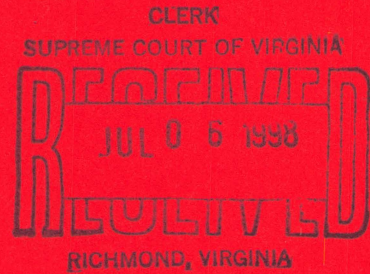


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IN THE
SUPREME COURT OF VIRGINIA

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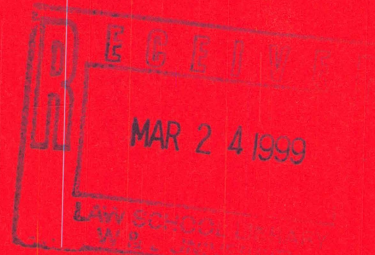
COMMONWEALTH OF VIRGINIA,

Appellant,

v.

WILLIAM ALAN PRESLEY,

Appellee.



**JOINT APPENDIX
VOLUME TWO**

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1 Q Do you know what slide that is, Doctor?

2 A Yes. Each label on the back of each print has a
3 red number from one to twelve. There are twelve
4 transparencies by the thirty-five millimeter slides, and
5 there are twelve prints. One from each of the thirty-five
6 millimeter slides. And so -- and I will show them in
7 numerical order according to the red number on the back of
8 each one.

9 This corresponds to number one, which is a
10 photomicrograph of the subdural blood clot at low
11 magnification. And what this shows -- what I'd like to point
12 out is that the slide -- the picture varies from one area to
13 another. This looks different than this, and this looks
14 different from that, and that looks different from that
15 (indicating). This is the blood clot. A fresh blood clot,
16 it all looks the same. And I will in a minute show you what
17 fresh blood looks like.

18 As the blood clot ages, it begins to take on a
19 different appearance in different areas. And so the fresh
20 red cells in this particular picture is this stripe going
21 through the -- from top to bottom right here (indicating).
22 And on either side are red blood cells in various stages of
23 degeneration, otherwise known as crenation. That's apparent

1 even at low magnification, which is what this represents.

2 That's photograph number one.

3 Photograph number two shows the same thing, but it
4 also shows something a little different. Again, you see a
5 variation from here, for example, to here (indicating). And
6 even this looks a little different. A fresh clot, everything
7 looks the same. As it ages and degeneration and crenation
8 and organization begin, it takes on a different appearance, a
9 variable appearance, from one place to the next. The same
10 thing that you saw on the first slide.

11 In addition, I hope you can see from your seats
12 these pale circular and linear areas. That is what is called
13 beginning organization. That's a material known as fibrin,
14 f-i-b-r-i-n, which is precipitated or deposited out of a clot
15 as a part of the organization process. That's another thing
16 that appears beginning at about twelve hours. So that's
17 number two.

18 Number three -- and three, four, and five were all
19 taken -- one and two were taken at the low magnification to
20 show you a variation from one area to the next. The higher
21 in magnification you go, the less you can see in terms of
22 areas. The more gun barrel your vision becomes in higher
23 magnification. So in order to see a broad area, you have to

1 look at it under low magnification. If you want to see fine
2 detail, then you go to high magnification, which narrows down
3 how much you can look at, at any one time.

4 So one and two are under at low magnification.
5 Three, four, and five are at very high magnification. And I
6 didn't figure it out, but by the time you get to this size
7 (indicating), these -- these cells are magnified several
8 thousand times. So three, four, and five are high
9 magnification.

10 Three is basically for comparison. It's from this
11 case. It represents an area of fresh bleeding of intact red
12 cells that are not crenated, not degenerated. And what you
13 can see easily is that you can pick out each one of these
14 little round red balls and pretty much -- and except where
15 there's an overlap or an overlay, pretty much tell the
16 margins or the borders of each one of these little red
17 balls. And those are intact red cells. So you can use that
18 for comparison with which is fresh blood for comparison with
19 blood that is not fresh.

20 MR. ANDERSON: Your Honor, if I might,
21 please. For purposes of this testimony, if we would identify
22 what areas of the body these slides came from.

23 THE COURT: All right.

1 THE WITNESS: We're still on the subdural
2 blood clot, on the blood clot on the brain.

3 This is -- red number four is also from the blood
4 clot. It's taken under very high magnification. And if you
5 remember what the last one looked like where you could see
6 the bright red round balls, which are the intact red cells,
7 here you can't pick out the bright red round balls. There's
8 a slight color change for one thing. But secondly, it's hard
9 to find balls that you can follow the margins of all the way
10 around. Instead, you have sort of a smearing or a laking
11 effect. That's crenation or degeneration, which, according
12 to the chart I showed you, you don't see, and for at least
13 twelve hours. So this is how we're getting into aging or
14 dating this blood clot.

15 This is red number five, which is still high
16 magnification and still from the subdural blood clot. Now,
17 as compared with the last one in which you see mostly red
18 stuff -- can't see much in the way of margins, boarders, only
19 a few of these little blue ones, which are the white cells,
20 the white cells are stained blue and the red cells stained
21 red -- compare that with this one, which is red number five,
22 which is another area of this subdural blood clot, which
23 shows a great many of these blue stained cells, which are the

1 white cells, the neutrophils. What this represents then is
2 recruitment or migration of white cells into the blood clot
3 with beginning attempts to clean it up.

4 You see two other things. You see the smeared
5 appearance of red cells where you can't pick out individual
6 little balls, and you also see this -- this circular, wavy,
7 pale striping going through, which you remember I told you on
8 an earlier photograph was a fibrin deposition.

9 This is getting -- this is at least twelve hours
10 old. And it could be much older. To say that this is twelve
11 hours old is sort of pushing it. And that's why I said
12 earlier that this blood clot with this evidence,
13 microscopically, is at least twelve hours old and could be
14 much older, significantly older.

15 This is a slide taken from the brain. When the
16 blood clot -- you remember I told you that when the blood
17 clot forms on the surface of the brain, there is no room for
18 it, and so it causes secondary effects on the brain, pressure
19 on the brain. And this slide is an example of the secondary
20 effect of the pressure on the brain. This white or pale
21 stuff here is brain tissue, and this large structure here is
22 a blood vessel in the brain, which has hemorrhaged, and the
23 reason it has hemorrhaged is because of the pressure on the

1 brain from the subdural hematoma, from the subdural blood
2 clot.

3 Why I show you this is because it shows the same
4 characteristics as the subdural blood clot and basically the
5 same aging features or dating features that we saw in the
6 subdural blood clot. We see here in the center, the blood
7 vessel runs approximately here (indicating). And we see a
8 clot. The blood vessel is filled up with a clot. We see the
9 clot is made up of a large number of the blue stained cells,
10 which are the neutrophils, the white cells, and it also has a
11 lump here of red cells, which are all crenated. You can't
12 see the circular balls anymore. All you see is this smear of
13 red, another area like that up here (indicating). This is a
14 medium magnification.

15 This next picture, which is red number seven, is
16 that same area, that same blood vessel that I just showed you
17 at high magnification. Just so that we can make sure that
18 what we're seeing is correct, we can, at high magnification,
19 identify these little blue dots as white cells. And there
20 are many more of them than would normally be there. So
21 they're being recruited in. So we know from that criterion
22 that the age of this bleeding blood vessel, if you will,
23 hemorrhaging blood vessel, is at least twelve hours, probably

1 a little older.

2 We also see the same appearance to the red cells in
3 that they're smeared and you can't see the individual red
4 cells in the blood clot. So that the aging phenomenon
5 clearly has taken place here, and the two match, because you
6 wouldn't get this until you got the subdural. So it stands
7 to reason that they're approximately the same age since this
8 is an effect that is secondary to the effect of the
9 subdural.

10 This is red number eight under low magnification.
11 This is a microscopic section of the skin of the eye. We
12 talked about that a little bit earlier, and you remember I
13 told you it's problematical in interpretation because it has
14 different ages to it. It stretches from fresh to more than
15 two days old. It could be traumatic in origin. It could be
16 something else.

17 At any rate, this blue stuff up here is the surface
18 of the skin. This is at the outside, and then you're looking
19 deep into the skin. And what you see are lots of little red
20 balls. So -- and they're all intact -- better focus -- you
21 can see the origins of each one, nice sharp little red
22 balls. So this is fresh hemorrhage, fresh blood, in the
23 tissue of the eye at low magnification.

1 This is red number nine, which is also the skin of
2 the face -- that is, the skin about the eye -- from another
3 location; still the eye, but from another area
4 microscopically than the one I just showed you. That shows
5 two things that are important. One, it shows great numbers
6 of the blue dots, the blue stained cells, which we've said
7 now many times are the white cells coming in to clean up the
8 damage that's been done, which we know takes at least twelve
9 hours.

