it's not believable
3 to say Elizabeth stayed in Washington with no involvement,
4 but it is believable Jens Soering stayed in Washington
5 with no involvement?

6 A Well, they were not my parents.

7 Q I see. You have wouldn't talk about that
8 knife in this interview, would you?

9 A That's correct. In any interview.

10 Q Why was that?

11 A I was worried about it for two reasons, the
12 first reason is that I didn't want to admit taking a knife
13 along, and the second reason is simply that we were
14 worried the police could tell precise things about the
15 size of the wounds, this turned out not to be true.

16 Q I am not asking you about describing the
17 knife. I'm asking you --

18 A Right.

19 Q I'm asking you about why you wouldn't say
20 where the knife came from. Isn't the reason you did not
21 want to admit something pertaining to premeditation?

22 A That's essentially correct, yes.

23 Q So you, Mr. Soering, in that regard, were
24 not protecting Elizabeth Haysom, you were protecting Jens
25 Soering.

1 A To whatever small extent I could. I had
2 already admitted to being to the house and everything
3 else --

4 Q To a small extent, there is a difference
5 between first and second degree murder, isn't it?

6 A Pardon?

7 Q You did know at that point the term
8 premeditation and its implications?

9 A That's right.

10 Q Even in the German interview you wouldn't
11 talk about it

12 A That's right.

13 Q But you make reference to a report by your
14 psychiatrist, Dr. Hamilton.

15 A That's right.

16 Q Did you tell Dr. Hamilton where you got the
17 knife?

18 A I can't remember. I assume so

19 Q You assume so?

20 A I assume I told him something about it, yes

21 Q To refresh your memory, on page, I think
22 it's Page 6 of the report, I'd ask you to read it to
23 yourself

24 A Right.

25 Q The paragraph that is designated there you

1 state there where you got the knife, don't you, or that
2 you took the knife with you?

3 A (Pause for perusal.) That's what it says
4 here, yes.

5 Q My question to you is you told Dr. Hamilton
6 that you bought the knife and took it with you to loose
7 shippings?

8 A Sure, sure.

9 Q And why was that that you told him and would
10 not tell the police officers?

11 A I'm sure there is no particular rational
12 explanation for it, I just simply didn't want to discuss
13 the knife with the police, because I thought it had
14 something to do with premeditation.

15 Q Sir, wasn't that the same reason that you
16 followed through with the German interview?

17 A Uh-huh.

18 Q You have admitted that your defense attorney
19 said let's put things on Elizabeth, right? And I can
20 refer you to the German interview.

21 A Yes, they said to emphasize the role of
22 alcohol and the role of Elizabeth.

23 Q Elizabeth. Again, the alcohol, try to make
24 it look like you had been drinking and so forth?

25 A (Witness nods head in the affirmative)

1 Q Diminish your role?

2 A (Witness shrugs shoulders.)

3 Q And Elizabeth's involvement, play that too?

4 A Well --

5 Q You're doing the same thing now, aren't you?

6 A Pardon?

7 Q And Mr. Soering, wasn't it your intent, and
8 your approach through the extradition proceedings to avoid
9 coming to the United States by saying you killed Derek and
10 Nancy Haysom, but you did so under the influence, or under
11 the manipulation of Elizabeth Haysom?

12 A That's correct, that was part of the
13 extradition proceeding.

14 Q Those extradition proceedings that went on
15 until January of this year, 1990?

16 A Yes.

17 Q So during that entire period of time, from
18 June of 1986 until January of 1990, you were maintaining
19 in the extradition proceedings that you killed Derek and
20 Nancy Haysom but you did so under the manipulateness of
21 Elizabeth.

22 MR. NEATON I am going to object to
23 the question because that's not true

24 MR. UPDIKE It certainly is.

25 MR. NEATON There were statements

1 the attorneys in the extradition proceeding
2 that the evidence would establish based on
3 the evidence --

4 MR. JUDGE: Your Honor, he is
5 testifying that I am direct examining the
6 witness.

7 MR. NEATON: He is assuming that.

8 MR. JUDGE: I just asked a question
9 and this is not proper. Your Honor.

10 MR. NEATON: Yes, he did not make a
11 statement in those extradition proceedings
12 and he is lying --

13 MR. JUDGE: I never said anything
14 about a statement. Your Honor, and he is
15 talking in front of the jury improperly.

16 MR. NEATON: He is talking improperly in
17 front of the jury.

18 THE COURT: The objection is overruled,
19 you may clear anything you were to clear up
20 on redirect. The Commonwealth may
21 proceed.

22 THE WITNESS: My lawyers argued that

23 BY MR. JUDGE: (Continued)

24 I was asking what your position was that

1 was your position, on your behalf.

2 A It was the only way I could get to Germany,
3 yes, I had to maintain that I was the one who killed
4 them, and I had to stick with the emphasizing of
5 Elizabeth's role

6 Q And that did not work, obviously, you are
7 here in Bedford.

8 A That's right, yes

9 Q So once you get back to Bedford in front of
10 a jury here, then you change your theory of the case, and
11 you say, no, I did not go to Loose Chippings and kill
12 Derek and Nancy Haysom, rather Elizabeth Haysom did,
13 that's what you've done, isn't it?

14 A I told my lawyers that last year

15 Q I'm asking what you testified to.

16 A Right, yes, that's what I am saying here
17 today.

18 Q You changed your position as of January,
19 1990.

20 A I changed my position early in 1989, if
21 that's what you're saying.

22 Q Once your position at that time did not get
23 you to Germany

24 MR NEATON: I am going to object.

25 Again we're getting into areas A, that are

1 collateral, because they involve legal
2 positions taken by attorneys in Europe on
3 behalf of this individual. Judge, in
4 extradition proceedings, secondly they
5 involve extradition proceedings that were
6 based on all of the indictments which were
7 then in effect and thirdly, Judge we are
8 getting into the area of discussions that
9 this client of mine may have had with me
10 over the time and have nothing to do with
11 first off, which are privileged and
12 secondly, have nothing to do with any legal
13 positions maintained in Europe to contest
14 extradition out to the country here, to
15 this country to face trial right here. And
16 this is a collateral matter, he is getting
17 into areas where attorneys were making legal
18 arguments in a court of law in Europe on
19 behalf of this client, they were not
20 statements of this client, and he cannot be
21 impeached with a legal argument made by
22 lawyers on his behalf.

23 MR. UPDIKE: Your Honor I didn't ask
24 anything about the law, I asked him about
25 the position that he made public in the

1 courts, and the position that he was taking
2 through the extradition proceedings, which
3 he's admitted, and that was that he killed
4 Derek and Nancy Haysom. That is most
5 certainly not an issue collateral to what's
6 being decided here today, that is the
7 ultimate issue, he has reversed that
8 position and I've asked him about it

9 MR. NEATON: Judge, I was involved in
10 that extradition proceeding, I know what the
11 legal position was.

12 MR. UPDIKE: I was involved in it on
13 this end as well, and I know what was
14 involved.

15 MR. NEATON. I know what I said on
16 behalf, and what the English barrister said
17 on behalf of that client in legal briefs
18 and they were not the statement of this
19 client

20 MR. UPDIKE: I know what was said
21 there. Your Honor.

22 THE COURT: All right, that's enough
23 Thank you. First, Mr. Neaton, you have
24 raised some collateral matters yourself
25 along the way, things that were objected to

1 They were objected to by Mr. Updike as being
2 collateral. So I think both sides have
3 raised some collateral issues. But the
4 question which was directed to the witness
5 may be asked and may be answered. It seems
6 to me that the objection to the question is
7 overbroad. Now restate the question.

8 MR. UPDIKE: Your Honor, I thought
9 that --

10 THE COURT: Or let the Court reporter
11 read it back.

12 BY MR. UPDIKE: (continuing)

13 Q I think that you have answered the question.
14 I haven't you, during the extradition proceedings during
15 1989 you maintained the position that you killed Nancy and
16 Derek Haysom and did so under the manipulative behavior of
17 Elizabeth Haysom?

18 A That was the only way to get back to
19 Germany. If I had told the truth at that point the legal
20 result of telling the truth at that point would have been
21 immediate extradition to America. That's all the
22 extradition documents from all these courts over there.
23 If I told the truth straight back to America on capital
24 murder charges and that I was or did or.

1 Q My next question, though, is help me
2 understand this. It seems to me, and explain this for me,
3 that a man who believes he's innocent doesn't want to
4 stand trial anywhere, Virginia, Germany, England, anywhere
5 else?

6 A I was willing to stand trial in Germany.

7 Q But you wanted to be tried in Germany?

8 A That's right, yes.

9 Q Because you did in fact commit these crimes
10 and you thought that you would get this juvenile treatment
11 that you've described and only get five years?

12 A No, that's not true.

13 Q Didn't you earlier state that you would have
14 been treated as a juvenile in Germany?

15 A That's what I believed it would amount to,

16 yes.

17 Q And that you would only get five years.

18 A That's what I understood, yes.

19 Q And you wanted to go to Germany to be tried

20 A That's right.

21 Q Thank you. Now, sir, as the interviews
22 continue in England, you admit in even -- let me ask you
23 about this. The June 6 interview, Page 9, the bottom of
24 Page 9 to the top of Page 10, in response to a question
25 asked you by Detective Sergeant Beever, you state that on

1 the weekend of March 29 through Sunday the 31st, Elizabeth
2 Haysom was not involved with drugs

3 A That's what I told them, yes

4 Q Now you're telling these ladies and
5 gentlemen something entirely different

6 A Yes, I'm saying Elizabeth told me on that
7 weekend that she was still involved with drugs, yes.

8 Q Why couldn't you have stated that in England
9 if it were true?

10 A Presumably under some sort of effort, again
11 to keep any sort of suspicion as far away as possible,
12 away from her as possible

13 Q Hasn't Elizabeth Haysom continually even in
14 this courtroom admitted her involvement in drugs and what
15 she's done?

16 A That's right she's admitting it now, yes.

17 Q Isn't it true that you understood that that
18 weekend she was not on drugs and that why you said that
19 June 6, 1986, she wasn't on drugs that weekend, because
20 that's what you thought was the truth.

21 A What, in England?

22 Q Yes

23 A I have no idea whether or not she was on
24 drugs She told me she was buying drugs

25 Q But my question was there was no point to

1 lie about that one way or another. You told June 6th what
2 you understood to be the truth, what was the truth, and
3 that was that she wasn't on drugs that weekend.

4 A The truth is that that she told me she was
5 dealing in drugs on that weekend.

6 Q But you didn't say that June 6th.

7 A No. I was trying to make them believe I was
8 the one who drove down to Lynchburg, and that Elizabeth
9 had nothing to do with the physical commission of the
10 crime.

11 Q Now on Page 11 of that June 6 statement,
12 don't you see on page 11 that
13 weekend discuss her going to those movies and purchasing
14 two tickets, and we did discuss on that weekend murder,
15 yes. You just want to leave it at murder? Uh-huh, yes, I
16 think that would be the best thing for me to do.

17 A Right.

18 Q So you're saying there that you did in fact
19 discuss that weekend, her going to movies and you
20 committing murder?

21 A We thought that was the only believable
22 thing. We thought that in our story she would have to be
23 involved. We didn't think the police would believe us if
24 I claimed that I did this without her involvement, because
25 if that had happened, we would claim that, they wouldn't

1 believe us.

2 Q On that same page, you're concerned again
3 about premeditation, aren't you? You're talking about
4 premeditation?

5 A Yes, that's what I said.

6 Q Those are your words, aren't they?

7 A Yes.

8 Q All right, now the next day June 7 did you
9 read the 'torn up letter' that begins Dear Nettie?

10 A Right.

11 Q You admit as you read that, beginning at
12 Page 18 and 19, that you know that you're not going to
13 Germany.

14 A That's what I told them, ye

15 Q Then how could you be saying that I am
16 saying things at this point to go to Germany and also
17 saying I'm not going to Germany, right? You knew that you
18 weren't going to Germany?

19 A No, that's what I told the police.

20 Q Yes.

21 A Yes, that is what I told to the police,
22 sure.

23 Q Are you saying that you told the police that
24 you felt that you could not be tried in Germany, and you
25 thought otherwise?

1 A Well, the note of June 5th ~~2000~~ that I
2 thought I couldn't be tried in the United States and that
3 I would be tried in Germany, that's what the note says.

4 Q Right. And then when you read that, you say
5 that that's wrong?

6 A That's what I said to the police, yes.

7 Q Again, Page 18 and 19, you're asked the
8 question, that's what you're referring to earlier when you
9 mentioned this to Sergeant Beever, that you would like to
10 be tried in Germany? And you said, yes, well I mean I
11 don't see that happening now.

12 A I don't see it, but if you say I said it,
13 yes.

14 Q The bottom of Page 18, this is the June 7th
15 interview.

16 A Um, Page 18?

17 Q Uh-huh. Continuing over to the top of page
18 19.

19 A June 7.

20 Q Yes.

21 A I'm sorry. Um, I can't find it, I'm sorry,
22 bottom of Page 18, mine says Gardner, okay, you
23 definitively feel like you're going to trial somewhere.

24 Q Yes, then over to the top of Page 19. I
25 think you're quite right, Mr. Soering, this was an earlier

1 run or this, let me give you another one right quick. I
2 think this one will be better.

3 A Right, yes.

4 Q And you say that, right?

5 A It looks to me like I'm pumping him for
6 information, but that --

7 Q Was that my question, Mr. Soering, didn't I
8 just ask you if you said that?

9 A Yes, I did say that.

10 Q Then on Page 31 you start reading that Dear
11 Sweetie letter, Page 31.

12 A Right. Dear Sweetie, right.

13 Q All right, sir, I am going to skip the rest
14 of that.

15 THE COURT: Excuse me just a minute.
16 In view of the courtroom temperature, I am
17 going to call an early halt to today's
18 proceedings, it's just getting unbearable in
19 here.

20 MR. UPDIKE: I would appreciate it.

21 THE COURT: And I'm going to do
22 everything I can do to try to get the
23 temperature right in this courtroom
24 tomorrow. And this -- I'm going to put
25 the attorneys, the witnesses, the jurors,

1 the spectators or myself in any more of
2 this discomfort. So if you have a good
3 stopping place, if you wish to ask one or
4 two more questions, fine, but I'd like to
5 stop and come back tomorrow.

6 MR. UPDIKE: Your Honor, I do not have
7 a lot more questions. I do have a few,
8 I am at a good stopping point. Under the
9 circumstances, if we could stop now I would
10 appreciate it, I'm at a good stopping point

11 THE COURT: All right, we're going to
12 stop and come back at 9:30 tomorrow
13 morning, let's recess.

14 (Whereupon court was recessed until
15 9:30 a.m. on June 19, 1990.)
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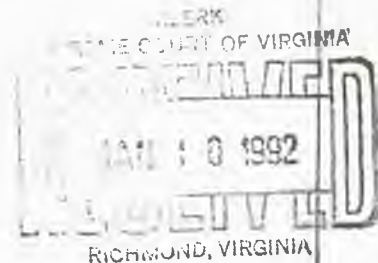
1 VIRGINIA:

2 IN THE CIRCUIT COURT FOR THE COUNTY OF BEDFORD

3
4 COMMONWEALTH OF VIRGINIA]

5 V.]

6 JENS SOERING]



7
8
9 **TRANSCRIPT OF PROCEEDINGS**

10 June 19, 1990
11

12 -----
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1 JUNE 19, 1990

P R O C E E D I N G S

9:30 A.M.

2
3 NEATON: Your Honor, I have a matter to
4 bring up outside the presence of the jury.

5 THE COURT: All right, sir.

6 MR. NEATON: Your Honor, the defense
7 would move for a mistrial based on the line
8 of questioning yesterday that you allowed
9 the prosecutor to go into on cross
10 examination concerning the extradition
11 proceedings that occurred after the German
12 statement that was made. Those extradition
13 proceedings, A, did not contain any
14 statements made by my client, and hence had
15 no relevance or materiality to the issue at
16 hand. B, those extradition proceedings were
17 used by the Commonwealth to create in the
18 mind of the jury the impression that the
19 defendant had an obligation to come forth
20 during the extradition proceeding and
21 contest his innocence, or protest his
22 innocence, which he did not have to do.

23 Guilt or innocence in an extradition
24 proceeding has nothing to do with whether an
25 offense is extraditable, or it has nothing .

1 to do with the position that we were taking,
2 and that is that extradition of the
3 defendant to the United States to face
4 capital murder charges in Virginia would
5 violate the treaty between the United States
6 and the United Kingdom, and it had nothing
7 to do with my client's rights as a citizen
8 of Europe, as a citizen of West Germany,
9 who is a signatory to the European
10 Convention of Human Rights, along with the
11 United Kingdom to assert his rights under
12 that treaty and assert that extradition of
13 him to the United States would violate those
14 rights.

15 The prosecutor has sat through this
16 case and implied by questioning that because
17 my client did not protest his innocence
18 during that proceeding, that he had a duty
19 to do so, which he did not have a duty to do
20 anything in regards to that. That has
21 created in the mind of the jury that somehow
22 now we are running a position that is -- we
23 are running a defense that is inconsistent
24 with what we argued before the European
25 Court of Human Rights and what we argued

1 before the House of Lords in England, which
2 is not true.

3 He has created in the minds of
4 the jury that the defendant had some duty to
5 come forward with the evidence of the
6 tickets, and the testimony was clear that my
7 client did not even know the tickets
8 existed until June of 1989, and at that
9 point in time, all proceedings on the
10 extradition had ended, and we were just
11 waiting for a decision.

12 It is my position that an instruction
13 by the Court to the jury to either strike
14 the testimony and disregard it, or an
15 instruction to the jury that my client had a
16 right not to say anything, had a right not
17 to make these arguments before the European
18 Court and before the house of Lords in
19 England would not cure the prejudice
20 that has resulted by allowing that testimony
21 in. Again, I emphasize, it has no relevance
22 or materiality to the case at hand, and I
23 suggest it was deliberately injected by the
24 Commonwealth into this case in order to
25 prejudice the jury, and as such is

1 deliberate error on the part of the
2 Commonwealth.

3 And I also suggest to the Court that
4 it was error by the Court to allow that line
5 of cross examination when my client did not
6 make a statement, and therefore, could have
7 no impeachment value, and had no relevance
8 on impeachment of my client before this jury
9 by any sort of inconsistent statement that
10 he may have made. And therefore, I'd ask
11 that you grant the motion for mistrial.

12 MR. UPDIKE: I can't believe it Your
13 Honor, I honestly cannot believe this. Mr.
14 Neaton is standing up here before this Court
15 as an officer of the Court saying that they
16 did not maintain in Europe throughout the
17 felay adeur defense, as advanced by Dr.
18 Hamilton to which the defendant referred in
19 the German statement, and which I asked the
20 defendant about, and I asked the defendant
21 not about the extradition proceedings, or
22 the outcome of them, or any ruling of the
23 Court. I asked him what his position was,
24 His position as far a what happened. And
25 Your Honor, he maintained the position

1 throughout, I have not the documents from
2 the Court itself, and his position was that
3 he killed Derek and Nancy Haysom, and he
4 admitted that, and that he did so under the
5 manipulativeness of Elizabeth Haysom. The
6 filet aueur defense. And that's what they
7 advanced, and that s what the defendand's
8 defense was, and that's what the defendant's
9 personal position was.

10 And I was was allowed to ask him that,
11 Your Honor, how in the world can an
12 individual take one position in an earlier
13 part of the legal proceeding, and then later
14 come back and and take an entirely opposite
15 position, saying that he wasn't even at the
16 residence, and that not be asked of him on
17 cross examination? That goes to the
18 ultimate issue, whether or not he killed
19 Derek and Nancy Haysom. Earlier, he's
20 maintained that he did, now he s
21 maintaining that he did not.

22 Your Honor, did crossing the ocean
23 suddenly cause this sudden change in
24 position? He is taking inconsistent
25 positions, his attorneys have taken

1 inconsistent positions, and I feel, Your
2 Honor, that that's improper; that you cannot
3 take a position earlier in a legal
4 proceeding, and then later take one that is
5 entirely different. That to me is barred by
6 the code of ethics.

7 In addition, Your Honor, it was proper
8 cross examination, it was a proper matter to
9 go into, and finally, even if I were
10 entirely wrong, which I was not, making a
11 motion for a mistrial at this point the next
12 day is entirely too late. So Your Honor, we
13 would ask that this motion be denied, it's
14 not proper and it's not honest, and we'd ask
15 it be denied.

16 MR. NEATON: I find it amazing that Mr.
17 Updike talks about honesty when two and a
18 half years ago in this courtroom he called
19 Elizabeth Haysom a consummate liar, called
20 her unworthy of belief, called her
21 deceptive, and then puts her on the stand --

22 MR. UPDIKE: What has that got to do
23 this this motion, Your Honor?

24 THE COURT: Let him finish.

25 MR. UPDIKE: All right, sir, but Your

1 Honor, I'd just ask, aren't we arguing the
2 matter of the European hearing?

3 THE COURT: Yes, but the jury is not in
4 here.

5 MR. UPDIKE: All right, sir, excuse me.

6 MR. NEATON: Yes. I find that amazing,
7 because if anybody's taken an inconsistent
8 position in this case, it's been the
9 Commonwealth. Let me explain my position
10 again. This was all in reference to the
11 tickets, that Mr. Updike was implying that
12 somehow during the extradition proceeding,
13 that my client had a duty to come forward
14 with the tickets to Mr. Updike during this
15 extradition proceeding, and somehow, because
16 his attorneys, because my client's attorneys
17 argued the position in extradition which had
18 nothing to do with the guilt or innocence of
19 my client, but which had to do with the
20 evidence as was presented in the extradition
21 papers, and an argument that was presented
22 in England on the issue of whether capital
23 murder was an extraditable offense, given
24 the fact that as they knew it then in 1986,
25 my client's mental position was a certain .

1 mental condition, that is the folit adeu
2 that Mr. Updike refers to, that had nothing
3 to do with the guilt or innocence of my -
4 client at this particular stage of the
5 proceedings. It has nothing to do with an
6 inconsistent statement that my client made,
7 because my client did not make those
8 statements to the Court, they were legal
9 arguments on a narrow legal issue of whether
10 my client should be extadited on
11 manslaughter or whether he should be
12 extradited on capital murder.

13 And what Mr. Updike has done is
14 deliberately misrepresented that position to
15 the jury, he has implied to the jury that my
16 client had a duty to come forward with the
17 tickets two years before he knew that they
18 were even in his father's possession, or in
19 my possession, that my client had some duty
20 to speak at that time, which he did not
21 have, and that my client had some sort of
22 duty not to -- that his attorneys in England
23 somehow speak for him when he comes to this
24 Court and testifies.

25 Now Mr. Updike is perfectly able to

1 impeach my client with any inconsistencies
2 in the June '86 statement, and in the
3 December '86 statements which are in
4 evidence before the jury. And he has done
5 that in this case, but to imply to the jury
6 somehow that my client or this defense is
7 acting improperly, I find to be totally
8 wrong, and to put that before the jury, I
9 think is prejudicial error, and a mistrial
10 should be granted.

11 THE COURT: Well Number one, I think
12 the Commonwealth is correct that the motion
13 for mistrial comes too late. Under Virginia
14 law, a motion for mistrial must be made at
15 the time the error, if any occurred. You
16 have not done that, and I'm satisfied that
17 you're wrong on that. However, I'm not
18 satisfied that you're entirely wrong about
19 the line of questioning, dealing with the
20 extradition proceedings.

21 It's my recollection that I ruled
22 yesterday in your favor on a point to the
23 effect that your client had no duty to come
24 forward and make any statements during the
25 extradition proceeding. I recall that I

1 made a ruling to that effect. And my
2 problem with some of your objections, Mr.
3 Neaton, and this is true all through the
4 case is that your objections seem overbroad.
5 It's hard to rule on very broad issues. I
6 can rule on specific matters that occurred
7 yesterday, but I can't rule on broad,
8 general issues.

9 Now it is my feeling in this particular
10 matter that number one, the Court will deny
11 your motion for a mistrial, but the Court
12 will restate the ruling that it made in
13 effect yesterday, which is that I will tell
14 the jury that during extradition
15 proceedings, the defendant had no duty to
16 come forward with tickets or other evidence
17 to prove his innocence or to volunteer any
18 statements. Now I did not say that exactly
19 yesterday, but I did rule that he had no
20 duty to come forward and make any
21 statements. I am going to tell the jury
22 that, I am going to instruct the jury of
23 that, but I am denying the motion for
24 mistrial for reasons stated.

25 MR. UPDIKE: Your Honor, could we ask .

1 that it be clear, though, a defendant has no
2 duty to produce anything, just as he has no
3 duty to say anything. But if a defendant
4 does say something, then the prosecution in
5 any state, or even federal court is allowed
6 it ask, well you took this position, why are
7 you taking a different one now, that's my
8 point, not that that he was bound to produce
9 anything, but that if he takes a position
10 and takes a later position that's
11 inconsistent, or if he produces -- he
12 maintains that he wasn't even there, and now
13 produces documents to the effect that he
14 wasn't, then that's proper to ask him, well
15 you didn't have to say anything before, but
16 since you did, why is that position
17 different than that now. And that was the
18 only thing we were saying yesterday, and we
19 still maintain that.

20 THE COURT: Well, your questioning was
21 somewhat broader than that, Mr. Updike.
22 Some of the questions which you asked
23 yesterday would at least imply that the
24 defendant had some duty during extradition
25 proceedings to come forward and volunteer

1 certain statements. Now I think that's the
2 gist of the objection here. And I do recall
3 yesterday when Mr. Neaton made a three-part
4 objection, that I said that certainly you're
5 correct is as to your first argument, which
6 I recall was A, that the defendant had no
7 duty to say anything. And I said certainly
8 you're correct about that. Basically, I see
9 this as the same type ruling. I'm going
10 a bit further here, but I don't think the
11 defendant had any duty to come forward and
12 produce evidence, or to volunteer any
13 statements during the extradition hearing.
14 And that's my ruling, and that's what I
15 intend to tell the jury.

16 MR. NEATON: Judge, I would ask
17 that a part of the cautionary instruction to
18 the jury on the extradition, that you also
19 instruct the jury that they are to draw no
20 adverse inference from the fact that the
21 defendant did not come forward with any
22 evidence during the extradition proceeding,
23 and exercise his rights that he had at that
24 time.

25 MR. UPDIKE: Your Honor, that's what

1 we're saying, that's going too far.

2 THE COURT: Well, if I tell them that
3 he had no duty to come forward with such
4 evidence, it seems to me that it goes
5 without saying that the fact finder would
6 have no right to draw any inferences from
7 those facts. I think if I said that, Mr.
8 Neaton, I would be arguing the case for the
9 defendant and I don't want to do that. No,
10 I think this is as far as I should go,
11 it's as far as I want to go, and that's my
12 ruling. All right, any other matters to
13 take up out of the presence of the jury?

14 MR. NEATON: No, Your Honor.

15 THE COURT: Mr. Updike?

16 MR. UPDIKE: No, sir.

17 THE COURT: Thank you. Bring the jury
18 in, Lieutenant Goode.

19 THE COURT: Good morning, members of
20 the jury. Members of the jury, I wish to
21 make a statement to you concerning evidence
22 put on yesterday. At times the Court
23 instructs the jury during the trial as to
24 evidentiary matters. At the conclusion of
25 the trial I will give you written

1 instructions which I will also read to you
2 which represent the law in the case. But
3 occasionally throughout the trial there are
4 certain guidelines, and admonitions and
5 warnings which the Court is required to give
6 you, and you are required to follow those
7 warnings and admonitions as they affect
8 the evidence in the case.

9 There was a line of questions yesterday
10 by the Commonwealth attorney dealing with
11 certain duties on the part of the defendant
12 during the extradition proceedings. Today I
13 instruct you as follows: During extradition
14 proceedings, the defendant Mr. Soering had
15 no duty to come forward with evidence to
16 prove his innocence, or to volunteer any
17 statements, that's the law. Can you all
18 follow that?

19 Let's the record show that all jurors
20 indicated that they could, and that they
21 could consider the case striking that
22 particular portion of the evidence, and
23 deciding the case on the basis of evidence
24 which I have declared is admissible
25 evidence.

1 All right, the witness may come back to
2 the stand, and the cross examination of the
3 witness will continue.

4 (Whereupon the direct examination of
5 Mr. Soering by Mr. Updike continued as
6 follows:)

7
8 BY MR. UPDIKE: (continuing)

9 Q Mr. Soering, those statements are still
10 there, I'd like to ask you about a couple of them quickly,
11 for example, the October, 1985 statement, October 16, Page
12 14 of that statement? October 6?

13 A 14, right.

14 Q And sir, halfway down the page there, with
15 reference to a question concerning Friday afternoon?

16 A Uh-huh.

17 Q Don't you state, no, no, we did the drive on
18 the Skyline thing, we did that on Friday afternoon
19 sometime.

20 A (Witness nods head in the affirmative.)

21 Q We may have gone shopping before, I, you
22 know, I just don't remember what we did.

23 A (Witness nods head in the affirmative.)

24 Q You stated that?

25 A I said that, yes.

1 Q And as that same paragraph continues, don't
2 remember what we did, and then from the Skyline Drive, we
3 got back onto 29 and went to Washington and checked in on
4 Friday night and spent the night there on Friday, spent
5 Saturday in Washington and spent Saturday night there, and
6 then we left Sunday morning, and we overslept because we
7 didn't have an alarm clock with us, so we checked out just
8 before check-out time. That's why we were really, you
9 know, that's why we were so rushed getting back to get the
10 car back.

11 A (Witness nods head in the affirmative.)

12 Q Reid asked the question, you stated that, is
13 that correct?

14 A Yes, I did.

15 Q But at that time, you're stating that you do
16 not remember what happened on Friday night, correct?

17 A That's what I say here, yes, sir.

18 Q On Page 23 with reference to Saturday night,
19 the bottom of Page 23, and then in the evening we got back
20 to the hotel and we got out to do something else, I forgot
21 what we did, we went out again that evening, we drove
22 somewhere then, you're stating there in October of '85
23 that you don't remember what you did Saturday, correct?

24 A That's what I said then, yes.

25 Q Now on that same page --

1 A Is this Page 24?

2 Q 23.

3 A Oh.

4 Q As to earlier on Saturday, at the top of --
5 or excuse me, let me make sure. This is again at the top
6 of the page with reference to Friday evening?

7 A (Witness nods head in the affirmative.)

8 Q Were you stating we drove back up to
9 Charlottesville, took 29 to Washington and checked into a
10 hotel, then we went, then we went out for the evening,
11 okay? I think we went to the movies or something, I don't
12 remember. Somewhere along the weekend we saw Witness,
13 okay? Do you state that?

14 A Yes.

15 Q So there you're saying somewhere along the
16 weekend you saw the movie Witness?

17 A Yes.

18 Q And during this testimony, during this trial
19 you remember precisely when you saw it, or when the movie
20 witness was seen.

21 A That's correct, yes.

22 Q The original handwritten notes concerning
23 the events of that weekend, do you know where they are at
24 this time?

25 A I thought they were already in evidence, I .

1 don't know.

2 Q As I understood, Mr. Soering, just the
3 tickets were introduced.

4 A Right.

5 Q And I'm just asking, do you know where the
6 original of the handwritten portion is?

7 A No, I don't.

8 Q I understood you to say yesterday that
9 something was lost or gone, this is not what you were
10 talking about?

11 A That's correct, yes. Elizabeth and I, when
12 we discussed what we would tell the police on the early
13 hours of Sunday morning, we made handwritten notes. And
14 when our lawyers told me they had handwritten notes,
15 that's what they had. I'm not sure I have ever seen that
16 before.

17 Q But this is not what you're talking about?

18 A No. I don't think I was there when it was
19 written, actually, I don't remember it.

20 Q Now as to the period between when you were
21 arrested in England and the first part of June, 1986,
22 April 30 through 1986?

23 A Yes.

24 Q You wrote some letters to Elizabeth during
25 that time?

1 A Yes, sir.

2 Q You also wrote what we have been describing
3 as a gray notebook, Commonwealth's Exhibit 350.

4 A Uh-huh.

5 Q Now sir, is that letter in that notebook
6 written to someone called Neal Woodall, is that the person
7 to whom you wrote it?

8 A That's the form it took, but it was really a
9 letter to myself.

10 Q A letter to yourself?

11 A But it was in the form of a letter to
12 someone else, that's the way I put it.

13 Q Because as I'm finding it, I think the first
14 paragraph says something to the effect, I'm writing to
15 you, but really writing for myself, something like that?

16 A That's right, that's what I said there, yes.

17 Q I'm going from memory, as I indicated. Sir,
18 at the time that you wrote this letter, first of all, this
19 was May 18 and 19, 1986?

20 A Yes.

21 Q Your feelings concerning Elizabeth had
22 changed considerably, hadn't they?

23 A Yes, I felt our love was -- or my love for
24 her was maturing, and becoming more mature love and less
25 need.

1 Q Less need?

2 A That's right.

3 Q You describe in there that earlier you had
4 needed to be the center of Elizabeth's life, is that
5 correct?

6 A Yes. It was a mutual dependence, I think is
7 the way I put it.

8 Q And in fact on Page 2, the last part of the
9 first paragraph, with reference to that kind of need
10 you're stating, aren't you, I needed it because I lived in
11 fear of losing the smothering love I had always realized
12 from my mother, who had made me the center of her life
13 ahead of herself, as Elizabeth and I had done for each
14 other.

15 A Correct. But actually, the beginning of
16 this sentence says, perhaps Elizabeth needed this love
17 because she was never loved. So it was a mutual thing.

18 Q Okay. But my point is, you, as well as
19 Elizabeth, you needed to be the center of her life?

20 A Both of us entirely, yes.

21 Q But as of May 18, 1986 that had changed?

22 A Yes, I felt that I was maturing in that
23 sense. Or I hoped I was. I was wrong about that, but --

24 Q And further in the letter, it's actually in
25 the letter to Elizabeth, but you begin this letter with

1 that first paragraph that I just referred you to by
2 stating this, don't you: I am writing to you because I
3 think best with pen in hand?

4 A (Witness nods head in the affirmative.)

5 Q Ideas become real in quotes, in a manner of
6 speaking. On paper they can be grasped and examined, in
7 my head they slip away. It should already be obvious from
8 the above that I'm writing to, underlined, I'm writing to
9 you, but for, underlined, myself. I'm writing to you, but
10 for myself.

11 A That's correct.

12 Q I have not forgotten the rule, in quotes,
13 of who must come first in my life, myself?

14 A That's correct, yes. I felt I had to be an
15 independent person before I could have some kind of mature
16 love for Elizabeth.

17 Q But two weeks, you were interviewed June 5,
18 6, 7 and 8, this is the 18th of May that you're writing
19 this, you are stating that the person who comes first in
20 your life is yourself?

21 A Because I could only love Elizabeth if I'm
22 an independent person.

23 Q Yes, but you're stating the person who comes
24 first in your life is yourself?

25 A Yes, as far as loving is concerned, it's

1 necessary.

2 Q Is yourself, correct?

3 A Yes.

4 Q And you even on Page 4, make the reference
5 to J.R. Ewing, don't you?

6 A Well, I probably stated that.

7 Q And J.R. Ewing.

8 A That is correct.

9 Q I am what I am, Popeye the Sailor Man, as
10 you said stated it as, quote, I am what I am and that's
11 what I am. J.R. Ewing of Dallas would say, I, J.R. am
12 number one in my life, I come first.

13 A Right.

14 Q I know this is J.R. Ewing and Popeye the
15 Sailor Man, but that you were still expressing that theme,
16 that you come first in your life, not Elizabeth.

17 A If it was a love that had matured, yes. I
18 wish I had followed that advice, too, much later.

19 Q And that theme of you coming first in your
20 life, you continue in this letter of even discussing the
21 Darwinian theory, don't you, the rule of survival of the
22 fittest?

23 A I was talking about mother-son
24 relationships, yes.

25 Q Mother-son relationships.

1 A And needing love as opposed to mature love.

2 Q But in this case, you're stating, and you're
3 describing one of the greatest loves in our existence,
4 aren't you, the love that a mother has for a child,
5 wouldn't you agree?

6 A Yes.

7 Q Now I don't want to take this out of
8 context, Mr. Soering, so if on Page 5, you would just read
9 it, beginning, this discussion of the Darwinian theory,
10 and a mother's love for a child.

11 A Only one person ever loved me 100 percent,
12 as a new born baby. Okay, do you want me to give me a
13 background of what this is all about?

14 Q What I am asking, would you just read this,
15 onto the next page?

16 A Some might say it is naturally implied that
17 mothers should love their children a hundred percent, too.
18 After all, one reads of heroic mothers pulling burning
19 refrigerators off their children and die in the process.
20 Surely such total and pure love is wonderful and should be
21 a model for all of us. Not only does the practical
22 experience in my family revert otherwise, but Darwinian
23 theory suggests that such behavior is actually, quote,
24 unnatural, unquote, in the sense that it is against the
25 survival of the species. When a baby is born, it is

1 completely 100 percent dependent on its mother for
2 protection. Whether such dependence is love is something
3 I will take up later. That was main theme, the opposition
4 between dependence and love. As a child grows, it is to
5 the child's own advantage to become as independent of its
6 parents as soon as possible, so it can survive and
7 perpetuate the species if the parents die. To be
8 independent, to be self sufficient, to defend oneself
9 means to know that there is a self that is separate from a
10 mother's.

11 In other words, the concept of separateness
12 is natural for a child in the sense that it helps the
13 child, and therefore the species to survive. But children
14 are actually selfish, doubters will argue. It is really
15 the more mature selfless 100 percent love of the mother
16 for the child that we should admire. And is it not good
17 for the species, and therefore natural for the mother to
18 defend its child. Do you want me to keep going?

19 Q Please.

20 A The answer to that question, is no. To a
21 point, it is, of course, to the mother's and the species'
22 advantage to defend its young. However, if the mother's
23 life is threatened, it is to the mother of a species'
24 advantage for the mother to protect herself first.

25 Natural selection would ensure that the genes of mothers

1 who perserve their own lives to breed again and would
2 survive, while mothers who throw their lives away for
3 something which nature has slim chances for growing, and
4 can be replaced in nine months anyway would die before the
5 genes are passed on.

6 Q Thank you.

7 A That's great. This is straight Darwinian
8 theory, I mean you may not agree with it, but it's
9 straight out of science textbooks.

10 Q Okay, sir. But what you're writing there,
11 it's concerning that type of love that a mother has as
12 opposed to protecting her child should protect herself,
13 she should be number one in her life, because if something
14 happens to the child, she can have another one in nine
15 months anyway?

16 A Up to a point, yes. But that's straight
17 Darwinian theory.

18 Q And I understand that, okay, sir? But
19 that's what you're discussing, well that's what you're
20 writing May 18 and 19?