10 We also -- if you look closely, and you probably
11 would have to have this photograph in your hand to see it,
12 there are many cells in here that are large cells that have a
13 distinct brown coloration. And those are the macrophages
14 that we talked about earlier. The brown coloration is blood
15 pigment that the macrophage has engulfed and is going to
16 carry away. So this is the garbage truck, if you will.

17 So this has not only large numbers of neutrophils,
18 but it also has significant numbers of macrophages which are
19 engulfing the blood pigment, which is as a result of the
20 blood red blood cells having broken down. That enables us to
21 date this at two plus days. So then this eye thing, whenever
22 it is, stretches from fresh; that is, less than say eight
23 hours old, to more than two days old.

1 Number ten, red number ten, is a -- is the slide
2 from the arm, which was called in the autopsy report a bruise
3 or a contusion. In fact, that's what it is, because a bruise
4 is bleeding into the issue under the skin. And what you see
5 again, interestingly enough, is the same -- basically the
6 same age of this bruise, this blood, as we saw in the
7 subdural blood clot. That is, you see the same inability to
8 distinguish between individual cells. There are some fresh
9 cells up here, but down here (indicating), there's this wide
10 expanse of smeared material indicating that this is at least
11 twelve hours old and could be significantly older.

12 This is from the leg. There was a slide from the
13 leg. And what this shows is -- the technical term is an
14 abrasion. An abrasion is a scrape. The normal skin surface
15 is over here (indicating). This skin surface is much thinned
16 because a lot of it has been removed by having been scraped
17 off. And there is a -- there is an abnormality to the issue
18 underneath the skin surface, a compression and a thermal
19 effect, because an abrasion or a scrape often has a thermal
20 effect because of friction. So this shows friction effect.
21 It also shows damage to the surface of the skin.

22 And the reason that I show this and the important
23 thing about this is that it can't be dated. The reason is

1 that all you see is the injury, and you don't see any
2 reaction. There is no bleeding here so that you can't look
3 at the red cells and see whether they're fresh or older, and
4 there's no white cell migration. So the best you can do with
5 this is say that this is probably quite fresh, meaning less
6 than twelve hours.

7 And finally, I took a photograph of the liver.
8 This is again at high magnification. This is red number
9 twelve as an illustration of the chronic liver disease
10 problem, probably hepatitis with some superimposed alcohol
11 effect on this liver. These cells here (indicating), these
12 funny looking pale cells with the large or relatively large
13 blue dots, are liver cells.

14 The abnormal parts are two. One are these deep
15 blue dots here (indicating), this big clump of them, which
16 has surrounded a small group of these liver cells and is
17 really engulfing them, if you will. These are inflammatory
18 cells or cells similar to neutrophils that are called
19 lymphocytes. They're a type of white cell. This indicates
20 ongoing chronic hepatitis, which is responsible for -- with
21 the alcohol, for the bleeding problem that I told you about
22 earlier.

23 The second thing that you can see in the slide are

1 these oval holes. There's two good examples of them right
2 there (indicating). There's one there, and there's several
3 right here (indicating). That's a thing called fatty change
4 or fatty vacuolization, which is a sign of alcohol effect.
5 So the liver shows two things, chronic hepatitis, probably
6 viral, and alcohol effect.

7 And so those are the slides that I took that are
8 representative of what I think the important pathology is in
9 this case and why.

10 MR. C. ANDERSON: Judge, I'm going to have
11 some more questions with this doctor. Do you want to take
12 your lunch break now or --

13 THE COURT: No.

14 MR. C. ANDERSON: Okay.

15 THE COURT: Move on.

16 (Whereupon, the witness returned to the witness
17 stand.)

18 MR. C. ANDERSON: I'll pass these to the Clerk
19 to be marked, and I would move all these into evidence at
20 this point.

21 THE COURT: They've been received as six, one
22 through twelve.

23 THE WITNESS: Yes, sir.

1 BY MR. C. ANDERSON: (resumed)

2 Q Now, as I understand it, you think there was a --
3 there's a difference in the timing of the -- there could have
4 been a blow to the eye within what period from death?

5 A There may have been a blow to the eye less than
6 twelve hours prior to death. But there was also something
7 else wrong with the eye skin so that the -- what appears to
8 be -- what is compatible with a less than twelve hour old
9 blow to the eye could also be spontaneous hemorrhage
10 unrelated to trauma.

11 Q How does one get spontaneous hemorrhage unrelated
12 to trauma? What is that from?

13 A From clotting problems due to liver disease.

14 Q Is it possible, in your opinion based on what
15 you've looked at, that this subdural hematoma was caused by a
16 blow to the eye three or four hours before death?

17 A No. The subdural blood clot was there much longer
18 than three or four hours prior to death. It was there at
19 least twelve hours. And it could have been there a
20 significantly longer period.

21 That's not uncommon. Subdurals don't develop and
22 immediately cause unconsciousness or death. They commonly,
23 and probably most of the time, develop rather more slowly

1 than that. And the accumulation of blood gradually causes
2 the pressure, which then causes the person to become
3 unconscious. But a chronic subdural hematoma can be present
4 for days or even weeks before it becomes manifest and
5 diagnosable.

6 Q Is it possible, in your opinion, that -- do you
7 have an opinion whether -- if the eye, the injury to the eye
8 that you said was relatively fresh, assume that that was
9 caused by a blunt force, could that blunt force injury to the
10 eye, the freshest one, also have caused a subdural hematoma?

11 A No. It could not have caused it, because the
12 subdural is much older than that. I can't exclude the
13 possibility that it aggravated an already existing subdural.
14 But I don't think anyone can say to a reasonable degree of
15 medical certainty whether such a blow did or did not
16 aggravate an accumulating subdural. The -- I don't think
17 there's a way to answer that.

18 The one thing that's clear, however, is that the
19 subdural pre-existed the fresh part of that eye injury, if
20 that's what it is, by quite a few hours.

21 Q The -- if I told you that -- a hypothetical; if a
22 person more than twelve hours before her death complained
23 about having a headache, said she was having a really bad

1 headache, would that have any significance to you with regard
2 to a subdural hematoma or the existence or nonexistence of
3 one?

4 A Yes. That would be highly significant. The reason
5 being that bleeding into the skull onto the surface of the
6 brain is extremely painful. And a person with that kind of a
7 problem commonly says I have the worst headache I've ever had
8 in my life. And that, not uncommonly, are the last words
9 they say because the condition then becomes severe enough
10 that it causes unconsciousness. But that's a very common and
11 a very significant statement for a person with an
12 accumulating blood clot in the head to make.

13 Q The -- and as I understand it, if somebody said
14 that a blow eight hours later contributed or aggravated the
15 subdural hematoma, would that be something they could testify
16 to with a reasonable degree of medical certainty, or is that
17 just pure speculation?

18 A I think all you can say is that's possible. But in
19 no way can you say that that's probable.

20 Q I believe you testified earlier also that you think
21 that the drugs and alcohol contributed to this woman's
22 death. Why do you say that?

23 A Because they were at least three times more than

1 the therapeutic level, and that's a very high level. And for
2 the reasons mentioned, that the two drugs that she had and
3 the alcohol, all three of those things are sedatives. The
4 effect of the blood clot on the brain, because of the
5 pressure that's produced, is sedating. And so you have a
6 quadruple whammy, if you will, with four different things;
7 two drugs, alcohol, and a blood clot, all combining to
8 produce sedation. And, you know, at some point, sedation
9 results in death.

10 Q The -- you reviewed the autopsy that's been put
11 into evidence in this case; is that correct?

12 A Yes, sir.

13 Q Do you have any opinion regarding any significant
14 errors or omissions in that autopsy report?

15 A Yes, sir. I do.

16 Q And what is that?

17 A Well, the report is rather sparse in the
18 information it provides. Most autopsy reports have much more
19 language. There's much more information provided. And that
20 makes -- because this is not the standard way of doing it, it
21 tends to make someone reviewing the thing a little bit
22 nervous as to whether or not anything has been overlooked.

23 There's no way for me to tell since I was not there

1 how much was overlooked, if anything. But I can tell about a
2 few things that I pick up in other ways. For example, from
3 medical records. I know that the Chiari malformation we
4 talked about, the congenital abnormality in the skull and the
5 spine, was there. I saw that on x-rays that I reviewed.
6 That's not mentioned in the autopsy report.

7 I know, for example, that she had brain surgery at
8 one point in her life. I'm not sure when, because I wasn't
9 able to get those records, but I know that she had it because
10 it's seen on CT scans and x-rays that were taken later that I
11 reviewed and saw, the defect from the brain surgery. I don't
12 know what was done, but I know there was a brain surgery
13 done.

14 In the radiologist report, reading the films
15 repeatedly in the records from the '90s mentioned craniotomy
16 defect, which is the hole in the skull that's made by the
17 surgeon when he goes inside the skull. And so I can tell
18 from that, that there was a defect in the skull from prior
19 surgery. And that -- in a person who dies of head injury,
20 that's a very significant observation which was not recorded
21 in this autopsy. It's significant because you need to know
22 what was done and how long ago it was done in order to
23 correctly interpret the fresh stuff, the more recent things.

1 And then finally, there were some things -- there
2 were some problems with this lady at the hospital when she
3 came in unconscious and promptly died. And two things
4 developed. One is called tension pneumothorax, which is air
5 under pressure in the chest. And the other is called
6 subcutaneous emphysema, which is air under the tissues in the
7 skin. As -- these things developed as complications of an
8 attempt to get a tracheal tube into her, which was never
9 successful. These things -- these are significant
10 conditions. Should have been evident at the time of autopsy,
11 and weren't mentioned at -- in the autopsy report.

12 So again, I wasn't there, and I don't know -- I
13 can't accept where I have evidence by other means, criticize
14 or attack the veracity of the report except to say that it's
15 brief, and that in these few instances, this information that
16 I would have expected to see was not there.

17 Q If you have an opinion, would the failure to
18 recognize the Chiari malformation have any adverse impact or
19 possibly cause a misinterpretation of the condition of this
20 person's brain?

21 MR. ANDERSON: Your Honor, I believe that's
22 the ultimate issue in this case. And certainly, he's already
23 testified as to what his opinion is as to what, if any,

1 significance it is. I think he's asking him now the ultimate
2 question, which I don't think is appropriate.

3 THE COURT: I don't see that as the ultimate
4 question. Overruled.

5 THE WITNESS: I think the Chiari malformation
6 in some ways will, if you will, double as brain swelling. In
7 other words, it produces abnormalities of the brain that can
8 -- that are similar to what you see in brain swelling where
9 the brain is -- tends to be driven down into the spinal
10 canal.

11 And I think that -- the pathologist said that this
12 lady had brain swelling. That's probably not true for two
13 reasons. One, the weight of the brain is normal. And with
14 brain swelling, you should have a heavy brain.

15 BY MR. C. ANDERSON: (resumed)

16 Q Why is that, Doctor?

17 A The brain weighs normally five and a half or six
18 pounds. And the brain swelling, the brain takes on water.
19 And so a swollen brain has an abnormal weight; fourteen,
20 fifteen, sixteen hundred grams, you know, seven, eight pounds
21 or more. So the brain was normal weight, and she did have
22 this Chiari malformation, which can mimic some of the effects
23 of brain swelling.

1 And so putting that information together, even
2 though I wasn't there, I would be concerned that what she was
3 interpreting, what the pathologist was interpreting as brain
4 swelling, was really part of this Chiari malformation.

5 Q Is it usual or unusual for death to occur from a
6 head injury, subdural hematoma, in the absence of brain
7 swelling?

8 A In a sense, this lady died a little prematurely
9 because there wasn't brain swelling. If she had had nothing
10 but the blood clot on the brain, what would have killed her,
11 had she not received medical care, surgery, evacuation of the
12 blood clot, what would have killed her would have been brain
13 swelling. So she would have ultimately gotten brain swelling
14 and died from that. That -- and she didn't have brain
15 swelling.

16 So that leads me to believe that -- as I've said
17 previously, that the drugs and alcohol were a significant
18 contributor, and, if you will, prematurely caused this
19 death. Not to say that she would have survived had she not
20 had drugs and alcohol on board. I'm not saying that. I
21 think that's sort of speculative. I'm not willing to say
22 that. What I'm saying is that I think that the terminal
23 effects, the end stage effects, of the blood clot were not

1 seen.

2 And so that leads me to believe, and I think to a
3 reasonable degree of medical probability, that the cause of
4 death, therefore rightly, is the blood clot and the drugs and
5 alcohol, which caused her to die a little earlier than she
6 would have from the blood clot alone.

7 Q The -- is the brain examination in the autopsy
8 report extensive or limited?

9 A It's very brief.

10 Q The -- does it -- what is the significance of a
11 very brief brain examination report in the autopsy? What is
12 that?

13 A I would just worry that there were things there
14 that would have been helpful in closer interpretation of the
15 case that were not recorded. For example, you can -- if
16 bruises are present in the brain, and they can be quite
17 small, then you can tell from the placement of these bruises
18 -- sometimes you can tell the difference between a blow and
19 a fall, for example. And other times, you can tell where the
20 blunt force occurred.

21 Q Is it possible from this autopsy report to tell
22 whether this subdural hematoma came about from a blow or a
23 fall?

1 MR. ANDERSON: That is the ultimate issue in
2 dispute, Judge. I'm going to object to it.

3 MR. C. ANDERSON: I'm asking if there's
4 medical evidence to enable him to distinguish between a blow
5 and a fall. I believe that Dr. Field already testified on
6 that subject.

7 THE COURT: Overruled.

8 THE WITNESS: There is not information here
9 that would allow you to distinguish between a blow and a fall
10 in this case as the cause of death.

11 BY MR. C. ANDERSON: (resumed)

12 Q You also reviewed the emergency medical records in
13 the last hour or so of Sandra Laing's --

14 A Yes, sir.

15 Q And the autopsy report suggests or indicates no
16 evidence of any problems with the esophagus or the trachea.
17 Do you think that's likely based on the medical records, the
18 emergency medical room records, that there wouldn't be any --

19 A Well, as I mentioned, the -- the tension
20 pneumothorax, which is air under pressure in the chest, and
21 the subcutaneous emphysema, which is air under the skin,
22 should have been evident in autopsy. And they were described
23 in the Loudoun Hospital records.

1 Q But they just weren't noted at all?

2 A And they were not noted in the autopsy.

3 MR. ANDERSON: Judge, can I ask please if we
4 can identify where in the autopsy report he's referring?

5 MR. C. ANDERSON: I can't -- the point of the
6 question was they're not in the autopsy report so I can't
7 identify that.

8 THE COURT: That was the answer. That they
9 were not in the autopsy report.

10 MR. ANDERSON: The question was the
11 examination of the esophagus, whether or not there was
12 anything in the --

13 BY MR. C. ANDERSON: (resumed)

14 Q Is there anything in the autopsy report that you
15 reviewed, Doctor, that would indicate that this woman had a
16 damaged esophagus, damaged throat, damaged trachea? Is there
17 anything in the autopsy report that would tell anybody that?

18 A The only clue to something related to that is that
19 there are a couple of broken teeth described. The autopsy
20 says that there is the belief that these were old breaks, but
21 I would wonder if they were freshly broken teeth simply
22 because with the difficulty in intubation. That is, with a
23 patient who is difficult to get a tracheal tube in, teeth are

1 commonly broken, because it's done with a metal instrument in
2 the mouth with a lot of pressure.

3 And that's the only clue that I see to something
4 that would go along with that whole business of the injuries
5 secondary to intubation or these broken teeth. But there's
6 no description of injuries to the trachea.

7 Q Doctor, drawing your attention to the toxicology
8 report.

9 A Yes, sir.

10 Q It reports Nordiazepam as one of the drugs. What
11 is Nordiazepam?

12 A Nordiazepam is a metabolite of Diazepam or Valium.
13 In other words, you don't take Nordiazepam by mouth. You
14 take Diazepam or Valium by mouth, and your body converts the
15 Valium to the Nordiazepam, a metabolite.

16 Q Is it possible to have Nordiazepam in your system
17 without having Valium in your system? Is that a normal
18 finding?

19 A I think that's very unusual and unlikely. I don't
20 know why no Diazepam was found. I can't explain that.

21 Q The -- if you have an opinion, did the deceased, in
22 your opinion because of her medical condition as you
23 understand it, the -- what was the -- did she have any --

1 were there things wrong with her that would either decrease
2 the likelihood that she would fall or increase the likelihood
3 that she would fall on a regular basis?

4 A The Chiari malformation would -- is directly
5 related to an increase in propensity to falling, because it
6 causes balancing and coordination problems.

7 Q Did the autopsy report indicate any fusion of any
8 of the vertebrae in this deceased?

9 A No. Not that I recall.

10 Q Did Sandra Laing, in your opinion, have vertebrae
11 that were, in fact, fused?

12 MR. ANDERSON: Judge, I'm not going to object
13 to the answer if he can establish a foundation to the basis
14 of this conclusion.