21 A Yes.

22 Q Now then in the orange exercise book, you
23 write some of the similar things to Elizabeth herself,
24 don't you, on June 3, 1986, just two days before your
25 first interview with the investigating officers.

1 A That's right. I was hoping that our love
2 would become more mature between two independent people,
3 real love as opposed to dependence.

4 Q And you write in there, without me having to
5 make specific references I hope, this same theory of I am
6 first in my life, you are first in yours?

7 A (Witness nods head in the affirmative.)

8 Q This non-separate love that we had before is
9 a lie?

10 A I think that's true, I think being dependent
11 on each other is not good. It's the same thing she wrote
12 to me in that April, '85 letter.

13 Q Yes. The choosing to love you type of
14 thing, exactly.

15 A Yes.

16 Q She had written that to you?

17 A In April of '85.

18 Q Now at this point, and in fact I think in
19 this letter you make reference to that, don't you? I in
20 essence am saying, I am now saying what you said earlier,
21 back in April of '85.

22 A I think that's a better kind of love, yes.
23 I have thought about that.

24 Q On Page 23, for example, at the bottom
25 you're stating, I no longer need to be needed by someone

1 who has no other purpose in life than to need me.

2 A Yes. And since I no longer need, I have the
3 option of choosing, of truly loving, truly loving you,
4 Elizabeth.

5 Q Yes, that's what I asked you about a few
6 minutes ago, didn't I?

7 A Yes.

8 Q But you continue in this particular letter
9 by also acknowledging, don't you, that this need to be the
10 center of someone's life has been --

11 A Neutral.

12 Q -- has been destructive to you and Elizabeth
13 and it's been destructive to other people as well?

14 A That's correct, yes. Without me as a patsy,
15 I didn't think she would be able to go through with her
16 plan.

17 Q And you continue in this letter on June 3,
18 stating at the bottom of Page 28, the mistakes of my past
19 don't burden me mentally?

20 A That's right.

21 Q All right.

22 A I'm talking about --

23 Q All right, to the middle of that same page,
24 of 29, you state, don't you, and why cry over the mistakes
25 that I made, even though some are major, you state that,

1 don't you?

2 A Yes, I think I made major mistakes.

3 Q Thank you. Continuing into the interviews,
4 and I discussed some of them with you already, but I'd
5 like to ask you about the June 8th interview. And that's
6 the summary, the notes of Ricky Gardner that I think you
7 said yesterday you were familiar with, am I correct?

8 A Yes.

9 Q Now this is the first portion of the
10 interview where only Ricky are Gardner is present?

11 A Yes.

12 Q And just to get an idea of what you said
13 during this interview, whether you agree with the
14 testimony of Investigator Gardner, don't you start out by
15 stating that you went, you went to Loose Chippings on
16 Saturday, March 30, 1985 to visit the Haysoms.

17 A Yes, I said that.

18 Q And that you arrived at Loose Chippings
19 Saturday evening, Saturday night after dark?

20 A Yes, I said more or less everything in this.

21 Q And you continue by stating that upon your
22 arrival Mr. and Mrs. Haysom were drinking.

23 A That's what I said, yes.

24 Q And you're aware of course now from the
25 autopsy report, Mr. and Mr. Haysom had been drinking,

1 there was alcohol found in their blood?

2 A Well I knew that anyway, because Elizabeth
3 told me.

4 Q And you state that Mrs. Haysom asked you if
5 you had eaten anything, and you state that you hadn't, and
6 she prepared you some leftovers, correct?

7 A That's what I told Ricky Gardner, yes.

8 Q And that you went into the dining room, and
9 that you sat as I asked you yesterday, in that chair so
10 your back would be towards the window, the window looking
11 down over the back of the house.

12 A Yes, that was a mistake.

13 Q And you stated that Mr. Haysom was sitting
14 at the head of the table and Mrs. Haysom was sitting
15 across from him, correct? .

16 A Right.

17 Q You continue by stating, don't you, that a
18 disagreement, or a rowl, I think was the word that you all
19 may have used, am I correct?

20 A That's what I said, yes, sir.

21 Q Over the relationship that you and Elizabeth
22 had?

23 A That's correct, yes.

24 Q And that you felt that they were going to
25 ruin your life, and not allow you to spend your life --

1 A (Witness nods head in the affirmative.)
2 Q -- with the woman that you loved, correct?
3 A Yes, that was the only motive we could have
4 had.
5 Q And did you state, then, that there came a
6 point when you became, angry, or excuse me, before that,
7 that you stood up, Mr. Haysom pushed you back into the
8 corner and that you bumped your head.
9 A What I said there, yes.
10 Q That you became angry, that you grabbed a
11 knife, and that you came around behind Mr. Haysom?
12 A That's what I said.
13 Q And that you cut him across the neck left to
14 right?
15 A That's what I said here, yes, sir.
16 Q And you state, there is a quote here, I cut
17 the artery on the left side of his neck, correct?
18 A Yes. Yes, that's it right here, yes.
19 Q And you continue by stating, don't you, that
20 blood fell from Mr. Haysom, and fell into his hand?
21 A Yes, that's what it said there.
22 Q Stated that you froze, Mrs. Haysom started
23 screaming, and that Mrs. Haysom came toward you waiving a
24 knife, didn't you state that?
25 A Yes, that's what I said, yes.

1 Q Did you continue by stating that you grabbed
2 Mr. Haysom's right arm or right wrist trying to get the
3 knife away from her?

4 A That's what I said.

5 Q And did you state that Mr. Haysom hit you
6 upside the head and knocked your glasses off?

7 A Yes, upside of his head and knocked the
8 glasses off, right.

9 Q And did you state that you were nearsighted
10 and that you had trouble seeing at that point?

11 A That's what I said.

12 Q Are you nearsighted?

13 A Yes.

14 Q And are you very nearsighted, so that you
15 had difficulty seeing without your glasses?

16 A Well, if I don't have my glasses on, I have
17 trouble seeing, yes.

18 Q And don't you continue by stating at that
19 point that you got Mrs. Haysom between you and Mr. Haysom,
20 using Mrs. Haysom as a shield to fight off Mr. Haysom?

21 A That's what I said, yes.

22 Q And at that point you put your arm over Mrs.
23 Haysom's right shoulder and cut her on the left side of
24 her neck, just as you cut Mr. Haysom?

25 A Yes, sir, that's what I said.

1 Q Did you state that?

2 A Yes, I said that.

3 Q Do you state then that at this point you
4 remember Mrs. Haysom walking towards the kitchen with her
5 back toward you and that she was holding her neck with
6 both hands?

7 A That's what it says.

8 Q Did you demonstrate for Investigator Gardner
9 at that point that you meant like this?

10 A If he says I did, I did, yes.

11 Q And did you continue by stating that you
12 left Loose Chippings at that point and got into your car?

13 A Right.

14 Q And do you continue by stating that you took
15 off your windbreaker, your-shirt your pants and your
16 tennis shoes?

17 A That's what it says here, yes.

18 Q And did you continue by stating that you
19 crossed over 501 to the dumpster, and that you -- let me
20 ask you this: Did you then at that point draw
21 Investigator Gardner a diagram of the road from Loose
22 Chippings across 501, Trents Ferry Road coming into it in
23 the location of the dumpster?

24 A Well of course, that's where Elizabeth and I
25 had put trash when --

1 COURT REPORTER: Excuse me, I didn't
2 hear the witness's answer, of course what?

3 A That's where Elizabeth and I put the trash
4 when we visited the house before in February.

5 Q So you knew where that dumpster was?

6 A Sure.

7 THE COURT: All right, let's stop
8 right there, I haven't interefered, and I
9 hate to now, but a part of the problem is
10 illustrated right there. Mr. Soering, when
11 Mr. Updike asks the question, just answer
12 the specific question he asks. Then when
13 your attorney comes back on redirect, he'll
14 give you a chance to explain. But the
15 problem is you're answering the question and
16 then you're volunteering something as you
17 just did, and the court reporter just
18 can't follow it, and it just makes it hard
19 for us to follow it, do you understand?

20 THE WITNESS: All right, fine.

21 THE COURT: Let's do it that way.

22 All right, proceed.

23

24 BY MR. UPDIKE: (continuing)

25 Q Mr. Soering, did you continue then by saying

1 that while you were at the dumpster you realized that the
2 lights were still on at the house and you were concerned
3 that this might alert neighbors and they might become
4 suspicious by seeing the lights on?

5 A Yes, I said that.

6 Q And did you state then that you decided that
7 you should return to Loose Chippings to turn the lights
8 off at the house?

9 A That's what I said.

10 Q And that you discovered that you yourself
11 were wounded, is that correct?

12 A That is what I told him, yes.

13 Q And did you show Investigator Gardner at
14 that point the scars across your index finger and your
15 smallest finger on your left hand?

16 A Yes.

17 Q And did you indicate to Investigator Gardner
18 at that point that those scars came from wounds you
19 incurred there at Loose Chippings?

20 A That's what I told him, correct.

21 Q And did you continue by stating that from
22 Loose Chippings to the dumpsters, that you hit a small
23 dog?

24 A That's what I said, yes.

25 Q And do you continue by stating that when you

9
1 go back into the house, that you're only in your socked
2 feet?

3 A That's what I said, correct.

4 Q And do you also state that you -- at the top
5 of Page 3, that you had put your tennis shoes, blue jeans,
6 shirt and windbreaker in a bag that you had in the car?

7 A (Witness nods head in the affirmative.)

8 Q With empty beer or drink cans in it, do you
9 state that?

10 A Yes, I said that.

11 Q So that when you go back into the house, the
12 only thing that you have on would be your socks and your
13 briefs, your underwear?

14 A Apparently, yes. Yes.

15 Q And do you state then that you go into the
16 kitchen and wash your hands?

17 A That's what I said.

18 Q And that Mrs. Haysom was lying face down in
19 the kitchen?

20 A Right.

21 Q Do you state then that you noticed that you
22 were tracking blood in the house, and that you started
23 shuffling your feet to try to erase any foot impressions?

24 A That's what I said, yes.

25 Q Did you state then that you then wished to .

1 find a band aid so that you go back through the master
2 bedroom into the bathroom to get one?

3 A Yes, I said that.

4 Q You state that at that point, that you get a
5 towell and wrap it around your hand.

6 A Yes, I said that.

7 Q You state at this point that you turned off
8 all the lights in the house and exited through the front
9 door?

10 A That's what I said.

11 Q Do you continue by stating that you used a
12 towel to wipe the door knobs?

13 A Yes, I said that.

14 Q And that the front door was the only door
15 that you used?

16 A That's what I said.

17 Q And in response to a question, do you refer
18 to the knife that Mrs. Haysom had, and that you state that
19 you threw that one away, too?

20 A Yes.

21 Q And you clarify by stating you actually
22 threw away two knives.

23 A That's what I said, yes.

24 Q And do you state that you returned to the
25 dumpster, and that the second time you placed these items.

1 in a bag, that you put the clothes in, plus your socks
2 this time, and that you put them in the dumpster?

3 A That's what I said, yes.

4 Q Do you also state that you took a gray
5 sweatshirt from the closet at Loose Chippings?

6 A Yes, that's what I said.

7 Q And that you drove to Georgetown to meet
8 Elizabeth?

9 A Yes, that's what I said.

10 Q And that you drove there and met her outside
11 the Rocky Horror Picture Show as you had planned earlier?

12 A Yes, that's what I said.

13 Q And that you still had the towell wrapped
14 around your hand that you had gotten from Loose Chippings,
15 correct?

16 A Yes, yes.

17 Q And do you state, then, that Elizabeth's
18 response upon your return was oh, my God, oh, my God, oh,
19 my God?

20 A Right, that's what I said, correct.

21 Q That the two of you then returned to the
22 Marriott Hotel, and that Elizabeth went to the room to get
23 you some clothes, correct?

24 A Yes, that's what I told them.

25 Q Do you state that then that you knew that we

1 know that you and Elizabeth had been talking and
2 considering killing the Haysoms, and that the reason for
3 going to the Loose Chippings that particular Saturday
4 night was in fact you wanted to go there and hear for
5 yourself what their objections were to you all's
6 relationship.

7 A That's what I said, yes.

8 Q Do you continue by stating that the only
9 thing that you can remember feeling on your way from
10 Washington to Loose Chippings was resentment?

11 A Yes, that's what I said.

12 Q And the fact that you were not going to be
13 allowed to spend the rest of your life with the woman that
14 you truly loved, correct?

15 A Yes, yes, that's what I said.

16 Q Now as to the second portion of the
17 interview, you repeat in the presence of the three
18 officers, many of the things that I just asked you about,
19 is that correct?

20 A Yes.

21 Q And do you demonstrate for the officers just
22 as Investigator Gardner did in front of the ladies and
23 gentlemen here how you cut Mr. Haysom's throat?

24 A Yes, I told him that, yes, sir.

25 Q And indicated the seating arrangements?

1 A That's correct.

2 Q As to the second statement, and I am going
3 to these according to the notes of Detective Constable
4 Wright, and I am going to skip the first portion of them,
5 but do you indicate to him that the dining room had the
6 most blood in it? Do you need assistance finding where I
7 am at this point?

8 A How far down are we from the top of the
9 page?

10 Q All right.

11 A I'm reading as fast as I can.

12 Q Yes, sir.

13 A Could you give me some sort of --

14 Q Yes, it's going to be somewhere around a
15 quarter of the way down Page 6.

16 A Okay.

17 Q First of all, do you indicate there that
18 Nancy Haysom, there was a small pool of blood around her
19 head. Three-quarters of the way down.

20 A Three-quarters of the way down, sorry. I
21 was looking one-quarter of the way down, sir. A small
22 pool of blood around her head, Nancy Haysom. Rocky Horror
23 Picture Show finish around 2:00 a.m.

24 Q Did you state that Derek Haysom was standing
25 there like a bear with his arms up in the air stating,

1 God, you must be crazy man.

2 A That's what I said, yes.

3 Q And there is an indication here that you
4 re-enacted the crime?

5 A Yes.

6 Q All right.

7 A Well I told them what I allegedly did, yes.

8 Q Now continuing on Page 7, didn't you
9 indicate that you were concerned about lasers that had
10 been used to detect fingerprints at the house?

11 A That I had read in the newspapers.

12 Q That you had read about that in the
13 newspapers?

14 A Right.

15 Q Did you indicate that you didn't like the
16 word alibi, it was more like being super careful in case
17 the worst happened?

18 A That was, I felt the best that could be done
19 for Elizabeth.

20 Q But you state that?

21 A Yes, I do. Sorry, yes.

22 Q And there are some other things indicated
23 here, if I could just skim them quickly, to move along.
24 And there on that page, there are the references that I
25 asked you about yesterday concerning the reference to the

1 voodoo letter, I won't go back through that again, but
2 they do ask you at that point about that?

3 A Yes.

4 Q And the dinner scene?

5 A That's right.

6 Q And you indicate that that was just a
7 coincidence, is that correct?

8 A Well it is --

9 Q Excuse me?

10 A Yes, yes, sorry.

11 Q And when asked about that reference in her
12 letter, there have been many burglaries in this area, you
13 state that?

14 A (Witness nods head in the affirmative.)

15 Q When that was read to you, that it was to
16 make the murders seem like something else.

17 A That's what's in here, yes.

18 Q There was not any indication of burglary at
19 the house, but when you were writing this back in January
20 of '85, that's what you were writing?

21 A Yes. Well I believe that to be a
22 misunderstanding, because, there is a misunderstanding
23 about what I meant by voodoo.

24 Q At the end here, do you make this statement:
25 I fell in love with a girl, we talked about killing her

1 parents, I didn't want to do it, but I drove to her house
2 and killed them. I got caught.

3 A I made statements to that effect.

4 Q Did you make this statement, sir?

5 A I don't believe I made this particular
6 statement, no.

7 Q Even though it's reduced to writing in
8 Detective Constable Wright's handwriting?

9 A Well I'm sure it's in his notes, I'm saying
10 I'm sure that I didn't make it in that form. I said that
11 in effect over and over again, so I'm willing to stick
12 with it.

13 Q For some reason you don't like this
14 particular form of it, do you?

15 A At that time, that's correct, yes.

16 Q After these statements, you become
17 apologetic to Elizabeth Haysom, don't you? Don't you
18 apologize to her for having wrecked her life?

19 A Oh, those letters of June 16th, I believe.
20 Is that the one we're talking about?

21 Q I have them right here, and I'll show you
22 the originals.

23 A I just want to be sure.

24 Q Excuse me?

25 A Sorry. I'm not supposed to --

1 Q And perhaps so as to not no get too many
2 things up here, these are some of the letters here that I
3 am describing.

4 A Yes.

5 Q And I think that they're close to being in
6 chronological order. For example, the one which has the
7 date of June 14 on it?

8 A Right.

9 Q On the second page?

10 A This is the middle?

11 Q Yes. Not quite half the way down, are you
12 writing to Elizabeth, I love you and am glad we met, I
13 hope you feel the same way, but would not blame you at
14 all, under lined, was that not the case?

15 A Yes. Right.- Yes, I wrote that.

16 Q And at the bottom of this, now again you're
17 writing this, aren't you, on June 14, which would be the
18 Saturday, your last interview is on Sunday, the following
19 the Saturday, June 14 you're writing that?

20 A Yes, June 14th, right.

21 Q At the bottom of that page, don't you write,
22 which reminds me, although there are no, quote, if onlys,
23 I do regret having done this very much.

24 A I wrote that.

25 Q Inadequacy does not begin to describe it,

11
1 though.

2 A (Witness nods head in the affirmative.)

3 Q I don't regret meeting you, it would have
4 been better for you had you not met me. Enough self
5 recriminations, they are so bloody useless and beside the
6 point, they make me smile. I'm not asking for
7 forgiveness.

8 A (Witness nods head in the affirmative.)

9 Q I don't deserve it, and I certainly don't
10 want a letter from you taking it all on yourself.

11 A Right.

12 Q Such a letter would piss me off
13 tremendously.

14 A Correct.

15 Q All along I made the mistakes and more or
16 less willingly, you were dragged along?

17 A Right, I said that.

18 Q You wrote that?

19 A I wrote that, sir.

20 Q And down there a little bit below the
21 halfway point in the letter you continue by stating, I
22 have learned my lesson so terribly, terribly well?

23 A Yes, I wrote that. I wanted to reassure
24 her.

25 Q As to another entry on the June 23 letter, .

1 which has on the outside the date June 28th?

2 A Okay.

3 Q So this is June 28th. Aren't you writing at
4 that point about a quarter of the way down the first page,
5 writing to Elizabeth, I feel ridiculous having wrecked
6 your life.

7 A Quarter of the way down. Yes, I remember
8 that line, I'm sure of it. Obviously I wrote it, yes.

9 Q And about halfway down that same page, don't
10 you make that same reference, I'm trying to tell you that
11 the, quote, I have wrecked your life remark was not
12 gratuitous machocism mixed with self-pity, but simply
13 reality as I see it.

14 A Yes, that's the way I see it, right.

15 Q And at the bottom of that page don't you
16 write, perhaps you'll be consoled by the fact that I truly
17 do love you, that these words are not platitudes uttered
18 in an impossible situation to relieve guilt feelings on my
19 part.

20 A Correct, I wrote that, yes.

21 Q Now as as to the letter of July 17th.

22 A That's the 20th of July where it started.

23 Q I think this is going to be the one with
24 July 20 on the outside?

25 A That's right.

1 Q Referring to the postmark, as opposed to the
2 date.

3 A (Witness nods head in the affirmative.)

4 Q Inside it is dated as being written July
5 17th, correct?

6 A Correct.

7 Q Now sir, without reading all this again, I
8 did ask Miss Haysom to read it the other day, but starting
9 with the second page of that letter throughout and to
10 the -- well actually throughout the third page.

11 A Yes.

12 Q You were asking of Elizabeth Haysom that she
13 make some connections for you with important people?

14 A Yes, find a lawyer, things like that.

15 Q Lawyers, different things, home office?

16 A Sure.

17 Q But sir, at the point three-quarters of the
18 way down, that third page?

19 A Right.

20 Q After having made those requests, don't you
21 state that I cannot give you any direct indications of
22 direct benefits for you in all this?

23 A (Witness nods head in the affirmative.)

24 Q I simply do not know. So I'm asking you to
25 save my ass in the hope that somehow it will help save

1 yours.

2 A Correct.

3 Q In some way that neither one of us knows
4 about right now.

5 A That's correct, I wrote that, yes.

6 Q And finally, Mr. Soering, December 30, I
7 think it is, I'm referring you to the German interview at
8 this point, a transcript of it being there in front of
9 you, December 30, you make the statement to the German
10 prosecutor and in the presence of your German defense
11 counsel, is that correct?

12 A Yes.

13 Q But I would like to refer you to a letter
14 that you wrote to Elizabeth Haysom, if you need to read
15 the first portion of it, I think it's December 14th, or
16 something like that, if you need to refer to it, but my
17 question really is, that you realized at least by the
18 middle of December that Elizabeth Haysom intends to plead
19 guilty, not contest extradition, but plead guilty, don't
20 you?

21 A Yes.

22 Q And you knew that at the time that you made
23 this statement to the German prosecutor?

24 A I knew her plans, which she was considering
25 that, yes.

1 Q And I would like to clarify, just to make
2 sure of what you state in that statement. Concerning for
3 example, Page 2 of that statement, well actually,
4 continuing onto Page 3, you make a statement there about
5 not liking alcohol, don't you, as already said, I did not
6 like it, I don't like to get drunk?

7 A That's right, yes.

8 Q And Page 4 of the statement?

9 A Um --

10 Q You are again talking about alcohol in the
11 earlier incident when drinking you attacked someone?

12 A Yes. I don't think I have got your copy.

13 Q Excuse me?

14 A I think we might lose each other on the page
15 numbers, this is a marked up copy, do you know what I'm
16 talking about?

17 Q Yes, sir. Those, for your information,
18 those marks are the ones that Dr. Ogier put on there.

19 A I just wanted to make sure you have it, in
20 case we lose each other.

21 Q Okay. Now on Page 5 of the statement, the
22 middle of the page, you're quoting Dr. Hamilton, your
23 psychiatrist?

24 A Both of ours, yes, sir.

25 Q Both of your psychiatrists?

1 A (Witness nods head in the affirmative.)

2 Q But you're stating that Elizabeth is a
3 pathological liar?

4 A As she said in her letter, too, yes.

5 Q Yes. But you're stating this as well,
6 aren't you?

7 A Well, I realized it, finally, yes, it
8 finally sunk in.

9 Q All right, sir.

10 A After too long.

11 Q And you continue on the next pages, Page 6,
12 don't you state, oh, about a quarter of the way down, from
13 December, 1984 until we were arrested here on April 30,
14 1986, we considered ourselves to be in love, or I believed
15 myself to be in love?

16 A (Witness nods head in the affirmative.)

17 Q I possibly see this differently now?

18 A (Witness nods head in the affirmative.) On
19 December 30th, '86 I saw it differently, correct.

20 Q So but my point is, when you're giving this
21 statement, your relationship has changed quite a bit about
22 Elizabeth.

23 A Oh, yes, yes, yes.

24 Q You make this statement quoting your
25 psychiatrist stating she's a pathological liar?

1 A Yes, yes.

2 Q And would you agree that that's not the type
3 of thing that you say about someone that you're very much
4 in love with?

5 A Very true. Yes, correct.

6 Q And you continue by stating in just a moment
7 here, make reference to her drug use, and that she was a
8 drug addict?

9 A Yes, true, that's correct.

10 Q And though Elizabeth Haysom readily admits
11 her past drug useage, would you agree that that's the type
12 of thing you just don't -- even if it's true, you don't
13 say that kind of thing about someone that you're just
14 overwhelmingly in love with.

15 A Well, I was no longer in love with her on
16 these pages, yes.

17 Q Thank you.

18 A Excuse me, romantically in love.

19 Q On Page 8, I'm just curious at the bottom
20 there to ask you about something that -- aren't you making
21 reference there that as a Jefferson scholar you quote, had
22 no financial problems at all?

23 A Correct.

24 Q I lived more or less like a king.

25 A Yes. That's true.

1 Q So it was a very good life as a Jefferson
2 scholar that you left here in Virginia?

3 A That's true, yes.

4 Q All right, now quickly, sir, what I would
5 like to go through with you is Page 10, your answer a
6 quarter the of the way down, you're discussing there the
7 weekend?

8 A Yes.

9 Q In Washington, and you admit that the two of
10 you go to Washington to be there together privately,
11 correct?

12 A Yes.

13 Q And you start out right there saying we
14 rented the car. Well we rented the car because we wanted
15 to have a weekend together.

16 A Yes. Like I said, it was a -- as far as I
17 was concerned, a joint enterprise.

18 Q Thank you.

19 A We went there for having fun.

20 Q And Page 11, in your answer you're talking
21 about well, we rented the car and drove it to Washington,
22 to the motel, again you're talking about the trip to the
23 Washington Marriott, correct?

24 A That's correct, yes.

25 Q And do you state there, that she convinced

1 me in Washington that any crisis point had been reached?

2 A Yes, that's what it says there.

3 Q That's what Ogier put in because it was not
4 in the transcript, but on the tape?

5 A Right.

6 Q Now as you continue at the bottom of the
7 page, you're stating again, aren't you, that I believe the
8 problem this weekend is, and basically also the entire
9 time thereafter from December, 1984, particularly this
10 weekend, in this period, I can only remember imperfectly.

11 A I'm sorry, um -- .

12 Q It's in response to the question, did she
13 give anymore reasons for it, Page 11.

14 A Oh, yes, yes, right, sorry. I see it, yes,
15 I said that. .

16 Q And you're stating that you can't remember
17 things very well from that weekend?

18 A That's what I was telling, yes.

19 Q And you continue by stating that Elizabeth
20 was of the firm opinion that I had to drive to Lynchburg
21 under any circumstances, and I said, as usual, okay?

22 A That's what I told them, yes.

23 Q I then drove to Lynchburg with the intention
24 in fact to talk to the parents, correct, you state that?

25 A That's what I said, yes.

1 Q Now Page 12, middle of the page, don't you
2 make the statement, I was always an excellent speaker?

3 A Um, yes, yes, I did right here. I did say
4 that, yes.

5 Q Top of Page 13, aren't you stating with
6 reference to whether Elizabeth was with you when you went
7 to Lynchburg?

8 A (Witness nods head in the affirmative.)

9 Q Loose Chippings, that I believe she did not
10 come along, but I'm not quite sure.

11 A (Witness nods head in the affirmative.)

12 Q So you think she might have come along? I
13 don't know, I don't know whether she followed, perhaps in
14 another car, or whether she came along in the car.

15 A Can we read the whole thing?

16 Q Is that what you said?

17 A I said that, yes. The explanation comes
18 below.

19 Q And you continue by I cannot remember
20 anymore, correct?

21 A Yes. But there are some remarks right here.

22 Q But you're stating there that you can't
23 remember she was even in the car with you when you came
24 down all way from Washington to Loose Chippings.

25 A That's what I said, yes.

1 Q And Page 14, you begin into the events of
2 what happened there at Loose Chippings, don't you, for
3 example, if the first full answer there, you state again,
4 the first thing that happened was a drink was put in my
5 hand upon your arrival at Loose Chippings?

6 A Yes, yes, I said that.

7 Q And the middle of the last answer, you're
8 stating that it was very important to you that these
9 people should like you, that they should not interfere any
10 further in your relationship Elizabeth.

11 A I can't find it, but I'm sure I said it,
12 yes.

13 Q The next page, Page 15, last of your first
14 answer, you're talking about Mr. Haysom was already
15 drinking upon your arrival. Mr. Haysom was already
16 drinking when I arrived, perhaps it loosened him up
17 somehow, I don't know.

18 A Oh, yes, yes, I said that, yes. Mrs.
19 Haysom, sorry. Oh, right, Mr. Haysom, sorry, yes.

20 Q And the next answer that you give, you're
21 talking about you were first in the living room?

22 A (Witness nods head in the affirmative.)

23 Q A general conversation?

24 A (Witness nods head in the affirmative.)

25 Q Then you go into the dining room? Correct?

1 A Yes, I said that.

2 Q And then you're stating that Mr. and Mrs.
3 Haysom started attacking each other, arguing with each
4 other, is that correct?

5 A That's what I said, yes, sir.

6 Q Now on that page your next answer, aren't
7 you stating that it took you three and a half hours to
8 drive from Washington to Loose Chippings?

9 A That's what I said, yes.

10 Q And that you didn't have time to get
11 something to eat?

12 A That's what I said, yes.

13 Q The next page, Page 15, you're stating at
14 the bottom of your first answer there that the argument
15 over you all's relationship became, quote, a three-party
16 competition between the two fighting about the method, and
17 at the same time in your direction.

18 A That's what I said, yes.

19 Q Isn't that really the same thing that you
20 said in an earlier statement in England about it being a
21 discussion where you were both the subject and the
22 participant of?

23 A That's correct, yes.

24 Q On Page 17 in the middle of your first
25 answer, are you stating that I believed, quote, I believed

1 the whole affair from the arrival until the respective
2 attack passed in about 20 to 30 minutes, including the
3 eating.

4 A That's what I said, yes.

5 Q And you state, you make the reference there
6 that you believe that the meal was not finished, Mr.
7 Haysom was somehow still eating ice cream?

8 A That's what I said, correct.

9 Q The first part of your next answer, aren't
10 you stating that you don't know anymore what the
11 triggering point was, but something was said, and I flew
12 off the handle and wanted to run out of the house?

13 A Yes, yes, I said that, yes.

14 Q And at the bottom there, trying to move
15 along, the last sentence there, you talk again about Mr.
16 Haysom got up and pushed you against the wall, correct?

17 A Yes, I said that.

18 Q Page 18, the next page, on your second
19 answer there, aren't you talking about Mr. Haysom saying,
20 quote, sit down, young man?

21 A Oh, yes, yes, yes, I said that, yes.

22 Q I thus fell back and in fact against the
23 rear wall of the house in the dining room, it was a stone
24 wall, I bumped my head against it.

25 A Right.

1 Q So you're talking about you bumped your
2 head?

3 A I said that, yes.

4 Q And you talk about you were incredibly
5 shocked, your next answer, then I stood there with the
6 knife in the hand, and he had blood running into his lap.

7 A This is on Page 18?

8 Q Yes.

9 A Yes, I see it now, yes, I said that.

10 Q Question, what could you not grasp? That I
11 stood there with the knife, and the idea of blood running
12 into this lap.

13 A I said that.

14 Q And you're asked by the prosecutor, a
15 diagonal cut across the arteries, and you answer the next
16 page, yes, it was.

17 A Yes.

18 Q And the prosecutor asked you, the German
19 prosecutor asked you at this point, where did you get the
20 knife?

21 A Right.

22 Q And that you come back and said that you
23 haven't answered that for the American officer and you
24 don't want to answer it then?

25 A Correct, I said that.

1 Q And then you continue by stating that you
2 looked up at this point, Mrs. Haysom was approaching you
3 with a knife, screaming?

4 A Next I looked up, right, I see it, yes.

5 Q And continuing in that same paragraph, I
6 took ahold of Mrs. Haysom's hand in which she held the
7 knife and tried to push her between me and Mr. Haysom.
8 Somehow I tried to hold the hand with the knife in it.

9 A Yes, that's what I said.

10 Q You were asked, as we continue down that
11 page whether Mr. Haysom was standing or sitting at that
12 point, you say that he was sitting?

13 A Yes, yes, correct, I said that.

14 Q And at the bottom of that statement you're
15 saying that you injured Mr. Haysom about the neck, well
16 specifically quote, well that I had injured him at that
17 time at the neck, I had no doubt?

18 A Yes, I said that here, yes.

19 Q Anyhow, after I got Mrs. Haysom's hand with
20 the knife, and it continues onto the next page, and your
21 next answer, aren't you talking about Mr. Haysom then
22 again shouting, my God, what are you doing?

23 A That's what it said here, yes.

24 Q And that Mr. Haysom, I don't know for how
25 long, I only know that I -- several times from Mr. Haysom,

1 who was naturally defending himself, wanted to defend his
2 wife. It was very curious, he still had incredible
3 strength and appeared as if he was not wounded. He bashed
4 me and boxed the head, actually several times.

5 A (Witness nods head in the affirmative.)

6 Q At the first time my glasses flew off and I
7 could hardly see anymore, I have very weak eyes.

8 A Yes, I said that.

9 Q And in the next answer on that Page 20,
10 aren't you talking about sometime I must have been injured
11 by the knife, somehow I got two holes in my left hand?

12 A That's what I said, yes.

13 Q So you're describe that again?

14 A Describing the scars, yes.

15 Q And you continue by stating that the three
16 of you were slipping around on the floor, the dining room
17 floor?

18 A Yes, right, correct, yes; I said that, yes.

19 Q Top of Page 1, you ask the question, did you
20 somehow injure the woman, and you respond yes, of course.
21 Eventually and finally I injured Mrs. Haysom, too, at the
22 neck.

23 A I said that, yes.

24 Q And then continuing on, there down several
25 lines in that paragraph, I saw her going to the kitchen

1 with both hands at her neck?

2 A Right, I said that.

3 Q And then you're talking about, I remembered
4 later in June that I drove afterwards to a rubbish
5 container about one, probably -- I don't know what that is
6 supposed to be away, and that I then returned to the
7 house. I don't know if that's supposed to be one a.m.,
8 but at any rate --

9 A One mile away.

10 Q One mile away, thank you.

11 A Sorry.

12 Q And then you continue a couple of more
13 lines, you talk again about hitting the dog on the way to
14 the dumpster, correct?

15 A Yes, I said that, yes.

16 Q And then you continued by stating that you
17 were bleeding so much you, and you thought it was
18 absolutely essential to drive back and find something to
19 band aid your hand with?

20 A That's what I said, yes.

21 Q And you continue by saying that all the
22 lights were on in the house and you were afraid somebody
23 would notice it the next day and go there to examine why
24 the lights were on.

25 A Right, I said that, correct.

1 Q You also state that the door was open and
2 all such things?

3 A Yes, yes, correct, I said that.

4 Q Next page, you state that upon going back to
5 the house Mr. Haysom was lying on the floor next to the
6 passageway between the living and dining room, correct?
7 Middle of the first answer at the top of the page.

8 A Right, yes, I said that.

9 A Correct.

10 Q All right.

11 A Half in the dining room and half in the
12 living room.

13 Q All right, sir. Now on down the page, do
14 you state about going to the bathroom and getting
15 something to bandage your hand?

16 A I said that, yes, sir.

17 Q And getting a shirt or a sweatshirt for
18 your -- because your clothes were blood stained and you
19 wanted to throw them away?

20 A That's what I said, correct.

21 Q Top of Page 3 you talk about returning to
22 the dumpster a second time, don't you?

23 A Yes.

24 Q And in that next paragraph, you talk about
25 sitting in the car and hearing a certain song on the

1 radio?

2 A Right.

3 Q A song by the Talking Heads, I think it was.

4 A That's what it was. Well I didn't know at
5 this time.

6 Q Well it's not there at this time?

7 A Correct.

8 Q But there was some song about by the Talking
9 Heads.

10 A That's correct, yes.

11 Q Do you recall the name of that song?

12 A Sure, the name of the song was Psycho
13 Killer.

14 Q Psycho killer.

15 A It was first put out in 1977.

16 Q Now at the middle of Page 23, you're talking
17 about the glass and the plates?

18 A This is where I switched my story, yes.

19 Q Concerned about fingerprints on the glass
20 that you used and the plate that you used.

21 A It is totally different from this interview
22 here, sir, yes.

23 Q And here you state that you took those
24 items, the glass and the plate, threw them away with the
25 other items?

1 A That's what I said here as opposed to here.

2 Q At the bottom of Page 23 you repeat about
3 Elizabeth was in Washington upon your arrival, correct?

4 A That's what I -- yes, of course, sorry, yes.

5 Q And at the top of Page 24, your first answer
6 that you intended to meet there in the street in front of
7 the cinema?

8 A That's what I said, correct.

9 Q Next answer, a couple of lines down, it was
10 in front of a cinema in Georgetown, that is the name of
11 that part of the city?

12 A Yes.

13 Q And you mention again about the song on the
14 radio.

15 A Oh, yes, yes..

16 Q At the bottom of Page 24 that answer there,
17 you talk again about the events concerning going to the
18 parking garage, don't you?

19 A Yes, I do.

20 Q We then drove down there and parked the car,
21 she went to the room and collected an overcoat; anyway,
22 she must have select collected an overcoat, I can remember
23 that she was wearing an overcoat when I was standing in
24 the lift. I can also remember the lift because there was
25 a mirror in the lift; was in it in the hall, I don't know.

1 anymore. We then got up to our room, and there she washed
2 and bandaged me.

3 A That's what I said, correct.

4 Q Then we drove back the next day to Virginia,
5 to Charlottesville; three, four days later, the bodies of
6 the parents were found, correct?

7 A Yes, yes.

8 Q On Page 30, that's when you discussed, I
9 asked you about yesterday, so I won't dwell on this.

10 A Yes.

11 Q You're stating there at the top of the page,
12 I believe it is quite right that I hated the parents more
13 and more, because I loved Elizabeth so incredibly.

14 A That's what we decided we would tell the
15 police, correct.

16 Q And you discuss there, without me reading
17 it, what I asked you about yesterday, and that would be
18 the discussions about putting them in the car and letting
19 them roll down a hill, the piranha?

20 A Yes.

21 Q The burning the house?

22 A Yes, the piranhas in the bathtub, correct.
23 I mean that's why -- (witness shrugs shoulders and shakes
24 head in the negative.) Piranhas.

25 Q On the bottom of Page 32, you're asked by

1 the prosecutor about having said that you felt during the
2 trip to Lynchburg hatred and anger for the later victims,
3 the parents of your girlfriend because they exercised
4 pressure on your girlfriend to end the relationship?

5 A Right.

6 Q You returned with the answer, that is right
7 without doubt. Yes, that's the only motive we could
8 invent for me, that's what we told them.

9 Q But this concerns a general feeling which
10 was building up in me anyway over months.

11 A Right, that's what we told them.

12 Q So you're stating there the anger was
13 building up for a period of time.

14 A We couldn't think of anything else, sir.

15 Q All right, sir.

16 Q You're righthanded, aren't you?

17 A Yes, sir, yes. So is Elizabeth.

18 Q Thank you. Thank you for volunteering that,
19 Mr. Soering. Page 39, you are again talking about
20 throwing away the glass and the plate, and about smearing
21 blood around to remove traces, just a summary of what is
22 there in the middle?

23 A Right.

24 Q Of the page?

25 A Yes.

1 Q And here on Page 40, it's a 42-page
2 statement, after you have gone through this, your defense
3 attorney asked a question, he asks you, doesn't he, only
4 one question, basically, namely, had you had the
5 impression that you were drunk when this happened?

6 A Yes. This was what they wanted me to
7 emphasize, right.

8 Q So you state in this German statement that
9 on the way to Loose Chippings you drank some beer, because
10 it was hot.