15 BY MR. C. ANDERSON: (resumed)

16 Q Based on your examination of all the medical
17 records that have been subpoenaed in this record -- in this
18 case for Sandra Laing, based on your examination of the
19 x-rays and CT scans that were subpoenaed related to Sandra
20 Laing, were those vertebrae fused?

21 A She did have fused vertebrae; yes, sir. However
22 that's not easily demonstrated at autopsy. And I wouldn't
23 criticize an autopsy report for failing to mention fused

1 vertebrae.

2 Q Doctor, is it -- you reviewed several tissues from
3 the subdural hematoma, several tissue slides; is that
4 correct?

5 A I think it was just one slide.

6 Q One slide. But --

7 A There were several pieces of the subdural on the
8 slide; yes, sir.

9 Q And I believe that you testified that you looked at
10 it at a magnification rate of several thousand; is that --

11 A I looked at it at many different magnifications,
12 and I showed both low and high magnification photographs;
13 yes, sir.

14 Q The -- if you just looked at it at the low
15 settings, would you have been able to age this subdural
16 hematoma properly?

17 A Well, you can see some of the changes. You could
18 possibly get it right. There's no reason to do that because
19 it's -- you know, you go from one magnification to another
20 very readily. It's a little bit hard question to answer.
21 Some of the things that you look for you can see easily on
22 low magnification, and I think I demonstrated some of that.
23 Other things you want to use high magnification.

1 Q How firm are you in your opinion that this subdural
2 hematoma occurred no earlier than twelve hours before this
3 woman's death?

4 A Very firm.

5 THE COURT: Before you begin your
6 cross-examination, we will break for lunch now, Mr. Anderson.

7 MR. ANDERSON: Very well.

8 THE COURT: We'll go ahead and recess for
9 lunch until 1:30. We'll be in recess until 1:30.

10 (Whereupon, a lunch recess was taken at 12:46 p.m.

11 After which, the proceedings continued at 1:34
12 p.m., as follows:)

13 THE COURT: All right. Doctor, if you'd come
14 up and have a seat.

15 MR. C. ANDERSON: Your Honor, can I have a
16 bench conference for just a minute before we start?

17 (Whereupon, the following was heard at the
18 side-bar:)

19 MR. C. ANDERSON: I contacted the phone
20 company, Judge, to see who to get this document served on.
21 It's Cockeysville, Maryland. They -- they're not that
22 impressed with a Virginia court order, in any case, but they
23 basically say going through the regular processes, we're

1 talking Friday at the earliest. The -- it seems to me that
2 the Commonwealth of Virginia has as much interest in seeing
3 that innocent people aren't convicted as convicting guilty
4 people.

5 THE COURT: I'm not going to order the police
6 to do anything.

7 MR. C. ANDERSON: Okay.

8 THE COURT: I don't know how the phone company
9 can authorize -- you take that -- how they can permit the
10 police access and not the courts. I don't understand that.

11 MR. C. ANDERSON: Okay.

12 THE COURT: Okay.

13 (Whereupon, the proceedings continued in open
14 court, as follows:)

15 CROSS EXAMINATION

16 BY MR. ANDERSON:

17 Q Dr. Adams.

18 A Good afternoon.

19 Q Doctor, it's a fact, is it not, based on your
20 testimony, that you will concede or agree that the death of
21 Sandra Laing was caused by a subdural hematoma or a
22 hemorrhage; is that correct, sir?

23 A That's part of her cause of death; yes, sir.

1 Q And the other part, according to your examination
2 and analysis of this case, indicates that drugs and alcohol
3 played a role in her death; is that correct, sir?

4 A Yes, sir; correct.

5 Q It's a fact, is it not, that the opinion that you
6 have relating to drugs and alcohol relate to her ability to
7 recover after a hematoma or a hemorrhage had started; is that
8 correct, sir?

9 A I don't understand your question. Could you
10 explain what you're driving at?

11 Q The impact of drugs and alcohol created a condition
12 in her that would leave her less of a resource to recover
13 from a brain hemorrhage or a hematoma than somebody that
14 weren't under the influence of drugs or alcohol; is that
15 correct, sir?

16 A Makes the effect of it worse; yes sir.

17 Q So that the issue as to the hematoma was the issue
18 as to the cause of death that drugs and alcohol go to the
19 recovery after that occurrence takes place; is that correct,
20 sir?

21 A No. I wouldn't look at it that way. I think
22 they're both acting at the same moment. They all potentiate
23 one another.

1 Q Doctor, is it your testimony that the drugs or the
2 alcohol precipitated a spontaneous hemorrhage or hematoma in
3 this case?

4 A No.

5 Q So that based on your analysis and examination,
6 it's clear to you that there had to be an intervening factor,
7 such as trauma to the head, that initially caused the
8 hematoma; is that correct, sir?

9 A That is correct. The -- the drugs and alcohol are
10 contributory to the blunt head trauma insofar as the cause of
11 death is concerned.

12 Q But the drugs and alcohol, sir, were not the cause
13 based on your opinion of the hematoma in the first place, but
14 rather relate to the ability to recover; is that correct,
15 sir?

16 A The drugs and alcohol were not the cause of the
17 hematoma; that is correct.

18 Q Now, Doctor, I know you've indicated that -- in the
19 course of your testimony, that you are -- I believe your
20 words were very firm that this hematoma or this hemorrhage
21 occurred at least twelve hours before death; is that a
22 correct statement, sir?

23 A That is correct; yes, sir.

1 whether or not there was bleeding and whether or not to the
2 extent of that bleeding twelve hours earlier; is that right,
3 sir?

4 A I think that there's, you know, a whole lot of very
5 solid evidence that I've showed here today that there was, in
6 fact, bleeding twelve hours previously. The blood clot, as
7 far as we know, is at least twelve hours old. There's
8 several pieces of blood clot on one slide, and every one of
9 those pieces of blood clot looks the same; i.e., at least
10 twelve hours old.

11 Q Respectfully speaking, sir, that opinion is
12 certainly directly countered to what the medical expert
13 indicated on the autopsy report; isn't that a correct
14 statement?

15 A Yes. It is.

16 Q Doctor, if, in fact, there was bleeding twelve
17 hours earlier and this person had a headache caused by that
18 bleeding, that would be an indication of a fairly severe
19 condition; isn't that right, sir?

20 A I'm not sure what you mean by fairly severe. The
21 initiation of a bleed on the brain is often accompanied by a
22 severe headache because it irritates the membranes that cover
23 the brain. The brain itself does not hurt, but the membranes

1 covering the brain hurt. And since the bleeding involves
2 those membranes, commonly when the bleeding starts, there is
3 associated with it a severe headache..

4 Q It's reasonable -- I'm sorry.

5 A Go ahead.

6 Q It's reasonable to expect, is it not, that if, in
7 fact, that were the condition twelve hours before death, that
8 those conditions would not disappear over the twelve hours
9 prior to death; isn't that a fact? In other words, if they
10 had this headache, then they would have it the rest of the
11 time?

12 A No. Not necessarily.

13 Q Doctor, where would four ounces of blood go in the
14 brain if it was present in the head twelve hours before
15 death? Where would it go?

16 A It doesn't go anywhere. It stays where it
17 accumulated. The fact is, as I mentioned, people can carry
18 subdurals around for days, weeks, months, and they may or may
19 not have headaches. The onset of the bleeding typically is
20 accompanied by a very severe headache. That is not to say
21 that the headache continues for the duration of that blood
22 clot. That is not true.

23 Q If, in fact, that there was a severe headache due

1 Q Let me phrase the question another way. The
2 pressure on the brain, in your experience, a hundred and
3 twenty milliliters on the brain of a hundred and thirteen
4 pound woman, is it your testimony that that would not, could
5 not, or should not have been a cause of death, considering
6 the fact that that pressure was reaching the vital centers of
7 the brain to shut down the body functions, sir?

8 MR. C. ANDERSON: I object. That's been asked
9 and answered twenty times.

10 THE COURT: Sustained.

11 BY MR. ANDERSON: (resumed)

12 Q Doctor, let me ask you a hypothetical, if I might,
13 sir. Given an individual who, in fact, has just suffered a
14 beating, who was taken to the hospital, who, in fact,
15 suffered a hemorrhage as a result of the bleeding [sic], is
16 that consistent, sir, with the cause of death in this case?

17 A A hemorrhage as a result of the bleeding? You mean
18 hemorrhage as a result of a bleeding -- hemorrhage as a
19 result of a beating is what you meant, I guess.

20 Q Yes, sir.

21 A Yes. A beating twelve hours previously would -- or
22 approximately twelve hours or more previously would fit with
23 the medical evidence that we have; that's correct.

1 A I don't know. If I did, it certainly wasn't to
2 imply that this patient died of a drug overdose.

3 Q That is not your opinion?

4 A That's not what I meant to imply. What I meant to
5 imply and to state is what I've stated several times. That
6 drugs -- excessive intakes of drugs and alcohol contributed
7 to the lady's death. It's different from an overdose.

8 Q Doctor, crenation, the term crenation used by you
9 in direct examination, as I understand it, is the
10 degeneration process of the red blood cells; is that right,
11 sir?

12 A That's correct.

13 Q And it's your testimony in this case that based on
14 the slides that you've introduced into evidence here, you
15 have found crenation in slides D one, two, four, and five?

16 A And others; yes.

17 Q Well, as to the slides one, two, four, and five,
18 those are the only slides that an analysis was done of the
19 hemorrhage of the hematoma; is that right, sir?

20 A Those are the slides of the blood clot of the
21 brain; that's right.

22 Q Yes, sir. And you've indicated that you don't know
23 where or what portion of the hematoma or hemorrhage your

1 samples came from?

2 A That's correct.

3 Q So that your analysis, sir, would indicate, based
4 on your testimony, that the entire hematoma, based on what
5 you've observed, was, in fact, as a result of the lack of
6 crenation? I think your testimony was twelve hours and
7 possibly much older; is that what you said?

8 A I'm sorry. I didn't follow your question.

9 Q Based on your analysis and the lack of crenation
10 that you found within your analysis of the red cells within
11 the hematoma, it's your testimony that this clot or this
12 hemorrhage was twelve hours old, and as I have my notes
13 written, to possibly much older; is that what you said, sir?

14 A That's just the opposite of what I said. Crenation
15 is a feature of aging of the blood clot. And so -- and it
16 takes a while for that to appear. And so if you see
17 crenation, which is degeneration of red cells, then you know
18 that a certain number of hours, as a minimum, has elapsed.
19 It's not the lack of crenation. It's the presence of
20 crenation.

21 Q My apologies. Crenation then was apparent in all
22 the samples that you did of the hemorrhage?

23 A All the samples that I did?

1 Q Yes, sir.

2 A It was present in all the photographs that I took,
3 and it was present in every piece of the blood clot that was
4 on the slide of the blood clot.

5 Q Now, based on your analysis, sir, the fact that
6 crenation was apparent certainly would tend -- cause you to
7 believe that this condition was the same condition that this
8 woman had when she entered the hospital that night, and
9 that's based on your review of the medical records?

10 A She entered the hospital about an hour and a half
11 before she died. And so yes, she did have that when she
12 entered the hospital, because she had it for at least twelve
13 hours.

14 Q That would have been despite the fact that during
15 the course of that particular time period initially when she
16 entered the hospital, her signs were vital?

17 A Well, she had vital signs. Having vital signs can
18 mean a lot of different things. If you have vital signs,
19 then you're not dead. But she had vital signs, but they were
20 not normal. She was in coma by the time she got to the
21 hospital.

22 Q Which would be an indication that she was suffering
23 from the condition at that time; is that right?

1 A Absolutely.

2 Q Doctor, it's a fact, is it not, that if, in fact,
3 she was in a coma when she got to the hospital, that the
4 coma, based on your medical testimony, would support an
5 argument that says a coma was caused by an injury twelve
6 hours earlier; is that your testimony, sir? And that the
7 fact that she entered into a coma, was this an event that
8 occurred simply by the bleeding process that was taking place
9 in the brain?

10 A The coma that she manifested when she -- by the
11 time she got to the hospital and, in fact, by the time the
12 rescue squad people found her, was a manifestation of the
13 combined effects of the subdural hematoma and the drugs and
14 alcohol.

15 Q If somebody were to tell you, sir, that she
16 sustained a beating approximately two hours before being
17 found in that condition, would that affect your opinion?

18 A No. It would not affect my opinion. As I said
19 this morning, I can't rule out the possibility that a
20 beating, at some point after the bleeding started,
21 contributed to the bleeding. There's no way to exclude
22 that. And also, there's no way to include it. There's no
23 way to know the answer to that question.

1 The only answer that is clear is that the initial
2 onset of the bleeding was -- in substantial amount, occurred
3 twelve hours or more prior to her death.

4 Q With a fair degree of medical certainty, sir, if,
5 in fact, she was bleeding from the brain approximately two
6 hours before death and sustained a beating at that time, can
7 you state, sir, whether or not it's more probable that that
8 would have probably enhanced the bleeding process, hindered
9 the bleeding process, or not had an effect at all?

10 MR. C. ANDERSON: I'm going to object. It's
11 been asked and answered.

12 THE COURT: It's been asked and answered a
13 number of times. Sustained.

14 BY MR. ANDERSON: (resumed)

15 Q Doctor, I believe it is slide eleven, D six
16 eleven.

17 MR. ANDERSON: I'm sorry, Your Honor. These
18 are out of order.

19 BY MR. ANDERSON: (resumed)

20 Q Can I show you the slide, sir, indicating that it
21 is a section of the skin of the leg --

22 A Right.

23 Q -- of the victim? And that -- your microscopic

1 analysis of that indicates that -- and, Doctor, you're going
2 to have to bear with me -- indicates, according to my notes,
3 that that was, in fact, a fresh wound; is that correct, sir?

4 A (No audible response).

5 Q I believe you said it cannot be dated. But fresh,
6 less than twelve hours, is what my notes say?

7 A It is a -- an injury that cannot be dated. It is
8 an abrasion or a scrape which shows no vital reaction from
9 which one could date it. So it could be fresh or old.
10 There's no way to know since abrasions do not necessarily
11 cause vital reactions.

12 Q So there's no way of dating this as to whether or
13 not it is more or less than twelve hours old?

14 A It could be five minutes old or fifteen hours old.
15 There's no way of knowing.

16 Q Doctor, at the hospital during the course of
17 treatment of this particular person on the night of July 31,
18 August 1, what, if any, indication was there, based on your
19 review of the medical records, as to whether or not there was
20 a CT scan done?

21 A I don't recall that there was a CT scan done at
22 that time.

23 Q It's a fact, is it not, Doctor, in the emergency

1 room situation, a person coming in, in a condition such as
2 this, it's probably not likely that the hemorrhage or
3 hematoma inside the brain would be discovered absent a CT
4 scan; is that a correct statement, sir, based on your
5 experience?

6 A No. Not exactly. It can be diagnosed, but
7 certainly the easiest and quickest way is with a CT scan.

8 Q The testimony went to the effect as to swelling of
9 the brain, Doctor, in a general sense, an individual -- in a
10 general question for you, sir, an individual who may suffer a
11 blunt force trauma to the top of the head or the front of the
12 head, is it unusual, sir, to have the resulting damage to the
13 brain done at the opposite side of the back of the head? Is
14 that unusual, sir?

15 A It depends upon the type of blunt force trauma. If
16 the blunt force trauma is the result of a fall, then quite
17 typically, the injury to the brain is opposite to the point
18 of impact. That's called contrecoup. If it's the result --
19 by contrast, if the blunt force injury is a blow and if there
20 is damage to the brain, then the injury to the brain is
21 typically on the same side or underneath where the blow was.

22 If you're thinking that the right eye is the point
23 of blunt force trauma and that the injury occurred on the

1 left side, that's really not helpful, because a subdural
2 hematoma by itself can occur anywhere with respect to the
3 point of impact. We're talking about two different things.
4 A subdural blood clot is different from a bruise to the
5 brain.

6 Q Yes, sir.

7 A A bruise to the brain will often help you determine
8 whether it's a blow or a fall and where the point of impact
9 was. Subdurals, you can't do that. They can occur anywhere.

10 Q So that it's reasonable to expect or possible that
11 if there was a blunt force trauma to the right eye, the
12 hemorrhage or hematoma can be in the back of the head?

13 A It can be anywhere.

14 Q Yes, sir. You indicated, I believe, during the
15 course of direct examination, that there was an indication of
16 brain swelling; is that what you said? Or there is not?

17 A No. I think there is not good evidence of brain
18 swelling.

19 Q And that's based on your analysis or examination as
20 to the weight of the brain?

21 A Well, it's a lot of things. It's the weight of the
22 brain, the presence of the Chiari malformation, the
23 description of the brain in the autopsy report. All of those

1 things leads me to believe that there was not brain swelling.