11 A That's correct, yes.

12 Q Now in the statements to the English
13 officers -- and I can find it in the June 5 statement, I
14 think, you state in that statement that you did not have
15 anything to drink --

16 A (Witness nods head in the affirmative.)

17 Q -- from Washington to Loose Chippings, is
18 that correct?

19 A If you say so, yes. I mean if you say I did
20 say it.

21 Q Excuse me? Well, it would be on Page 26 of
22 the October 5 statement, or excuse me, the June 5, 1986
23 statement, Page 26?

24 A Right, okay.

25 Q But to just clarify, these statements that I

1 asked you about, the particular ones through the German
2 statement as I refer to it, December 30, 1986, you made
3 those statements?

4 A Yes, I did, yes.

5 MR. UPDIKE: Thank you very much, Mr.
6 Soering, I have no further questions.

7 THE COURT: Would you like to take the
8 recess now, or would you like to conclude
9 with him? Which do you prefer?

10 MR. NEATON: I can take a recess now,
11 Judge.

12 (Whereupon a recess was taken.).

13 THE COURT: All right, sir, bring the
14 jury in.

15 All right, before we start, we've
16 had direct examination of the witness, and
17 we have had cross examination of the
18 witness, and I will allow limited further
19 questions, but I do reserve the right to
20 somewhat limit the length of the rest of the
21 examination on both sides to the extent of
22 not duplicating anything that's been
23 previously said. Proceed.

1 (DRIVER'S LICENSE AND STACK OF
2 MATERIAL MARKED AS DEFENDANT'S
3 EXHIBITS 23 & 24.)

4 REDIRECT EXAMINATION

5 BY MR. NEATON:

6 Q Jens, what is your shoe size?

7 A Eight and a half men's.

8 Q In reference to the December 30th statement
9 about what you were asked by Mr. Updike, what did you
10 understand your legal position to be at that time?

11 A Well at that point, Mr. Updike was trying
12 to --

13 MR. UPDIKE: Objection, he can answer
14 the question, Your Honor, but not speculate
15 as to --

16 THE COURT: It does not sound as if the
17 answer is responsive to the question, Mr.
18 Neaton.

19 MR. NEATON: Well, I think it's
20 responsive, but I'll ask him to keep names
21 out of it and use governments instead.

22 A Sorry. I thought -- well I was told that I
23 was being extradited to the United States on a capital
24 murder charge carrying the death penalty.

25 Q And did you want to be extradited and tried,

1 in Germany for these offenses?

2 A That's correct, yes, I wanted to be tried in
3 Germany.

4 Q And did you have the right to be tried in
5 Germany if you were extradited there?

6 A Yes, a German citizen can be tried in your
7 own country for crimes committed abroad.

8 Q Now yesterday Mr. Updike suggested that this
9 is not your signature on Exhibit 19?

10 A Yes.

11 Q Is that your signature?

12 A Yes, it is, that's my signature.

13 Q There was also the suggestion that the check
14 might be post-dated or something. Is there a credit card
15 imprint on the back of that check?

16 A Yes, there is.

17 Q Whose credit card is it?

18 A That is my father's, which I am authorized
19 to use that. That's where they compare the signatures
20 with.

21 Q And what is the date placed by the credit
22 card imprinter on the back of that check?

23 A 3-30-85, right there at the bottom.

24 Q I am going to show you defense proposed
25 Exhibit 23, can you tell me what that is?

1 A This is my old Michigan driver's license.

2 Q And did you sign that driver's license?

3 A Yes, I did.

4 Q And is that your signature on it?

5 A Yes, it is.

6 Q I'd ask that this be introduced in evidence.

7 MR. UPDIKE: I'm sure I won't have any
8 objection, Your Honor, if I could just look
9 at it a second. No objection.

10 Q And if you want to compare, be my guest.

11 You said that you used to save a lot of things?

12 A Yes.

13 Q And that during your travels in Europe you
14 saved maps and things like that?

15 A Absolutely every little shred, yes.

16 Q I am going to show you defendant's proposed
17 Exhibit 24 and ask you what that is.

18 A Right, this is one of the folders in which
19 we collected things that we acquired in our travels,
20 papers and so forth, a printing bill when we got our fake
21 passports up. A map of Bangkok, slips of paper about
22 restaurant addresses, travel agency brochure, another
23 address, this is a reservation, I think, photocopies about
24 Spain, where we never went. This is a Visa application
25 for Iran, because at one point we thought we might go to .

1 Iran, I don't know why. Another ticket brochure, some
2 sort of article from Casa Blanc. A bill for a theater we
3 went to in England, hotel card, another hotel card, street
4 map of Vienna, street map of Italy, Trieste, Italy, street
5 map of Bath, England, some sort of Italian brochure. I
6 mean it goes on and on. Do we need to do more of this?

7 Q No, could you put those back in? And I'll
8 show them to the Commonwealth's attorney, and I would be
9 asking that it would be introduced into evidence.

10 MR. UPDIKE: If I can just look
11 through them quickly, I'm sure I'd have no
12 objections, and your Honor, we'd have no
13 objection to Mr. Neaton continuing on.

14 MR. NEATON: Well I was planning on
15 doing that. -Thank you, Mr. Updike.
16

17 BY MR. NEATON: (continuing)

18 Q Referring to the June 8, 1986 statement that
19 Mr. Updike had you read through?

20 A Yes.

21 Q During that statement did you tell Ricky
22 Gardner that the dishes from your place setting should
23 have been found in the Haysom home?

24 A That's correct, yes, I said that. I was
25 quite specific that they should still be there, either on

1 the floor, or I asked him -- this is Ricky Gardner saying
2 this, I asked him was he eating from the plate, and he
3 said he was, and the plate should be in there. He said
4 that in the struggle, that the table was hit and he didn't
5 remember whether it was turned over or not. So --

6 Q You, on cross examination, you were asked
7 about the song, what, Psycho Killer by the Talking Heads?

8 A That's right, yes.

9 Q Did you actually hear that song?

10 A No, I didn't.

11 Q On March the 30th?

12 A No, I didn't.

13 Q Why did you tell Dr. Hamilton that you had
14 heard that song?

15 A I was telling Dr. Hamilton the whole story
16 that Elizabeth and I had made up together, which was that
17 I had killed the Haysoms, and I added that because it
18 seemed like a detail which might be convincing. That was
19 all. Local thriller, I suppose.

20 Q You were shown the letter of June the 14th
21 of '86 by Mr. Updike, is that right?

22 A Yes.

23 Q And this is this a copy of that letter?

24 A Yes.

25 Q And you were asked to read some passages

1 from that letter?

2 A Uh-huh.

3 Q Before I ask you about that letter, were you
4 aware at that time of whether or not your mail from prison
5 was being read by the prison authorities?

6 A Yes, of course. All mail in English prisons
7 is read by the prison authorities by sensor before it's
8 passed on.

9 Q Why did you write the June 14th letter to
10 Elizabeth?

11 A Um, well, Elizabeth and I were always
12 writing each other, but this particular passage that I was
13 asked to read by Mr. Updike was intended to assure her
14 that I had gone through with the plan of accepting blame
15 for the killings. Now it was very important for me to
16 reassure Elizabeth about this, and I mentioned that in the
17 interview as well. I was very afraid that Elizabeth, out
18 of guilt feelings, might actually tell the truth, and by
19 sending her this letter I was closing that door for her,
20 and I let her know that I had gone through it and that she
21 didn't have to do it, that's what I wrote. I simply don't
22 want a letter from you taking it all on yourself, such a
23 letter would piss me off tremendously. That was the
24 point, I wanted to let her know.

25 Q Had you had the opportunity to talk to

1 Elizabeth on June the 9th through June the 14th at all?

2 A No.

3 Q When you were taken from the Richmond Police
4 Station back to your remand prison, were you ever in the
5 company of Elizabeth at that time?

6 A I'm sure I wasn't.

7 Q We met each other outside for a couple of
8 minutes, that was it.

9 Q Now had Elizabeth ever told you that she had
10 purchased the 10:15 p.m. ticket on Saturday, March the
11 30th, 1985?

12 A (Witness shakes head in the negative.)
13 Elizabeth has never said that she bought any ticket for
14 any show at 10:15.

15 Q Why is that?

16 A Well Elizabeth basically got times confused
17 that she wasn't there when I bought the tickets in D.C.
18 Just like I got the position of the bodies confused because
19 I wasn't in Lynchburg. And that's exactly what was
20 happening there.

21 Q You were asked a number of questions on
22 cross examination about whether your decision was logical
23 or illogical to do certain things. Was your decision to
24 take the blame for Elizabeth a logical decision?

25 A This whole thing was illogical. The logical

1 thing to do would have been to go to the police and turn
2 Elizabeth in right away. I didn't do it because I loved
3 her. It was the major mistake of my life, and it was
4 illogical, and everything after that, of course was just
5 as illogical. I wish I had never done it. (Witness
6 shakes head in the negative.)

7 Q You had been questioned about a letter that
8 you had written on June the 3rd to Elizabeth, is that
9 right?

10 A Yes.

11 Q And that was two days before your
12 interrogation began in England?

13 A That's right, the interrogation was on June
14 the 5th.

15 Q And in that June the 3rd letter were you
16 expressing your true feelings toward her at that time,
17 what you thought?

18 A That's correct, yes.

19 Q How you thought you felt toward her?

20 A It was this thing about our love becomeing
21 more mature between two separate people, instead of
22 needing each other.

23 Q Would you read to the jury on Page 24 of
24 that June the 3rd letter, the bracketed material?

25 A It is surprising and amazing how much the

1 perspective has changed, and how much I really do know,
2 now that the glasses are off, I'm referring to seeing
3 through rose colored glasses here. I have made long mental
4 lists of your good points and your bad points, lists which
5 I want to commit to paper soon. I have looked at them for
6 a very long time and I now know it is you I love. Yes, I
7 loved you before, our past is not a complete sham, in
8 appendices. But it was tainted, if you will, by me and
9 the rose colored glasses that need forced onto my nose.
10 That need is now gone. I love you, and I will love you
11 until the last flicker of hope that you will love me, too,
12 darling, but I know it won't. You are the one I want, and
13 I don't care how long I have to wait. Our love will last
14 and last, and grow and grow.

15 Q Is that how you felt about her when the
16 English police and Ricky Gardner began interrogating you
17 on June the 5th, two days later?

18 A Yes. Unfortunately. Yes. I loved her very
19 much.

20 MR. NEATON: No further questions.

21 THE COURT: Any further questions?

22 MR. UPDIKE: No, sir.

23 THE COURT: All right, the defense will
24 call its next witness.
25

1 KLAUS SOERING, was called as a witness and
2 having been duly sworn was examined and testified as
3 follows:

4 DIRECT EXAMINATION

5 BY MR. NEATON:

6 MR. UPDIKE: Mr. Neaton, I don't know
7 whether this was formally marked, but as I
8 said, no objection, to it.

9 MR. NEATON: This is Defense Exhibit
10 24.

11 THE COURT: Accepted. I will initial
12 all of these at a later date.

13

14 BY MR. NEATON:

15 Q Mr. Soering, you testified, I believe in the
16 Commonwealth's case that you had found the theater tickets
17 which comprise Defendant's Exhibit 20, is that right?

18 A That's correct.

19 Q And I'm showing you Defendant's Exhibit 20
20 right now. And did you find those in Jens's dorm room at
21 the University of Virginia?

22 A That's correct.

23 Q Now the condition in which you found them,
24 did you find them stapled on that page?

25 MR. UPDIKE: Objection, Your Honor. I

1 haven't objected to preliminary leading, but
2 we would object to leading at this point.

3 THE COURT: Sustained, last question
4 was leading.

5
6 BY MR. NEATON: (continuing)

7 Q Well what was the condition of the tickets
8 and all the other items that are stapled on that piece of
9 paper when you found them in Jens's dorm?

10 A They were in an envelope, loosely put in an
11 envelope, and I stapled them on this piece of paper so
12 that they would be easily photocopied.

13 Q And when do you recall that you stapled them
14 on that piece of paper?

15 A It must have been shortly before I sent the
16 photocopy to Mr. Hogshire.

17 Q And that would have been in 1986, you
18 believe, sir?

19 A That's correct.

20 Q Now I am going to show you Defendant's
21 Exhibit 19, which is the canceled check?

22 A Yes.

23 Q Do you recognize the signature on that
24 check?

25 A Yes, it's Jens's signature.

1 Q And do you recognize it as your son's
2 signature?

3 A Yes.

4 Q Where did you find the canceled check?

5 A In Jens's dorm.

6 Q Was the canceled check with the tickets?

7 A It was in the box of his property, it was
8 part of it all. In his financial -- he had an envelope
9 where he kept all his checks.

10 Q So was it in a different envelope than the
11 tickets?

12 A Oh, yes.

13 Q Elizabeth Haysom has testified about
14 conversations that your son allegedly had with you in
15 October of 1985. I'd like to ask you, did you have any
16 telephone conversations with your son Jens regarding the
17 police investigation of the Haysom murders in October of
18 1985?

19 A Certainly not.

20 Q When is the first time that you learned that
21 your son Jens was a suspect or arrested in this case?

22 A Beginning of June, 1986.

23 MR. NEATON: Thank you, that's all.

24

25

1 CROSS EXAMINATION

2 BY MR. UPDIKE:

3 Q Mr. Soering, when you mailed these items to
4 the attorney in Charlottesville, I can show you the
5 letter, but was that June -- prior to -- well my question
6 is, at the point that you did that, did you know that your
7 son had been arrested in England?

8 A This is my recollection, yes.

9 Q Because one of the Commonwealth's exhibits,
10 a letter that your son wrote to Elizabeth Haysom which
11 would be the orange -- this being Commonwealth's Exhibit
12 353, excuse me, am I correct in this exhibit that your son
13 makes reference on the last page, he's writing on June 4th
14 that he's received a phone call from his family. So at
15 that point you all knew where he was?

16 A This must be it, yes. It's not necessarily
17 to do with this case, but it was the fact that he was in
18 for fraud.

19 MR. UPDIKE: Thank you. No further
20 questions.

21 (Witness stood aside.)

22 THE COURT: Call your next witness.

23 MR. NEATON: The defense rests.

24 THE COURT: Is there any rebuttal
25 evidence?

1 MR. UPDIKE: No, sir, Your Honor.

2 THE COURT: Well members of the jury,
3 we now have a pretty good idea, a better
4 idea than we had before as to when we're
5 going to finish this case. As I told you
6 earlier, it is necessary that I go to
7 Norfolk tomorrow in a case that I cannot get
8 out of. I think you would probably need a
9 break anyhow, because you have been going
10 since Tuesday.

11 The next stage of the case
12 is -- excuse me, both sides have now rested
13 their cases. What that means is that you
14 have heard all the evidence in this case
15 that you're going to hear. Now the other
16 steps in the case from now to conclusion are
17 this: The lawyers and I must confer about
18 instructions, the ultimate decision as to
19 which instructions to give is my
20 responsibility; that those instructions must
21 be typed, and in some cases revised, and it
22 takes some time to do that.

23 Following that, each lawyer will make a
24 closing argument or summation to you. I
25 cannot really estimate the time of the

1 summation, because that depends on how long
2 the lawyers talk. But it occurred to me
3 that perhaps the best way to handle this
4 would be to let you go now, for the lawyers
5 and I to stay here the rest of the afternoon
6 and work on the instructions, which would
7 keep you from having to wait back in the
8 jury room while we're working, for me to
9 come on back here Wednesday night so that
10 Thursday morning at 9:30 we'll be all ready
11 with instructions and closing argument,
12 which would mean that I would say that
13 by noon on Thursday the case is in your
14 hands. Then of course it's up to you, you
15 write the rest of the story. But that's
16 the way it looks to me.

17 Now the only way that that scenario
18 might be changed is it might be possible for
19 the lawyers and I to send you to lunch say
20 now, and for us to work on instructions, and
21 we could possibly get the closing argument
22 in today, but gentlemen, I don't really feel
23 that we should have closing arguments and
24 then recess, it would seem better to me that
25 we keep the closing arguments and the

1 deliberation all at the same time. How
2 do counsel feel about that?

3 MR. NEATON: I would agree with that.

4 THE COURT: Yes, sir. Mr. Updike?

5 MR. UPDIKE: The Commonwealth would
6 agree as well.

7 THE COURT: So if that suits with the
8 jury's feelings, we're going to give you an
9 early adjournment today, and I believe I can
10 tell you with some assurance that at 9:30
11 Thursday when you come back, not tomorrow,
12 now, but Thursday at 9:30, Thursday when you
13 come back, that we'll be ready with the
14 instructions, and then the lawyers will go
15 right into closing argument, and certainly
16 by lunch time I would think that the case
17 would be in your hands, or possibly after
18 you have had lunch. So that's where we
19 stand. Any questions?

20 All right, we will not adjourn Court as
21 such, because we're going to stay here, but
22 members of the jury, you are released at
23 this time to come back at 9:30 Thursday
24 morning. Again, be extremely careful about
25 not discussing the case, allowing anyone to.

1 discuss the case with you, do not read here
2 or otherwise gain any information about the
3 case from outside sources. Thank you
4 very much, we'll see you 9:30 Thursday
5 morning.

6 (Whereupon the jury exited the
7 courtroom.)

8 THE COURT: All right, gentlemen, it's
9 my thought that we could release the Court
10 reporter after we see whether there are any
11 motions at this point, and then we could
12 informally discuss the instructions,
13 exchange them, and then I suggest that we
14 come back a little early Thursday morning,
15 maybe nine instead of 9:30, and that way we
16 could put the instructions on the record,
17 and let you state any objections you might
18 have, and in that manner the court reporter
19 could leave and doesn't have to stay around.
20 That would seem to me to be a good way to do
21 it. So are there any further motions at
22 this time?

23 MR. CLEVELAND: Your Honor, we'd just
24 reserve the motion until Thursday just prior
25 to the argument, just renew our motion to

1 strike, and on the same grounds as we made
2 previously at the conclusion of the
3 Commonwealth's case, it's still our position
4 that even given the Commonwealth's evidence,
5 that it is insufficient to -- well as a
6 matter of law, to satisfy the premeditation
7 issue. We think at a minimum the Court
8 should strike the first degree murder
9 charges against Mr. Soering.

10 THE COURT: For reasons previously
11 stated the Court overrules such motion.

12 THE COURT: Now I think that we have
13 gotten all the motions that we need to get
14 in, the rest of the work will deal with
15 instructions, and frankly, I don't think we
16 are going to have a lot of difficulty there.
17 We usually don't have too much difficulty
18 with criminal instructions. I will tell
19 counsel, I think Mr. Updike knows it, that
20 my preference is to stick pretty closely to
21 the Virginia Jury Instructions, the
22 patterned instructions, and that's the way
23 I'll be ruling in this case. So you have a
24 much better chance of getting an instruction
25 if it's applicable to the case from choosing

1 one from the many instructions in the
2 approved book than you do by making one,
3 or simply reciting dicta from some case.
4 But other than that, I'll consider all of
5 your instructions or any of the
6 instructions. All right, you're excused
7 now, Mrs. Keen, and why don't you come back
8 at 9:00 Thursday morning.

9 (Whereupon instructions were reviewed
10 informally and court recessed until 9:00 on
11 June 21, 1990.)
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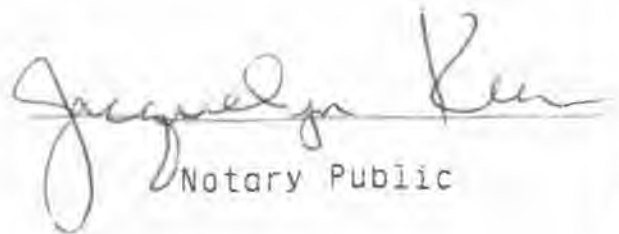
STATE OF VIRGINIA

AT LARGE. to-wit,

I, Jacquelyn Keen, Notary Public in and for the State of Virginia at Large, do hereby certify that the foregoing proceedings were taken before me, and that the aforesaid pages 1 through 88 represent a true and accurate transcription of said proceedings to the best of my Stenographic ability.

Witness my hand this 2nd day of November, 1990

My commission expires September 30, 1993.


Notary Public

911909
VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY

COMMONWEALTH OF VIRGINIA

V.

JENS SOERING

CLERK
COURT OF APPEALS OF VIRGINIA

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TRANSCRIPT OF PROCEEDINGS

June 21, 1990

APPEARANCES:

THE HONORABLE WILLIAM W. SWEENEY, PRESIDING

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Bedford, VA 24523

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December 11, 1990
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1 JUNE 21, 1990

P R O C E E D I N G S

9:00 A.M.

2 THE COURT: All right, gentlemen, we
3 will not formally open until 9:30, but I
4 just wanted to put in the record the action
5 that we -- the decisions that we pretty
6 much made Tuesday about instructions. I
7 think one of the questions was whether or
8 not -- is the defense offering the
9 accessory -- the jury is not in here now, I
10 want to make sure about that, they are
11 back.

12 SHERIFF WELLS: They're back

13 THE COURT: Is the defense offering the
14 accessory instruction?

15 MR. NEATON: Not under the conditions
16 the Court imposed.

17 THE COURT: Well I don't want to put it
18 that way, Mr. Neaton, that's not the way I
19 put it, I think the evidence supports both.
20 I think it's a cleaner case if neither of
21 the accessory instructions is given, but
22 let's don't misunderstand each other, I'm
23 not imposing any deal on you, You can do
24 what you want, that wasn't the intention of
25 the Court.

1 But I think the evidence would support
2 both an accessory before the fact and
3 accessory after the fact instruction. Now
4 if you want the instruction, fine. I
5 personally feel that it would be better to
6 have it go to the jury on first degree,
7 second degree and not guilty, it would be
8 less confusing to the jury.

9 MR. NEATON: Just so the record's
10 clear, it's our position that the evidence
11 would support accessory after the fact but
12 not accessory before the fact, because
13 there is no evidence in the case that would
14 indicate that the reason that Mr. Soering
15 did what he did was in order to alibi for a
16 homicide. If the jury disbelieves Mr.
17 Soering's explanation as to why he
18 purchased the tickets, there is still no
19 evidence in the case that explains why he
20 purchased the tickets, and it would be an
21 unwarranted inference to -- for the jury to
22 conclude, based on the other testimony in
23 the Commonwealth's case, just because they
24 disbelieve a certain portion of the
25 defendant's testimony, that somehow an

1 accessory before the fact is proven. So
2 that would be our position. we think that
3 the evidence supports accessory after the
4 fact, it does not support accessory before
5 the fact for the reasons I have stated.

6 THE COURT: Are you through?

7 MR. NEATON: That's all right, I'm
8 through.

9 THE COURT: Mr. Updike, what is your
10 position about whether the evidence
11 supports an accessory before the fact
12 instruction, and be as specific as you can
13 as to the other evidence.

14 MR. UPDIKE: Certainly, Your Honor.
15 It's our theory and it's remained our
16 theory throughout that Jens Soering
17 committed these acts as a principal in the
18 first degree, that he was a person who was
19 actually there and committed those acts, we
20 have stated that throughout, we will argue
21 that before the jury, that he did it. We
22 feel that this business of accessory,
23 whether before the fact or after the fact,
24 confuses the issue.

25 However, if the defense, based upon

1 evidence that they introduced, not evidence
2 that we introduced, but rather they
3 introduced evidence concerning an alibi,
4 and that was that the defendant created an
5 alibi concerning the commission of a
6 criminal act, and that's his statement, and
7 that's his testimony. Now he is stating
8 that he did that with the intent of
9 committing an alibi for a drug deal and not
10 for murder, but nevertheless, he's
11 establishing an alibi for a criminal act.
12 The only element therefore remaining is
13 whether or not he knew that murder was
14 going to be committed. Now in that
15 respect, Your Honor, his letters which he
16 wrote, in particular the letter that he
17 wrote during Christmas break in which he
18 talks about that he has the weapon for the
19 parents, the ultimate weapon, that he has
20 the dinner scene planned out, he talks
21 about the death of her parents, he talks
22 about depriving them of their property, he
23 talks about the intent to crush, and that
24 being -- and killing, that being the
25 ultimate act of crushing, he's talking

1 about that throughout those particular
2 writings.

3 Therefore, Your Honor, we have
4 discussions and writings not only on the
5 part of Elizabeth Haysom before the fact,
6 but Jens Soering as well. When you combine
7 that with the fact that the tickets which
8 the defendant states were purchased for the
9 purpose of establishing an alibi for a drug
10 deal that he says that he learned about on
11 Saturday, the evidence clearly shows that
12 the tickets were not purchased only on
13 Saturday, but rather were purchased on
14 Friday night.

15 In addition to that, a receipt was
16 maintained for the purchase of a hamburger
17 on Friday night, which is most certainly a
18 very unusual occurrence, most people are
19 not interested in that type of thing,
20 especially when you're not on a business
21 account, which he was not. And yet he
22 maintains that, and he has that in his
23 possession. Therefore, that establishes
24 the inference for the jury that the alibi
25 was being created not only for Saturday,

1 but rather the entire weekend, and that the
2 alibi was created even before the point at
3 which the defendant says the defendant says
4 the alibi was beginning to be discussed.

5 In addition to that, we have the
6 defendant's own testimony concerning why he
7 did not use the alibi at an earlier time
8 concerning protection for Elizabeth, and he
9 stated in his own testimony, that if he had
10 maintained that he came from Washington to
11 Loose Chippings with the intent of killing
12 the Haysoms and did kill the Haysoms, and
13 that if he further maintained that
14 Elizabeth Haysom remained in Washington
15 with this alibi without knowing anything
16 about what was going on, that that
17 explanation would not make any sense.
18 Those are his own words.

19 Therefore, Your Honor, the only
20 reasonable inference from that, the only
21 logical deduction is that if you reverse it
22 and say that Elizabeth Haysom came to Loose
23 Chippings and committed the act, and that
24 Jens Soering stayed in Washington, D.C.
25 maintaining the alibi, and he says he

1 maintained an alibi, without knowing
2 anything about was going on at Loose
3 Chippings, that would equally not make any
4 sense.

5 The defense is attempting through this
6 evidence concerning the tickets to tie
7 those tickets and that alibi into the
8 murders. Now if they wish to do that, then
9 it works both ways. There is evidence from
10 which the jury could find, based upon that,
11 evidence of accessory before the fact. It
12 is not our intent to argue that, it is not
13 our belief that that's what happened, that
14 is not our evidence. But the jury, we
15 recognize, must address the evidence in its
16 entirety, and they have introduced this,
17 and if they wish to maintain theories of
18 accessory, then we would respectfully
19 submit, Your Honor, it must go both ways,
20 before and after the fact.

21 THE COURT: Thank you, gentlemen, I
22 think that's enough argument. Let's go
23 ahead to the instructions. Let the record
24 show that the accused is present, and that
25 the jury is not present. Let the record

1 further show that counsel and the Court
2 spent considerable time on Tuesday
3 following discharge of the jury going over
4 instructions, making tentative decisions as
5 to the instructions. The purpose of
6 presenting the instructions for the record
7 at this time is for the Court to state
8 which instructions it is giving, which
9 instructions it is refusing, and to give
10 counsel on both sides the opportunity to
11 object to the action of the Court as to
12 instructions.

13 First, taking up the instructions
14 offered on behalf of the Commonwealth, and
15 I would like, gentlemen, to go through all
16 the Commonwealth's instructions and state
17 my rulings, then I will ask counsel for any
18 objections. I'll do the same thing for the
19 defense instructions. And by the way, I
20 have had retyped the small corrections that
21 we needed in the instructions. I think
22 that the copy of instructions which I have
23 correctly states the instructions as
24 amended. But I would be glad to make the
25 originals available, of my instructions

1 available to counsel for closing argument
2 in case you want to refer to these to make
3 certain that you have the correctly worded
4 instructions. Or, if you would like, I
5 think probably we could get some
6 instructions copied for you.

7 All right, the Court will grant
8 Instruction 1 as offered. The Court will
9 grant Instruction 2 as offered. Just a
10 moment, they are somewhat out of order, I
11 want to get them in order. Before I
12 proceed, I told you I would grant you an
13 additional instruction dealing with the
14 burden of proof as to the various matters,
15 of course that depends somewhat on what we
16 instruct on. I will give you that
17 instruction. It is my present intention to
18 instruct on the first degree, the second
19 degree and the not guilty. So I will give
20 that instruction, and that will be
21 Instruction N, as I understand it. I think
22 M was your last instruction.

23 MR. CLEVELAND: Yes, sir.

24 THE COURT: I have previously stated I
25 would grant Instructions 1, Instruction 2,

3
1 Instruction 3, Instruction 4, Instruction
2 5, Instruction 6, Instruction 7,
3 Instruction 8, Instruction 9, And
4 instruction 10. All right, does the
5 Commonwealth have any comments to make in
6 regards to these instructions and the
7 action of the Court thereon?

8 MR. UPDIKE: Your Honor, if I might,
9 and I know that the Court will understand
10 that I am not arguing with the rulings of
11 the Court, it's just that I have learned in
12 the past that it's best to have on the
13 record some of my comments so that they'll
14 be there.

15 THE COURT: Yes, sir.

16 MR. UPDIKE: And the only real comment
17 that we wish to make concerns instructing
18 as to second degree. We would like the
19 record to reflect that the Commonwealth
20 offered an instruction solely as to first
21 degree. We feel that this is a first
22 degree case, and the only issue is whether
23 or not there is proof beyond a reasonable
24 doubt that the defendant committed first
25 degree murder. And we say that because

1 first degree murder requires proof of an
2 intent to kill, and because of the extent
3 of the injuries as to both victims, we feel
4 that it's overwhelming that this is a first
5 degree murder case, and that that can be
6 decided as a matter of law.

7 We say that not as argument, we just
8 wish the record to reflect that once the
9 ruling was made as to second degree, the
10 Commonwealth offered this instruction, and
11 we say that just so the record will be
12 clear that we think that the argument can
13 be made that this is only a first degree
14 case, but caution is being exercised to
15 make sure that theories on behalf of the
16 defense are instructed to the jury, which
17 is as it should be, but we say that with
18 emphasis of an argument that most certainly
19 no lessor degree should be instructed. And
20 that's the only purpose for saying that,
21 thank you.

22 THE COURT: Perhaps it would make the
23 record for complete if you would offer an
24 instruction just on first degree and let me
25 refuse it. That would make it crystal

1 clear as to what position I'm taking.

2 MR. UPDIKE: Yes, sir. And in fact I
3 have that right here, Your Honor, if we
4 could offer these that we have previously
5 provided to counsel as Instructions 1 and
6 2, and if we could ask that -- I don't know
7 whether it's necessary that the others be
8 marked 1-A or 2-A, whatever the Court
9 thinks.

10 THE COURT: I do think these
11 instructions should be marked 1-A and 2-A.

12 MR. UPDIKE: All right, sir, thank you
13 very much.

14 THE COURT: For the record, Instruction
15 1-A and Instruction 2-A offered by the
16 Commonwealth are refused. The reason for
17 the refusal is that the Court feels that
18 the evidence in this case should be
19 presented to the jury as to both first
20 degree and second degree murder. Keep the
21 refused instructions over there so that we
22 will not let those go back to the jury.
23 All right, any further comments from the
24 Commonwealth?

25 MR. UPDIKE: No, sir, Your Honor, thank

1 you.

2 THE COURT: All right, gentlemen, any
3 comment as to the action of the Court on
4 Commonwealth's instructions?

5 MR. NEATON: The defense would object
6 to the granting of Instruction Number 7 on
7 the grounds that it's argumentative, that
8 it's duplicative of Instructions 3 and 4,
9 and that it is not a standard Virginia jury
10 instruction, and therefore does not have to
11 be given by the Court.

12 THE COURT: Thank you sir. All right,
13 the Court will now rule on instructions
14 offered on behalf of the defense. The
15 Court will grant Instruction A as offered.
16 The Court will grant Instruction B as
17 offered. The Court will grant Instruction
18 C as offered. The Court will grant
19 Instruction D as offered. The Court will
20 grant Instruction E as offered. The Court
21 will refuse Instruction F on the grounds
22 that I do not think that the evidence in
23 this case would support a manslaughter
24 conviction. The Court will grant
25 Instruction G as offered.

1 The Court will refuse Instruction H
2 because I do not feel at this -- I do not
3 feel that the evidence in this case would
4 support a manslaughter conviction, and for
5 the additional reason that the substance of
6 this instruction is covered in other
7 instructions already given. The Court will
8 will refuse Instruction J. Let me look at
9 that again. (Pause for perusal.) Yes, the
10 Court will refuse Instruction J on the
11 grounds that the indictments in this case
12 charge murder, and do not specifically
13 charge murder in any particular degree, and
14 for the additional reason that the
15 instruction is not necessary, it is
16 confusing and is covered by other
17 instructions of the Court.

18 The Court will grant Instruction K as
19 offered. The Court will refuse Instruction
20 L on the grounds that it is not a necessary
21 instruction, and on the specific grounds
22 that there is corroboration in the evidence
23 for Elizabeth Haysom's testimony, and that
24 therefore the instruction which is based
25 upon uncorroborated testimony of an

1 accomplice should not be given.

2 The Court has had some difficulty, as
3 we know, with the principal outlined in
4 Instruction M, but I have decided to give
5 that instruction. The Court will grant
6 Instruction M as offered. Now the Court
7 will likewise grant Instruction N as
8 offered, which is an instruction basically
9 on burden of proof as to the waterfall
10 instruction, it says if you have a
11 reasonable doubt as to the higher grade you
12 may convict of the lower grade, all the way
13 down to not guilty, and I will give you a
14 chance to prepare that, my secretary will
15 be glad to type it.

16 Now, do you have any comments as to the
17 action of the Court as to the defense
18 instructions, Mr. Updike?

19 MR. UPDIKE: Your Honor, just if we
20 could state some things that we stated the
21 other day off the record and we would just
22 like the record to reflect this. We have
23 argued already as to this not being a
24 manslaughter case, we have stated that
25 previously, the evidence does not support

1 that. As to Instruction L, we also would
2 like to emphasize that this is certainly
3 not a case of uncorroborated testimony on
4 the part of an accomplice when one
5 considers the defendant's own statements,
6 his actions and his writings.

7 We would wish to point out as to
8 Instruction M as to intoxication, that it
9 was once that the defense offered that
10 instruction, that the Commonwealth offered
11 Instruction N in response to that. We made
12 arguments that we felt established that
13 there was no evidence showing that the
14 defendant was intoxicated to the extent of
15 being incapable of deliberating, or
16 premeditating. As the cases show of
17 Hatcher v. Commonwealth at 218 Virginia,
18 811, another case, Royal v. Commonwealth at
19 2 Va. Appellate, Page 59, evidence of
20 drinking is insufficient to support this
21 instruction, there must be evidence of
22 drinking to the extent that a reasonable
23 inference may be made that the defendant
24 was incapable of deliberating and
25 premeditating.

1 We would further emphasize as to the
2 German statement, as we refer to it, that
3 on Page 13 of that transcript the defendant
4 stated that he drank two to three cans of
5 beer on the way to Lynchburg. He stated
6 that it took him three and a half hours to
7 get to Lynchburg. We have the evidence
8 from Dr. Oxley concerning the elevation at
9 which the blood alcohol rises in response
10 to the drinking of a can of beer and the
11 rate at which the body gets rid of same.

12 A can of beer in a period of an hour
13 will raise the blood alcohol .02 percent.
14 The body will also eliminate alcohol at the
15 rate of .02 percent. So if you have two
16 to three cans of beer over a period of
17 three and a half hours, even if you say
18 that it was three cans of beer, three
19 hours, you have got him eliminating it at
20 the same rate that he drinks it.

21 Furthermore, he states on Page 17 of the
22 German statement that upon his arrival
23 there at Loose Chippings there was a time
24 period of 20 to 30 minutes from the time of
25 his arrival to the time of the attack, and

1 that period included all drinking, eating
2 and everything else, and that the meal
3 wasn't concluded.

4 Finally, we would emphasize that when I
5 asked the defendant about his earlier
6 statement in England where he stated that
7 he had nothing to drink on the way to
8 Lynchburg, he admitted that, and rather
9 said that he stated in the German interview
10 that he had had this drink on the way to
11 Loose Chippings in response to
12 encouragement from his attorneys. So those
13 were the reasons for our arguing that this
14 instruction not be given, it has been given
15 and we have offered one in response. Thank
16 you.

17 THE COURT: I feel the Court should
18 respond to why I am, I have decided to give
19 the defense that instruction. It's my
20 recollection, very clear recollection that
21 in the German confession which I admitted,
22 that after having stated that he had had a
23 number of beers on the way to Loose
24 Chippings, and had what I think he said was
25 maybe as many as three drinks there at the

5 1 home, that he was drunk. And he used the
2 word drunk.

3 Now it's up to the jury to decide which
4 parts of the testimony they will accept,
5 but it's my job to instruct the jury on all
6 possible -- on all possible phases and
7 theories which have been put forth, both by
8 the Commonwealth and the defense. And I
9 think that if the jury were to adopt as
10 true for instance the German statement, but
11 were to feel that Jens Soering was so drunk
12 at the time that the action were committed
13 that he was incapable of premeditation as
14 required by law, then I think under
15 Virginia law he's entitled to this
16 instruction, and that's my thinking. And
17 that's the reason I feel the instruction
18 must be given.

19 All right, any other comments, Mr.
20 Updike?

21 MR. UPDIKE: No, sir, thank you, Your
22 Honor.

23 THE COURT: All right, Mr. Neaton?

24 MR. NEATON: Your Honor, we object to
25 the Court's refusal of Instructions G, H, J

1 and L. Instructions G and H pertain to the
2 crime of voluntary manslaughter. It's our
3 position also that if the jury believes the
4 so called German statement, or even if they
5 believe the truth of some of the statements
6 that he made in England in June of '86,
7 that it would support the crime of
8 voluntary manslaughter, because there are
9 allegations that he was pushed into the
10 dining room wall by Mr. Haysom before the
11 attack began, and that he responded to that
12 by acting in a rage.

13 Instruction J has nothing to do with
14 the degree of murder, it simply is a
15 statement that the defendant is charged as
16 a principal in the first degree, and that
17 therefore the jury must believe that he
18 actually committed the crime charged as
19 opposed to being an accessory.

20 Instruction L, the accomplice
21 instruction we think should be given in
22 this is case, because the so-called
23 corroboration of the testimony of the
24 accomplice is not conclusive corroboration,
25 it's open to debate itself on its own

1 credibility, and therefore, we would object
2 to the refusal of Instruction L.

3
4 On Instruction M, the Court has also
5 decided to give concurrently Instruction 10
6 of the Commonwealth, and we would object to
7 Instruction 10 because it's argumentative
8 and it's not part of the standard jury
9 instructions.