2 Q Well, Doctor, would brain swelling be a cause or a
3 potential cause of a hematoma or a hemorrhage?

4 A No. It usually happens the other way around. The
5 hemorrhage or hematoma causes the brain swelling.

6 Q Well, you know there was a hematoma; do you not?

7 A Yes.

8 Q And, in fact, wasn't the brain swelling --

9 A They don't all cause brain swelling.

10 Q I'm sorry?

11 A But not all hematomas cause brain swelling. If
12 that were not true, then you wouldn't see people walking
13 around with subdural hematomas that are weeks or months old.

14 Q What was the weight of the brain, to the best of
15 your knowledge, after the incident -- at the point of
16 autopsy?

17 A At autopsy, I think the brain weighed eleven ninety
18 grams, which is about six pounds.

19 Q And what did it weigh before, sir?

20 A Before what?

21 Q The injury. Before the hematoma.

22 A The only weight we can know of is the weight at
23 autopsy.

1 Q So you don't know what it weighed before?

2 A There's no way to know that.

3 Q So you don't know what the difference in the weight
4 was between before or after; is that what you're saying?

5 A Well, the fact is that the brain was normal in
6 weight. And brain swelling typically causes a heavy brain, a
7 brain that has an increased weight.

8 Q Doctor, given the condition of this victim, given
9 the testimony that you've already offered to this Court,
10 considering her medical condition, sir, which includes -- I'm
11 asking you to consider, sir, the presence that you've
12 testified to of drugs, alcohol, and the clotting problem that
13 she had with her blood, sir, is it reasonable to expect that
14 if, in fact, this clot occurred twelve hours before death,
15 that it would have been a developing clot over that period of
16 twelve hours and the continuous developing clot, sir?

17 A It could happen either way. There's no way to
18 predict which way it happened in this case. The only way to
19 predict or to know if that happened would be to have on the
20 slides blood clots of different ages. And we don't have
21 that. All of the blood clot that we have was examined
22 microscopically; is of the same, older age.

23 If we had something else, if we had blood clot that

1 was fresher, then it would be quite reasonable to say that
2 she had both old and fresh blood clot, and that therefore,
3 the bleeding was ongoing. But we don't have that.

4 Q Can you state with any degree of medical certainty
5 as to the slides that you've examined here that are included
6 as D six one, two, four, and five, and to how much of the
7 four ounces or how much of the blood clot on the brain that
8 represents?

9 A A very small amount. A tiny sample.

10 Q Would it be a fair statement to say, sir, that that
11 medical information along with the other medical information
12 in this case is a true indicator of exactly what was going on
13 inside that brain before death as to the period and the time
14 period that that clot was developing, sir?

15 A It depends on how you do it. You use your eyeball
16 to sample adequately. And so if you see a blood clot every
17 bit of which looks the same, then you take random samples
18 that you hope represent the entire blood clot, because it's
19 absolutely impossible to examine the whole thing. You would
20 never get done. It would be prohibitively expensive.

21 If you find a blood clot that has a variegated
22 appearance that looks different here from there, then it
23 behooves you using your naked eye to sample both areas to be

1 sure that you can see on slides everything that is in that
2 blood clot.

3 And so I have to assume, and I am assuming, that
4 one or the other was done. Either that the blood clot looked
5 the same and was sampled accordingly, or it didn't look the
6 same and was sampled accordingly. In other words, I have to
7 assume, and I am assuming, that the trained observation led
8 to the adequate sampling of the blood clot which then, in
9 turn, led to a correct diagnosis.

10 Q So it's possible, Doctor, that your opinion based
11 on the location of where a sample was taken within the
12 hemorrhage itself might not conflict at all with the autopsy
13 report when they indicate they found sections of intact red
14 blood cells?

15 A No. That's not what I said.

16 Q Sir, I'm asking you a question based on what you
17 just said. If you take a sample from the blood clot from a
18 different area --

19 MR. C. ANDERSON: I object, Your Honor. The
20 question assumes facts not in evidence. And the prosecutor
21 seems to have a misimpression that Dr. Adams had different
22 slide samples that he was working with than Dr. Field. He
23 doesn't seem to understand that these are duplicates.

1 They're exactly the same.

2 MR. ANDERSON: He hasn't testified to that,
3 Your Honor. He said they were samples provided to him that
4 he did an analysis of.

5 THE WITNESS: I said several times that they
6 were duplicates.

7 BY MR. ANDERSON: (resumed)

8 Q It's possible -- let me ask you a question another
9 way then. If you took a sample from this hemorrhage from
10 another area, based on your experience and expertise, it's
11 possible that you would find intact red blood cells; isn't
12 that a fact, sir?

13 A It's certainly possible. As I said, I'm assuming
14 that the blood clot was sampled correctly, adequately, and
15 properly, and that therefore, the resulting diagnosis
16 established microscopically is correct.

17 Q So that based on that assumption, there is
18 absolutely no other explanation other than you have a
19 difference of opinion than with the person that prepared the
20 autopsy report?

21 A That's absolutely correct. I saw the same thing
22 that the person who authored the autopsy report saw. And
23 what we have here is a difference of opinion as to the

1 witness?

2 MR. C. ANDERSON: Susan Lupino.

3 THE COURT: Who?

4 MR. C. ANDERSON: Susan Lupino.

5 THE COURT: Susan Lupino. Have a seat and
6 answer the questions the lawyers may have for you.

7 All right.

8 Whereupon,

9 SUSAN LUPINO,

10 a witness, was called for examination by counsel for the
11 Defendant, and after having been first duly sworn, was
12 examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MR. C. ANDERSON:

15 Q Ma'am, would you state your name for the record,
16 and spell your last name?

17 A Susan Lupino, L-u-p-i-n-o.

18 Q Did you know the deceased in this case, Sandra
19 Laing?

20 A Yes.

21 Q And how did you know her?

22 A She lived with me for about four years.

23 Q Was that during what time period?

1 A From the end of '89 until about a year and a half
2 or two years ago.

3 Q Could you speak up? When she lived with you, did
4 you ever observe -- describe for the jury how she got around
5 as far as walking?

6 A She didn't do very well unless she actually was
7 looking at her feet because her motor skills were so poor.
8 So if she didn't look down, sometimes she didn't know where
9 she was going to go.

10 Q And what happened to her as a result of that
11 problem?

12 A She fell a lot, and she had a lot of bruises on her
13 shins and her legs. She tripped over the curbs a lot going
14 to the grocery store and things like that. It was hard for
15 her to do those things.

16 Q Did she ever trip in your house?

17 A Uh-huh.

18 MR. C. ANDERSON: I have no other questions
19 for this witness.

20 THE COURT: Questions?

21 MR. STROM: No. Thank you, Judge.

22 THE COURT: May she go?

23 MR. C. ANDERSON: Yes, Your Honor.

1 THE COURT: Thank you very much for your
2 testimony. Do not discuss your testimony with anyone until
3 the case is over.

4 Who would be your next witness?

5 MR. C. ANDERSON: Matthew Field.

6 THE COURT: Matthew Field. Have a seat.
7 Answer the questions the lawyers may have for you, sir.

8 Whereupon,

9 MATTHEW RYAN FIELD,
10 a witness, was called for examination by counsel for the
11 Defendant, and after having been first duly sworn, was
12 examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MR. C. ANDERSON:

15 Q Would you state your name for the record, sir?

16 A Matthew Ryan Field.

17 Q Mr. Field, did you know Sandra Laing?

18 A Yes. I did.

19 Q How long did you know her?

20 A Approximately four or five years.

21 Q And in the recent past, how did you -- what
22 relationship did you have with her?

23 A We were just good friends. Our, you know, birthday

1 fell on the same day so we just became good friends on
2 something like that.

3 Q Was she ever present in your house?

4 A Yeah. She used to come and clean my house quite
5 frequently.

6 Q And did you ever have a chance to observe her
7 equilibrium?

8 A Yes. She --

9 MR. STROM: Judge, I'm going to object as to
10 the time frame here. Ever, I think, is a little broad.

11 THE COURT: All right.

12 MR. C. ANDERSON: In the last couple years.

13 BY MR. C. ANDERSON: (resumed)

14 Q Did you see her on any kind of regular basis during
15 the last few years?

16 A Yeah. I saw her quite frequently.

17 Q What do you mean by quite frequently?

18 A Well, I usually saw her a couple times a week, and
19 her and Alan used to come to my house on Sundays and watch
20 the NASCAR race.

21 Q During those times that you saw her, did you have
22 an opportunity to observe her equilibrium?

23 A Yes. I did.

1 Q And could you describe it to the jury?

2 A Quite a few times when I seen her, she was having a
3 hard time walking.

4 Q When you say she was having a hard time walking,
5 what do you mean by that?

6 A Well, she always -- she had a cane with her a lot
7 of times, and she would -- she just, you know, every once --
8 she'd teeter back and forth, have to grab a hold of
9 something, you know, sit down; get halfway somewhere and have
10 to sit down.

11 Q Did she ever fall?

12 A Yeah. She did fall.

13 Q And were they hard falls?

14 A Sometimes; yeah. I witnessed her fall a few times,
15 and a couple times they were pretty hard.

16 Q Did --

17 THE COURT: Wait just a second. If anyone
18 wants to make any comments out in the spectators, you're
19 going to be excused from this courtroom, and you're not going
20 to come back.

21 Go ahead.

22 BY MR. C. ANDERSON: (resumed)

23 Q Did you have occasion to speak with her on July 31?

1 A Yes. I did.

2 MR. STROM: Excuse me. I assume we're talking
3 1995?

4 MR. C. ANDERSON: 1995. Sorry, Judge.

5 THE COURT: Go ahead.

6 BY MR. C. ANDERSON: (resumed)

7 Q July 31, 1995?

8 A Yes. I did.

9 Q And what was the purpose of that -- did you call
10 her, or did she call you?

11 A She called me.

12 Q And what was the purpose of her making that
13 telephone call to you?

14 A She was supposed to come clean my house, and she
15 couldn't make it.

16 Q And why couldn't she make it?

17 A She was -- she told me she was extremely ill.

18 Q The -- did you speak with her on the phone?

19 A Yes. I did.

20 Q Okay. And how did she sound?

21 A She was -- she sounded sick, but kind of
22 incoherent.

23 Q And approximately what time on July 31 was that, if

1 you remember?

2 A About nine o'clock.

3 Q And was that nine o'clock in the morning or nine
4 o'clock in the evening?

5 A Nine o'clock in the evening.

6 Q Did -- in that conversation with you, did she
7 characterize how ill she felt?

8 A Yes. She did.

9 Q What did she tell you?

10 A She said that she felt pretty ill. She told me --
11 she said she felt like she was going to die.

12 MR. C. ANDERSON: No further questions of this
13 witness.

14 THE COURT: Questions?

15 CROSS EXAMINATION

16 BY MR. STROM:

17 Q Did she tell you that she had been to the doctor?

18 A No. She didn't.

19 Q Did she tell you she had the flu?

20 A No. She said that she was ill but she had never
21 been that sick before.

22 Q You said you knew her for four or five years. She
23 had a variety of physical problems; didn't she?

1 A Yes. She did.

2 Q And she was ill a lot of the time; wasn't she?

3 A Yes. She was.

4 Q So for her to call and say that she was sick and
5 she didn't feel well really was not unusual; was it?

6 A This time when she called, yes, it was unusual.

7 Q To say that she was sick?

8 A Yeah. To say that she was sick and she had never
9 been that sick before. She called to apologize for not
10 cleaning my house.

11 Q And that was unusual that she couldn't come and
12 clean your house?

13 A Well, it was -- yeah. It was.

14 Q Okay. Did she tell you that she was taking any
15 medication?

16 A No. I was aware of medication that she did take on
17 a regular basis.

18 Q She told you she was sick, but she didn't tell you
19 what she had or what she had done about it or anything about
20 her sickness, just that she was sick?

21 A Yeah. She told me that she was sick, and that
22 she --

23 Q And how badly she felt?

1 A And how badly she felt.

2 MR. STROM: That's all.

3 THE COURT: Questions?

4 REDIRECT EXAMINATION

5 BY MR. C. ANDERSON:

6 Q You said you were aware of the medication that she
7 took on a regular basis. What medication was that that you
8 were aware of?

9 A I know she was taking Somas.

10 Q Somas?

11 A Yes.

12 Q Do you know how many Somas she took?

13 A Quite a few. I also know that she usually had
14 Valium that she took quite a bit.

15 MR. C. ANDERSON: I have no other questions of
16 this witness.

17 THE COURT: Questions?

18 RECROSS EXAMINATION

19 BY MR. STROM:

20 Q What about Penicillin?

21 A Not that I know of.

22 Q Or Erythromycin?

23 A Not that I know of.

1 MR. STROM: That's all.

2 THE COURT: Further questions?

3 MR. C. ANDERSON: No, Judge.

4 THE COURT: Thank you very much. You may go
5 or stay as you like. Do not discuss your testimony with
6 anyone until the case is over.

7 Who is your next witness?

8 MR. C. ANDERSON: Gina Howard.

9 THE COURT: Gina Howard. Have a seat.

10 Whereupon,

11 GINA HOWARD,

12 a witness, was called for examination by counsel for the
13 Defendant, and after having been first duly sworn, was
14 examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MR. C. ANDERSON:

17 Q Could you give your name for the record, ma'am?

18 A Gina Howard.

19 Q Ms. Howard, did you know Sandra Laing?

20 A I did.

21 Q And how long had you known her?

22 A About five years.

23 Q In the last couple of months of her life, about how

1 frequently did you see her?

2 A On a weekly basis.

3 MR. STROM: I'm sorry. I can't --

4 THE WITNESS: On a weekly basis.

5 BY MR. C. ANDERSON: (resumed)

6 Q Drawing your attention to July 30, 1995, did you
7 see her on that day?

8 A I did.

9 Q And where do you see her at?

10 A It was her birthday, and we went over there to see
11 her. I went up to her bedroom, and she was just getting able
12 to sit up. I had to help her sit up on her bed. She didn't
13 look very good. She had been sick. She was saying she was
14 in a lot of pain. She had been having headaches. She just
15 didn't -- she wasn't herself. She was really in a lot of
16 pain, and she was sick.

17 Q To your knowledge, did she have any trouble
18 walking?

19 A She did.

20 Q And how did the trouble show itself?

21 A She held out her hands a lot when she walked. She
22 stumbled. I've seen her walk into walls. I've seen her walk
23 into counters. I've seen her fall once or twice.

1 Q In the five years that you've known her, was her
2 condition getting better or worse?

3 A Worse.

4 MR. C. ANDERSON: I have no other questions
5 for this witness.

6 THE COURT: Questions?

7 CROSS EXAMINATION

8 BY MR. STROM:

9 Q What time were you at her house?

10 A It was late morning; sometime in the afternoon.

11 Q Well --

12 A I don't know specifically. It was in the afternoon
13 time.

14 Q Was it after four o'clock?

15 A Well, we were there for several hours. I don't
16 know specifically.

17 Q Did she talk about going to the doctor?

18 A That day?

19 Q Yes.

20 A No.

21 Q Did you offer to take her to the doctor?

22 A No. She didn't really want to do anything. She
23 just was laying in her room, and that's all pretty much that

1 she wanted to do. She was really down. She didn't really
2 have anything positive to say that day except for, you know,
3 it was her birthday. Alan had given her a card and gave her
4 \$20.. And that's the only positive thing she really had to
5 say that day. She wasn't feeling good. And she definitely
6 did not look good that day.

7 Q And you were there a couple of hours; is that what
8 you said?

9 A We were there several hours.

10 Q You say we. Who was with you?

11 A Me, my husband, and my two children.

12 Q What's your husband's name?

13 A Garrett Howard.

14 Q Garrett?

15 A Uh-huh.

16 MR. STROM: That's all.

17 THE COURT: Questions?

18 MR. C. ANDERSON: No, Judge.

19 THE COURT: Thank you very much. You may go
20 or stay as you like. Do not discuss your testimony with
21 anyone until the case is over.

22 Who is your next witness?

23 MR. C. ANDERSON: Garrett Howard.

1 THE COURT: Garrett Howard.

2 MR. STROM: Judge, if this is going to be
3 cumulative --

4 MR. C. ANDERSON: It's not going to be
5 cumulative, Judge.

6 THE COURT: All right. Have a seat.

7 Whereupon,

8 GARRETT JOSEPH HOWARD,
9 a witness, was called for examination by counsel for the
10 Defendant, and after having been first duly sworn, was
11 examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MR. C. ANDERSON:

14 Q State your name for the record, sir.

15 A Garrett Joseph Howard.

16 Q Was that your wife, Gina, that just testified?

17 A Yes, sir.

18 Q Did you know Sandra Laing?

19 A Yes, sir.

20 Q Approximately how long did you know her?

21 A Since about 1988, '89.

22 Q The --

23 MR. C. ANDERSON: Could I have that chair?

1 BY MR. C. ANDERSON: (resumed)

2 Q Do you know what this is?

3 A I'm assuming it's the chair.

4 Q Take a look at it. Is this a chair that you're
5 familiar with?

6 A I can't really see it, but --

7 THE COURT: Go ahead. You can take the paper
8 off.

9 BY MR. C. ANDERSON: (resumed)

10 Q You can take it apart and look at it.

11 A (The witness complied). Yeah. That's the chair
12 that sat in Sandra's room.

13 Q When is the last time you saw this chair?

14 A About -- I guess on the Sunday we come over there
15 and went upstairs to see if Sandra liked to go to a concert
16 with us. We were going to see the Allman Brothers at the
17 Nissan Pavilion. And she said that she didn't feel well
18 enough to go. And the chair was sitting over in the corner,
19 and I went to sit in it, and she told me don't sit there
20 because it was just propped together.