10 Instruction M offered by the defense is
11 verbatim out of the VJI on Page 1-597, and
12 we feel that that should be the only
13 instruction given.

14 THE COURT: All right, thank you sir.
15 If you have got Instruction N in rough
16 form, perhaps we could have that typed
17 after the jury goes out. I'd like not to
18 delay too much.

19 MR. NEATON: Sure.

20 THE COURT: Why don't you just put it
21 together and I can read it to the jury, and
22 then I'll have it typed while you're
23 arguing. Everything else seems to be in
24 good order.

25 Now a word to our spectators before we
begin. As a matter of courtesy to the

1 lawyers, I do not want people moving back
2 and forth in and out of the courtroom
3 during closing arguments. It's
4 distracting, it's somewhat discourteous,
5 I'm sure that you understand that. And so
6 for that reason, for the next approximately
7 one hour, the courtroom in effect will be
8 closed. Now if there's anyone here who
9 feels that he or she cannot stay for that
10 period of time, then I suggest that they
11 leave now and let someone else come in and
12 have your seat.

13 When Mr. Updike has concluded his
14 initial closing argument, then I am going
15 to declare a recess of approximately five
16 to 10 minutes, that will give anybody who
17 wants to leave or go outside a chance to do
18 it. And I appreciate the cooperation of
19 the spectators, you have been very
20 courteous throughout the trial and we all
21 appreciate that, and I'm sure you will
22 continue to be. Now for purposes of
23 procedure, gentlemen, of counsel, after the
24 closing arguments are complete and before
25 the jury actually goes back, we will then

1 identify the two alternate jurors at that
2 stage, I will instruct them not to discuss
3 the case in any way with anybody until this
4 case is finally over, and if they want to
5 go home, Sheriff, we'll have to arrange
6 some sort of -- I'll tell them that your
7 department can arrange some transportation.
8 On the other hand, if they want to stay
9 here, I suppose they could do that if they
10 don't say anything about the case. Does
11 anybody have any problems with that,
12 gentlemen?

13 MR. UPDIKE: The Commonwealth does not,
14 Your Honor.

15 THE COURT: I think that does it. Call
16 the jury out, please. Good morning, member
17 of the jury. Members of the jury, as I
18 stated to you on Tuesday, the lawyers and I
19 stayed here into the afternoon after you
20 had left, and I am pleased to inform you
21 that we now have the instructions typed,
22 we're now ready to proceed with the reading
23 of instructions and closing arguments in
24 the case.

25 Now a word about instructions before I

1 read them. These instructions are the
2 Court's instructions. There are principals
3 given from the viewpoint of each side, but
4 the instructions should be read and
5 considered by you as a whole. The order in
6 which I read the instructions has no
7 significance. You will have these
8 instructions which are typed to take back
9 with you to the jury room when you go back
10 to the jury room at the conclusion of
11 closing argument.

12 You will also take back with you all
13 exhibits in the case, and two jury verdict
14 forms which are forms on which you write
15 your verdict, I'll explain that later. If
16 you wish to reread any instruction, or if
17 you miss anything that I read as I go
18 along, then you will have these
19 instructions available to you at your
20 leisure to study and to read again.

21 In order to aid you a bit, the
22 instructions represent the principles of
23 law in a case. The law of a case is the
24 Judge's responsibility. The facts of the
25 case are the jurors' responsibility.

1 Basically what you do, you apply these
2 principals of law as embodied in these
3 instructions to the facts of this case as
4 you find those facts to be and arrive at a
5 verdict. Now there are three possible
6 verdicts in this case, and it is up to you
7 to decide which one fits the case. There
8 is a possibility of a first degree murder
9 conviction, and that is defined, and the
10 the range of punishment is defined in
11 instructions.

12 There is a possibility of a second
13 degree murder conviction, that likewise is
14 defined, along with range of punishment,
15 and there is the third option of not
16 guilty. After you have arrived at a
17 verdict, your foreman or foreperson will
18 write out on the verdict form which one of
19 these three verdicts you have reached, and
20 submit it to the Court. Now if your
21 finding is not guilty, that's all you'll
22 say. If your finding is for first degree
23 murder or second degree murder, you have to
24 go further and fix the specific term of
25 imprisonment or punishment, which

1 punishment must be within the range of
2 limits provided by state law for that
3 offense in these instructions. With those
4 preliminary remarks I will now read the
5 instructions, to you word by word.

6 The Court instructs the jury that the
7 defendant is charged with the offense of
8 first degree murder. The Commonwealth must
9 prove beyond a reasonable doubt each of the
10 following elements of this crime: First,
11 that the defendant killed Derek Haysom, and
12 second, that the killing was malicious, and
13 third, that the killing was willful,
14 deliberate and premeditated. If you find
15 from the evidence that the Commonwealth has
16 proved beyond a reasonable doubt each of
17 the above elements of the offense as
18 charged, then you shall find the defendant
19 guilty of first degree murder and fix his
20 punishment at imprisonment for life or a
21 specific term of imprisonment, but not less
22 than 20 years.

23 If you find from the evidence that the
24 Commonwealth has proved beyond a reasonable
25 doubt each of the first two elements of the

1 offense as charged but you do not find
2 beyond a reasonable doubt that the killing
3 was willful, deliberate and premeditated,
4 then you shall find the defendant guilty of
5 second degree murder and fix his punishment
6 at a term of imprisonment of not less than
7 five years, nor more than 20 years. If you
8 find that the Commonwealth has failed to
9 prove beyond a reasonable doubt either of
10 the above offenses, then you shall find the
11 defendant not guilty of murder.

12 Now the next instruction, Instruction
13 Number 2 is exactly the same instruction
14 which I have read to you, except that it
15 applies to Nancy Haysom rather than to
16 Derek Haysom, and unless counsel want me to
17 read that again, I don't see any reason to
18 re-read the instruction, gentlemen.

19 MR. NEATON: There's no reason to,
20 Judge.

21 THE COURT: It's exactly the same
22 instruction I read in Number 1, with the
23 substitution of the word Nancy Haysom for
24 Derek Haysom. You understand of course
25 that you are trying two cases, they are

1 separate cases and you must reach separate
2 verdicts in each case.

3 The Court instructs the jury that
4 willful, deliberate and premeditated means
5 a specific intent to kill adopted at some
6 time before the killing, but which need not
7 exist for any particular length of time.

8 The Court instructs the jury that
9 malice is that state of mind which results
10 in the intentional doing of a wrongful act
11 to another without legal excuse or
12 justification at a time when the mind of
13 the actor is under the control of reason.
14 Malice may result from any unlawful or
15 unjustifiable motive, including anger,
16 hatred or revenge. Malice may be inferred
17 from any deliberate, willful and cruel act
18 against another, however sudden.

19 The Court instructs the jury that you
20 may infer malice from the deliberate use of
21 a deadly weapon, unless from all the
22 evidence you have a reasonable doubt as to
23 whether malice existed. A deadly weapon is
24 any object or instrument that is likely to
25 cause death or great bodily injury because

1 of the manner and under the circumstances
2 in which it is used.

3 The Court instructs the jury that to
4 prove the charge of murder, the
5 Commonwealth does not have to prove a
6 motive for the killing. The presence or
7 absence of a motive may be considered in
8 arriving at your verdict.

9 The Court instructs the jury that an
10 intent to kill may be formed only a moment
11 before the fatal act is committed, provided
12 the accused had time to think and did
13 intend to kill.

14 The Court instructs the jury that it is
15 not necessary that each element of the
16 offense be proved by direct evidence, for
17 an element may also be proved by
18 circumstantial evidence. You may convict
19 the defendant on circumstantial evidence
20 alone, or on circumstantial evidence
21 combined with other evidence if you believe
22 from all the evidence that the defendant is
23 guilty beyond a reasonable doubt.

24 When the Commonwealth relies upon
25 circumstantial evidence, the circumstances

1 proved must be consistent with guilt and
2 inconsistent with innocence. It is not
3 sufficient that the circumstances proved
4 create a suspicion of guilt, however
5 strong, or even a probability of guilt.
6 The evidence as a whole must exclude every
7 reasonable theory of innocence.

8 The Court instructs the jury that you
9 are the judges of the facts, the
10 credibility, which of course means
11 believability, the credibility of the
12 witnesses and the weight of the evidence.
13 You may consider the appearance and manner
14 of the witnesses on the stand, their
15 intelligence, their opportunity for knowing
16 the truth and for having observed the
17 things about which they testified, their
18 interest in the outcome of the case, their
19 bias, and if any have been shown, their
20 prior inconsistent statements, or whether
21 they have knowingly testified untruthfully
22 to any material fact in the case.

23 You may not arbitrarily disregard
24 believable testimony of a witness, however
25 after you have considered all the evidence.

1 in the case, then you may accept or discard
2 all or part of the testimony of a witness
3 as you think proper. You are entitled to
4 use your common sense in judging any
5 testimony. From these things and all the
6 other circumstances of the trial, you may
7 determine which witnesses are more
8 believable and weigh their testimony
9 accordingly.

10 The Court instructs the jury that proof
11 of consumption of alcohol does not negate
12 the element of premeditation, if any,
13 unless you believe from the evidence that
14 the defendant was so greatly intoxicated by
15 the voluntary use of alcohol that he was
16 incapable of deliberating or premeditating.

17 The Court instructs the jury that the
18 defendant is presumed to be innocent. You
19 should not assume the defendant is guilty
20 because he has been indicted and is on
21 trial. This presumption of innocence
22 remains with the defendant throughout the
23 trial, and is enough to require you to find
24 the defendant not guilty unless and until
25 the Commonwealth proves each and every

8
1 element of the offense beyond a reasonable
2 doubt. This does not require proof beyond
3 all possible doubt, nor is the Commonwealth
4 required to disprove every conceivable
5 circumstance of innocence. However,
6 suspicion or probability of guilt is not
7 enough for a conviction. There is no
8 burden on the defendant to produce any
9 evidence. A reasonable doubt is a doubt
10 based on your sound judgment after a full
11 and impartial consideration of all the
12 evidence in the case.

13 The Court instructs the jury that the
14 fact that the defendant has been indicted
15 by a grand jury is not evidence against
16 him, and you should not consider it.

17 The Court instructs the jury that you
18 must not consider any matter that was
19 rejected or stricken by the Court, it is
20 not evidence and should be disregarded.

21 The Court instructs the jury that you
22 may consider proof of a witness or a
23 defendant's prior conviction of a felony or
24 a crime involving moral turpitude as
25 affecting his credibility, but it does not.

1 render him incompetent to testify, nor
2 shall you consider it as evidence of his
3 guilt of the offense for which he is on
4 trial, nor shall you consider in fixing
5 punishment if you do find him guilty.

6 The Court instructs the jury that
7 during the trial, evidence was introduced
8 that a witness had previously made a
9 statement or given testimony that was
10 inconsistent with testimony at this trial.
11 The only purpose for which that evidence
12 was admitted was its bearing on the
13 witness's credibility or believability. It
14 is not of proof that what the witness may
15 have said earlier is true.

16 The Court instructs the jury that once
17 the Commonwealth has proved there was an
18 unlawful killing, then you are entitled to
19 infer there was malice, and that the act
20 was murder in the second degree, unless
21 from all the evidence you have a reasonable
22 doubt as to whether malice existed.

23 The Court instructs the jury that the
24 defendant relies upon the defense that he
25 was not present at the time and place the

1 alleged offense was committed. If after
2 consideration of all the evidence you have
3 a reasonable doubt that the defendant was
4 present at the time and place the alleged
5 offenses were committed, then you should
6 find him not guilty.

7 The Court instructs the jury that if
8 you find that the defendant was so greatly
9 intoxicated by the voluntary use of an
10 alcoholic beverage that he was incapable of
11 deliberating or premeditating, then you
12 cannot find him guilty of murder in the
13 first degree.

14 And finally, the Court instructs the
15 jury that you have been instructed on more
16 than one grade of homicide, and if you have
17 a reasonable doubt as to the grade of the
18 offense, then you must resolve that doubt
19 in favor of the defendant and find him
20 guilty of the lessor offense. For example,
21 if you have a reasonable doubt as to
22 whether he is guilty of first degree murder
23 or second degree murder, you shall find him
24 guilty of second degree murder. If you
25 have a reasonable doubt as to whether he is

1 guilty at all, then you should find him not
2 guilty.

3 Now members of the jury, those are the
4 instructions, that's the law, and this will
5 go back to the jury room, as I said, with
6 you. Now we will begin closing arguments
7 in this case. I have told the spectators
8 that I did not want people moving in and
9 out of the courtroom during the closing
10 argument, it is distracting and it is
11 discourteous, and they understand that.
12 However, for your information, I have also
13 stated that after Mr. Updike concludes the
14 initial phase of his closing, that we'll
15 take a short recess before we go into the
16 defense closing argument.

17 All right, Mr. Updike, you may proceed
18 for the prosecution.

19 MR. UPDIKE: Thank you, Your Honor.
20 May it please the Court and you ladies and
21 gentlemen of the jury. Now as you all will
22 remember at the very outset when I stood
23 here before you during the opening
24 statement, one of the things that I asked
25 of you on behalf of the Commonwealth and on

1 behalf of the defense, was that you be
2 attentive and listen carefully to the
3 evidence. I stated then that I knew that
4 you would do that. I did not know just how
5 well and carefully you would do that; you
6 have been extremely attentive under some
7 unusual circumstances, most unusual at
8 times, lights going off, the air
9 conditioning quitting, long, tedious
10 testimony at times, a lot of evidence,
11 physical evidence. You have listened well
12 and carefully.

13 On behalf of the Commonwealth of
14 Virginia I thank you. However, if I could
15 also ask that you continue with that same
16 attentiveness through this portion of the
17 proceeding, because we feel that this will
18 be of some benefit, we hope that it will.
19 As you have been told, I have this
20 opportunity to speak with you on behalf of
21 my client, which in a limited capacity in
22 which I represent the Commonwealth of
23 Virginia, I do represent them here today
24 in that limited capacity, and perhaps in a
25 capacity on behalf of Derek and Nancy

1 Haysom.

2 If you would continue to listen as I
3 stated, because I'll have this opportunity,
4 the defense then will have the opportunity
5 to speak on behalf of their client. I will
6 have an opportunity to speak with you once
7 again. Now the reason that I have that
8 opportunity to speak in response is because
9 as you know from the reading of the
10 instructions, the Commonwealth of Virginia
11 has the burden of proof in this case, we
12 have to prove our case and prove it beyond
13 a reasonable doubt. Because we have that
14 responsibility, we have the opportunity to
15 speak with you at that final argument.

16 We would emphasize from the outset that
17 we have that responsibility of proving our
18 case, but it's beyond a reasonable doubt,
19 beyond a reasonable doubt. The word
20 reasonable. That means that in a case
21 there could be a situation of where a doubt
22 would remain in a case, but the doubt would
23 not be of the size or magnitude of a
24 reasonable doubt, you understand what I am
25 saying, and under the law, that individual.

1 would still be guilty, because it's proof
2 beyond a reasonable doubt, not proof beyond
3 a shadow of a doubt, or all imaginable
4 doubt or all possible doubt or any such
5 language as that. That's the law anywhere
6 in these United States.

7 Now this evidence, however, ladies and
8 gentlemen, we submitted to you from the
9 beginning, we will continue to submit to
10 you and argue before you respectfully, is
11 overwhelming. Overwhelming in the two
12 cases, the case involving the death of
13 Derek Haysom and the case involving the
14 death of Nancy Haysom. There are two cases
15 as the Court has told you, which you must
16 decide, separate decisions in each case.
17 If you find the defendant guilty in
18 accordance with the law as we submit to you
19 that you should, you have that second
20 responsibility of fixing his his punishment
21 in accordance with the law.

22 Now that requires of me that I speak
23 with you briefly concerning certain
24 instructions of the Court. As the Court
25 has told you, you will have these

1 instructions to take with you in the jury
2 room to refer to further should you feel
3 the necessity of doing so. As you heard
4 from the instructions, in let's call it the
5 first case, it doesn't matter either way or
6 the other, but referring to Derek Haysom,
7 that decision, in that case, you have three
8 possible decisions, to find this man over
9 here guilty of first degree murder, second
10 degree murder, or not guilty. In the case
11 involving the death of Nancy Haysom, you
12 have those same three choices.

13 Now ladies and gentlemen, we want to
14 submit to you and argue that this is a case
15 in both instances of first degree murder,
16 and that it is in each instance a case
17 requiring under this law and this evidence,
18 not only that this man be convicted of
19 first degree murder in each instance, but
20 that he be sentenced to life in prison.

21 Now why do I say that. Because the
22 instructions define for you what first
23 degree murder is; that the defendant killed
24 Derek Haysom; that the defendant killed
25 Nancy Haysom in the second instruction;

1 that the killing was malicious, and that
2 the killing was willful, deliberate and
3 premeditated. Those are the elements of
4 first degree murder, that it's a killing,
5 that it's malicious, and that it's willful,
6 deliberate and premeditated. Now if that
7 element of premeditation is lacking, that
8 you find that the killing occurred, that
9 the defendant did it, and that it was
10 malicious but not premeditated, that's
11 second degree murder.

12 You see it's kind of like a ladder, if
13 you want to look at it in those terms, you
14 have at the top of the ladder those
15 elements of malice and premeditation in the
16 killing, take out the element of
17 premeditation, then you have second degree
18 murder. Because there you have got two of
19 the above three elements, the element of
20 premeditation is lacking. But
21 premeditation, ladies and gentlemen, this
22 is what really requires, we would submit to
23 you, emphasis. Because premeditation might
24 not, and does not mean what you may have
25 seen on some television show, or some --

0
1 through some other experience, it is not
2 the temperature of blood, hot blood, cold
3 blood or anything of that nature. It is
4 not something, premeditation, that is, that
5 requires months and months and years and
6 years, or extended time periods to
7 formulate.

8 Premeditation is one thing, and one
9 thing only, and the Court tells you in
10 Instruction Number 3 what that one thing
11 is, and it is the willful, deliberate and
12 premeditated means, a specific intent to
13 kill. A specific intent to kill. The
14 instruction continues by saying, adopted at
15 some time before the killing. It doesn't
16 say months ahead of time, or weeks ahead of
17 time, or days ahead of time; at some time
18 before the killing.

19 Instruction 7 tells you as to that some
20 point of premeditation, the Court instructs
21 the jury that the intent to kill, that the
22 intent to kill may be formed only a moment
23 before the fatal act is committed; only a
24 moment. Now how does that fit? Now an
25 example that I sometimes use concerns

1 gunshots. For example, if there were a man
2 over there standing somewhere, and I just
3 got full of meanness for whatever
4 particular reason, and I had a gun in my
5 hand and I saw him over there and just out
6 of pure malice and meanness I pulled out
7 that gun and I shot him, not caring whether
8 I killed him. not caring what happened to
9 him, just wanted to shoot him, total
10 disregard for whether I killed him or not,
11 or would kill him, that would be a killing
12 if he died as a result of those wounds, it
13 would be a malicious act, because malice is
14 defined for you as well, it is a cruel act,
15 it is a wrongful act, it is an act
16 resulting from any unlawful or
17 unjustifiable motive, including anger,
18 hatred or revenge.

19 You may infer malice from the
20 deliberate use of a deadly weapon. So if I
21 had my gun and I shot that man I had my
22 deadly weapon, because a deadly weapon is
23 defined for you as well. It is any
24 instrument, any object likely to cause
25 death or great bodily injury because of the

1 manner and under the circumstances in which
2 it's used.

3 So if I got my pistol and I shoot that
4 man over there somewhere, that's most
5 certainly a deadly weapon, it most
6 certainly causes his death, it's most
7 certainly malice. It's most certainly
8 under those circumstances, not having that
9 intent to kill, second degree murder. Now
10 you take that same situation, the malice,
11 the use of the deadly weapon, and I looked
12 at that man and for a second say I am going
13 to kill you, and I pull that trigger, a
14 second, intent to kill, it's first degree
15 murder.

16 You see, the law of the Commonwealth of
17 Virginia furnishes the formulation for that
18 intent to kill, not how long that you have
19 had it, because that doesn't matter, does
20 it, it's the fact that you intend to do it,
21 and you do do it. That's what needs to be
22 punished, and that's what is first degree
23 murder. So what we say here as to this
24 evidence, ladies and gentlemen, we will get
25 into this evidence in just a few minutes

1 establishing the the defendant over here,
2 concerning the writings that he wrote that
3 you have heard of, the end of December,
4 first of January, 1984, some several months
5 before this actual killing where he's
6 talking about the deaths of Derek and Nancy
7 Haysom. We have got him writing about it
8 months before.

9 We have established in addition to
10 that, the planning, the mutual planning and
11 and execution of an alibi by Jens Soering
12 and Elizabeth Haysom. Because you see this
13 business of going to Washington, D.C., and
14 as he says in one of his later statement,
15 well I wanted to go down, I told Elizabeth
16 to go down and to confront them, wasn't
17 sure I was going to kill them, going to
18 confront them, and then if I didn't like
19 their attitude, then I'd kill them.

20 Well you see that make no sense, ladies
21 and gentlemen, if this man over here wanted
22 to come down here to Bedford and see Derek
23 and Nancy Haysom he didn't have to go all
24 the way to Washington, D.C. in the opposite
25 direction to do it. And if he was in

1 Washington and decided that he wanted to
2 talk to Derek and Nancy Haysom, they were
3 having, he and Elizabeth, their little
4 weekend together, their fun weekend, they
5 were getting away to have their privacy, he
6 could have said, Elizabeth, let's have our
7 weekend, that's why we came up here, let's
8 have fun, let's see the movies, and when we
9 get back to Charlottesville on Sunday, I'll
10 ride down next week sometime and see Derek
11 and Nancy.

12 But he wants to ride down from
13 Washington, D.C. while Elizabeth is in
14 Washington, why? For the alibi. He could
15 have ridden down here any time. So I'm
16 saying there again, that shows the
17 premeditation. But you don't have to
18 accept any of that. Because this case is a
19 case of first degree murder, let's put
20 aside for the moment the issue and the
21 argument as to the person who did it. You
22 look at what was done. You look at the
23 photographs, you look at the autopsy
24 report, you review the testimony -- well
25 they're over there. Review the testimony

1 concerning exactly what was done. Now
2 these autopsy photographs are in evidence
3 and you can review them.

4 But if you will recall what was done to
5 Derek Haysom, his neck was cut left to
6 right in a massive fashion, severing every
7 major structure in the neck, the larynx,
8 the jugulars, the carotid arteries, all the
9 way back to the cervical spine. He was
10 slashed twice across his left jaw, slashed
11 in that fashion. He was sliced again
12 across his right jaw, as the drawings
13 indicate for you. And in addition, see how
14 he was slashed? The photographs show it,
15 but that's how, going to that neck.

16 In addition to that, that wasn't it,
17 though, ladies and gentlemen, we could stop
18 right there. The intent to kill, the
19 intent to kill. Now what intent in the
20 world can any human being have when
21 virtually cutting a man's head off, except
22 the intent to kill him. There can be no
23 other intent. But it didn't stop there.
24 Derek had to fight. His hand, his right
25 hand was sliced across the palm. The front

1 portion of his hand was cut, his wrist, up
2 on his arm. Dr. Oxley described them as
3 defense injuries, he was fighting. But
4 there was that intent to kill him. And it
5 didn't stop there. He was stabbed 11 times
6 across his chest, once through the heart to
7 a depth of three and a half inches.

8 Intent to kill? What other intent
9 could could there be, but it didn't stop
10 there. 14 times, stabbed in the back,
11 stabbing repeatedly. Anything other than
12 an intent to kill, ladies and gentlemen?
13 And after these acts were committed,
14 putting aside for the moment who committed
15 them, the person who committed them was not
16 about to let that person, Derek Haysom
17 remain in that house and tell anybody who
18 had done it to him. No, indeed. There was
19 the intent there. Derek Haysom, you have
20 said something to me, said to Jens Soering
21 that I am not good enough for your
22 daughter, you're not going to say that
23 again to me, you're not going to say what I
24 am doing to you, you're not going to say
25 anything again, and he saws and he cuts his

1 throat, and he come across the larynx. He
2 says yeah, I'll show you Derek Haysom. You
3 won't say anything to anybody ever again,
4 because I am going to kill you.

5 But it didn't stop there. Nancy
6 Haysom, as to her, her head, again, left to
7 right, same fashion, virtually cut off. An
8 intent to kill, could there be anything
9 else? Could this be anything else other
10 than a first degree murder case? That
11 wasn't it, that wasn't all, rather. The
12 stabs, she's stabbed three time across her
13 left chest, a stab through her heart to the
14 depth of five and one-half inches. Can you
15 imagine, ladies and gentlemen, the force to
16 stab through a human body, through that
17 portion of the body with the bones, to go
18 in at that depth. It was hatred, it was
19 revenge.

20 She was not sexually assaulted in any
21 way, that was not the motivation, there was
22 no robbery in the house, there was nothing
23 taken, money was -- burglary and robbery
24 were not the motives, it was hatred,
25 revenge. These are cases of first degree

1 murder. And the punishment, ladies and
2 gentlemen, which we will argue, the
3 punishment for first degree murder is any
4 term of imprisonment, as I said from the
5 beginning, not less than 20 years in the
6 penitentiary, or life imprisonment

7 This is a case, the evidence requiring
8 imposition of that sentence of life
9 imprisonment on each case. It's not an
10 easy thing to do, it is the right thing to
11 do in accordance with the sentence, it is
12 the just thing. Because putting aside for
13 a moment who did it, this evidence shows
14 that how it was done, that the person not
15 only inflicted these injuries, but returned
16 to conceal evidence, cold blooded and
17 calculated enough to wipe around the body
18 of Nancy Haysom.

19 Now we know that her body was turned
20 over, now don't we, because her injuries
21 are on her left side, her left side is to
22 the floor. You see, most of the blood here
23 is on the right side, her right side, if
24 she had been lying. You can see the
25 defendant there on the right side stabbing

1 her on her left side. You have the angle
2 of the injury to the heart coming like that
3 if she's on the floor flat, and you have
4 got that angle coming down in that fashion.

5 But the point is, in addition to that,
6 that once all of this was done, all of the
7 injuries were inflicted, Nancy Haysom is
8 lying there bleeding, her life blood oozing
9 away, she dies, this man is cold blooded
10 and calculated enough to roll her over so
11 that he can wipe the area where he did the
12 stabbing to make sure that there are no
13 fingerprints, no footprints; conceal
14 evidence. These two people lying dead in
15 this fashion, and the murderer returns,
16 thinking not about them, thinking of
17 himself. Now we'll continue with the
18 defendant himself, no remorse, gets on the
19 stand and gives a performance that you all
20 saw, lies about it, it's life imprisonment.

21 Now as to the evidence itself, we have
22 established Jens Soering and Elizabeth
23 Haysom, the relationship, how it began,
24 they began there at the University of
25 Virginia, it continued on up until

1 December, Christmas time, you have heard
2 all of that, they fell in love, December
3 they're officially in love. But during
4 that Christmas holiday they write, they
5 write, both of them to write those writings
6 that you have heard so many times by now, I
7 know that you have, but they're so
8 important, ladies and gentlemen.

9 Elizabeth Haysom, there had to have
10 been, we submit to you, discussions between
11 Jens Soering and Elizabeth Haysom before
12 those Christmas letters. I mean there at
13 Christmas you just don't all of a sudden
14 start writing about the deaths of your
15 parents, you don't know what's going to
16 happen, you don't know what the other
17 person is going to do when he gets the
18 letter, whether Jens Soering, they hadn't
19 discussed it, and it was a mutual kind of
20 thing, Jens Soering might come back and
21 say, this woman is crazy, I am going to
22 call Derek and Nancy Haysom up and say that
23 she needs help. Look here what she wrote
24 me about you all. No, she knows there's no
25 danger of that, because they talked about

1 it ahead of time.

2 So she writes, she writes would it be
3 possible to do voodoo on my parents, will
4 them to death. She writes about today my
5 father almost drove over a cliff. She
6 writes at that time in Christmas of '85,
7 why don't my parents lie down and die, I
8 despise them so much. She writes at that
9 time, my parents are going mad. We can
10 either wait until we graduate and leave
11 them behind, or we can get rid of them
12 soon. We can. She writes at the beginning
13 about there have been many burglaries in
14 the area. She writes those things. She
15 want her parents dead. She's encouraging,
16 manipulating him to do it; if she could do
17 it herself, she didn't need him.

18 Well see, at that same time, before
19 Jens Soering even gets her letter, he's
20 writing the same things. Now he's not
21 going to be talking about weapons and death
22 and writing that to his girlfriend without
23 knowing what her reaction is going to be,
24 he knows what her reaction is going to be
25 because they've talked about it before.

1 Were I to meet your parents I would have
2 the ultimate weapon. Remember that
3 instrument, "certain instrument for a
4 certain operation on somebody's relatives?"
5 Yes, when he's talking to himself, use it
6 on yourself. Well, maybe.

7 Now what's that all about, ladies and
8 gentlemen, he gets up here and he describes
9 he's talking to himself, he's depressed,
10 maybe committing suicide. But there again,
11 ladies and gentlemen, a certain instrument
12 for a certain operation; committing
13 suicide, what's he talking about, a gun?
14 Of course not. You don't do an operation
15 with a gun, you do it with an instrument, a
16 scalpel, a knife.

17 And there in January of '84, he is
18 talking about an instrument for a certain
19 operation, operation in quotes, not meaning
20 an operation such as a physician might
21 perform on an individual for their benefit,
22 no, he's talking about an instrument, a
23 knife. He says, well maybe I ought to use
24 it on myself, maybe. He's still
25 discussing, it's still going through his

1 mind. He and Elizabeth, it's still some
2 fantasy there, it hasn't quite become
3 reality yet, but they're talking about it,
4 both of them are talking about it.

5 And then in April of '85, we see about
6 that certain operation, and that certain
7 instrument, cutting, just as done in an
8 operation, only this one motivated by anger
9 and hatred. I can see myself depriving
10 individuals of their property, your father,
11 for instance. I can see myself depriving
12 souls of their bodies. What does that
13 mean, how do you deprive a soul of its
14 body? You kill the physical body, don't
15 you?

16 And then, once he gets her letter, when
17 she make a reference about been many
18 burglaries, then he responds and he comes
19 back, he's writing as well. And he says,
20 the fact that there have been many
21 burglaries if the area opens the
22 possibility for another one, only this time
23 with the unfortunate result for the owners,
24 leaving it off. Now you see, this was one
25 of the plans that they were talking about.

1 Elizabeth said, she's saying there have
2 been many burglaries in this area. He
3 comes back, well, the fact that there have
4 been a lot of burglaries, yes, only this
5 time the unfortunate result for the
6 owners -- you see the burglaries in the
7 area up to that point hadn't been any
8 killings involved, but in this one, that
9 opens up a possibility, that's something to
10 think about. That's not what he finally
11 does, but they are still planning, they're
12 still fantasizing, they're still dealing
13 with it, how are we going to do it, are we
14 going to do it. There at Christmas.

15 And the voodoo, possibly do voodoo on
16 my parents, she asks, and he comes back and
17 say yes. He's the one who has been writing
18 in the earlier pages of his letter about
19 this voodoo business, or excuse me,
20 hypnotism, the hypnolinguistics, or
21 whatever in the world that it was. But
22 he's writing about it, he told you a little
23 bit about it, I hope that you all
24 understood it, I certainly didn't, about
25 being able to motivate people to do all

1 kind of things.

2 Well that's not what was finally done,
3 but that's one of the things that they
4 talked about. Just as he says later in the
5 interview in December of '86, the German
6 interview as I recall it, they were talking
7 about all sorts of things; bombs,
8 rolling -- Mr. Haysom -- rolling them down
9 a hill. Well Elizabeth, she had written in
10 her Christmas letter, remember, my father
11 rolled down off the cliff. He admits in
12 his testimony, they were talking about
13 that, that's a possibility. Piranhas in
14 the bathtub, bombing the house, fire.
15 Elizabeth writes in her letter, the
16 Christmas letter about my mother almost
17 fell into the fire. You see, they're
18 talking all kinds of possibilities, it's
19 still early in the game yet. But they're
20 talking about the death of two people, the
21 murders of them.

22 And it continues on, we have those
23 letters. We have one, Elizabeth Haysom,
24 she goes to Colorado, she writes what we
25 call the Ramada Inn letter. She comes back

1 and she talks about the Lady Asotr
2 business, and the money and all of that
3 type of thing. She admits, she tells you
4 it was manipulation. She's talking about
5 my parents are holding this over me, as
6 long as I'm a good girl I'll be rich, but
7 until they die they will hold out. March,
8 a couple of weeks before this happens.

9 She tell you she's trying to manipulate
10 him. She wants her parents dead, she want
11 him to kill them. Then she apologizes at
12 the end and she says, but you do what's
13 best for you. But then he wwrites that
14 little letter in response, the little short
15 one that's in that envelope that begins,
16 Dear Liz, hm, h-m, what that letter is all
17 about as he admitted, when she came back
18 from the ski trip he was supposed to pick
19 her up at the airport, wanted to, instead
20 she got involved with her relatives, he
21 gets upset about it, he's bought his bottle
22 of champagne.

23 But he talks in that letter about the
24 perversions of truth, she talks about it in
25 her Ramada Inn letter, he comes back and

1 says your POT, perversions of truth. Now
2 I'm used to that, about the size of your
3 feet and other things, all kinds of things.
4 This manipulativeness that you talk about
5 in your letter to me, about manipulating
6 me, he writes, don't worry about that, when
7 I read the letter, I laughed without
8 sarcasm for a half an hour. He knows what
9 she's trying to do, and he has a choice,
10 the choice whether to drive from
11 Washington, D.C. to Loose Chippings, and
12 then he's got that three and a half,
13 four-hour drive all the way down through
14 Charlottesville, down 29, all the way to
15 Lynchburg, over to Loose Chippings. A man
16 can do a lot of thinking in that period of
17 time. If a man is thinking about killing,
18 he ought to be punished, and punished
19 severely, because he had that choice.

20 On the weekend itself, you have heard
21 about the rental car, there's no great
22 dispute about that, it's there, how it was
23 rented up there at Pantops Texaco, it was
24 checked out about 2:30 or so, Elizabeth
25 Haysom got it, she paid for it and went on

1 to Washington, okay, fine. You have heard
2 about the reservations at the Washington
3 Marriott. They were both up there, both of
4 them. Cash was initially used, then the
5 defendant's father, Klaus Soering's credit
6 card was used, proof that the Soering son
7 was there, there in Washington; better not
8 pay cash, let's have some kind of record,
9 use this credit card. So that was done.

10 And then, ladies and gentlemen, on that
11 Saturday, Jens Soering drives down to Loose
12 Chippings, he commits these acts. Now what
13 he says about what he did, if we could just
14 quickly review some of the physical
15 evidence with you. The chart which shows
16 where each item was located and the blood
17 type, if I could use this, this is
18 Commonwealth's Exhibit 324, and some of the
19 photographs. The defendaant later tells
20 exactly how it was done. And ladies and
21 gentlemen, it's just like pieces to a
22 puzzle, a jigsaw puzzle. You take one
23 little piece by itself, and I use this
24 analogy many times, I know, people probably
25 get tired of hearing but about it, but if

1 you take a little piece of a puzzle and you
2 look at it by itself, let's say that it's
3 blue. Well you don't know by looking at it
4 whether it's a piece of the sky, or the
5 water or what it is. But you begin to
6 relate it to other things. And if you try
7 to put it somewhere it doesn't fit, it
8 doesn't make any difference how much you
9 beat on it, it's not going to fit there,
10 it's got to relate to everything around it.
11 That way it fits, that way it makes sense,
12 that way when you put them all together you
13 have got the entire picture, you have got
14 the truth.

15 And the defendant states, doesn't he,
16 during the interviews in England, he states
17 how he's greeted there at the house by
18 Derek Haysom, he states how Derek Haysom
19 had been drinking, how Nancy Haysom had
20 been drinking, we know they had been
21 drinking, they had been drinking a lot,
22 their blood alcohol in each instance was
23 .22.

24 He states how he comes into the house,
25 he states how he says he is offered a

1 drink. He says that he's offered a drink.
2 Well let's address that issue right quick.
3 Because as to first degree murder, ladies
4 and gentlemen, proof of the consumption of
5 alcohol does not negate the element of
6 premeditation, if any, unless you believe
7 from the evidence that the defendant was so
8 greatly intoxicated by the voluntary use of
9 alcohol that it renders him incapable of
10 deliberating. Well he says that he got
11 something to drink once he came in.

12 Now also keep in mind that he states
13 there in England that on the way from
14 Washington to Loose Chippings he has
15 nothing to drink. But he says in the
16 German interview as I call it, the
17 December, '86 interview, there he says he
18 had two or three beers. I asked him, well
19 you said in England you didn't have
20 anything to drink on the way down there, he
21 says I know, he says I was represented by a
22 German attorney, he says he was represented
23 by Mr. Neaton at that time, his lawyers
24 told him to say that. Play up this role of
25 you drinking, so he does. Sounds better,

1 pumps it up a little bit. Before he didn't
2 say anything about drinking on the trip,
3 now it's good to do that.

4 But even at that, ladies and gentlemen,
5 even if you want to take the two or three
6 beers that he admits, you have got the
7 testimony of Dr. Oxley, he tells you about
8 the blood alcohol, he told you about how if
9 you drink a beer, within one hour's time
10 period, it will raise your blood alcohol
11 .02 percent; one beer, one hour. But he
12 also told you that the body will eliminate
13 alcohol at the rate of .02 percent per
14 hour.

15 So there you have it, if the person
16 drinks one beer per hour, your body's
17 getting rid of it as fast as you put it in,
18 theoretically, you should stay at .0. So
19 ne says that he has two to three beers in
20 the German statement, he doesn't in
21 England. And he says it takes two to three
22 hours, or excuse me, he says that it took
23 him three and a half hours to drive from
24 Washington to Loose Chippings, two to three
25 beers, three and a half hours. Well that's

1 good, but let's make it look good, he
2 bumped it up, I'll bump it up, make it
3 three beers instead of the two. Three
4 beers, three and a half hours, you have got
5 one beer per hour with some time left over.
6 He's getting rid of it as fast as he put it
7 in, if he put it in, and he said earlier
8 that he didn't, and he said he didn't like
9 the taste of alcohol.

10 Then he says that upon his arrival, a
11 period of 20 to 30 minutes, he says this in
12 the German interview, 20 to 30 minutes
13 passes from the time of his arrival to the
14 point when the attacks occurred. And
15 during that period of time, the drinking
16 occurs, the eating occurs to the extent
17 that it does, everything occurs, 20 to 30
18 minutes, he doesn't got enough time to do
19 much drinking, drinking and eating,
20 fighting and arguing and everything else,
21 talking about Elizabeth.

22 And then, ladies and gentlemen, it has
23 to be to the extent of being incapable of
24 deliberating and thinking correctly. Now
25 this crime was committed by somebody who

1 had every sort and every capability of
2 presence of mind, because after it's done,
3 drives to the dumpster, a mile and a half
4 away, comes back, knows, not drunk, knows
5 that those lights are on at the house, and
6 if they stay on people might get
7 suspicious, better get back up there and
8 turn those lights off, better get back up
9 there and conceal evidence.

10 No, there's no sort of drinking here
11 pertaining to premeditation. But moving
12 on, ladies and gentlemen, he says -- say he
13 has a drink, fine. They go in there and
14 Mrs. Haysom offers him something to eat.
15 They go into the dining room, the dining
16 room scene, remember how he says back there
17 in his Christmas letter, my God, how I have
18 got the dining room scene planned out. Oh,
19 it's just a coincidence, he tells Terry
20 Wright later, just like a certain operation
21 on somebody's relatives, just a
22 coincidence, and look at what was done to
23 them.

24 Shows up at dinner time, knows that
25 they'll be there, it's all planned out,

1 it's all executed. But at any rate, we
2 have got the dinner scene. We have got the
3 table, we have got the chairs, we have got
4 the food on the table. The dinner scene.
5 He says this in the English interview, and
6 when I say that, you all know what I'm
7 saying, so I don't have to repeat the dates
8 and everything, June 5 through June 8,
9 1986, and the German interview, the one at
10 the end of the sequence, this occurs over
11 there in England. He says that he is
12 sitting with his back to the wall, and that
13 it's the back of the house, with the window
14 there looking down over the back of the
15 house.

16 Well that's that chair right there.
17 And remember this chair from the
18 photographs that you will have that you can
19 look at, that was that extension cord
20 sitting there, it was there when the police
21 officer arrived; most people, if they sit
22 at the dinner table don't sit on an
23 extension cord, there wasn't anybody
24 sitting there. He was sitting there and
25 that chair is pushed back. That's where he

1 said he was sitting. He said Derek Haysom
2 was immediately to my left at the head of
3 the table. Makes sense, the man of the
4 household sitting there at the head of the
5 table, his fingerprints on that glass right
6 there, that wine glass, said Derek Haysom
7 *No Haysom* was eating ice cream; the bowl was sitting
8 there, the spoon is there.

9 He says Nancy Haysom was sitting
10 directly across from him. He was able to
11 demonstrate there in England, so that the
12 police officer who observed it could
13 demonstrate exactly what he told you here
14 in this courtroom, and he set the dining
15 room scene out. And that's where they were
16 *7* sitting. He states then about they get to
17 talking about the relationship, and about
18 how he stands up, and he talks about how
19 he's pushed back into the corner, and that
20 he bumps his head. Is there somebody over
21 here that can find the rest of these
22 pictures for me, please, I sure would
23 appreciate it. The dining room pictures.

24 And he's sitting back over there, he's
25 pushed back in the corner, hits his head

1 back against the window, well that's where
2 it's located, says it wasn't a very serious
3 injury, and Derek sits back down. [He says
4 that he's wearing tennis shoes.] He says
5 that he gets up and he walks behind Derek
6 Haysom. Now you remember those dining room
7 photographs, and if I can find them I'll
8 show you again, if I don't, you all know
9 what they are, you looked at the
10 photographs, but remember the photographs
11 that show that part of the floor right
12 there, right there at the head of the
13 table, and you can see red impressions.
14 Thank you, Mrs. Black. If somebody didn't
15 look out after me I wouldn't be able to
16 find anything.

17 Well here's one of them right here, not
18 the best one, but there's one of them,
19 Commonwealth's Exhibit 103. See right
20 there, you can see those ridges? Tennis
21 shoes coming around the head of table, just
22 like that, he said. They're the athletic
23 shoes, they've got those ridges, just like
24 shown on this picture over here, of the
25 Converse tennis shoe. In fact here it is.

1 Ridges like that.

2 Now we don't know that this is the
3 shoe, because he threw the shoe away and we
4 never had one to compare to it. But at any
5 rate, look, you have got your ridges there,
6 you have got ridges there, there, there,
7 shoe impressions, athletic shoe
8 impressions. You have got those here, you
9 have got them in the kitchen that we'll
10 speak about in a few minutes. You have got
11 them in the living room. You have got them
12 on LR-2, the big chunk of the floor, one of
13 the big chunks of the floor that was cut
14 up, consistent shoe patterns throughout the
15 house.

16 He states he walks behind Derek Haysom,
17 → [says he's wearing tennis shoes,] later
18 throws them away, well, there are the shoe
19 impressions, comes on around behind him.
20 He says that he cuts Derek from behind,
21 left to right. Dave Oxley, the pathologist
22 tells you Derek Haysom was cut at the neck
23 from left to right. Jens Soering says that
24 at that point, blood spurts forth into his
25 lap, in front of him. Well that certainly

1 makes sense, now doesn't it.

2 And when you look at the evidence,
3 Number 5, the swab from the floor, Type A
4 blood, Derek's blood. The napkin, Number
5 7, sitting there on the dining room table
6 which you see, Type A blood, Derek's blood.
7 He's sitting at the head of the table, he's
8 been cut about the throat, the blood begins
9 to spurt forth. Along the left side of the
10 table, 22, the stain on that part of the
11 table itself, which would have been to
12 Derek Haysom's left, type A blood. Nancy
13 had Type AB.

14 He says then Nancy gets up, she's
15 sitting there, and a struggle ensues. Now
16 we think that this is important, ladies and
17 gentlemen, because you see in Nancy's
18 chair, Type A blood is there as well. Now
19 he doesn't say Nancy was cut while sitting
20 there in her chair, now does he. Nancy
21 gets up and starts coming at him and a
22 struggle ensues. Derek stands up, and
23 that's his blood there.

24 Now her hair, Items 1-DR, 2-DR and 3-DR
25 are on the dining room floor. Now you

1 can't pay specific attention to the
2 specific location, because after the hair
3 is there, he's come through and he's mopped
4 up everything, and the hair can be knocked
5 anywhere, but it's on the floor. But the
6 point is, her blood, he says he cuts her
7 from behind the same way, left to right;
8 Dave Oxley says Nancy Haysom was cut left
9 to right. Jens Soering says he cuts her
10 left to right, the same way that he cuts
11 Derek Haysom, says that he's got Nancy
12 Haysom, grabs her by the arm, gets behind
13 her, tries to use her as a shield because
14 Derek Haysom is coming at him; that they're
15 slipping around in the blood.

16 You can look at the photographs of the
17 floor, they're slipping, they're sliding,
18 there's blood all over the place, most
19 consistent, wouldn't you think, that that
20 would occur, and he cuts Nancy across the
21 throat, and that he sees Nancy headed
22 towards the kitchen, her throat cut, her
23 hands to her neck walking in this fashion.

24 And you have got the AB blood, Nancy's
25 blood type, headed toward the kitchen, Item

1 19, Item 20, going through the kitchen
2 door. She was trying to get away. The
3 telephone, we know was in there. There was
4 a door going out the back onto the screened
5 porch. Whether she was trying to get out
6 there to get away to use the phone to try
7 to get help, she was seriously and severely
8 injured.

9 But the point is, this man had been in
10 the house before, he knew where the
11 telephone was, he knew where the door was,
12 he sees her and he admits he sees her going
13 in that direction, he's got to stop her.
14 And more struggling is very well ensued
15 with Derek. But Nancy is headed towards
16 the kitchen, not at a run, she's injured.
17 The defendant, Jens Soering has to get to
18 her, and he goes to the kitchen. And we
19 see her A blood all around where her body's
20 found, of course, Items 13, 19, 10, it
21 comes on around her body, 11, of course
22 it's her blood, you can see it in the
23 photograph, AB type. There's some as she
24 comes through the counter, these items, 5,
25 17 and 6 are small items of her hair, not

1 big clumps, little hairs. Whether it's
2 struggle or whether it's falling out with
3 her hands bloody and coming up to her face
4 and it comes out in that fashion, small
5 portions of her hair.

6 But Derek, you see, Derek is hurt bad,
7 and he comes to the kitchen. Now how do we
8 know that? Well remember that -- now you
9 all make sure, because it was stated that I
10 got this dining room thing all upside down.
11 You all use your sense, or your common
12 sense that you have got and you can figure
13 it out better than I can. That 12 there is
14 the fireplace, that's going to be up next
15 to the bedroom, because there is a
16 fireplace in the living room, they're back
17 to back, that's a little hole looking from
18 the dining room into the kitchen, it's
19 marked here kitchen, dining room, you all
20 have got that straight.

21 That is the chair, then, as you're
22 going into the kitchen, Number 9. That's
23 the one that's got the large hand print in
24 blood down on top of that cushion. Now you
25 can pull the cushions right over in that

1 box if you want to look at them, the one
2 right there under the table. Now the
3 assailant, Jens Soering has got no need to
4 be putting his bloody hands on that
5 cushion. Nobody else has to, or has a need
6 to, except somebody that's hurt, and hurt
7 bad, and coming after his wife and trying
8 to do what he can. And he's down and he's
9 struggling, maybe crawling, I don't know.
10 And his hand, reaching for some kind of
11 assistance, something to keep him up,
12 because he's got to get in there. And it's
13 his blood type, Type A.

14 And once he comes through that kitchen
15 door, ladies and gentlemen, we have spurted
16 AB type blood up here, but Type A. And on
17 the floor here, I won't take the time to
18 find better photographs, but they're here,
19 spurted right there in front of the
20 counter. Geoff Brown described for you
21 arterial spurting. As you look at your
22 diagram you see the Type A, Type AB, 23 on
23 the counter. On the floor there, Type A,
24 35; come around on the front of the
25 counter, Item 15, Type A blood.

1 Over here on this other little corner,
2 Type A blood. Derek came through that
3 doorway, not very fast and not very well,
4 but he was a man and he put up a hell of a
5 fight, and he wasn't done fighting yet.
6 And he comes through that door, and the
7 blood. Now you see, that's why we submit
8 to you, Nancy, Nancy has got her head
9 nearly cut off, she's got some kind of
10 injury on her left elbow, but she's only
11 got three stabs in her chest. One now is a
12 right good one, it goes five and a half
13 inches into her heart, but just three. Now
14 why? Well that was most certainly enough
15 to finish her off. But we submit to you
16 that Derek Haysom was still up and about,
17 and it was time, the job was done on Nancy,
18 it was time to get after Derek again. He
19 pursues Derek.

20 Derek comes back across the dining
21 room, you can see his Type A blood on that
22 chair, Number 11. Again, this is the
23 kitchen up here, coming on through, middle
24 in the walkway, just as if you're coming
25 straight from the kitchen over through the

1 dining room into the living room. Type A
2 blood. This chair, 8, that's the one, if
3 you all remember, that's got that pillow on
4 it. That has got his hand print on it as
5 well. And that's blood that's splattered
6 there on the pillow itself. Geoff Brown
7 described that for you as being impact
8 spatter, Commonwealth's Exhibit 101. See
9 that hand? That's a right hand again.

10 Now he's still struggling but he's
11 still moving. And he hits that chair
12 again, and he's down in this fashion
13 somehow like this, and his back, his back
14 is up. His back gets 14 stab wounds. And
15 we submit to you ladies and gentlemen, that
16 that spattering right there of this man who
17 is down in that fashion, jabbing the knife
18 into him, spattering the blood, because
19 it's not any kind of castoff, it's not
20 arterial, not anything else, it's random
21 splashing. Remember, it was the type, a
22 bloody surface, an object coming in contact
23 with a bloody surface and splashing it out,
24 just as if a child stomps into a mud
25 puddle, that's what you have got.

1 And then, Jens Soering, he's finished
2 with Derek, and he's got to kill Derek, he
3 can't let Derek tell anybody about what
4 he's done to Nancy and he can't let Nancy
5 tell anybody about what he's done to Derek,
6 and he was there to kill them and he
7 intended to kill them, and he's gone and
8 did what he was going to do and what he
9 intended to do, and he did a right good job
10 at it.

11 Now, he leaves at that point, he's got
12 those shoes on with those ridges, something
13 like this, we don't know what shoe it was
14 because he's heading towards the dumpster
15 and he throws them away. **Concealing**
16 **evidence, right away, this ain't no drunk**
17 **that doesn't know what he's doing, goes**
18 down to that dumpster, throws those items
19 away, noticed that he's cut himself.
20 Realizes now if those lights are on up
21 there at the house somebody might come and
22 investigate, I have got to get back to
23 Washington for my alibi before somebody
24 finds those bodies. I don't need to be
25 stopped on the way or anything like that,

1 get to Washington. Got to go back and turn
2 those lights off.

3 When the police officers arrive, all
4 the lights are turned off inside. In the
5 living room, Steve Rush describes for you
6 about the lamp and the shuffling of the
7 feet; that one's not turned off, just
8 jerked the cord out of the wall, that's a
9 right good way to do it, you don't have to
10 worry about fingerprints then, do you, pull
11 that cord out of the wall.

12 And then when he comes back he's got
13 socks on. That's what he says, that's what
14 we saw. And you all saw it. In the living
15 room itself, the LR-3 which we will
16 describe in a moment, the fullest foot
17 impression, socks, not shoes; LR-2 is a
18 shoe. But you all can look at the floor if
19 you want. 3 is a sock. He's in there both
20 ways. And he comes back in those socks,
21 and he goes through the house.

22 And what does he say that he does?
23 Well he goes into the kitchen and he washes
24 his hands there at the sink. Well now you
25 all recall, now don't you, about that sink,

1 and about how they sprayed it with that
2 luminol, turned the lights off later and it
3 just lit up like a Christmas tree. And
4 that luminol, you can't see the blood, but
5 once you use it, that affects how much you
6 can do with the tests later.

7 But they did that luminol test on the sink,
8 and the swabs there, Swabs 37 came back as
9 being human blood. He says he's washing
10 his hands at the sink, human blood is found
11 at the sink, and you all can look at those
12 photographs again if you'd like.

13 Now the towel that's draped over the
14 spicket, I'm not going to take time to find
15 the photographs now, there are too many of
16 them. Remember that towel over the
17 spicket, that's submitted to the lab as
18 Item Number 20. Mary Jane Burton looks at
19 that, she's not able to find -- she was
20 able to find diluted blood. Now the towel
21 is wet, it's been through the luminol, she
22 can't type it, but it's blood

23 Well he said he washed his hands there,
24 and up there on the window sill, Item
25 Number 36, there's blood up there, too.

1 And you can look in front of -- well using
2 the pictures there in front of that sink
3 and you can see all the scuffling there in
4 front of it, somebody's been standing there
5 washing their hands in that blood. Well he
6 said that he did it, and it fits, doesn't
7 it.

8 And as far as the shoes, if you
9 remember the the impressions that we have
10 got from the kitchen, there is a shoe right
11 over here, that was the first one that we
12 introduced. Over there on her side, her
13 left side, right here, Commonwealth's
14 Exhibit Number 87, see those same ridges
15 there? Now we showed you all where that
16 was when we had that thing rolled out, that
17 rug, this was the first one that was back
18 over in here, which Nancy's lying there,
19 it's back over in here. And then there are
20 two sock impressions in this area right
21 here.

22 So we have got him walking around this
23 body, we submit to you, with his shoes on
24 and his socks on, both ways. So here's one
25 of the socks, these are the two socks that

1 I am telling you about right in this area,
2 Commonwealth's Exhibits 83 and 82. You
3 see, it's a heel, right here and right
4 here. And if you want to get the floor out
5 and take your time to find them, you can
6 find them, they're still there, they are
7 faint, and use these little pointed things,
8 that tells you that the floor is going in
9 one direction, you use the rounded edge,
10 you can look back over in here where it
11 would be consistent with the area near that
12 door going out on the porch, they're still
13 there.

14 And over here, this one, Commonwealth's
15 Exhibit 81, see the treads again? That's a
16 shoe impression. Now that one is going to
17 be on the other side. That one is going to
18 be back in this area right over here.
19 Shoes here, shoes here, socks here, all
20 around the body. Cold blooded, just
21 walking around worrying about trying to
22 conceal things, trying to get -- now he
23 didn't get all of the foot impressions,
24 that's true. But what he left weren't good
25 enough for us to do anything with them, so

1 he did a right good job as far as the ones
2 right there in the kitchen, but he missed
3 one, he missed the LR-3 in the dining room,
4 or excuse me, the living room. And the
5 point is there was a lot of mopping to
6 remove that blood, and all over the house,
7 it's right hard to get off of it, but he
8 tried.

9 All right, so he says that he washes
10 his hands there at the sink. He says his
11 hand's cut, he's got to get him something,
12 a band aid. Well come on through the
13 dining room, through the living room, into
14 the bedroom, and we have got those shoes,
15 or those socks impressions there in the
16 living room that we'll get to. Now you're
17 outside the blood now, or where all the
18 scuffling and the fighting and the killing
19 took place, you're in the bedroom. You
20 have got Type O blood there, his blood
21 type, his blood type. It's not Nancy's,
22 it's not Derek's; Nancy's got Type AB,
23 Derek got Type A. It's not Elizabeth
24 Haysom, Elizabeth's got Type B. Now where
25 did that Type O blood come from?

Jan 21, 72 *cleaning? (not cleaning?)*

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19 took place, you're in the bedroom. You
20 have got Type O blood there, his blood
21 type, his blood type. It's not Nancy's,
22 it's not Derek's; Nancy's got Type AB,
23 Derek got Type A. It's not Elizabeth
24 Haysom, Elizabeth's got Type B. Now where
25 did that Type O blood come from?

1 Now blood, I guess could get at
2 different portions of the house, but it's
3 not going to be kept there in the middle of
4 the floor like that. That blood was put
5 there at the time of the killing, and the
6 person that put it there was injured during
7 the course of the killings, which would
8 make sense in a knife fight like this. He
9 would have at least some kind of injury, he
10 showed you all the cuts on his hand, this
11 finger and this finger, he was injured, at
12 least to the extent to bleed some, and he
13 goes and he gets in the bathroom.

14 Now look at the photographs of the
15 bathroom right in front of that sink, and
16 you will see the scuffling there. You will
17 see that on one of the towels there was
18 human blood found on Item 6 in the shower,
19 that was luminoled, blood there. You can
20 see the scuffling on the floor itself. Now
21 he says that he gets a towel, well there is
22 a little bit of blood on the towel that's
23 left, he gets a towel and he wraps it
24 around that hand.

25 He says that when he leaves he wipes

1 off the door. And on the door itself, we
2 have got Type O blood again, haven't we?
3 See the door handle, 6, and the photograph
4 is over here, you can actually still see on
5 the door handle itself the little bit of
6 red staining. When you reach out and you
7 touch that door handle you're going to get
8 some of your blood on it.

9 Coming on down the side, 5 down here at
10 the bottom, Type O. 4, Type O, 2 here on
11 the side, Type O. Not tremendous amounts,
12 but he's got that cut on his hand, and he's
13 got it wrapped around. Well even doing
14 that, ladies and gentlemen, with the towel,
15 there's still is going to be a little bit
16 of blood coming through and seeping through
17 and being on the outside, and that's
18 consistent with wiping that door and not
19 touching the door with his bloody hand, but
20 with the towel wrap, which has some blood
21 on it, and that leaves the Type O. Where
22 else could it come from?

23 Now, as he leaves the house, ladies and
24 gentlemen, keep in mind when we did this,
25 the ring. He comes out of the house. Now

1 remember those luminol footprints that were
2 lit up, taken at night? A set of
3 footprints come out, circles around the
4 tree and comes to the side of the driveway,
5 just as if somebody walked out, came across
6 the driveway, got inside of the car to
7 leave, one side of the car. Now there are
8 not footprints coming out and going to both
9 sides of the car; one side of the car, one
10 person, the one person is bleeding O blood.
11 Elizabeth Haysom is not going to bleed O
12 blood.

13 The footprint itself, ladies and
14 gentlemen, to quickly address that, LR-3.
15 And let me talk about that, and that's
16 located there on the living room floor in
17 that area leading between the dining room
18 and the living room. In here, where's
19 Number 3. All right, now you're going to
20 have to -- if you all want to use this,
21 ladies and gentlemen, it will be necessary
22 for you to learn which one is which. Let's
23 get these straight, Commonwealth's Exhibit
24 Number 343, in case you all want to look at
25 those, it's marked on the back, this is

1 Fontaine Harris's footprint, it's marked
2 back there. Now to compare it with the
3 LR-3, you see this is what was actually
4 there at the house, that's what LR-3 is,
5 the photograph of that foot. Then you take
6 this, you put it on flat white paper like
7 that, with the transparency, then drop it
8 overtop of it.

9 So you see, she's the easiest one to
10 pick out, because her foot's so much
11 smaller than everything around it; that's
12 Fontaine Harris, the smallest one. As far
13 as Elizabeth Haysom, again, hers is marked
14 there on the back, as far as her known, you
15 see these are not marked, this is why I'm
16 saying this. Elizabeth Haysom's, if you
17 want to find hers, it's got those smears
18 there at the top. There it is, Elizabeth
19 Haysom Well, when you take the
20 photograph, there it is there as well, and
21 you can lay it overtop of that. Okay, so
22 that's Elizabeth.

23 Now Julian Haysom is almost flat
24 footed, his is easy to see. See right
25 there, he hasn't got much of an arch, his

1 second toe is a little bit longer, and it's
2 marked back there, and you can find his
3 when you want to do your overlays. If you
4 want to compare his, look for his, Julian
5 Haysom, the long second toe, almost flat
6 footed.

7 Now when you do these, ladies and
8 gentlemen, if you decide to look at them,
9 it's important to put something underneath
10 the transparency so you can see it, even
11 something white is better than something
12 dark, because it shows up a little better.
13 For example something like that, you can
14 take a jury instruction if you want, that's
15 what I have got, and you can see, and you
16 can see here how most of his arch is
17 touching the floor there. So that's Julian
18 Haysom.

19 And Jens Soering, here s this
20 particular one with the markings, that's
21 designated Jens Soering, you can see that,
22 and you can see what Bob Hallett did
23 concerning designating this as his, the
24 different features that he saw as to his
25 foot. There's also one like this without

1 the markings. So what I am saying, if you
2 want to do that, then you have got these
3 two as to Jens Soering, you can identify
4 them in that fashion as far as locating
5 them.

6 All right. Now as to this, ladies and
7 gentlemen, well let's talk about Elizabeth
8 first, if you want to, quickly. Again,
9 hers has got that smearing there at the top
10 of her toes. And as Mr. Hallett described
11 for you, certain things that you pay
12 attention to, it's how big that space in
13 there between where the toe is and the ball
14 of the foot, the relationship of each toe
15 to the other as far as how far each toe is
16 apart. So very often there will be a space
17 between the first and the second toe.

18 How long are the toes, is the second
19 toe longer than the first, or do they come
20 along kind of at an angle. Then the
21 scalloping effect around the ball of the
22 foot itself, you can look at the little
23 indentions. And then any angle here around
24 this portion of the ball of the foot. You
25 can look at the arch itself, the curve to

1 it, whether it's convex, whether it
2 narrows, what it looks like. The heel, as
3 far as the shape of it, whether it's long
4 and narrow or whether it's round, kind of a
5 ball type of thing, and you can compare
6 these features.

7 This, again, Elizabeth Haysom stepped
8 on some paper, then we took a picture of it
9 and there it is. Now we've got the same
10 LR-3 that we used with everybody, that's
11 from the floor. So you start comparing,
12 doing the same sorts of things. You see
13 there's the big toe, you can see right
14 there the second, third, fourth, fifth
15 toes.

16 Now if you start laying them down
17 overtop like that and just kind of play
18 with it a little bit if you want to, you
19 can see right there, well there's the
20 fourth toe, and there's Elizabeth's toe way
21 up here. And look at the third toe, see?
22 Just play with it, if I don't tear it up
23 for you. Here we go. There's the second
24 toe, there's the third toe, so right there
25 is the third toe, see where I have got my

1 finger and dropped it on down? Well her
2 third toe is way over here.

3 And look, the person that made LR-3,
4 there is a big space between the big toes
5 and the second toe. Elizabeth hasn't got
6 that, her toes are just all grouped
7 together like that. Then you proceed not
8 only from the toes, but the spacing in
9 here. See how the scalloping effect around
10 the top of the ball of the foot, see, that
11 comes all the way up here, in this shape
12 like this.

13 Well see with Miss Haysom, you have got
14 all that up there that's not on her foot,
15 but yet it's there on the floor. And then
16 you come around here, that angle on the
17 inner side of the foot itself, it's there
18 on the floor, but it's not on her foot, and
19 you keep playing with it, and it's not even
20 long enough. And over here on the outside
21 of the foot, see all that portion right
22 there, Miss Haysom doesn't have enough foot
23 to make that big impression. This is not
24 Elizabeth's footprint. And you can do the
25 same with all the others, but I'm running

1 out of time. Maybe we ought to talk about
2 Mr. Soering here for a second.

3 Now you do that same thing with him.
4 Now see how I was talking a minute ago
5 about the space that some people have
6 between the big toe and the second toe, and
7 how that was there on the floor? Well you
8 look at Mr. Soering, and he's got that, you
9 see? And as you begin to talk about the
10 toes, their spacing, where each one is,
11 there's the second toe on Mr. Soering.
12 There's the second toe right there, there's
13 the third toe, fourth toe, fifth toe. And
14 you drop it, you see where are they on the
15 overlay, where are they on the floor, and
16 you try to use your hands a little bit.

17 Well where is the second toe, right
18 there, there's the end of it, see where it
19 matches? The third toe, right there it is
20 on the floor, it matches again. Fourth
21 toe, there, there it is. Fifth toe, there.
22 See this on Jens Soering's foot on the
23 overlay, the little scalloping there around
24 the small toe, and you can see it there.
25 And here, right there; same type of

1 features, there it is there on his foot.

2 Come on around, and watch how it
3 matches as you come all around here, around
4 the inner portion of the foot, down to the
5 arch, and how it matches in that fashion.
6 Keep in mind that some people's toes, some
7 would have a space filled in here instead
8 of the toe arching a little bit, it would
9 be flat on the floor. Well the person who
10 made this LR-3, you have got some space in
11 there, you haven't got the stem showing up,
12 the toe stem. Well you look at Jens
13 Soering's foot, this is where he stepped on
14 the paper, you see you haven't got any
15 stems there either. And you pull that out
16 and it matches and it fits like a glove.

17 And you have got that, and you have got
18 the O type blood, and you have not numerous
19 other circumstances that you start adding
20 to it, which we're going to add to it as we
21 make our argument, and what you have got is
22 you have got Jens Soering over here guilty
23 of first degree murder.

24 Now, in addition to the -- those are
25 the events of that weekend. Now don't

1 forget if you would, and I'll try to close
2 quickly at this point, don't forget as
3 things proceeded, October of '85, October
4 of '85. Now Elizabeth Haysom gave her
5 footprints, or excuse me, gave her
6 fingerprints the second time she was
7 interviewed; she was interviewed on April
8 8th, she was interviewed on April 16th.
9 The second time they interviewed her they
10 asked her for her fingerprints, she gave
11 them, why? Because she knew that her
12 fingerprints weren't going to be in that
13 house in that blood. There wasn't any
14 reason not to give her prints, they asked
15 her for them, she gave it.

16 Well now Jens Soering wasn't talked to
17 until October. And there's all kinds of
18 talk about him, he was up there at the
19 university of Virginia. Well it wasn't
20 quite that simple, he said he was in
21 Europe, and he said that he was going to
22 Michigan, and he was going different types
23 of ways, and here maybe he was at the
24 university at summer school, I'm sure that
25 he was for a period of time, we just didn't

1 find him, you know, dumb as a post and and
2 stupid like he are, but find it, you know,
3 even a blind hog finds an acorn every once
4 in a while, we mosied around to the idea of
5 talking to Jens Soering, October 6, 1985.
6 Talked to him, asked him about this
7 mileage, asked him about his footprint,
8 because that's October 6th. Now we have
9 mosied around to the idea of getting
10 Elizabeth's footprints on September 26th,
11 and her blood September 26th. Asked her
12 for them, she gives them.
13 She ain't worried about blood at
14 the house, what type it wasn't
15 there. Any footprints or is like
16 that, he's in there, you be to go
17 on some kind of paper, to you ask
18 that same question, you put some
19 question to Jens Soering or to the
20 come down to the sheriff, went with
21 the intent of charming us country boys, you
22 know, he can talk or write his way out of
23 anything, remember when he says that during
24 that very statement, he can't do that in
25 school. He's quite a talker at he says.

1 well, he tries that. But when he leaves,
 2 he realizes one, Ricky Gardner is not too
 3 happy with what he heard. Because things,
 4 you see, common sense fits, and this man
 5 over here is talking about things like well
 6 I want give you my footprint because if I
 7 do, then that's contact with the police,
 8 and then I have got to report it to the
 9 State Department and all this kind of
 10 thing, and then Ricky and Chuck asked him,
 11 said well if you have got to report contact
 12 with the police, what in the world do you
 13 think this is, have you got to report this?
 14 No, no, no, I think this is unofficial
 15 contact concerning a murder investigation.
 16 What in the world was it? made no
 17 sense.

18 Well, he didn't get away from his
 19 turn of mind any amount of, didn't say
 20 anything at that point about a ticket or
 21 ticket, or anything in Washington. Instead, he
 22 says that they both stayed there, but on
 23 October of '65 when he was in South Vietnam
 24 and you all do Friday night, and

1 night once you got back from the hotel, I
2 can't remember. This man with this
3 intellect over here, and remember, that is
4 just several months after April, four
5 months, when the murders happened, he can't
6 remember it anymore. Okay.

7 So we mosey around to the idea of
8 talking to Jens Soering, and what does Jens
9 Soering want to do. He doesn't want to
10 give any blood, he doesn't want to give any
11 footprints, what Jens Soering wants to do
12 is get out of the country. October the
13 9th, he calls the Sheriff's Department,
14 lies to them, says I got some mid-terms
15 coming up, says I'll give you footprints on
16 the 16th of October. The deputy said yes,
17 okay, we don't want to mess up your
18 schooling, you're taking exams, fine.

19 October 12th, he is hot to trot to get
20 out of this country, the case is about to
21 be solved, remember that that's written in
22 the diary. Perhaps Jens's fingerprints on
23 the coffee mug; the diary that they both
24 wrote together. Now he has got a Jefferson
25 scholarship at that point, ladies and

1 gentlemen, worth \$4,275, I think it was,
2 each and every semester, eight semesters
3 over a four-year period, worth well over
4 \$30,000. Now if he doesn't like
5 Charlottesville, or he's kind of upset or
6 he's got some problems, we asked the dean,
7 can a student come and get a leave of
8 absence, or try to arrange some kind of
9 leave without suffering academic penalty?
10 Certainly, things happen.

11 He hasn't got time to do anything like
12 that, he's got to get out of the country,
13 the case is about to be solved. No
14 fingerprints or blood for him, he hasn't
15 even got time to wait for Elizabeth.
16 Elizabeth's thinking about, well do I want
17 to go, do I want to stay, do I want to be
18 loyal to Jens, do I want to stay here, I
19 need some time, and my family's all over
20 me. She wants to -- she doesn't leave on
21 Saturday. This man does, because he hasn't
22 got time to stay around and wait to see
23 what Elizabeth's going to do.

24 Yes, takes that car, and what does he
25 do when he leaves, he wipes those

1 fingerprints from his room. What does he
2 do when he parks his Scirocco up there at
3 the airport, at National Airport, Lot B, I
4 think is it was, he wipes the fingerprints
5 from his car. Doesn't want anybody to have
6 any fingerprints, he's not worried about
7 somebody finding him, and he's worried
8 about somebody matching those fingerprints
9 to the house, because he don't know what we
10 have got, because we haven't quite mosied
11 around to finding anything yet, but we're
12 working on it.

13 All right, so he hauls it out of the
14 country and goes all over Europe, and
15 Elizabeth, she gets a call from Howard, and
16 she can't -- she's got to go too. And she
17 does go, they meet up in Paris and all over
18 Europe, and they get caught in England,
19 april 30th, they get caught there, they are
20 arrested. Now at that point, ladies and
21 gentlemen, they write letters to each other
22 again. Now Jens Soering is writing letters
23 to Elizabeth at that point. And he writes
24 letters to this Neal Woodall, and then he
25 wants to persuade you all to talk his way

1 out of a corner that once he gives those
2 writings May 18th and 19th, that a couple
3 of weeks later he is so in love with
4 Elizabeth, I will sacrifice my entire life
5 for her. She's the center of my life. I
6 love that woman.

7 But yet May 18th and 19th when he's
8 writing to a friend of his, not even to
9 Elizabeth, but he's writing about
10 Elizabeth, he's not talking about Elizabeth
11 being the center of his life, and how he
12 will sacrifice himself for Elizabeth. To
13 Neal Woodall he writes, I have been writing
14 to you but I am writing for myself, and I
15 have forgotten that rule of who comes first
16 in my life, myself.

17 Now that's even before the
18 investigators from this country are over
19 there, that's even before the investigation
20 as to the murders commences in England.
21 There's no reason for him to be worried
22 about the yokels back in Bedford As far
23 as he knows, the yokels in Bedford are
24 still there and they don't know about him
25 in England. But yet he's writing, I come

1 first, just like J.R. Ewing said, I am
2 number one. The person that comes first in
3 my life is me, not Elizabeth Haysom, me;
4 two weeks before he gives the statements.

5 Then he writes the same sort of thing
6 to Elizabeth Haysom on June 3, two days
7 before. Now he's still telling her he
8 loves her, but he said that there's been a
9 difference, and he admitted it on the stand
10 there is a difference, you are no longer
11 the center of my life, I no longer need to
12 be the center your life. I think that you
13 will see that how this need to be the
14 center of each other's lives, my need to do
15 that has been destructive, not only to us,
16 but to others. And indeed it has, his need
17 to be the center of Elizabeth's life, the
18 need for her not to be with her family, his
19 concern that perhaps on the birthday
20 weekend with Derek Haysom they had begun to
21 work things out. He didn't want that.

22 He didn't want Derek and Nancy to be
23 the center of her life, he had to be. That
24 need to be the center of her life had been
25 destructive, violently and brutally

1 destructive. And then he continues. This
2 man who claims that he's got the ultimate
3 love for Elizabeth Haysom, he talks about
4 one of the greatest loves that there can
5 be, isn't there, one of them, there are all
6 types of love, but the love that a mother
7 would have for a child. Wouldn't that be
8 one of the greatest, most certainly? And
9 he discusses that in theory in terms of
10 Darwinian theory, survival of the fittest,
11 look out for number one, saying that even
12 if a mother, if she were put in a situation
13 of where she had her child and the issue
14 came up do I protect the child or do I
15 protect myself, does the child come first
16 in my life or do I come first in my life,
17 and he writes well, the answer is the
18 mother's life comes first, protect the
19 mother, that's how he views love. The
20 mother should protect herself, my goodness,
21 she can have another kid in another nine
22 months, that's what it says.

23 And the man who is analyzing love and
24 relationships in that fashion, ladies and
25 gentlemen, that's on June -- or he's

1 writing to Elizabeth on June 3, two days
2 before, he's writing to Woodall May 18th, a
3 couple of weeks before, the man who is
4 thinking like that? Now is he going to
5 walk before some police officers and say to
6 himself I didn't do anything, but I love
7 that woman of mine, and I tell you I am
8 going to take it all on myself.

9 Then why, ladies and gentlemen, that
10 did not happen, that was not the truth, if
11 the man wanted to take it on himself, why
12 didn't he? Why in the very beginning of
13 the interview say, I want to talk about
14 Elizabeth's involvement. Well he wants you
15 to believe that's the last thing that he
16 wanted to talk about, he wanted to protect
17 her. Well there it is. Well Elizabeth
18 was up there buying the tickets, Elizabeth
19 was doing this.

20 You see, what happened, ladies and
21 gentlemen, what triggered this, and the
22 thing that's responsible for all of this
23 really is when that Keith Barker on the
24 morning of Thursday, June 5, 1986, walked
25 into that cell and tossed down in front of

1 them that newspaper from England that
2 talked about the voodoo and all that stuff,
3 that put this fear, an ultimate fear in
4 Jens Soering. Because he realized then, he
5 knew that we had evidence to incriminate
6 him. He admitted that from the stand,
7 that's why he left this country to begin
8 with.

9 He knew at that point that the police
10 officers had all these writings that I
11 talked about that he wrote, the ultimate
12 weapon against the parents, having the
13 dinner scene planned out, we had all of
14 that. And he didn't know how much we had,
15 because the yokeis are coming over here, my
16 goodness, if they can mosey across the
17 ocean they've got to have something.

18 So, he says I don't like this voodoo
19 business now, they got me on the killing,
20 no doubt about that, but I'm not going down
21 on this voodoo stuff, because I didn't do
22 any voodoo, and we're not saying that he
23 did any voodoo. And he said the only way
24 for me to get out of this and to save
25 myself is to admit to what they got on me,

1 I killed them, but this voodoo, I didn't do
2 any kind of voodoo.

3 But maybe I can try to -- if there was
4 voodoo, the extent of the injuries, now
5 some prosecutor at some point might try to
6 argue that somehow. Now those injuries are
7 awfully bad. Maybe I'll leave the door
8 open to try to suggest, yeah, I killed
9 them, I got to admit that, but maybe
10 somebody else came in and did the rest of
11 it, I didn't do all of that. Scheming and
12 planning, even at that point, just as he
13 schemed in October, and that plan didn't
14 work.

15 But yet he's not going to take it, he
16 comes first in his life, let me talk about
17 Elizabeth's involvement. And Elizabeth
18 Haysom, regardless of what you want to say
19 about her, or think about her, because
20 she's a murderer, she has been convicted of
21 first degree murder by her pleas as an
22 accessory before the fact; whatever you
23 want to talk about, it carries the same
24 penalty of 20 years to life, it's murder
25 under Virginia law.

1 She walked into this courtroom, and she
2 accepted responsibility for what she did,
3 and that was she manipulated this man, she
4 wanted him to kill her parents, he did do
5 that, and afterwards, as much as she hated
6 her parents, it was still her parents, she
7 said well, once she saw all those pictures
8 from the extradition, the pictures that you
9 all have, once she saw what had happened,
10 then in December, December 14th, remember
11 that letter, even Jens Soering is writing
12 to her about saying that you're going to
13 plead guilty No need to protect Elizabeth
14 anymore.

15 Elizabeth Haysom, if there's anything
16 that you can say about her, she makes up
17 her mind, she's made up her mind, she said
18 she was going to plead guilty, she was
19 guilty and she did plead guilty. No need
20 to protect Elizabeth anymore. If there had
21 been, why would she plead guilty, let this
22 man take the fall for it. She wasn't going
23 to do that, that's not how it was, she
24 didn't.

25 All right, then afterwards, ladies and

1 gentlemen, after the statements there in
2 England, and I'm winding down at this first
3 part, thank you all for your patience, but
4 what he writes afterwards, a week after the
5 June 8th statement ends on Sunday, June
6 8th, the very next Saturday he takes pen in
7 hand and he writes her he thinks better
8 with pen in hand, expresses himself better.
9 He begins to write such things, June 14th,
10 I love you, and am glad we met. I hope you
11 feel the same way, but would not blame you
12 all at if that's not the case.

13 Now is that the writing of a man whose
14 just taken the ultimate fall to somebody
15 and made the ultimate sacrifice? No. He's
16 saying I don't blame you if you wished
17 you'd never met me before. You wanted your
18 parents dead, I killed them. But he
19 continues on in that same letter by
20 writing, although there are no if onlys, I
21 do regret having done this very much,
22 inadequacy does not begin to describe it;
23 though I don't regret meeting you, it would
24 have been better for you had you not not
25 met me.

1 Now he gets on the stand and wants you
2 to believe that this man is making the
3 ultimate sacrifice, and he's writing there
4 at the time, it would be better for you if
5 you had never met me, well that's
6 inconsistent, isn't it? And then he
7 continues on by saying, enough bloody self
8 recriminations, I'm not asking for
9 forgiveness, I don't deserve it. And I
10 certainly don't want a letter from you
11 taking it all on yourself, such a letter
12 would piss me off tremendously. All along
13 I made the mistakes, and more or less
14 willingly, you were dragged along. He is
15 writing this to Elizabeth Haysom. I made
16 the mistakes, you were dragged along.

17 Now he gets up here and he says, well
18 he realized the sensors, the police
19 officers were reading his mail. Well what
20 in the world difference did that make. He
21 had been before the police officers on June
22 5, June 6, June 7, June 8, telling them all
23 about it. He could have written in this
24 letter, Elizabeth, I told them that I
25 killed your parents, I told them how I did

1 it. No need to be secretive, when a police
2 officer read it, they had already heard it
3 anyway. He's not concerned at that point,
4 because he states, more or less, willingly,
5 you were dragged along.

6 And he continues in the next letter,
7 June 23rd, by saying I feel ridiculous
8 having wrecked your life, not having saved
9 your life, not having sacrificed my life to
10 save yours. Elizabeth, he says I feel
11 ridiculous having wrecked your life. He
12 continues. I'm simply trying to tell you
13 that the quote, I have wrecked your life
14 remark was not gratuitous machosicm mixed
15 with self-pity, but simply reality, as I
16 see it. I have wrecked your life.

17 And without reading anymore passages,
18 ladies and gentlemen, except the -- I just
19 want the date of when he said it, he talks
20 about his plans of June -- October 22 is
21 when he writes about those yokels don't
22 know what's coming down, but I want where
23 he's talking about -- that one's easy to
24 find. Where he -- ah, here we are. It is
25 the July 17 letter, July 17. Now he's

1 written those other letters, the Saturday
2 immediately following, then the 23rd of
3 June, now it's July, and he started
4 thinking about what he's done. Well he's
5 told the truth and he got it. And he
6 started thinking about his plans, how is he
7 going to get out of it, and he starts
8 writing Elizabeth letters, saying make
9 contacts with any lawyers, any high people
10 in the United States, anybody in the Home
11 Office. And he follows, and if I can quote
12 him directly as far as the words he used,
13 he said, I can't tell you that this is
14 going to do you any good, but what I want
15 you to do -- so I'm asking you to save my
16 ass in the hope that somehow it will help
17 save yours.

18 Now is that the statement of a man,
19 ladies and gentlemen, who has made the
20 ultimate sacrifice for somebody else?
21 That's the same kind of statement he's
22 writing to Neal Woodall back in May, and he
23 writes to Elizabeth the first of June, and
24 that is I am number one. This might not
25 help you Elizabeth, but help save me,

1 because I'm in it now. And then in
2 December, continuing on, there again, he
3 makes the statement again, he wants to go
4 to Germany, he says. Well I expect he did.

5 And we submit to you, ladies and
6 gentlemen, that if your verdicts are as we
7 feel in accordance with this law and this
8 evidence, and he's convicted of first
9 degree murder and sentenced to two lifes
10 imprisonment, he's going to wish it a whole
11 lot more before it's over with.

12 But ladies and gentlemen, this evidence
13 demonstrates, and clearly demonstrates
14 beyond a reasonable doubt, this man is
15 guilty of first degree murder, two counts
16 of it, he should be sentenced to life
17 imprisonment as a deterrent for anybody
18 else that might have a notion like this and
19 as punishment for him.

20 Because as I have stated at the
21 beginning, and I'm closing now, stated at
22 the beginning the acts themselves warrant
23 first degree murder and life imprisonment
24 because of how bad it was, being able to
25 come back in after having done it and

1 cleaning up. But if there were any
2 possible mitigation, which there wouldn't
3 be any possible mitigation that a man such
4 as he could bring forth, which would be to
5 try to get on the stand, show some remorse,
6 and try to explain why he did it.

7 Instead he gets up here and he lies to
8 you. And I'm not going to comment any
9 further on what he did on the stand, but
10 let you all rely on what you all heard and
11 what you all saw. A person able to do
12 these acts is cold blooded, calculated,
13 mean and vile. This man can get on the
14 stand, first degree murder charges, talk
15 about this, try to put on a little
16 performance, try to talk his way out of
17 it and laugh about it. Cold. He needs to
18 be convicted of first degree murder and
19 sentenced to life imprisonment, that's the
20 only justice. Thank you.

21 THE COURT: All right, thank you, we
22 will take a recess at this time. Go to
23 your rooms, please.

24 (Whereupon a recess was taken.)

25 THE COURT: Call the jury in, please.

1 THE COURT: Members of the jury, we'll
2 just have to see where our lunch falls in
3 all of this, but I promise not to forget
4 your lunch. All right, defense may
5 proceed.

6 MR. NEATON: Thank you. Well, I may
7 not be as highly emotional as Mr. Updike,
8 but I'm here with the same amount of fervor
9 on behalf of my client, Jens Soering,
10 because this is a case where the
11 prosecution has failed to meet its burden
12 of proof. This is a case which demands
13 that you look at the evidence with an
14 impartial mind. This is a case that
15 demands that you put aside the violence of
16 the crime and look at who did it, and why
17 it was done. And this is a case that
18 demands your close attention, and demands
19 that you look at the physical evidence, and
20 demands that you look closely at the
21 letters that the prosecution says
22 constitutes plotting, and demands that you
23 look at the character and the testimony of
24 the defendant versus the testimony and the
25 character of Elizabeth Haysom which you saw

1 on the stand. You can compare them both in
2 this trial, ladies and gentlemen, and
3 you decide whether within that context the
4 prosecution has fulfilled its burden of
5 proof.

6 Now the Judge has given you some
7 instructions, and the prosecution has
8 commented on some instructions, and I'd
9 like to emphasize some instructions that I
10 think you should follow in this case with
11 equal intensity with equal seriousness as
12 the prosecution tells you. The first
13 instruction is that of the presumption of
14 innocence and the burden of proof,
15 sometimes forgotten in the prosecutor's
16 statement, sometimes forgotten what beyond
17 a reasonable doubt is.

18 I agree that you can never exclude
19 every conceivable possibility in a trial
20 because everything theoretically is
21 possible. But what you have to look at is
22 the evidence in this case, and what
23 that evidence can tell you. Look and
24 see whether you can draw reasonable
25 conclusions or more from the evidence you

1 in the end from the jury from the
2 motives of the parties involved and from
3 everything else that you can consider, from
4 the demeanor of witnesses in witness
5 stand to the lack of a proper
6 investigation in this case of that
7 constitutes part of the evidence and
8 of the were just along,
9 or whether they didn't do their job. The
10 issue is not why the evidence wasn't
11 produced at trial, the issue is that the
12 evidence itself was not produced at the
13 trial, and the prosecution the
14 Commonwealth is then asking is a result
15 of that evidence, and the of evidence,
16 to make a leap of faith and say assume what
17 I say is true, and help me fit my pieces
18 into the jigsaw puzzle, even though they
19 don't actually fit.

20 And when you look at some of the pieces
21 that I have indicated on the board and when
22 you look at some of the pieces that are
23 present at the murder scene or you see
24 what the Commonwealth has done in this
25 case, you will find that the haven't put

1 together a jigsaw puzzle, what they've done
2 is when they find a piece that doesn't fit,
3 they tailor it or cut it so it does fit in
4 this case and they make it fit to the case.
5 Because three days after they got it to
6 England they indicted my client because
7 they went to England to get indicted
8 and because they had already made up their
9 minds when they went to the trial but they
10 did it, and because they are willing to
11 look at the evidence in an impartial light
12 and back away from a position they took
13 , day days
14 mistake.

15 I find it interesting in this case that
16 whenever the prosecution presents a piece
17 of evidence found at the scene of the crime
18 that would suggest that Elizabeth Haysom
19 was there or could have been there, that
20 every time they're faced with that type of
21 piece of evidence, they say well, we may
22 have made a mistake, or it could be this,
23 the Type B blood on the wash rag in the
24 washing machine might not be Type B blood.
25 Or the hair that's found in the dining room

1 might have been trampled or might have been
2 rolled over in the blood, or that the
3 fingerprints on the vodka bottle might have
4 been there for a long time.

5 Might have beens don't make it, ladies
6 and gentlemen. The prosecution has to
7 prove their case to you so you don't have
8 any might be's at the end of the case.
9 And what you have to do, ladies and
10 gentlemen, is you have to find the
11 defendant is benefit of a
12 reasonable doubt in this case. At the
13 evidence of the evidence about
14 what happened that night, you have
15 two diametrically opposed this is
16 this trial. You have a case with that's
17 saying that the killing did happen, and
18 you have a defense that says Elizabeth
19 Haysom did it, and more likely with one
20 other accomplice at the scene.

21 And I say to you that there is stronger
22 evidence at the scene of the crime that
23 suggests that Elizabeth Haysom was there,
24 and that she was with an accomplice who is
25 as yet at large still in Bedford County, or

1 someplace in these United States and that
2 those two people did this and that
3 my client was in Washington, D.C., running
4 around buying tickets, thinking that he was
5 saving his girlfriend from getting into
6 trouble with her parents over a drug deal
7 that she said was going down in Washington
8 D.C..

9 Now you may wonder why this is here.
10 Being a former school teacher, I feel more
11 comfortable sometimes with a board next to
12 me so that I can point, but I kind of
13 points to seven questions that aren't
14 answered in the prosecution's closing
15 statement. I have seven questions that he has
16 to answer in order to prove his case beyond
17 a reasonable doubt. Because unless he can
18 answer all seven, ladies and gentlemen, he
19 doesn't meet his burden. Unless he
20 answers all seven, what you get at the end
21 of this case is a reasonable doubt. In fact
22 as close to a defense being able to prove
23 the actual innocence of their client as I
24 have ever experienced. And the reason that
25 I suggest that we can't prove the actual

1 innocence of Mr. Soering is number six, no
2 room service bill. And why is there no
3 room service bill? Because the police
4 mosied around for six months and let that
5 evidence become destroyed.

6 Now whether you want to say that it
7 wasn't intentional on their part I'm not
8 saying that they did that on purpose, all
9 that I am saying is they did it, and that's
10 a fact in this case, and that is a fact
11 that you don't have. Because if Jens
12 Soering's signature is on that room service
13 bill, then he was not at Loose Chippings
14 and he did not murder the boysoms, and that
15 is a fact, ladies and gentlemen.

16 And when you tie that into the
17 presumption of innocence in this case, and
18 you tie that into the burden of the
19 prosecution was in this case unless they
20 can prove that he was there, and a
21 reasonable doubt, you have a result.
22 And what I am saying is that the piece of
23 evidence that would prove it wasn't
24 there was destroyed in 1981 at Marriott
25 Hotel because the Bedford Hotel was then a hotel

1 up the ... time
2 And they knew in April that
3 there was a mileage discrepancy they knew
4 in April of 1985 that Elizabeth Haysom had
5 ... in the ex ... for the
6 mileage discrepancy, they knew in April of
7 '85 that the shoe prints in the house may
8 be size eight to eight and a half. They
9 knew in April of 1985 that Elizabeth Haysom
10 wore size eight shoes. Even today was a
11 suspect in April of 1985, and yet with that
12 evidence before them, they did nothing.
13 Now the room service ticket, ladies and
14 gentlemen, we know the name of Jens Soering
15 must be on the room service ticket, because
16 Elizabeth Haysom claims that she forged the
17 signature on it, and Jens Soering testified
18 that he signed his name to it. And so the
19 real question is, is the name Jens Soering
20 on the room service ticket a forgery or the
21 real thing. And you'll never know in this
22 case whether it is a forgery or whether it
23 is the real thing, because there is no
24 evidence that was collected by the police
25 And if that signature is the real thing, it

1 I don't think as simple as that; he
2 couldn't have done it, it is possible
3 for him to do it.

4 And ladies and gentlemen, it is a
5 reasonable doubt in this case, so it is a
6 question, it is a question that will never
7 be explained, no matter how many times you
8 stab somebody in the air or of
9 yourself, no matter how many times you show
10 photographs of the deceased to you, no
11 matter how many times you take things out
12 of context in Jens's letters in December of
13 1984, regardless of all of that, ladies and
14 gentlemen, that is still unexplained, and
15 it will never be explained beyond a
16 reasonable doubt in this trial and because
17 of that, you have to acquit my client.

18 Now the prosecutor talked about the
19 savagery, the brutality of the crime in
20 terms of it being first degree murder in
21 this case. I'm not here to say this is not
22 a brutal crime. I'm not here to say that
23 there wasn't a travesty committed upon Mr.
24 and Mrs. Hayson, I'm not here to say that
25 somehow those people deserved their fate or

1 somehow that the person who did that
2 shouldn't be brought to justice. But what
3 I am here to say that is that within the
4 context of the American legal system, the
5 burden of proof is on the Commonwealth, and
6 that the amount of evidence satisfied to
7 bring evidence beyond a reasonable doubt,
8 and that in this particular case not only
9 have they failed to do it but the defense
10 has come forward with evidence which checks
11 and of the time on the ticket which prove
12 Elizabeth Haydon was lying and that she
13 was doing in Washington, D.C. and the
14 nsere on
15 the 30th of March at a time when he was
16 supposed to be either on his way to Loose
17 Chippings, or was supposed to be actually
18 there committing the murders.

19 Now let's talk about thes that
20 are on the board right here 10:15
21 p.m. ticket. And isn't it ladies
22 and gentlemen, that within the context of
23 this case, where there's three hundred and
24 some exhibits for the Commonwealth over
25 there, and possibly weighing hundreds of

1 pounds, possibly as much evidence as I have
2 ever seen in terms of sheer volume
3 introduced, that these two items right
4 here, Defense Exhibit 19 and 20, which
5 weigh little more than the air that we
6 breathe, outweigh all of the evidence that
7 the prosecution could ever produce in this
8 case, because they proved that Jens Soering
9 was in Washington, D.C., and do they do
10 it?

11 Because first, on the 11 right
12 here, the time is 10:15 p.m. the
13 ticket Jen testified that went to the
14 movie, and I was about to 10:15
15 showing of the movie. Elizabeth Jayson,
16 who is supposedly the witness the
17 Commonwealth contends that she says I
18 definitely bought the last ticket at about
19 4:00 in the afternoon, and I would go to
20 the movie. Well here's a 10:15 p.m. movie
21 ticket for the movie that she says she
22 bought at four p.m., and ladies and
23 gentlemen, you can't go to a movie at
24 10:15 p.m. at night. Not that, ladies
25 and gentlemen, you can't be in your room

1 ordering room service and have this movie
2 ticket out there.

3 And the point is, she said she bought
4 the tickets first, then she went to the
5 room, she ordered room service, ordered
6 some food and a small bottle of liquor, and
7 that she said on the stand last week that
8 she signed her name to the room service
9 ticket, you have heard her prior testimony
10 that she said she had signed her name to a
11 Visa bill. She couldn't even keep it
12 straight on the stand whether she had
13 Jens's Visa card or not. At 2:30 in
14 the afternoon she said that she had it, and
15 at about 2:50 she was saying she had
16 it. And if she can't even keep it straight
17 within 10 minutes, how the hell can you
18 believe her on anything of any
19 importance in this case.

20 Not only that, the Commonwealth wants
21 to suggest that somehow Ben's notes are
22 all on one page of paper and how that
23 in his dorm room, that somehow this was a
24 deliberate act on his part to show somehow
25

that they were plotting to ... we read

And what I'm saying to you is, common sense tells you that people save memorabilia like it, save ticket stubs. I don't know why he keeps all of this stuff, you can look at the stuff he got from Europe, the guy is a pack rat, keeps stuff, he's a junk collector, okay? But he had this stuff, and he didn't have it with him, and he didn't have it stapled to this piece of paper in an alibi packet like Elizabeth Haysom claimed, he had it loose in an envelope among all of his other junk that his father found in his room after he disappeared in October of 1969. And he's darned lucky that his father found it, because if the Commonwealth found it they would have misrepresented it as what this means, fool, as well as what the diary letters mean, and as well as everything else in this case means.

And that's just another alibi, the guy takes off in October of 1969, if he's all so damn guilty as if ...

1 crime. I am going to go to the onwealth
2 right at the search for I mean to
3 it means that much to the health now
4 why didn't it mean a lot to the of all
5 Apparently it didn't. And I am saying
6 I am going to go to the gentlemen's jury is
7 this, that these tickets with 10:15 p.m. on
8 them prove Elizabeth Haysom to be the
9 pathological liar that she admitted to Jens
10 that she was in her letters, and proved
11 that whoever bought these tickets could not
12 have committed the crime.

13 And what I am saying to you is Jens
14 said that he bought the tickets at about
15 the time that is on these tickets.
16 Elizabeth, who is supposedly the alibi, the
17 person in the position to know, supposedly,
18 what was going on in Washington, D.C., says
19 that she bought these tickets in the
20 afternoon and didn't even go to the movie.
21 Well how can you believe her at that point?
22 Because if she is the alibi, certainly
23 hasn't she ever anything the alibi
24 This check, ladies and gentlemen, that
25 Jens says he cashed, came out

1 from the first movie at the Marriott in
2 Washington, D.C. It's dated and issued at
3 the Marriott in Washington. It's his
4 signature on it. The date is card
5 imprinted on the back which was used there
6 by the card imprinter at the Marriott say
7 March the 30th, 1985. First, you have
8 not testified about any cash being cashed
9 at any time that weekend. Because
10 see didn't know that it was a card, because
11 she didn't know when it was cashed. Ladies
12 and gentlemen. And if she doesn't know
13 that it's been cashed, then she doesn't
14 know how to tailor her story to fit this
15 check.

16 And another Godsend to the defense comes out
17 of his father finding this and his
18 canceled checks in his dorm room at UVA.
19 And ladies and gentlemen, the prosecution
20 tries to say, well maybe that isn't his
21 signature on the check. Well, he didn't
22 produce any handwriting analyst to come in
23 and say it wasn't his signature, and he had
24 to, who could come in and say I signed the
25 check, or I saw him cash it. And she

1 wasn't called to deny that, and the reason
2 none of that happened was because Jens
3 Soering signed this check and he cashed it
4 at the the Marriott on March the 30th, 1985
5 at a time when Elizabeth Haynes was on her
6 road to Lynchburg to do away with her
7 parents

8 And he can't explain it to the ladies and
9 gentlemen, and I put in to you that
10 even the suggestion without evidence
11 that Jens might not have signed his check
12 I put in his driver's license and his
13 signature on that, and you compare
14 them, and I think they're identical

15 And these two pieces of paper are
16 heavier than the air that we breathe that
17 outweighs all the pile of evidence in that
18 corner of the courtroom, ladies and
19 gentlemen, two pieces of paper which in
20 conjunction with the room service bill
21 could prove beyond any doubt that Jens
22 Soering is innocent.

23 And why don't we have this last piece
24 or a missing puzzle? We don't have it
25 because the police didn't think that they

1 should get it, they didn't get it
2 before they indicted them. They even
3 waited five months or so after they
4 indicted them before they even sought to go
5 get this stuff. And what I'm saying to you
6 is they made up their minds before they had
7 all the facts, and that is the problem in
8 this case, ladies and gentlemen. And that
9 is when you make up your mind. Are you
10 have all the facts, you form a
11 position, and being human beings we find
12 it hard to admit that we made a mistake,
13 find it hard to admit that we might have
14 been wrong about this, and four
15 years later the Commonwealth of Massachusetts
16 that Jens Sorenson did it by
17 himself. And they found in this
18 trial, even in the face of the evidence
19 ladies and gentlemen, to admit that they
20 made a mistake. They have tried to
21 change the form of the piece, or the jigsaw
22 puzzle so that the pieces fit what the
23 Commonwealth says the puzzle looks like,
24 but not what the truth is.

25 Prints of the vodka bottle and

1 gentlemen. Now let me say this, it's
2 beyond a reasonable doubt in this case that
3 on this vodka bottle are the prints of
4 Elizabeth Haysom. Now Elizabeth Haysom was
5 on the stand for the better part of the day
6 or day and a half, and did you ever hear
7 her say how her prints got on this vodka
8 bottle? Did you ever hear the Commonwealth
9 ask a question of Elizabeth Haysom, can you
10 explain how your finger prints got on the
11 vodka bottle? Okay? You didn't hear that,
12 they didn't ask it. Why didn't they ask
13 it? Because her fingerprints got on the
14 vodka bottle on the night of March the
15 5th. Now the forensic findings that the
16 Commonwealth's own expert found that
17 can even be destroyed by a slight movement
18 movement of the bottle within the
19 cabinet her prints are on the bottle.
20 Now do you think for a moment that
21 Jens Sohlberg's prints were on the bottle
22 even though they weren't on the bottle
23 Commonwealth wouldn't be able to find them
24 there, even though four weeks before he

says that he was at the no 10? Do you believe for a minute that a man who was a member of the British Army wouldn't be able to get that information? I don't, and I don't think you do, either.

Now the other thing that's important about this vodka bottle is to find out where the prints are, and also to note what hand the prints are. Okay Elizabeth Haysom is a righthanded person. Okay, she's got a left fingerprint right up here on the neck of the bottle, and she's got another lefthanded fingerprint right down here where it says number two. Now how many righthanded people do you know who pour their vodka like this, and how many righthanded people do you know pour their vodka like that that, okay'

I say what she's doing is that she's got this bottle, and she's got it like this and she's got a rag on it and she's wiping her fingerprint off of the bottle. I say that that's as equal as reasonable, given everything else that the prosecution wants you to believe in this case. And

1 since he has no evidence in his case that
2 proves -- or any testimony from Elizabeth
3 Haysom that says that she touched this
4 vodka bottle any time before March the
5 30th, he can't explain how these prints got
6 on this bottle. And do you remember the
7 circumstantial evidence instruction that
8 the Judge read you and that you will be
9 able to take into the jury room that the
10 prosecution has to negate every reasonable
11 theory inconsistent with innocence in this
12 case? You know, what does this mean? How
13 do we know when she put the print on the
14 vodka bottle, we don't.

15 And ladies and gentlemen, that's
16 another area of reasonable doubt in this
17 case that doesn't explain away the
18 prosecution's theory. And I say it's
19 stronger evidence than a Type O Blood, and
20 an outline of a sock on a floor that puts
21 somebody at the scene, because in this
22 case, ladies and gentlemen, even the
23 Commonwealth's own expert testified that an
24 outline of a sock on the floor, this is the
25 fingerprints expert, says that an outline

1 is not like a fingerprint identification,
2 what you're dealing with is a shape, and
3 how is that shape made? It can be made in
4 any way, ladies and gentlemen. And they
5 don't explain it to you, and you look at
6 the footprint and you see how that shape
7 was made, and you see for one thing that
8 Elizabeth Haysom's footprint fits right
9 inside that, and is about the same size as
10 the bloody print on the floor.

11 Another interesting thing about that
12 footprint is that Officer Rush testified
13 that it was going in the direction of the
14 bathroom. But if you look at the photo,
15 and I'll use the Commonwealth's own exhibit
16 here, if you look at the photo, where ever
17 this print is going, it isn't going to the
18 bedroom because it's going the same
19 direction as the floorboards. And if you
20 look at the photos of the living room, the
21 floorboards run from the back to the front
22 of the house. So they can't even remember
23 what direction the carn print is going in,
24 let alone whose print it is.

25 And they bring in some guy who isn't

1 even an expert who puts this thing over
2 this print, ignores the fact that the big
3 toe doesn't line up, and ignores this part
4 of the big toe that hangs over, ignores
5 this part of the heel that's much longer
6 than the print on the door floor, and then
7 ignores the fact that it is smudged all to
8 heck, and how do you know what part of this
9 is the sock and what part of that's the
10 foot? Ignores the fact that you can't even
11 tell where the heel begins and where the
12 heel ends down there and says that's the
13 defendant's, beyond a reasonable doubt.

14 And then he says, well let's look at
15 all the other prints in this case, and
16 let's look at the fact that these prints
17 somehow are excludable, okay, and so he
18 goes right to the Elizabeth Haysom print.
19 Do you have a Kleenex, so I can wipe this
20 fingerprint powder off? Anyway, this is
21 one of the Commonwealth's exhibits, and I
22 showed this to you before. And I will just
23 hang this over here, and you see, this is
24 the footprint of Elizabeth Haysom up
25 here -- come on, Bill why don't we come up

1 here and demonstrate this.

2 This is the footprint of Elizabeth
3 Haysom they use to say it isn't hers. Now
4 if you measure this footprint, I will
5 suggest to you, and I'll measure it right
6 here in front of you if you want, it's
7 about nine and a half inches, which is the
8 same length of that lifesize photo of the
9 LR-3 print. But you look at this print
10 down here, okay, the toes are farther
11 apart. I mean what you have here is proof
12 on this Commonwealth's exhibit that no one
13 leaves the same print the same way the same
14 time.

15 And what you have here is a less than a
16 eighth of an inch difference on the width
17 between this toe and this toe and that
18 width on the LR-3, and they say that's
19 proof beyond a reasonable doubt. I'd
20 submit, ladies and gentlemen, the only
21 voodoo in this case is this footprint
22 stuff, because ladies and gentlemen, no one
23 ever leaves the same thing twice. And you
24 can look at it, you can look at all of this
25 evidence in here and see that.

1 Now also, ladies and gentlemen, here's
2 the LR-3, and if you put a ruler over this,
3 from God knows where on here, because you
4 can't tell where the heel ends, but let's
5 just say about here, you'll see that this
6 thing is about nine and a half inches right
7 here. Now we put into evidence Defendant's
8 Exhibit 18, which by the way are socked
9 impressions of the defendant, not barefoot
10 impressions, that's probably the best way
11 to compare, we're not doing apples and
12 oranges, we are doing socked feet with
13 socked feet. Come on up here, Bill. Put
14 my same trustee ruler that I have had since
15 about the 9th grade right here, and I put
16 this on here, and this thing is 10 inches
17 that print. And if you do it on this print
18 down here, this print is the same thing,
19 and so in fact that print is over 10 inches
20 right here.

21 Now unless the guy who left that print
22 is walking through air and just kind of
23 lightly touches down on the floor, you
24 should expect that if it's a Jens Soering
25 print it should be 10 inches in a sock o-

1 greater, based upon that evidence that's in
2 there, and it isn't right there, ladies and
3 gentlemen. And what it is, is the print
4 that sizewise fit into Elizabeth Haysom's,
5 and it isn't even a fingerprint, it's not
6 like a fingerprint, you don't have ridges
7 on it, and the Commonwealth is ignoring
8 that part of the heel on this transparency
9 that hangs out over the heel right there.

10 I mean if you put the LR-3 on top of
11 his prints in the jury room, you'll find
12 that this comes up a half inch short, and
13 that this toe right here is going to end up
14 right about at the end of the ball of Jens
15 Soering's foot; they're in those socks, and
16 you don't even have an expert witness
17 telling you anything about that.

18 Now ladies and gentlemen, the slipper
19 in the kitchen. No one wanted to talk
20 about why nothing was done about the
21 slipper in the kitchen, other than we find
22 Derek Haysom's blood on it. Nobody
23 bothered to look on the sole of the slipper
24 in the kitchen. Nobody bothered to look,
25 but there's a footprint on the sole of the

1 slipper in the kitchen, on nobody
2 ~~anybody~~ the floor of the kitchen, at the
3 the slipper in the kitchen, at the
4 side is a floor and Jens has been on
5 eight or a half. And if it were all
6 alone in the ground in the any day
7 you get blood on the bottom of the slipper
8 that's in the blood of person, and
9 why, ladies and gentlemen, does this
10 ~~slipper~~ Soerling Nobody
11 bothered to even take the ~~slipper~~ of this
12 slipper. And this is sitting over, if you
13 remember the photographs, this is sitting
14 over right by the body of Nancy Haysom.
15 And I say whoever wore this slipper was
16 there, because you have evidence on this
17 slipper. There's even ~~any~~ even see
18 right in here, right in the ~~slipper~~, more
19 evidence of blood.

20 But Jens can't get that slipper on his
21 foot. But whoever can was probably one of
22 the people that were there. Then he talks
23 about the bathroom, and he says oh, Jens
24 went into the bathroom shut his feet
25 on the bathroom floor, and ~~anybody~~ look at

1 all the sock prints on the bathroom floor,
2 ladies and gentlemen, and he says right by
3 the sink and right by the shower, and right
4 by all the evidence of the... washing
5 up, okay? That's what he... Okay. You
6 don't find... type O blood... example
7 in the bathroom that would... consistent at
8 least with 40 percent of... relation.
9 And let's just point... to the type
10 O blood... 14 or seven... people
11 sitting on... any pencil... not be
12 eliminated... suspects in... based
13 on the evidence that the... on the
14 sought for you to use... client.

16 bathroom sink. This is a bathroom in the
17 private bedroom of Mr. and Mrs. Haysom on
18 the first floor. This is a hair that's
19 right in the same sink where the
20 Commonwealth claims the killer... all
21 washing all the blood off... okay?

22 That hair is not my client's and that
23 hair is not Mr. and Mrs. Haysom's. Whose
24 hair is it? I say it's the hair of the
25 killer, or killer's. And why was there no

1 hair comparison done with Elizabeth Hayson?
2 I suggest the reason is they didn't want to
3 find out that she was really there.

4 Let's talk about the Type B blood on
5 the wash rag in the dishwasher in the
6 kitchen, okay? The Commonwealth says the
7 killer went and washed the bloody hands at
8 the kitchen sink, and that's how you get
9 this human blood or blood on rags
10 splashed on the sink, and the wash rag
11 and up to the window sill. They say
12 okay, then I'll look at the ground
13 around the sink. Say what? No, who
14 was washing at the kitchen.

15 I saw the Type B blood. I was
16 washing at the sink. And you
17 have got a wet wash rag. Of the
18 rags found in the dishwasher. That's the
19 only in which you have type B blood on it.
20 Now who is the only person in this trial
21 that we know of that has Type B blood,
22 that's Elizabeth Hayson. And who is
23 Elizabeth Hayson? She is the only person
24 in this trial that's writing. I wish my
25 parents would just lay down. I wish

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my dad would drive off a cliff, I wish that
I could commit voodoo on [redacted] okay? Does
that sound like a reasonable doubt to you?
It does to me, I think it [redacted] to you.
[redacted] the type B blood, the [redacted] Commonwealth
says, ladies and gentlemen, well, that
might be Type AB blood, because it is
possible that the A factor might not be
found on that wash rag. Now again, let me
use another line of reasoning, or another
way of looking at did this. Do you think
that if it was Type O blood on that wash
rag, that the Commonwealth [redacted] would
have come in and said he [redacted] possible
that [redacted] [redacted] but the
A factor [redacted] [redacted] only
[redacted] [redacted] again [redacted] have
[redacted] [redacted] [redacted] [redacted]
that [redacted] [redacted] [redacted]
wash rag [redacted]
[redacted] [redacted] saying to [redacted] [redacted]
burden of proof reverse. [redacted]
burden of proof, he's got [redacted]
[redacted] [redacted]
was there, and that he was [redacted] only one

14

there. And just because
that might be a type A
it's not
likely a type B.

And more importantly, what is he going
to say as to how the Type A got there,
that is Mrs. Haysom, after being mortally
wounded in the graphic detail that he's
gone into, went to the kitchen sink and
tried to wash up, and before she died, had
the sense to put the wash rag in the
dishwasher? That doesn't make sense. The
killer washed the blood off of her cuts on
that wash rag, and Elizabeth Haysom threw
the wash rag in the washing machine,
thinking it wouldn't be found. And at
least that makes as much sense if not more
sense than what the Commonwealth's theory
of the case is, ladies and gentlemen. And
you can't ignore that, and that's the
evidence is that you right there,
that there is a Type B there. Now
let's talk about the type that's
the scene and have direct evidence
how that really doesn't work.

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Let's go to the
door
only
Now what wants you
that a little tiny scar on
and a little tiny, might
the little finger of Jens
produced
blood being swiped on the door handle, but
you have blood about two feet off the
ground down on the door frame, and blood
dropping down on the bottom of the screen
door as well. What I am saying to you,
ladies and gentlemen, is that the Type O
person was cut a lot more badly than
here and here, and that if these are the
scars that Jens Soering used to dupe the
police into making them believe that he did
it the police should have realized that it
took a lot bigger cut than those little
itty bitty things on his fingers to cause
the blood to get where it can be swiped
in the amount that it is on the floor. And
look at the notes, okay? It isn't a
little finger cut dropping

1 blood down there, okay, there's swipes
2 there that indicate that there's a lot of
3 type O blood being dropped

4 Now I'd like to talk about the other
5 things in the house that the coroner
6 neglected to talk about. I like to
7 probably -- I think the best way to do
8 it would be room by room. I mean
9 First off, you have a knife in the
10 kitchen sink. Now I think in
11 determine whether it's a knife or a
12 the other kind of knife. Or the
13 matter is nobody thought it was important
14 to even fingerprint it. And that's laying
15 there on the kitchen sink. You might have
16 one of the weapons that caused some of the
17 wounds in the back of Derek. I mean there on
18 the kitchen sink, and nobody looks at it's
19 important to look at it.

20 You have a pile of knives back in the
21 corner of the kitchen sink to the left of
22 the dishwasher nobody looks at, okay? You
23 have got a heel print on the kitchen floor,
24 and if you look at the heel print on the
25 kitchen floor that's made in the sock

1 print, and it's going in the direction of
2 the side door. The width of that heel
3 print is about four and a half centimeters,
4 about a little bit more than an inch and a
5 half, it's there on the floor, and if you
6 take that and compare it to the width of
7 Elizabeth Rayson's heel print that
8 the Commonwealth put into evidence, it's
9 almost an exact match. In
10 conclusion

11 Now, the evidence that I have introduced
12 in this case is the blue robe found in
13 the bedroom, the blue fibers found in
14 look of the setting of the bed, the
15 hearing, and said to the police in England that he
16 had a blue robe. There are blue fibers

18 had a blue robe. There are blue fibers
19 found throughout the house. They're in some
20 places of the house. Apparently it was no
21 comparison done between the blue fibers in
22 the robe and the fibers found throughout
23 the house.

24 In the living room, in order to say
25 that there was a third place setting there,

1 and someone had disappeared. I suggest to
 2 you there is no evidence of a place
 3 setting here and I suggest that based on
 4 the place settings at the table, I think
 5 you can see that the attack came from the
 6 place setting that was to the left of Mr.
 7 Haysom, and I'll tell you why.

8 First off, the fork and the glass from
 9 that place setting are gone. If it was
 10 Nancy Haysom's place setting why would the
 11 fork and glass be gone? I suggest that
 12 whoever was in the house at the time of those,
 13 because that person touched Nancy
 14 Haysom's fingerprints on the glass and
 15 glass, and the fork and the glass are
 16 more likely to have been taken to
 17 that person's home with her than to
 18 dinner at the particular place.

19 Not only that but we have a list
 20 of the number of plates in the
 21 inventory of the number of plates of
 22 plates at the suggestion of the fact that
 23 there is anything missing from the house,
 24 other than the items that you would
 25 normally expect at a place setting where

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that the person who was eating there would
touch
Not only that, but you have from the
testimony of the evidence of the witness, Mr.
Brown, the evidence that in the drawers of
that dining room table there have been
knives, and that he can't tell whether
they luminol'd the drawer that was right
under the place setting. And I would
suggest to you that it's as likely as
anything that the person attacked Mr.
Haysom from that place setting, that he
grabbed a knife from one of the drawers,
and that he cut Mr. Haysom with this and
that would show up as a lesion, a right cut
on Mr. Haysom's body, he's facing toward
Mr. Haysom, and I'd suggest to you that
probably the knife cut him, it cut him
on the side of Mr. Haysom, that the
knife cut him, that's all
And I'd suggest to you
that's not a piece of the
the table doesn't mean anything
means is it could have been

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... it is ...
... there has ...
... at that place ...
... he can say, ...
... to ... he ...
I am saying it is equally reasonable or more
reasonable that no one was ever there, that
more than likely Mrs. Haysom was serving
dinner and was out in the kitchen doing the
dishes, like it suggests was ... in
the kitchen, with the roast ... in the
bottom of the kitchen sink ... , with
dishes being put into the dishwasher, and
with other dishes left unattended on the
counter

Now ladies and gentlemen, another
aspect of the case is he argues that the
hair found on the floor of the dining room
somehow suggests that Miss Haysom was
there. I say it was probably ... there
of the killer or killers ... their part
of the house ... because their ...
in the ... it was ...
... you ... at ...
that the ... that's ...

1 that's ahead of me and around the
2 the other side of the table, and I
3 probably entered there from the front of
4 the house.

5 Moreover, the shoe prints show that he was
6 about as proving that the prints came from
7 the other side, and I don't think I can
8 find the photo -- well it's not here
9 someplace, but there's a photo of shoe

10 But if you look at the shoe prints, they
11 are in blood, and they are coming from this
12 side, and if you look at the direction of
13 them, they're going from the side of the
14 table where the place setting was toward
15 the other side of the table back.

16 Now what does that do to your
17 consideration in this case? What it does
18 is A, it suggests that the footprints, the
19 shoe prints were made after this blood was
20 spilled over here by a person who was more
21 probably on this side, and B, it suggests
22 that the movement of the attack was from
23 this side of the table toward the other
24 and not from this side of the table around

the back as the defendant said in his statement to the police in England in 1986. Evidence that the Commonwealth introduces that contradicts its own theory in this case, ladies and gentlemen.

Go to the living room. said in the living room. That they were drinking in the living room. The evidence that anybody was drinking in the living room. empty glass. you find? you find in it. not only in books, the Elizabeth's prints on it. identified fingerprints with the fingerprints of Derek Hayson, and if Derek Hayson was serving the guest that glass that night with a drink in it. And they are not the defendant's prints in it, and what are they doing but the liquor cabinet. ladies and gentlemen. don't know, but it isn't my client's prints on that glass, and if it were, don't you think the Commonwealth would be arguing that that proved that he was was there. The point is, when the reverse is true and the piece

1 of the puzzle doesn't fit, s another
2 reason to acquit my client.

3 Also in the living room, you have the
4 shoe prints going to and from the liquor
5 cabinet, and you have an indication that
6 from Officer Rush, that one of the other
7 sock prints was going to the direction of
8 the back door of the living room, which
9 would indicate to me, or at least create a
10 reasonable inference that person may
11 have been leaving the house that back
12 door, and walked around of the
13 house in an area where the never
14 illuminated that part use
15 after the crime, and there don't
16 know if there was any evidence a second
17 person outside the house minutes
18 in the front door area, or illuminate

20 illuminate every exit of the house, and I'm
21 saying that is a door that is not closed by
22 the Commonwealth in this case.

23 You talk about the bedrock and let me
24 just say that there's no evidence that
25 there was any towels missing from the

1 bedroom, there is a towel. In fact the
2 evidence would suggest that the towel with
3 the blood on it was left in the bathroom,
4 which is directly contradicted by -- which
5 directly contradicts my client's statement
6 to the police, and then you have the
7 photographs of Elizabeth Haysom's room
8 upstairs. They're probably -- well there's
9 a photograph of Elizabeth Haysom's room
10 which supposedly recreates exactly how the
11 room looked when the police came into it.
12 And in that photograph on her dresser
13 drawer, or on her up top of the dresser
14 there's a lamp in which the light is on,
15 and there's a clock, and there's a clock
16 and there's a clock, and there's a clock
17 and there's a clock, and there's a clock
18 and there's a clock, and there's a clock
19 and there's a clock, and there's a clock
20 and there's a clock, and there's a clock
21 occurred in the house by the
22 outside and the inside of the house
23 house, and that was unusual.
24
25 anything other than what she told me. And she

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had no reason to go down.
And what I am saying to you is that
she was not
wrong on that, that maybe at least in the
upstairs room Elizabeth Hayson's lamp was
left on. And what I am saying to you is
that she changed her clothes up there.
Now what I wanted to do was look at her
testimony in this case, and compare it with
my client's testimony. But in this
case, ladies and gentlemen, you have to
take the word of an admitted pathological
liar, a person who has lied under oath
before in order to convict my client in
this case, and you have to take her word
beyond a reasonable doubt. And I ask you
whether you would do that, and whether you
should do that in this case because the
motive to kill is hers, it is to kill
my client. And the evidence is that she
was not a witness there, and the people
never think of being there.
I have got to go now. I have got to
walks of three miles.

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this case and saying that

both are not true. You have Nancy Haysom's
best friend, Mrs. Massie, you have Mr.
Beever from the British police saying that
Elizabeth Haysom did ask [redacted] Jens had
confessed to the crimes [redacted] confessed
to the murders, and you have [redacted] client's
father, Mr. Boering saying that he never
had any conversations with his son about
this case before his son disappeared, and
before he thought that his -- he wondered
where his son had gone and for what reason.

Okay, you have got those three people
from possibly the three most diametrically
opposed positions in this case all saying
one thing, facts that Elizabeth Haysom said
on the stand are not true [redacted]
[redacted] had have not [redacted] Haysom
[redacted] [redacted] let [redacted] [redacted]
[redacted] [redacted] [redacted] [redacted]
[redacted] [redacted] [redacted] [redacted]
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Page 10

1 e had to... meth, but e... as
2 small... gives... and then
3 just cut them aside, OK.
4 You have got Elizabeth...
5 confronted with the fact... Aust. id.
6 ... no... Institut... well
7 maybe it was in another city... you have got
8 Elizabeth Haysom, who when says at one
9 point that there may have been -- that she
10 had the Visa card, says at another point
11 that she didn't have the visa card. You
12 have got Elizabeth Haysom... you a
13 story that says that my client was running
14 around Virginia for three to four hours in
15 his skivvies with sweatshirt, bare feet and
16 in his underwear. Well what was he doing
17 for that time? Okay, he wasn't doing
18 anything but sitting in his room waiting
19 for his girlfriend to come back.
20 You have got Elizabeth Haysom, who has
21 a method of operation of manipulating
22 people by saying I have got... thing to
23 control to... I have... as before
24 okay. ... 1995, a... be able
25 to go... You're... someone...

1 better. It's not 20 or 30 years
2 ... it's the ... she
3 ... people ... that she
4 ... says I have ... confess
5 ... a ... and then
6 ... believe ... and
7 ... that ...
8 ... Washington ...
9 ... have got to go, I'm not ...
10 ... got to confess that to you ... and that
11 ... have got to go pick them ... up ... and
12 ... you've got to cover for me so my parents
13 ... don't get mad at me.

14 Now Jens knows that her parents and her
15 ... don't get along ... He's ... to that,
16 ... he knows ... they've
17 ... talked, and that she's ... glowing
18 ... terms with her parents. ... it does Jens
19 ... he agrees to do it. And once he agrees
20 ... to do it, he's trapped, he's trapped in the
21 ... web that Elizabeth Haysom was beginning to
22 ... spin around him at that time. He's trapped
23 ... because he's bought the tickets, and she
24 ... knows it at that point. She knows she has
25 ... him at that point.

1 Now the Court said you can use your
2 common sense in determining the
3 believability of witnesses. Do you think
4 that it's more believable that Elizabeth
5 Hayson can convince this jury to go
6 and kill her parents as opposed to just
7 taking the blame for her father for her?
8 I think it's more convincing, more
9 believable that he could be persuaded
10 into taking the blame for her father because if
11 you read his literature, that shows that
12 that he wrote before and after these
13 killings, and I'm saying that there is
14 a common theme in that, and that is he is
15 convinced that he is innocent of the
16 crime. He even says that in so many words to
17 the British police in England, where he
18 doesn't want Elizabeth -- he doesn't want
19 them to think, or to believe that if
20 Elizabeth comes forward and confesses the
21 crime, that somehow that is true.

22 He is so concerned with saving her out
23 of that house that he goes to great lengths
24 to explain why she couldn't have been
25 there. And I suggest to you, ladies and

1 Now the Court said you can use your
2 common sense in determining the
3 believability of witnesses. Do you think
4 that it's more believable that Elizabeth
5 Haysom can convince this young man to go
6 and kill her parents as opposed to just
7 taking the blame for her, or alibi for her?
8 I think it s more convincing, more
9 believable that he could be manipulated
10 into taking the blame for it, because if
11 you read his literature, the volumes of it
12 that he writes before and after these
13 killings, all I'm saying to you is there is
14 a common theme in that, and that is he's in
15 love with this girl and he wants to protect
16 her. He even says that in so many words to
17 the British police in England, where he
18 doesn't want Elizabeth -- he doesn't want
19 them to think, or to believe that if
20 Elizabeth comes forward and admits the
21 crime, that somehow that that is true.

22 He is so concerned with keeping her out
23 of that house that he goes to great lengths
24 to explain why she couldn't have been
25 there. And I suggest to you, ladies and

1 gentlemen, that the reason that he does
2 that is that he is in love with her, and
3 that he has agreed to protect her. And I
4 agree, ladies and gentlemen, that that
5 doesn't make sense, it isn't the logical
6 decision an intelligent young man should
7 make. But he's 18 years old at the time
8 when he makes this decision, he's in love
9 deeply for the first time in his life. And
10 he's an intelligent young man, but he's not
11 a mature young man. He's an intelligent
12 young man, but he doesn't have a lot of
13 common sense, he doesn't have a lot of
14 experience in life that an older person
15 would have.

16 And is it easier, do you think that
17 that young man can be manipulated into
18 butchering Elizabeth Haysom's parents? I
19 don't think so, ladies and gentlemen. You
20 saw and heard him from the stand, you can
21 make that determination based upon what you
22 feel from his testimony, what you sense
23 from the way he says things, from his
24 behavior on the stand.

25 The Commonwealth is right about one

1 thing in this case, whoever killed Mr. and
2 Mrs. Haysom had a lot of hate, anger and
3 revenge. And you can almost see Elizabeth
4 Haysom there stabbing each time, I hate
5 you, I hate you, as she cuts the throats of
6 both of her parents. He has no reason to
7 do this, he doesn't need to do it. There
8 is no reason why they can't continue their
9 relationship in Charlottesville away from
10 her parents, he s met the parents one time.

11 To me, ladies and gentlemen, it is more
12 unreasonable to believe the prosecution's
13 suggestion in this case that this young man
14 would commit this horrendous of a crime out
15 of love for his girlfriend than it is to
16 believe that out of a misguided or immature
17 sense of love for his girlfriend, that he
18 agreed to take the blame. And none of
19 those things make sense to a logical
20 person, but what I am saying is there were
21 no logical decisions made by people in this
22 case. whether it be my client, whether it
23 be Elizabeth Haysom, or whether it be the
24 police during their investigation of this
25 case

1 He talked about different letters. I'm
2 not going to get into all the details of
3 the December diary letter, you have heard
4 them mentioned over and over again, but I
5 find it amazing that still this late in the
6 trial the Commonwealth insists that the
7 dinner scene had something to do with the
8 murder of her parents, as opposed to love
9 winning out over all, if you read the
10 words, and how all of these comments in
11 December constitute somehow plotting on the
12 part of these people.

13 In all of that, Jens only said that
14 what he could do her parents in kind of
15 a sigh was make them lose their wits, have
16 heart attacks, or probably do something
17 that he thought would totally destroy them,
18 love the world in an agape sense, which is
19 a real, real threatening way -- a real
20 threat to anybody, let alone Mr. and Mrs.
21 Haysom. And if that is the threat coming
22 from Jens, that is not a very big threat to
23 the lives of Mr. and Mr. Haysom, that he
24 will make them love the world in an agape
25 sense.

1 Now ladies and gentlemen, Elizabeth
2 Haysom has to be believed beyond a
3 reasonable doubt in order to convict my
4 client. But my client also testified in
5 this case, he didn't have to do that. He
6 told his side of the story, and he got on
7 the stand and he admitted that what he said
8 in the past to the British police and to
9 the German police was not true, and he gave
10 you the reasons that he did it. And this
11 is the first time that he's been under oath
12 in this case, and the first time he's had
13 the opportunity to tell the jury what
14 happened.

15 Now I can understand why the fact that
16 he has made inconsistent statements in the
17 past may trouble you, but his only
18 opportunity in this case to tell you what
19 really happened is to tell it to you from
20 the stand, and to tell it to you
21 regardless of what he's done in the past.
22 And you have to judge what he told you in
23 connection with all the other evidence in
24 this case. And in connection with the
25 physical evidence at the scene, the prints

1 on the vodka bottle, the slipper with the
2 footprint on the sole that nobody cared to
3 look at, not his hair in the sink, no room
4 service tickets, the fact that contrary to
5 what Elizabeth Haysom says, that the ticket
6 is for 10:15 p.m., not 4 p.m., and that
7 there is a canceled check cashed at the
8 Marriott hotel.

9 You have to judge his testimony in
10 light of the other evidence in this case.
11 And you may not find his testimony in and
12 of itself convincing beyond a reasonable
13 doubt, but it's not his burden to convince
14 you of his innocence, it's just his burden
15 to tell the truth and let the chips fall
16 where they may in this case, and that's
17 what he did in this case. He told the
18 truth, no matter how illogical it sounds,
19 no matter how much it makes an otherwise
20 intelligent person appear not to have
21 common sense, he told you what happened.
22 And what happened was that he stayed in
23 Washington and that Elizabeth, and probably
24 one other person went to Loose Chippings
25 and killed her parents.

1 gentlemen, that the reason he does
2 that is that he is in love with her, and
3 that he has agreed to protect her. And I
4 agree, ladies and gentlemen, that that
5 doesn't make sense, it isn't the logical
6 decision an intelligent young man should
7 make. But he's 18 years old at the time
8 when he makes this decision. He's in love
9 deeply for the first time in his life. And
10 he's an intelligent young man, but he's not
11 a mature young man. He's intelligent
12 without a lot of common sense. He doesn't have a lot of
13 common sense. He doesn't have a lot of
14 experience in life that an older person
15 would have.

16 And I believe, ladies and gentlemen,
17 that young men can be misled into
18 butchering people. I believe that
19 we can't think of ladies and gentlemen. You
20 can and hear him from the stand. You can
21 make that determination based upon what you
22 feel from his testimony, what you sense
23 from the way he says things, from his
24 behavior on the stand.

25 The Commonwealth is right. But one

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thing in this case, whoever killed Mr. and Mrs. Haysom had a lot of hate, anger and revenge. And you can almost see Elizabeth Haysom there stabbing each other. I hate you, I hate you, as she cut the throats of both of her parents. He has no reason to do this, he doesn't need to do it. There is no reason why they can't continue their relationship in Charlottesville away from her parents, he's met the parents one time.

To me, ladies and gentlemen, it is more unreasonable to believe the prosecution's suggestion in this case that this young man would commit this horrendous crime out of love for his girlfriend. It is to believe that out of a moment of immature senseless love for his girlfriend that he agreed to take the blame for those things, take sense to that person, but that I am sure. There are no logical divisions made in this case, whether it be my friend or Elizabeth Haysom, or the man in this case.

1 He told me that he was
2 not going to get into any of the
3 details of the case, but
4 them mentioned over and over again, but I
5 find it amazing that still this late in the
6 trial the Commonwealth insists that the
7 dinner scene had something to do with the
8 murder of her parents, as if he had to love
9 winning out over all, if you read the
10 words, and now all of these moments in
11 December constitute somehow plotting on the
12 part of these people.

13 In all of that, Jens only said that
14 what he could do to her parents in kind of
15 a sign was make them lose their wits, have
16 heart attacks, or probably do something
17 that he thought would totally destroy them,
18 love the world in an agony, which is
19 a real, real threatening and a real
20 threat to the world, let alone Mrs.
21 Gysom. And that is the only thing coming
22 from the state, it is not a threat to
23 the state, it is a threat to the world.
24 And that is the only sense that I can
25 sense.

1 on the vodka bottle, the s with the
2 footprint on the sole that y came to
3 took off, not his nail. It's a no com.
4 service tickets, the fact contrary to
5 what Elizabeth Layson says the tick
6 is for 10:15 a.m., not 4:10 a.m. and that
7 there is no record there at the
8 Marriott hotel.

9 You have to judge in my in
10 light of the other evidence and what
11 And you may not find his name in the
12 records. But it's not his burden to convince
13 doubt, but it's not his burden to convince
14 you of his innocence, it's just his burden
15 to tell the truth and let the chips fall
16 where they may in this case. That's
17 what he did in this case. He told the
18 truth, no matter how illogical it sounds,
19 no matter how much it makes sense, otherwise
20 intelligent person appear not to have
21 common sense, he told you what happened.
22 And what happened was that he stayed in
23 Washington and that Elizabeth, and probably
24 one other person went to Loose Chippings
25 and killed her parents.

1 Now in this case, ladies and gentlemen,
2 you have said that you would listen and you
3 would look at all the evidence and you
4 would judge it fairly and impartially
5 obviously, it's an important case to both
6 sides, but it's extremely important,
7 obviously to Jens in that he will
8 come back here. He has told that
9 happened. And you go to the
10 case 1 page for yourself. The
11 prosecution has proved that
12 and on the other side there is no
13 doubt, but that's the fact. In this
14 case, that he did it alone. That
15 Elizabeth remained in Rye.

16 Now who is saying that? Ladies and
17 gentlemen, is the evidence there.
18 The evidence isn't there. The jury in any
19 case stands as the guardian of the
20 principles of our legal system. It
21 stands between the fact that the government
22 can bring charges against someone and
23 attempt to convict an innocent person. The
24 reason that our system is designed the way
25 it is is to give the defendant the benefit

1 of every reasonable doubt trial such
2 as this, to require the government to prove
3 the case so that you don't have to hesitate
4 or wonder if you made a mistake in this
5 case. So that the prosecution doesn't have
6 to rely on possible mistakes by the police
7 in order to prove their case.

8 And I find it amazing, ladies and
9 gentlemen, that again, every time there is
10 a piece of evidence that points to
11 Elizabeth Rayson being at the house, the
12 prosecution says, well, we have made a
13 mistake on the Type B blood. Not
14 anything else. Well they have made a
15 mistake in the evidence as a part of
16 the evidence. Agree that my client
17 testified that a false confession they
18 believed it. But you have got at the
19 willingness to look at the evidence
20 in this case once they got a confession.
21 they

22 away. And then they didn't go after the
23 Washington evidence until six months later,
24 five month later.

25 And ladies and gentlemen I come back

1 to this piece of evidence that isn't here,
2 that is not before you in this case, and
3 which I say proves my client's innocence,
4 and which is not here in this case, not
5 because my client didn't do anything, but
6 because the government failed to follow
7 through, the Commonwealth failed to follow
8 through on their investigation. They could
9 have gotten it, and you wouldn't have had
10 to come here every day for three weeks,
11 because either it would prove that he
12 signed it, or he didn't sign it. And I say
13 he signed it. I say this fact, and this
14 fact prove that he was the (gestures to
15 envelope) and that the only piece of
16 evidence that is absent from this trial goes
17 to the Commonwealth for this reason: at
18 the Commonwealth let to be here, and
19 that is why I say that they have been
20 deliberate to raise that fact, not be
21 able to ever find out what happened and that
22 fact, ladies and gentlemen.
23 So I now turn to the fact that for the
24 attention you have paid to the evidence
25 that has been presented to you.

1 agree that at some points it's been a
2 tedious trial because of all the evidence
3 in this case. But when you weigh the two
4 wisps of paper that we have that prove that
5 he was in Washington, D C., you can weigh
6 it against a truck load, he can bring in a
7 semi truck full of evidence and it won't
8 outweigh on the scales of justice, what he
9 has to prove in this particular case. I
10 ask you, ladies and gentlemen, at the end
11 of this case to find my client not guilty.

12 THE COURT: All right, thank you, Mr.
13 Neaton. Now members of the jury, as to
14 lunch, what I'd like to do, Captain
15 Laughlin, is I m not going to break up the
16 closing. We're going to take just a short
17 stand up recess, maybe five minutes or so,
18 and then Mr. Updike will conclude with his
19 argument, which I would anticipate would
20 not take more than 30 minutes at the most,
21 and then I think it might be good to let
22 the jury go on out and eat lunch as we have
23 been doing, if you could arrange that. And
24 I'll instruct the jury as to what they do
25 when they get back so when the jury comes

1 back we'll have all the exhibits in the
2 room, instructions, and they may begin
3 deliberations as soon as they return from
4 lunch, I think that's the best way to
5 handle it. All right, we'll take a
6 five-minute recess, you may go to your
7 room.

8 (Whereupon a recess was taken.)

9 THE COURT: All right, bring the jury
10 in. Now members of the jury, before we
11 proceed with the final statement in the
12 case, a word of procedure. You will be
13 going to lunch after this argument is over.
14 There are two of you on the jury who are
15 alternates, you do not know who you are,
16 and that is as it should be. I prefer not
17 to excuse the alternates until after lunch.
18 So what I will be doing is sending all of
19 you to lunch as before, however when you
20 get back to your jury room immediately
21 after lunch, those two of you who are
22 alternates will be advised that you are
23 alternates. Now under the law, that means
24 that you pull out, you have nothing further
25 to do with the case.

1 You have an option, those two who are
2 alternates. If you would like to go home
3 at that time, we have arranged for the
4 Sheriff's Department to take you home if
5 you don't have a ride of your own. Or if
6 you would like to stay here and wait around
7 for the final verdict, you may do that,
8 too. However, if you stay here, it is
9 extremely important that you not mention
10 anything to anybody, not talk about the
11 case, not state what your opinions would
12 be, and so forth. So I will leave that up
13 to you, but I'm trying to work this so that
14 the alternates can be included in the
15 lunch, do you see what I am saying? And
16 then the 12 of you will proceed with the
17 final deliberations.

18 All right, Mr. Updike, you may conclude
19 with your final rebuttal statement.

20 MR. UPDIKE: Yes, Your Honor. It's not
21 wise to talk at length in the presence of
22 people who are waiting to go to lunch,
23 that's not a wise thing to do, especially
24 if you're hungry, and I will try to be
25 brief, ladies and gentlemen, for that

1 reason. But of course Mr. Neaton raised a
2 number of points, and I would like to
3 address some of those points, because as he
4 points out, we have the responsibility of
5 proving our case. So if I could address
6 them, I will try to move along quickly; I
7 will at times perhaps talk a little faster
8 just to move it along. But if you would
9 bear with me to allow us this opportunity.

10 Now, there are a number of things that
11 Mr. Neaton talked about, and I have written
12 them down over here, some of these things
13 that he feels that are mighty important. I
14 think he started out with the room service
15 bill, as far as where was that. Well, we
16 don't have that, do we. Now ladies and
17 gentlemen, the point of this case, the
18 point of this case is not me standing up
19 here trying to say that we did everything
20 that was humanly possible in terms of doing
21 a perfect investigation, it was not. We
22 have never done one that was perfect. I
23 have never prosecuted a case that was
24 perfect, I have never done anything in this
25 case that you have seen that was perfect, .

1 these words that I am speaking right now,
2 this closing argument is going to be far
3 from perfect. So if that's the issue, then
4 that can be dispensed with very quickly.

5 The issue, however, is not what we did
6 not do, the issue is what we did do, and
7 whether or not what we did do proves this
8 case beyond a reasonable doubt. And ladies
9 and gentlemen, that's what we submit to you
10 that we have done, and we have done in
11 overwhelming fashion. Now Mr. Neaton
12 stands up here, and he says I say that
13 that bill would prove my client's
14 innocence, I say that. Well, I don't recall
15 seeing Mr. Neaton put anything or
16 testifying or anything like that. This
17 case is to be decided by you based upon
18 the law and the evidence. Mr.
19 Neaton says it's not what I say, it's
20 and the evidence.

21 Now Elizabeth Haysom, the woman who
22 was the one who was the one who was the one
23 that was part of the plan, to put Jens
24 Soering's signature on the room service
25 ticket; they called Elizabeth Haysom a

1 with the the
2 tried at different times
3 procedures, different plans
4 the goals that he wants, and they
5 ly one
6 he took the stand here in Virginia was to
7 say that Elizabeth Haysom did it. Because
8 he knows that if he gets on the stand and
9 admits what he did do, what he admitted
10 previously, because of the of the
11 injuries, he realizes the consequences. So
12 he's got to try to talk his way out of the
13 corner. The yokeis don't know what's
14 coming down on them.

15 You heard him testify from the stand
16 You heard him talk about this alibi now, he
17 says, he didn't say anything about it in
18 October of 1985. he didn't say anything
19 when he's giving the English statements, he
20 doesn't know any details, he doesn't know
21 any details in December of suddenly
22 he gets on the stand now he's documents
23 which were found in his possession, which
24 the the which in when
25 the lawyers.

1 Now the defendant, Richard A. Allen,
2 that he had at one of the sessions
3 these films were found to be the only
4 who needed them. Elizabeth Hayson didn't
5 care about this stuff, she was in
6 Washington, and she knew about the movies
7 she knew about the alibi
8 defendant wasn't. He now has to go
9 refresh his memory to use it now he gets
10 on the stand and he knows all the details,
11 describes for you all the architectures of
12 the movies or the theaters. Now the
13 tickets, that's over there, the 10;15
14 business, isn't it. He talks about that, I
15 say that establishes my client's innocence
16 What does that movie establish?
17 Now Elizabeth Hayson said that she was up
18 there, and she bought some tickets.
19 Elizabeth Hayson said she never went to any
20 movies. All right, the defendant said the
21 some thing in the English interview, and in
22 the German interview, that she was up there
23 attending movies. Now Mr. Keeton in his
24 cross examination began pressing Miss
25 Hayson as far as well did the

1 tickets and then did you score the dope, or
2 did you score the dope and buy the dope,
3 and pressured her on like that made some
4 difference. Now if Elizabeth Haysom was
5 going to lie on that point concerning the
6 purchase of the tickets, would you not
7 think that she would have lied in a fashion
8 to try to make herself look a little
9 better?

10 Why would she say I was going to buy
11 drugs? Why lie about that, that's one of
12 the worst things we can do in this society.
13 If she were going to lie, she would have
14 said yes, I went to the movies, yeah, I saw
15 the movies or any number of things. But
16 she said no, I went and bought drugs. I
17 didn't go and see the movies, I was upset.
18 Well that's Elizabeth Haysom. Because,
19 ladies and gentlemen, that ticket, that
20 ticket shows the time that the movie was
21 supposed to be played, now doesn't it,
22 10:15? It doesn't show the time when the
23 ticket was purchased.

24 When you go to a theater, and if they
25 have got one of those computers, they don't

2
1 care what time you bought the ticket, now
2 do they? That 10:15 business, does that
3 mean when the thing was purchased? Of
4 course not, it means when the movie
5 started, and which you can buy at any time.
6 Walk up, I need a couple of tickets,
7 please, I'd like to watch the 10:00 show.
8 You got the money? Yes. Well here's your
9 ticket. It doesn't show when they were
10 bought and it doesn't show who purchased
11 them. It shows that there were tickets for
12 that particular movie, and Elizabeth Haysom
13 said that she just went and bought them.
14 Whether she bought 10, 15 tickets at 3:00,
15 4:00, 5:00 or whether she bought them at
16 10:15, we don't care.

17 The fact of the matter is this little
18 bit of piece of evidence that the defense
19 says, Mr. Neaton, I say, is so important,
20 only establishes and corroborates the fact
21 that an alibi was being established in
22 Washington, D.C. for murder. So you have
23 to go to the other evidence, what we did do
24 to determine whether or not the case was
25 proved beyond a reasonable doubt.

1 The check. Now what in the world does
2 that mean? It's got a date on it, you can
3 put a date on the check if you want to.
4 You can sign the check and give it to
5 somebody else to cash it. You can have
6 someone else forge your signature. He
7 admitted from the stand that when he does
8 all these Miranda forms it's a different
9 signature. Or he could have cashed it
10 himself; when did he cash it, what time did
11 he cash it?

12 You see, none of that matters. Because
13 all that shows is that a check was cashed,
14 not when, not where; excuse me, not when,
15 or what time of day, it doesn't mean
16 anything, and yet they say it's the most
17 important evidence of all. Does it show
18 who cashed it, does it show when it was
19 cashed? Well no. The Commonwealth of
20 Virginia didn't have any handwriting
21 analysis done on it, now wasn't a nice
22 little tale, they're the ones that produced
23 it here on the witness stand, how are we
24 supposed to get handwriting analysis done
25 on it when they've got it. Now wouldn't

1 that have been nice.

2 Now, as far as the print on the vodka
3 bottle, let's talk about the prints, the
4 fingerprints throughout the house, quickly.
5 We found the unidentified prints, let's do
6 them quickly, there was a print on the
7 outside of the screen door, do you all
8 remember that, you can even see where it
9 was lifted, if that makes any difference,
10 where the powder was and everything, that
11 was unidentified, don't know whose it was,
12 whether it was one of these dumb people
13 there at the scene that happened to touch
14 it at the wrong time, whether it was a
15 neighbor earlier in the day, we don't know.
16 That's a fingerprint, but it's not in
17 blood. That fingerprint means that
18 somebody touched that door on the outside
19 of the house at some point. It doesn't
20 tell us when. That's what investigators at
21 the scene are looking for, evidence placed
22 there at the time of the crime.

23 Now, as far as the LR-17, the liquor
24 items are concerned, there were two of
25 Elizabeth Haysom's fingerprints on the

1 vodka bottle, not in blood, it means that
2 Elizabeth Haysom touched that vodka bottle
3 at some point. Now remember the Old Plum
4 bottle back there, two of the unidentified
5 fingerprints were on that. It's a tall
6 one, if you all want to get it out, it's
7 got the yellow top and the big purple plum,
8 I guess is what it is. That's got a couple
9 of unidentified fingerprints on it, plus
10 Derek's. Now that's back there in the back
11 behind everything. That means somebody
12 touched it at some point, it wasn't in
13 blood, we don't know when, guest in the
14 house, can I help you clean up, Derek, can
15 I get myself a drink, Derek, can I put this
16 bottle back for you Derek, touches the
17 bottle, it's back there, who knows how long
18 it's been there.

19 Elizabeth Haysom, in the house the
20 weekend before, she drinks, they call her a
21 drunk and a drug addict and everything
22 else. Now of course she drank, touched the
23 bottle, without question, but when. Now
24 the defense is entirely wrong, ladies and
25 gentlemen, as far as what these

1 fingerprints mean, and what I would have
2 tried to have done. Because fingerprints
3 on these bottle wouldn't have meant
4 anything. Why we even resubmitted Jens'
5 fingerprints based on what we had left to
6 compare with, I really don't know, except
7 well, let's get them with all the other
8 physical evidence, run them through. But
9 they wouldn't wouldn't have meant anything.

10 What they say that I would have said, I
11 will tell you now, if we had found Jens
12 Soering's fingerprints on one of these
13 bottles, not in blood, it would have meant
14 absolutely nothing. Because what we were
15 looking for was a fingerprint in blood, if
16 it's in blood, if it's down, it was put
17 there at the time of the offense. If we
18 found it here on one of these liquor
19 bottles not in blood, it would have not
20 have meant anything, would it, because then
21 they could say, and quite truthfully, Jens
22 Soering had been in the house before. It
23 would have meant nothing.

24 - And Elizabeth Haysom's print there
25 means nothing unless it's in blood. Now if

1 it had been in blood, then you have got it.
2 The other prints, we had two other prints
3 unidentified, an impression and a palm
4 print, and where they were, they were on
5 the back of a mirror on the door leading
6 into the bedroom. You can walk through the
7 door, I won't get the chart, well here it
8 is, walk through the door into the bedroom,
9 there is a mirror behind it.

10 Now on that particular mirror there
11 were Derek Haysom's prints, and there were
12 Nancy's palm prints, if I recall, and the
13 two unidentified. There was something
14 called an impression they didn't know what
15 it was, and there was a palm print, not
16 identified. Not in blood. We also did not
17 have the fingertips of Derek and Nancy, as
18 it turned out, to compare to those unknowns
19 to make sure that they weren't Derek and
20 Nancy's. Now Derek and Nancy touched the
21 other part of the mirror, maybe they
22 touched those, I don't know, but what's it
23 got to do with the case? Think about it,
24 ladies and gentlemen, they are not in
25 blood.

1 Now whoever committed these crimes,
2 let's address it in those terms, did all
3 this slicing, and all this butthering, and
4 all this going through the house, all this
5 effort to clean up, does it make sense to
6 you that then person would then go into the
7 bedroom, close the door so that they can
8 see the mirror and start touching that
9 mirror where there's a glass surface, the
10 most readily acceptable in terms of
11 fingerprints being left? Well I have
12 killed Derek and Nancy, I think I'll go
13 back and play with the mirror in the
14 bedroom. I mean that makes no sense, and
15 they weren't in blood, they've got nothing
16 to do with it.

17 The hair in the sink. Why didn't we
18 submit Elizabeth's, why did we submit Jens
19 Soering's, I don't know; we wanted the
20 footprint. While we're getting the
21 footprint, January whatever it was, 1990 of
22 this year, might as well get it all. But
23 what would the hair in the sink have meant?
24 Because if you look at the lab report as to
25 that hair in that sink, there's a short

1 Caucasian hair and there is an animal hair,
2 an animal hair together there in the sink.

3 Well now I guess they're going to
4 try -- they would suggest there that it
5 wasn't Jens Soering, but some other
6 individual was walking a dog through the
7 house at this particular time of events,
8 and cleaning up afterwards and got dog hair
9 mixed in with their hair, and knows whose
10 it was, and it went down the sink.

11 That was the major and only bathroom on
12 the main floor. Now I can't speak for you
13 all, but if I had to account for every hair
14 you might find in my bathroom sink, as far
15 as people coming in, coming their hair, who
16 knows whose it might be, but this one was
17 was animal hair. If it had turned out to
18 have been Jens Soering's hair, he had been
19 in the house before. If it had been
20 Elizabeth Haysom's hair, she lived in the
21 house, meant nothing. It was not in blood.

22 And yet these are the questions that
23 they want to confuse you all with, they
24 didn't mean anything if we found it, but
25 they don't mean anything about it if we

1 don't. Look at the evidence pertaining to
2 the time the offense was committed and who
3 committed it.

4 As far as let's see, what else was
5 there, hair in the sink, prints on the
6 vodka bottle. Oh, the rag in the washing
7 machine, now that's a good one, too. Now
8 that, that rag in the washing machine,
9 ladies and gentlemen, has got blood on it,
10 not enough that the investigators can see
11 with the apparent eye, but they do do the
12 luminol and they see a little blood on it,
13 it shows up, so they submit it.

14 Now you have heard about how that will
15 affect it, it can affect the A part of AB.
16 Well let's suppose it didn't. What we're
17 looking for is something that was put there
18 at the time of the offense, not at some
19 other time. It could have been AB,
20 Nancy's, that the A was diluted because of
21 the process, it could have been B, it could
22 very well have been Elizabeth Haysom's own
23 blood. I mean she said that she was --
24 it's been admitted and acknowledged she was
25 a drug addict, she may very well have been

1 in the house at some other occasion and got
2 the blood on that particular rag. But you
3 see, you cannot age the stain. When was it
4 put there, that's what we want to know.

5 Well now they say it was put there at
6 the time of the offense. Does that make
7 sense, use your common sense. Well we have
8 got somebody who's committing these crimes
9 mopping up everywhere and everyhow to try
10 to clean up using this rag and getting B
11 type blood on it, they say. And during the
12 course of it, don't get a lot of blood,
13 it's all over the house, but just a little
14 bite of it, just a little bit that you can
15 see. And then afterward saying, well, I
16 have butchered Mr. Haysom, I have butchered
17 Mrs. Haysom, I cleaned up the fingerprints,
18 I might as well wash the dish cloth for
19 them, put it in the dishwasher, isn't it
20 ludicrous, and how does it get in there.

21 You see, this photograph is taken at
22 the time before anything is removed, the
23 famous knife is even sitting there. That
24 is the clothes washer. I keep trying to
25 say dishwasher, that's the clothes washer.

1 to wash clothes in it, the washing machine.

2 And what do you see in front of it.
3 Well, you see a dish cloth neatly folded in
4 front of it, and you see a wash rag neatly
5 placed overtop of that. So, they wish to
6 say that this small type of blood on this
7 wash rag was put there at the time of the
8 offense, placed inside the washing machine,
9 why do you want to put it in the washing
10 machine when you get rid of everything
11 else, put it inside the washing machine,
12 perhaps it will be washed later, and then
13 neatly fold the dish cloth overtop of it,
14 don't get blood on it now, and just neatly
15 fold it, because you want to be neat under
16 these circumstances, wouldn't you, and then
17 of course take this dish rag and put that
18 overtop of that.

19 Now if you look in one of these other
20 photographs, one of these luminol
21 photographs that deal with the kitchen,
22 there is no way of opening that washing
23 machine without moving those towels. For
24 example this one right here. This is later
25 in the process, remember, when they're

1 doing the super glue and all that kind of
2 thing, they have to seal everything up. At
3 this point they have gotten that wash rag
4 out of the washing machine. Now these
5 famous towels here, where are they? Well
6 they're balled up there in the floor, of
7 course, because when you open the door,
8 that's where they go.

9 The slipper, I think that's listed over
10 there, isn't it? Yes. Okay, the slipper,
11 ladies and gentlemen, this has got
12 something to do with it. I don't think I'm
13 going to take the time -- although I
14 might. Find Nancy's clothes over there for
15 me, please, and that slipper. And if I
16 don't take the time you all can do it if
17 you want. If you take the slipper, this
18 one right here, and if you take Nancy's
19 shoe and compare it, they are the same
20 size. It makes sense, doesn't it, it was
21 Nancy Haysom's slipper, it was inside her
22 home. And you look at the other
23 photographs, and you see the other one,
24 it's up under the chair right there. Now
25 Geoff Brown told you what he did, and that

1 was he checked that one and there was no
2 blood on the bottom of it. They tried to
3 say -- Mr. Neaton stood up here and said
4 they ignored it. Geoff Brown said that he
5 examined this shoe, and that's why he took
6 it, and he looked at the other one.

7 Now if they want to argue that we
8 didn't do a good job they can argue that,
9 but don't stand up there and mislead people
10 and say that we didn't even do it in the
11 first place, because that's not true. It
12 was up underneath there. All right. Now
13 what makes sense to you. It's the same
14 size as Nancy Haysom, you can take it and
15 compare it, it's under underneath that
16 chair there.

17 Mrs. Haysom would slip out of her shoes
18 that she was wearing, put her bed slippers
19 on or vice versa and just leave them there
20 underneath that little counter where the
21 chair is, where the one was found. And
22 they were sitting there at the time that
23 this happened, that's natural, and during
24 all this scuffling and everything, this one
25 gets kicked out into the floor. Now how do

1 we know that. Because on the bottom of
2 that shoe, there is Type A blood across the
3 bottom of it, not all of that black stuff,
4 that whole print is blood in and of itself,
5 that's a wear pattern, it's got Type A
6 blood on the bottom of it, Derek's blood.
7 It was knocked across the floor, and if you
8 look, ladies and gentlemen, there are
9 better pictures than that.

10 Remember how we talked about before the
11 arterial spurting of Derek Haysom, Type A
12 blood spurting right there in that area,
13 that is where the slipper was found. And
14 if you look at this picture, this one will
15 show it, but some others will show it
16 better, there's sliding marks right in
17 front of the slippers. It slid through
18 some of Derek's blood, and that's how the A
19 got on the bottom of it.

20 Now they want to say well, it had to
21 have been worn by the murderer. Look at
22 the other photograph, the closeup of the
23 slipper, you will see little spots of blood
24 inside of it, see, this being
25 Commonwealth's Exhibit Number '84. How do

1 you get blood spots inside of a shoe if
2 somebody's got their foot in it, you can't.
3 This shoe was sitting there, just like the
4 other one was at some point on the floor,
5 it got kicked at some point and blood was
6 dripped in it during the commission of
7 these murders. Now they also want to
8 state, I guess, that the person doing the
9 killing wore the slipper; it's too small
10 for Elizabeth Haysom, it's a size six. But
11 at any rate, look at the slipper, where is
12 it, have you all still got it?

13 MR. NEATON: Yes, sure.

14 MR. UPDIKE: Look at this slipper,
15 ladies and gentlemen, in the photograph and
16 here. See, it's white fur all around it.
17 If this thing had been worn in that bloody
18 mess by anybody, it would have blood all
19 over it, now wouldn't it? It would have
20 to. This was not worn by anybody, this has
21 got nothing to do with the offense, this is
22 thrown up to try to confuse you all. Let's
23 continue. Does it make any sense, they
24 say, well somebody else, somebody with
25 Elizabeth could have done this. Does that,

1
2 make any sense? Elizabeth shows up with
3 somebody else there at the scene, a friend
4 of hers, and the friend says, well
5 Elizabeth, before we murder your parents,
6 I d like to get comfortable. Do you mind
7 if I put on some bedroom slippers, do you
8 mind if I wear Nancy's.

9 And Elizabeth must have at that point
10 said, well they are my mama's slippers, and
11 as a consequence, I'm only going to let you
12 wear one of them. Because the other one's
13 got no blood on the bottom of it, so we
14 have got this murderer, who does want to be
15 comfortable, you understand, and slips on
16 this slipper and stomps around the floor
17 with it, not getting any on the other,
18 doesn't get any AB blood on it, AB is
19 Nancy's, and it's all over the kitchen
20 floor, and just a little bit of A on it in
21 the area where Derek' was. So this
22 murderer is wearing this all over the
23 floor. And this is one of the big points
24 is listed on this chart. Number four, this
25 slipper. Okay?

Now, the knife, that was another thing.

1 You all can look at the knife. Don't say
2 that the officer didn't look at it, that's
3 what they said. He testified that he did.
4 Of course he did, he took this, he took
5 this hand cleaner, he took the soap on the
6 other side, the dish washing liquid over
7 there, the fingerprints of even somebody
8 washed their hands there, it later turned
9 out with the luminol, somebody must have.

10 He saw it there, anybody could see it.
11 If you look at this and you look at one of
12 the other photographs, you will see that
13 it's been moved just a little bit. See,
14 it's straight right there, it's at an angle
15 right there. It's been looked at, didn't
16 see anything on it, it's not consistent
17 with the type of butcher weapon that would
18 be necessary to cut a man's head off, or a
19 woman's head, and on the other hand, if it
20 was, let's say that we are just so
21 incredibly stupid that we couldn't figure
22 out that that butter knife couldn't have
23 done these murders. We are not interested
24 in what knife did it, we're interested in
25 who used it. Common sense, ladies and

1 gentlemen, that was not the knife sitting
2 right there on top of it.

3 Now continuing right quickly, wash rag,
4 the drug alibi that he talks about, about
5 how this is what make sense now. Now keep
6 in mind, however, when talking about making
7 sense, the defendant said out of his own
8 mouth, well why didn't you use this theater
9 business when you were confronted in
10 October, 1985, and just simply say you and
11 Elizabeth stayed in Washington the entire
12 weekend, here are our tickets, here's what
13 we did, neither one of us was involved, and
14 everything would have been fine, wouldn't
15 it?

16 He said well, it made no sense because
17 of the mileage on the car. And it would
18 have made no sense for me to have gone from
19 Washington to Loose Chippings, and to have
20 said Elizabeth stayed in Washington and had
21 no involvement of the alibi, and had no
22 knowledge concerning it. If we had said
23 that, that would have made no sense. Well
24 then he gets on the stand and he says the
25 same thing, doesn't he, just reversing the

1 names, saying Elizabeth went down to Loose
2 Chippings, I stayed in Washington not
3 knowing anything, not participating in the
4 alibi, completely innocent.

5 Well logic, hasn't he said for you that
6 his explanation on the stand doesn't make
7 any sense? And it doesn't make any sense.
8 Whoever was making that alibi up there was
9 just as involved as the person who did the
10 killing as a matter of fact, as a matter of
11 law; Elizabeth Haysom knew that, Elizabeth
12 Haysom pled guilty to it, and Elizabeth
13 Haysom, before I forget this, trying to
14 move along, they want so badly to make
15 Elizabeth Haysom the star witness in this
16 trial. Because all you have got to do is
17 ask her about the lies that she's told in
18 the past, she told them April 8th, she told
19 them April 16th, but let's keep in mind we
20 couldn't locate the defendant to talk to
21 him, maybe it was our fault that we
22 couldn't, but the first time we do get to
23 talk to him October 6th, he lies to us as
24 well.

25 But the point is, when you ask her

1 about it, yes, she admits it, but Elizabeth
2 Haysom is not the star witness in this
3 case. If you want to take Elizabeth
4 Haysom's testimony and set it aside and
5 ignore it, the fact of the matter is that
6 the star witness in this case was Jens
7 Soering by virtue of his conduct, by virtue
8 of his refusal to give the samples, by his
9 fleeing to Europe. ~~By virtue of his~~
10 physical evidence, his blood type, his
11 footprint. By virtue of his writings that
12 he wrote. By virtue of his statements that
13 he made, by virtue of his conduct on the
14 stand when he testified. Jens Soering was
15 the star witness in the matter of
16 Commonwealth v. Jens Soering.

17 Now, as to the alibi, continuing with
18 that, he says, well, because he confused to
19 me, that became apparent when I asked him
20 the question. He said well, Elizabeth came
21 to me and said she's got to do this drug
22 deal and all this sort of thing, and that
23 he would provide the alibi to her parents.
24 And I asked him, well if that's the case,
25 why didn't you just leave Elizabeth, you

1 all stay up there, have a good time, see
2 your movies, and if anybody accuses you of
3 doing a drug deal, you go to mom and dad
4 and tell, that's not true, Elizabeth and I
5 saw movies. Well, that didn't make any
6 sense for him to do it, but yet his
7 credibility is supposed to provide the
8 alibi.

9 Then I said, well you didn't have to be
10 there, because they were talking about an
11 alibi are for Saturday. So I was thinking,
12 then you must be talking about doing the
13 drug deal on Saturday. Oh, no, no, no, she
14 was just supposed to pick up the drugs on
15 Saturday, and on Sunday she was supposed to
16 deliver them back in Charlottesville. All
17 right, then what does the Saturday
18 business, the movie tickets, how is that
19 going to provide you with anything for
20 Sunday? Because if you're worried about
21 this drug dealer coming back to mom and dad
22 and saying that Elizabeth Haysom gave me
23 drugs, now doesn't that make a whole lot of
24 sense, too? Then you need an alibi for
25 Sunday, not Saturday.

*If you don't
have drugs,
you don't
deliver*

1 This alibi was intended for the entire
2 weekend for the murders. Why keep the
3 tickets for Friday night. Why keep
4 receipts for buying a Hamburger of all
5 things, at the Hamburger Hamlett, which is
6 in there as well, \$8 and something, Friday
7 night. It's for the entire weekend.

8 Now, in addition to -- oh, why didn't
9 we search the room in Charlottesville, for
10 what? For what, huh? Well, we should have
11 gone up there and gotten a ticket, got a
12 search warrant for the tickets, well that
13 would have been fine and that would have
14 been great if one of our officers could
15 have gone before a magistrate and said. we
16 would like a search warrant to search his
17 apartment to obtain the tickets used as an
18 alibi in Washington. If we had known about
19 it we could have done that, now couldn't
20 we?

21 Instead we have got to go before a
22 magistrate and say well what do you want to
23 find inside that residence. Well we don't
24 know what's there. What we'd like is a
25 warrant to just go in and look a bit,

1 that's known as a general search, that's
2 known as a violation of the Constitution of
3 the United States. You have got to know
4 what you're looking for to have probable
5 cause for the particular search. And keep
6 in mind, we didn't know about the movie
7 tickets, didn't know about all of that type
8 of thing until we were told about it in
9 June of 1986 in England, and told about it
10 by this man over here.

11 Now if it's all right to go before
12 magistrates and just say, well give us a
13 warrant to look around, we wouldn't get
14 into that, but it is unconstitutional.
15 Now as far as the towel missing, they try
16 to raise that as a big issue. They didn't
17 establish a towel was missing from the
18 bathroom, how in the world do you do that?
19 You have got a stack of towels, maybe one
20 on top of the other, how could you walk
21 into your own bathroom and establish, why
22 how many towels are missing. Most often
23 it's going into the bathroom and trying to
24 figure out why there are none in there when
25 you want one, not trying to figure out how.

1 many are missing. That's impossible, and
2 yet that's raised as a point by them, isn't
3 it?

4 So, we have got the -- oh, light on
5 upstairs. There's some photograph of the
6 light on upstairs in Elizabeth, -- that's
7 after the police officers got there for
8 goodness sake, it got dark and they turned
9 lights on so they could see what they were
10 doing. The police officers testified that
11 there was no lights on inside the house, no
12 lights on inside the house, that the lamp
13 was unplugged. The only light on was that
14 spotlight outside.

15 And don't you think that this is
16 interesting. Because you see, a spotlight
17 going outside, you would think, wouldn't
18 you, that the switch would be there at the
19 front door, so you can turn it on, turn it
20 off. Well some people do things
21 differently. At the Haysom house, the
22 switch to the outside spotlight was back in
23 the bedroom, okay? An unusual place for
24 it, a place you wouldn't think about
25 looking and you wouldn't be able to find

1 unless you knew it was there

2 Now, when the murderer finished his
3 dastardly deed that night and he's leaving
4 this bloody scene, he takes without
5 question, time to turn out all the lights,
6 that's why he comes back. And when he
7 walks out that front door, the defendant
8 says in his statement he only uses one
9 door, and that's true because of the
10 luminol and so forth that we have showed
11 you, and because there were no tracks after
12 that. He uses the one door.

13 As you step out that front door from
14 the darkness out into the front, and you're
15 all bloody, and that light is shining on
16 the whole front yard, now the natural thing
17 to do, of course, is -- well I have
18 concealed everything else, I sure in the
19 world would like to get to my car without
20 that light being on.

21 Well he had been in the house once,
22 Elizabeth Haysom lived there, Elizabeth
23 Haysom would have known where the light
24 switch was. Elizabeth Haysom would have
25 turned it off, don't you reckon, instead of

1 coming out into the spotlight kind of like
2 out onto a theater. He couldn't find the
3 light switch, he left it on.

4 Mrs. Bass, quickly, as far as she --
5 and she's a citizen of Bedford County, and
6 extremely truthful, don't want to say
7 anything about our citizens here in
8 Bedford. But ladies and gentlemen, she has
9 testified she is certain what she did on
10 Monday, all right? And when she saw this,
11 there was cars lined all the way down the
12 driveway. And she couldn't see what was
13 going up on the hill because of the
14 landscaping. Those were police cars,
15 ladies and gentlemen, Wednesday. Now she's
16 certain what she did Monday, but she drives
17 past the house every day with her daughter,
18 got her daughter on Monday, her daughter
19 was with her later, no intent to mislead,
20 but just a little bit confused, that's all
21 that that was. Because goodness gracious,
22 ladies and gentlemen, if there was a whole
23 driveway full of cars with that many people
24 stomping through the house before the
25 police ever get there, even yokels like us

1 ought to be able to find prints of one or
2 two of them or something, wouldn't you
3 reckon? She said the cars were backed so
4 far down the driveway, that the last one
5 was almost out in the road. What was it, a
6 family reunion going on on Monday before we
7 even show up, and nobody calls the police
8 or -- it was just a honest -- one of those
9 things.

10 Footprint, and then we're going to try
11 to wind up quickly, ladies and gentlemen,
12 because we like this about the footprint,
13 and about them using -- can I use you
14 all's? Now as far as -- now see, what
15 happened, as you have been told, Ricky
16 Gardner on this date, we'll tell you when
17 it was, he got Jens Soering to walk across
18 this paper. He did it on January 30, 1990
19 at 5:30 p.m., Bedford County Sheriff's
20 Department. He got him to walk across a
21 paper for us, he got him to walk across
22 paper for the defense attorneys. This one
23 with the blue label on it is the one for
24 the defense. If you all can bear with me
25 while I get around in the floor for a

1 second, because I can't -- this is one of
2 them, this is the one Ricky got for us.
3 These are socks, you can tell socks, can't
4 you, because it's got got the weave and the
5 pattern That's his.

6 Now we don't care which ones you use,
7 but if you want to start using a ruler, and
8 we hope that you do, measure some of these
9 things and see what they measure. This is
10 how he walked. Now in doing so, there are
11 some impressions, many of them, 10 inches.
12 Now what we're dealing with is the right
13 foot. Keep that in mind if you would,
14 because LR-3 is a right foot. Because if
15 you start measuring his left foot you're
16 going to see that it's not the same size as
17 the right foot. As far as the shoe size,
18 we talked about that, you can't tell that
19 from the shoe unless you see when it's put
20 down, whether it's paint like that,
21 straight down or whatever, we don't know
22 whether it gets the shoe to fit his left
23 foot or his right foot, whatever size he
24 says in Court, you can get bet that he's
25 got the size on that day, but at any rate,

1 that's got nothing to do with it, we're
2 talking about footprints here in socks; the
3 right foot. Okay.

4 Now in measuring those, ladies and
5 gentlemen, and looking at them, we want you
6 to compare -- I think I brought them over
7 here, here they are -- this is when the
8 man's walking. Compare this with when he's
9 asked to just step down, straight down on a
10 piece of paper. See, Ricky got him to do
11 this, too. Now you can't walk across
12 something this small, you have just got to
13 stand on it, just like, you know, like I
14 did in that piece of paper, that's straight
15 down.

16 Now we're only interested in the right,
17 in fact that's all these are, is the right.
18 Measure any of them you want to, all of
19 them if you want to, you're going to find
20 that these, where he stepped directly down,
21 are nine and a half inches if you measure
22 it from heel to the toe. That's one way
23 you want to measure it, from this point
24 right here to the tip of the heel, nine and
25 a half inches.

1 Now wait a minute, now, how is it then
2 that some of these prints right here are 10
3 inches? Because the same man with the same
4 right foot made these right foot
5 impressions that made this one over here.
6 No doubt about that, he did it over at the
7 Sheriff's Department. Why are these 10
8 inches, some of them with the right foot,
9 and these are nine and a half? Because
10 it's the way that he's walking. And the
11 way that he walks, ladies and gentlemen, is
12 with that right heel, he does a double hit,
13 not a lot, but a little bit. Because you
14 can take this impression right here,
15 Commonwealth's Exhibit 340, and you can see
16 it. You can see right there is the end of
17 his foot. Right there, and it's
18 designated, double impact. That is the end
19 of his foot, and if you measure from there
20 to there you have got your nine and a half
21 inches.

22 Now here here you can see there wasn't
23 a lot of sliding, because you can still see
24 the impression of the sock, the weave
25 pattern. He hits it and he comes down, he

1 leads a double hit. Now how do you know
2 that? Look at the shape of the heel, and
3 see how it is, this would be deformed if a
4 man had a heel like this, it comes around
5 like this, and then it goes off to the
6 side, it's rounded

7 And if you all look at each one of
8 these closely, you'll be able to see it,
9 that that's the end of it. And how also do
10 we know? Because we know this is Jens
11 Soering's foot right here, he stood on this
12 for the deputies. This is Jens Soering's
13 foot as well, he did this for the deputies,
14 not at the house, the LR-3 , but this.
15 Because this, as you recall, is just a
16 picture of one of these put on
17 transparency. So Jens Soering stepped on
18 it walking. He did this walking. And in
19 fact -- so what's the point of all of this.
20 You can compare this, and you can see this
21 is nine and a half inches. If you measure
22 from here to here you're going to have 10
23 inches.

24 So he stepped on this, he's got a nine
25 and a half-inch foot. What makes it 10

1 inches at times is when he's walking with
2 the right foot and he does a double impact.
3 Now you can go through these, ladies and
4 gentlemen, and you can look at them if you
5 want. You can go, and you can look, well
6 that's the left foot, don't do that, as you
7 go through, because I want to use the
8 defendant's, the one that they had.

9 Look at this one right here, the right
10 foot, and you can see where he hit twice.
11 And it's apparent -- well this is one right
12 here, this one's a good one. Right there
13 the end of his foot, and this, that's not
14 the shape of the heel, that's where he's
15 hitting to begin with, and if you measure
16 from there to there you have got your nine
17 and a half, this is if you measure from
18 here to here, which as you step off you're
19 going to have your nine and a half. What
20 he does is he double impacts when he walks
21 with the right foot.

22 All right. Now the person, ladies and
23 gentlemen, who did this, the LR-3, he did
24 the same thing. He would do the double
25 impact. Because you can see right here if

1 you look, now this stuff over here, that
2 doesn't come all the way around for it to
3 be a full heel, a heel is going to be
4 rounded. If that were the entire foot, it
5 would come around. But if you look right
6 here, you can see, that's the end of his
7 foot. And if you measure from here to
8 here, you're going to have your nine and a
9 half inches, just like you do when he makes
10 an impression when he's standing. But when
11 he walks, just as he walked here, he makes
12 a double impact. The person who did this
13 hits the heel twice with the right foot,
14 the person who did this hits the right foot
15 heel twice when he walks.

16 So in addition to all the other
17 features that we have told you about
18 concerning the LR-3, this being Soering's,
19 where you take and you match the toes, all
20 the toes, the space and the morphology
21 around the top of the foot, and the arch
22 and all of that, what you have got is you
23 have got the double impact as an additional
24 feature, which we know now is a feature of
25 the way this man walked, because of this,

1 and the way that he walked along it. And a
2 man who left the blood there at the scene
3 double impacted; when we asked Jens Soering
4 to walk on this paper, he double impacted
5 as well. That's his footprint.

6 And in addition to that, closing up,
7 and finally, the one last point, if you
8 don't accept anything that I said there
9 about his foot being nine and a half inches
10 long, which we would respectfully ask of
11 you, how are you going to do when that's
12 what these measure, if you want to throw it
13 all out and say no, that's not a double
14 impact, then you have to do it both ways,
15 don't you? If this -- if you disagree with
16 me and you say that's not a double impact,
17 then you have got to follow through and say
18 that this one there at the floor at the
19 Haysom house is not a double impact either,
20 in which case you're saying that's a
21 10-inch foot, then you have got to say Jens
22 Soering is the one that stepped on it, his
23 foot is 10 inches, too. The only problem
24 with that is we know it's not, it's nine
25 and a half.

1 Now finally, and winding up, and I'm
2 not going to take time to get all this
3 together, they can do that later. You have
4 got to look at this evidence in its
5 entirety. You have got to look, not just
6 at any particular point. For example, just
7 as all the pieces in the jigsaw puzzle,
8 when you start talking about well, a lot of
9 people can have Type O blood, 45 percent of
10 the population, okay, all right. But that
11 is one indication, that is one fact, 45
12 percent of the people in the world can have
13 Type O blood, except Elizabeth Haysom.

14 So, you begin -- do you all know what a
15 bend diagram is, I'm not sure that I do,
16 but if you take a circle of all the people
17 in the world, okay? And then you say half
18 of those have got Type O blood, see, your
19 circle starts to get smaller. Then you add
20 another factor, such as motive and means to
21 commit this crime, motive and opportunity,
22 let's talk about that, and you start
23 narrowing it down, now how do we do that.
24 Because whoever did this, ladies and
25 gentlemen, did not force their way into the

1 house, there was no forced entry. Whoever
2 did this had to have known where Derek and
3 Nancy lived, they had to have the
4 opportunity, they had to have been somebody
5 close to the Haysoms for them to invite
6 them in and ask them to dinner. The
7 opportunity.

8 They had to have the means to get into
9 the house in that fashion. Now that limits
10 it down. Now I understand that we're
11 talking about all the people in the world,
12 and then half of those have got O blood.
13 But all of those 45 percent of the entire
14 world's population, you narrow it down when
15 you start talking about well the person who
16 did this had to have O type blood, and had
17 to have had the means of killing Derek and
18 Nancy Haysom, would had to have known them,
19 would had to have known where they were,
20 would have had to have had the capability
21 of getting into the house.

22 Well you start saying, well a lot of
23 people in Lynchburg may have known them.
24 Well that reduces it down to Lynchburg,
25 doesn't it? We started out with the whole

1 world population. So our circle is getting
2 smaller, and it's got to include not only
3 people with Type O blood, but people who
4 have the opportunity and the means to kill
5 Derek and Nancy Haysom.

6 So we're not dealing with anything but
7 that little portion there. Then we start
8 adding more factors. Motive for killing
9 them, it was not sexual assault, it was not
10 robbery, it wasn't monetary, it was pure
11 hatred and revenge. Who had that motive?
12 Well you say Elizabeth Haysom did.

13 Certainly she did, she encouraged him to
14 kill her parents. He had it as well, we
15 know by virtue of what he had said when he
16 made his statements in England about how
17 this was building up in him over a period
18 of time, by virtue of his writings.

19 So you have got there the fact of
20 Elizabeth Haysom and Jens Soering, but you
21 see, that won't go into that area there
22 that we're dealing with as far as Elizabeth
23 Haysom is concerned, because Elizabeth
24 doesn't have O blood. What we're dealing
25 with is somebody who has O blood, and who

1 has the means and opportunity to do this,
2 and who has the motive for doing this.
3 That eliminates Elizabeth, because she
4 hasn't got the O blood to begin with.

5 And then you continue on. Whoever left
6 that blood there at the house had to have
7 been injured in some fashion, wouldn't you
8 think, you don't ordinarily just bleed for
9 no reason. You would think that somebody
10 who went through this might have some types
11 of injuries. Elizabeth Haysom, when she
12 was seen by the police officers on April
13 8th and April 16th, 1985, had no injuries.
14 This man over here, when he was seen by Don
15 Harrington, a businessman from Lynchburg,
16 saw him at the funeral service on Sunday
17 following the bodies being found on
18 Wednesday, just four or five days later,
19 several days later.

20 He saw on this day, not just the scars
21 as you all saw on the little finger and the
22 long finger, he saw fresh bandages, fresh
23 bandages. And he saw on the side of his
24 face an abrasion on the left side. And we
25 know from the autopsy report that Derek

1 Haysom had on that knuckle of his right
2 ring finger an abrasion which would have
3 been consistent with hauling off and
4 knocking this man, knocking his glasses
5 off, perhaps; that's what this defendant
6 said happened, glasses fall on the floor,
7 he's nearsighted, looking around for the
8 glasses, you can make all kinds of marks on
9 the floor, if you look at some of those
10 impressions there on that stone floor, you
11 will see all that type of thing.

12 So, and any kind of rubbing that you
13 want to do like that, I expect that I could
14 get markings on the side of my face, and
15 he's talking about blushing, well I argued
16 with him for a good while on the stand, I
17 didn't see him blush, did you? Yeah, you
18 can rub your face, and take photographs and
19 all types of things. But at any rate, this
20 man, Don Harrington saw the fresh bandages,
21 and saw the injury to the side of his face.

22 So, we know that who did this has got
23 to have the Type O blood, we know that he's
24 got to have the means and opportunity to do
25 this, we know that he's got to have the

1 motivation for doing it, we know that he's
2 going to have injuries on him. That
3 applies to this man over here, doesn't it?
4 Him and him alone.

5 But you don't have to stop there. The
6 footprint that we have just talked about.
7 Well, now you all can get back there if you
8 like and say, well yes, that matches his
9 footprint, but let's suppose somebody
10 somewhere in the world could have a right
11 foot just like this, okay, fine. But it's
12 got to go with the other pieces as well.
13 You have got to have a person with O type
14 blood, he's got to have the means, he's got
15 to have the opportunity, he's got to have
16 the motive, he's got to have the injuries
17 at that period of time and his footprint s
18 got to match this one. Well we're coming
19 on down, aren't we. And then you add some
20 of his conduct, about how he was asked for
21 his blood samples and his physical
22 evidence. Elizabeth Haysom gave it, he
23 would not.

24 He ran off and left a Jefferson
25 scholarship, better than 30-some thousand

1 thousand dollars, and runs off to Europe,
2 and runs off at the time that he thinks
3 that the case is going to be solved
4 that's his conduct, it's not Elizabeth's,
5 it's his, Elizabeth gives hers. So you add
6 that The O type blood, the means, the
7 opportunity, the motive, the cuts on the
8 hand, the abrasions to the matching
9 what Derek Rayson had on his hand.
10 You add the footprint, add the
11 conduct to have just a few. You
12 didn't get to stop there, he went through
13 in his life, now he's back in
14 December. He says Elizabeth
15 back in December, to the point, she
16 hunted her parents dead. The O type
17 of it. The O type blood, the means, the
18 opportunity, the motive, the opportunity,
19 the footprints, the cuts to the hand, the
20 writings, and then we can save for the very
21 last, there are other things that you're
22 going to talk about. Save the very
23 last, if you just want a icing on
24 the cake, so to speak, he's one who
25 told that he did it, now is he?

1 Now you add that in our scale of
2 things, and there are other factors which I
3 haven't talked about and won't take the
4 time. You can talk about 45 percent of the
5 people in the world having O type blood,
6 but 45 percent of the people in the world
7 don't have O type blood, and confessions to
8 murder. So you add that with the other
9 factors concerning the means, the motive,
10 the opportunity, the cuts on the hand, the
11 footprint, his conduct as far as the
12 footprints are concerned, his writings, and
13 then he confessed to it.

14 And not only did he confess, he went
15 through it in detail, such as I have
16 pointed out before, and I won't burden you
17 all with that again. He knew how it
18 happened. And you say well, Elizabeth
19 could have known, too, he could have told
20 her. Yes, putting it in line with
21 everything else, the O type blood, the
22 means, the opportunity, come on down the
23 line, and once you have done that, you have
24 got one man who committed this murder, and
25 he's sitting right over there.

1 And ladies and gentlemen, under this
2 evidence, he should be convicted of first
3 degree murder, because that is the only
4 thing this crime could be, he should be
5 sentenced to life imprisonment on each
6 case. Not an easy thing to do as I said,
7 it's the just thing to do. And if you
8 doubt, look at what was done, and remember
9 you how he acted up there. Thank you.

10 THE COURT: All right, thank you. Now
11 members of the jury, you'll be going to
12 lunch in just a few minutes, but when you
13 come back from lunch, you will not have to
14 come back in the courtroom, because all
15 exhibits will be in there, your
16 instructions with the verdict form on top
17 will be in there, all of the things
18 necessary for you to begin deliberations.
19 So once you are all back there and once the
20 two alternates have been excused, the
21 balance of you, the 12 of you may start in
22 your deliberations.

23 Now there are one or two things I need
24 to tell you now, and then I'll not have to
25 repeat any of this when you come back from

1 lunch. The first thing you should do when
2 you start your deliberation is to select
3 one of your member as foreperson, that may
4 be any member of the jury. That person
5 presides over your deliberations and is the
6 person who signs the verdict form for you.
7 However, the vote of the foreperson is not
8 entitled to any more weight than the vote
9 of any other member of the jury.

10 Now in order to reach a verdict in this
11 case under Virginia law it must be a
12 unanimous verdict, that means of course
13 that you all must agree. And I want to say
14 this to you: It is your duty to listen to
15 the views of each other, to go over the
16 evidence as you see fit, and I will say to
17 you as I have said to juries before, that
18 pride of opinion does not have any place in
19 a jury room. I want to say that again.
20 Pride of opinion does not have any place in
21 a jury room.

22 Now after you have arrived at a
23 verdict, then your foreman would simply
24 take the verdict forms, and there are two
25 of them, one for the Nancy Haysom case and

1 one for the Derek Haysom case, and you
2 would fill it out in the applicable places.
3 There are three possible places for you to
4 sign, the first one is for first degree
5 murder, the second possible is for second
6 degree murder -- and the third is for not
7 guilty. You simply have your foreperson
8 sign the one that's applicable. If you
9 find him not guilty so state, if you find
10 him guilty, fix the punishment, and do the
11 same thing on the second sheet.

12 And after you have done that and
13 completed that, then knock on the door, and
14 that tells us that you have arrived at a
15 verdict. Now does anybody have any
16 questions about the mechanics of what you
17 do, and the fact that you will start as
18 soon as you come back from lunch?

19 THE COURT: All right, let's recess
20 court for one hour.

21 (Whereupon court recessed at 1:50 p.m.
22 for one hour for lunch.)

23 (Whereupon the jury returned and began
24 deliberations at 2:50 p.m., continuing until
25 6:00 p.m. when the proceedings commenced as

1 follows:)

2 THE COURT: All right, it's my
3 intention at this time to simply have the
4 foreperson of the jury come out. I am
5 going to ask the foreperson whether the
6 jury wishes to remain longer this evening.
7 If so, we will have meals sent in to them,
8 or whether they want to stop now and come
9 back at 9:30 tomorrow morning. I will
10 probably let the foreperson go back in and
11 talk with the jurors and get a reaction
12 from them, then we will do whatever they
13 want to do. All right, bring the
14 foreperson in, please.

15 (Whereupon the foreman entered the
16 courtroom.)

17 THE COURT: Sir, I'm not trying to rush
18 you all in any way. My purpose in calling
19 you out, sir, is to determine from the jury
20 whether you would like to stop now and come
21 back tomorrow morning, in which case we
22 would stop and let you come back at 9:30
23 tomorrow morning to resume deliberations,
24 or whether you would desire to continue on
25 this evening, in which case we would have a

1 meal sent back to the jury in the jury
2 room. Would you go back out, sir, and
3 informally poll the rest of the jurors as
4 to what they would like, which option they
5 prefer, and then come back and tell me.

6 JURY FOREMAN: I'll be glad to, Your
7 Honor.

8 THE COURT: Thank you sir. All right,
9 Dr. Hetler.

10 JURY FOREMAN: Your Honor, we feel that
11 we can reach a decision within the hour,
12 therefore we don't believe we ought to come
13 back tomorrow morning, nor do we need a
14 dinner tonight.

15 THE COURT: Very good, sir, we'll
16 follow your suggestion.

17 (Whereupon the jury resumes
18 deliberations at 6:02 p.m. and knocked on
19 the door at 6:35 p.m. to indicate they have
20 arrived at a verdict.)

21 THE COURT: All right, before we
22 proceed with the jury's verdict, if anyone
23 has any comment about the jury's verdict,
24 please do not express it in the courtroom,
25 wait until you have cleared the courthouse,

1 and then you may talk about the verdicts
2 all you want. But this Court will not --
3 this Court will not allow any emotion or
4 outbursts in the courtroom

5 The attorneys, the parties, the whole
6 system of criminal justice should be conducted
7 in an atmosphere of dignity in matters as
8 important as this. I am also going to ask
9 the spectators not to leave the courtroom
10 until court is adjourned. The reason for
11 that is because I am going to let the jury
12 go out first. I have reasons for all of
13 this. After the jury has cleared, then
14 we'll adjourn and I will sit here with you
15 until such time as it is proper to adjourn.
16 So I think we will get along fine if you
17 will just be at ease and follow my
18 instructions. All right, bring the jury
19 in, please.

20 COURT CLERK: Mr. Hetler, have the
21 members of the jury reached a verdict?

22 MR. HETLER: We have.

23 COURT CLERK: We the jury find the
24 defendant guilty of first degree murder of
25 Derek William Reginalds Haysom as charged

1 in the indictment and fix punishment at
2 imprisonment for life. John Carson Hetler,
3 foreman.

4 We the jury find the defendant guilty
5 of first degree murder of Nancy Astor
6 Haysom as charged in the indictment and fix
7 punishment at imprisonment for life. John
8 Carson Hetler, foreman.

9 THE COURT: Hand me the verdict forms,
10 please. Members of the jury, in each case
11 your verdict is first degree murder,
12 imprisonment for life, is this the verdict
13 of each and all members of the jury?

14 JURY PANEL: Yes, sir.

15 THE COURT: Is there any request that
16 the jury be polled?

17 MR. NEATON: Yes, sir.

18 THE COURT: This means, members of the
19 jury, that you will be called, if this is
20 your verdict say yes, your individual
21 verdict, if it is not, say no. Now rather
22 than calling the names the of the jurors,
23 we'll start right over here, I'm sorry, I
24 don't know your name, but the lady sitting
25 here, you'll be Juror Number 1, and as the

1 clerk calls your name, just state yes or no
2 as to whether or not the verdict just read
3 is your verdict.

4 Juror Number 1? Yes. Number 2? Yes.
5 Juror Number 3? Yes. Juror Number 4?
6 Yes. Juror Number 5? Yes. Juror Number
7 6? Yes. Juror Number 7? Yes. Juror
8 Number 8? Yes. Juror Number 9? Yes.
9 Juror Number 10? Yes. Juror Number 11?
10 Yes. And Juror Number 12. Yes.

11 THE COURT: All right. Would the
12 defendant rise. Now gentlemen of counsel,
13 of course I will give you a chance to file
14 any motions to set aside the verdict, and I
15 don't expect you to list all the reasons
16 that you have today, I think you would
17 prefer to do that in writing at a later
18 time, I'm simply requesting that you
19 specify the grounds for setting aside the
20 verdict, if you care to do so, so that I
21 can respond to it by the time of the
22 sentencing hearing. I do, however, intend
23 at this time to pronounce judgment.
24 Perhaps before I do that, if you would like
25 to make any formal motions at this time.

1 MR. CLEVELAND: Your Honor, we would
2 in fact make a motion to set aside this
3 verdict as being contrary to the law and
4 the evidence. We can go into detail upon
5 further written motion.

6 THE COURT: Yes. Well as to the
7 findings of the jury, as to the judgment,
8 the Court overrules you on that. I think
9 that the evidence was sufficient to support
10 the verdicts of the jury. As to other
11 matters in the conduct of the trial, if you
12 wish to specify those on a motion to set
13 aside the verdict, I will respond to those
14 evidentiary matters later on. But I am
15 ruling today that the evidence is
16 sufficient and was sufficient to support
17 the first degree murder convictions as
18 outlined in the instructions.

19 Jens Soering, do you have any reason or
20 cause to offer why this Court should not
21 now pronounce judgment in your two cases?

22 THE DEFENDANT: I'm innocent.

23 THE COURT: In accordance with the jury
24 verdict, the Court finds you guilty of the
25 first degree murder of Derek William

1 Reginald Haysom as charged in the
2 indictment. In accordance with the jury
3 verdict, the Court finds you guilty of
4 first degree murder of Nancy Astor Haysom
5 as charged in the indictment. The findings
6 are first degree murder in each of the two
7 cases. Will there be a request for a
8 presentence report under the statutes of
9 Virginia?

10 MR. CLEAVELAND: Yes, Your Honor.

11 THE COURT: All right, you're entitled
12 to that as a matter of law. The Court will
13 order presentence reports, and as soon as
14 they are ready we'll have a sentencing date
15 at that time. Thank you, you may have your
16 seat.

17 Now members of the jury, it is very
18 hard to thank a jury that has been here for
19 three weeks. I know the sacrifices that
20 you have made, I think, I probably don't
21 know all of them. But I can only say that
22 you have been an attentive jury, you have
23 been a jury that has said good morning to
24 me every morning in a way that you meant
25 it, and I want you to know on behalf not

1 only of this Court, but of the lawyers on
2 both sides, that we appreciate the spirit
3 in which you have approached this case.

4 The Commonwealth of Virginia and this
5 Court are both indebted to you for the
6 service and the sacrifice that you have
7 made in this case. Now in just a few
8 minutes, you'll go back to your jury rooms.
9 I have ordered that you leave first before
10 any of the spectators leave. The Sheriff's
11 Department will take care of that. But
12 when you go back, there are two little
13 matters that I want you to take care of.
14 Number one, some of you requested some
15 copies of the Code of Virginia dealing with
16 the employer employee relationships as far
17 as jury duty. We have the those back there
18 for you in case any of you want to take
19 copies of that.

20 The other thing will only take you two
21 or three minutes, there will be back there
22 a television in the courtroom form for
23 jurors. If you will simply check it for
24 us; that will be sent to the Virginia
25 Supreme Court, because they are doing

1 experiments on whether or not the
2 television in the courtroom experience has
3 in your opinion interfered with your
4 deliberations, or interfered with the trial
5 of the case in any way. We'll appreciate
6 you filling those out and leaving them back
7 there. And then you'll be discharged. Do
8 you have any questions?

9 The only other thing I would like to
10 say is I would like to thank the lawyers on
11 both sides. Both sides have been
12 represented by professional, competent
13 lawyers who have fought hard and fought
14 fair. I don't know of any case in 25 years
15 in which I have seen better lawyers on both
16 sides, and I appreciate that. All right,
17 you may go back to the jury room, members
18 of the jury.

19 THE COURT: Captain Laughlin, there's
20 one thing I should say to the foreman, have
21 him step out, there's one other thing I
22 should say before they go back. There's
23 just one thing I forgot to say, Captain
24 Hetler, and it has to do with the media
25 once you leave here. You are now being

1 discharged from your duty in this case, and
2 that changes the rules a little bit. No
3 one will attempt to televise the jurors
4 until they leave the courthouse. However,
5 once you leave the courthouse, the media
6 entitled to televise you, and they are also
7 entitled if they so desire, to attempt to
8 talk with you.

9 Now you are out of my control once you
10 clear this courthouse. I make a suggestion
11 to you -- no, I will change that. I will
12 simply say that you do not have to discuss
13 this case or your deliberations with
14 anyone, but it's up to the individual
15 jurors if you want to be interviewed and
16 you want to talk. You'll probably be
17 televised as you go out. But the media has
18 a right to do that now. Would you explain
19 that to the jurors, please?

20 MR. HETLER. I will, sir.

21 THE COURT. Thank you very much.

22 While we are waiting, I blame myself
23 for this, I did not make myself very clear
24 to defense counsel about specifying the
25 reasons for setting aside the verdict. I

1 wanted to try and clear up what I was
2 trying to say and really didn't say very
3 well, and that is as I said at the
4 instruction stage, and as I said on motions
5 to strike the evidence earlier, I felt then
6 and I feel now that the evidence is
7 sufficient to support either first degree
8 murder, second degree murder or not guilty.
9 I haven't changed my feelings on that.
10 What I intended to say was that any
11 specific matters pertaining to objections,
12 or evidence or other matters that might be
13 the subject of appeal should probably be
14 made formally on a motion to set aside the
15 verdict in this Court. If it is done in
16 writing, it will give me a chance to
17 fully respond to them so that you will
18 know my position by the time that we have
19 the sentencing hearing. That's what I
20 meant to say but I really did not say it
21 very well, and I apologize to you for that.

22 I might say to counsel that the
23 restrictions that I placed on counsel about
24 discussing the case are removed. It's up
25 to you if you want to discuss, make

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comments to the press following -- after
today, that s up to you. I m not going to
make any. I have decided not to but it s
up to you as to whether you wish to.

Thank you for your cooperation. let's
adjourn Court.

END OF PROCEEDINGS.

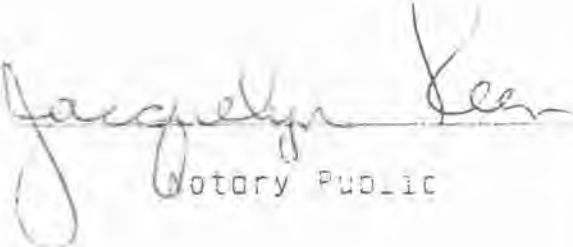
STATE OF VIRGINIA

AT LARGE to-wit.

I, Jacquelyn Keen, Notary Public in and for the State of Virginia at Large, do hereby certify that the foregoing proceedings were taken before me, and that the aforesaid pages 1 through 230 represent a true and accurate transcription of said proceedings to the best of my Stenographic ability.

Witness my hand this 2nd day of November, 1990

My commission expires September 30, 1993.


Notary Public