21 Q What did she mean by that?

22 A That it --

23 MR. STROM: Objection, Judge. He doesn't know

1 what she meant.

2 THE COURT: Sustained. Rephrase your
3 question.

4 BY MR. C. ANDERSON: (resumed)

5 Q Did she tell you anything else about the chair?

6 A She told me that somebody sat in it a day or two
7 prior, and the chair just collapsed because it wasn't fixed
8 together.

9 Q The -- did Sandra Laing have a nickname?

10 A She had I mean Sandy.

11 Q Any other name that you used, maybe not with her,
12 but about her?

13 A In a joking sort of way, I called her Tumbleweed
14 from time to time.

15 Q Why did you call her Tumbleweed?

16 A Because on, you know, several occasions, she was
17 known to have problems getting around where she would lose
18 her sense of balance.

19 Q Did you ever see her lose her sense of balance?

20 A On several occasions.

21 Q What happened?

22 A She'd just -- sometimes it seemed like her legs
23 would just go out from underneath her.

1 Q What happened when her legs went out from
2 underneath her?

3 A She would fall down or fall up against a wall or
4 onto a piece of furniture or something.

5 Q Did she break the fall?

6 A No. She generally went straight down, and then she
7 would get back up.

8 Q The -- you were -- drawing your attention to July
9 30, 1995 --

10 A Yes.

11 Q -- were you at her house that day?

12 A Yes. I was. It was Sandra's birthday.

13 Q How did she look?

14 A She didn't look well. She felt -- she said -- like
15 I said, she didn't want to get up out of the bed because she
16 didn't feel well. Me and my wife went upstairs to say happy
17 birthday to her, and she really -- she wasn't doing well at
18 all. And my kids actually, they didn't want to go in her
19 room because Sandra just -- she wasn't doing well.

20 The only positive thing she had to say was, you
21 know, Alan had given her a card, and she was just going to go
22 ahead and rest. We wanted to take her to the concert, but we
23 didn't realize that she wasn't feeling well.

1 Q Do you have any knowledge about her use of drugs?

2 A Yeah. Yes. I do.

3 Q What is that?

4 A She used prescription drugs regularly. Through all
5 the medical problems that she had had, there's -- you know,
6 doctors would, for some reason or another, continue to let
7 her have prescriptions for narcotic drugs. And I'm sure that
8 she was addicted to them.

9 MR. STROM: Objection to that, Judge. There's
10 no way he could have that knowledge.

11 THE COURT: That will be stricken.

12 BY MR. C. ANDERSON: (resumed)

13 Q Did you have an experience with her regarding
14 prescription drugs with -- close to the time she died?

15 A Yeah. It was two weeks prior to that, I came over
16 and asked Alan, you know, where Sandra was. And he said that
17 she was upstairs. And I went upstairs to say hi, and she was
18 laying in bed. And she was laying back in a position where,
19 you know, she wasn't sleeping. It was like she just fell
20 back sitting down there.

21 And there was a bottle of Hydrocodeine that was
22 dated that day for a prescription that had twenty-eight pills
23 were prescribed, and there were only three pills remaining in

1 the bottle. And I took the bottle and gave it to Alan and
2 told him to put it up so she could couldn't eat the rest of
3 them.

4 Q Did you have any other knowledge about her use of
5 drugs, legal or illegal?

6 A I just know that she was on those pills ever since
7 I knew her, and would go out of her way to go to the doctor
8 and get the pills.

9 Q When you say she would go out of her way, how would
10 she go about getting these pills from doctors; do you know?

11 A She would go in. She had so many various medical
12 problems in the past, that she could go to any number of
13 doctors in the area and go in, and for some reason or
14 another, they would just keep prescribing drugs to her.

15 I know she was involved one time with my sister
16 and --

17 MR. STROM: Judge, I don't think that the
18 question goes on and on and on. I think he should respond to
19 the questions.

20 THE COURT: Ask another specific question.

21 BY MR. C. ANDERSON: (resumed)

22 Q Do you know of any problems she got in with the law
23 because of her use of prescription drugs?

1 A I know that she was under investigation at one
2 point in time because there was --

3 MR. STROM: Judge, I'm going to object to
4 that; under investigation.

5 THE COURT: Sustained.

6 MR. C. ANDERSON: Can we approach the
7 side-bar?

8 THE COURT: All right.

9 (Whereupon, the following was held at the
10 side-bar:)

11 MR. C. ANDERSON: She was convicted in this
12 Court, I believe, of fraudulent use of doctors'
13 prescriptions. I think Mr. Strom was the prosecutor. She
14 was represented by the public defender's office at that
15 time. This Court has those records. She was violated on
16 probation on several occasions because of misuse of drugs
17 related to that conviction. So I think that the testimony
18 he's going to give is reliable information.

19 THE COURT: How is it relevant to this case?

20 MR. C. ANDERSON: Well, part of our theory of
21 the case is that her death was a combination -- was also
22 involved in the ingestion of more drugs than you would take
23 for a therapeutic purpose.

1 was not actually assigned the case, but I supervised the
2 aspects of the case.

3 Q Drawing your attention to the early morning hours
4 of August 1, were you involved in the case -- August 1 of
5 1995, were you involved in the case at that time?

6 A Yes, sir. I was.

7 Q And as part of your involvement in that case, did
8 you examine the hands of William Alan Presley?

9 A Not specifically; no, sir.

10 Q Did you look at his hands?

11 A Not that I noted or can recall.

12 Q Did -- as part of your investigation in this case,
13 did you interrogate Mr. William Rossbach?

14 A I interviewed Mr. Rossbach.

15 Q Okay. If -- and do you recall in that interview,
16 Mr. Rossbach telling you about a fall that Sandra Laing took
17 late in the evening of July 31 that resulted in a bloody nose
18 to her sometime around midnight?

19 A He did indicate that there was a bloody nose, some
20 blood on the nose that night. I would have to refer to my
21 notes as if there was a specific fall.

22 Q Do you recall him telling you he had heard a thump,
23 and he went out into the hall, and she was in the hall, and

1 she --

2 MR. ANDERSON: Your Honor, I object. He's
3 leading the witness. This is his witness, Your Honor.

4 THE COURT: All right.

5 BY MR. C. ANDERSON: (resumed)

6 Q Do you have any recollection of that specific
7 conversation with Mr. Rossbach?

8 A Yes, sir. I do.

9 Q The -- do you recall any conversations you had with
10 Mr. Presley on August 1?

11 A Yes, sir. I do.

12 Q And do you recall -- did you ask him what happened
13 to Sandra Laing?

14 A The conversations I had with Mr. Presley were
15 pertaining to whether he wanted to speak with us freely or
16 not, which was never really determined. So we never did an
17 actual interview with him.

18 Q But you, in fact, had a non-interview with him for
19 approximately how long?

20 A Probably ten to fifteen minutes.

21 Q And during that non-interview, he talked to you;
22 right?

23 A Yes, sir.

1 refreshes his recollection now?

2 THE COURT: Does that refresh your
3 recollection?

4 THE WITNESS: Yes, sir. It does.

5 THE COURT: Bring the jury in.

6 The record will reflect that the officer reviewed
7 the tapes in open court out of the presence of the jury.

8 (Whereupon, the jury entered the courtroom at 4:15
9 p.m.)

10 THE COURT: Have a seat.

11 All right. Mr. Anderson

12 BY MR. C. ANDERSON: (resumed)

13 Q Officer Buckman, do you recollect that conversation
14 that you had with Mr. Presley on the early morning hours of
15 August 1 now?

16 A Yes, sir. I do.

17 Q And could you tell us what he told you?

18 A The interview started out with us trying to
19 Mirandize Mr. Presley. Most of the interview focused on
20 whether he understood that and wished to make any statement
21 or raise any questions to us.

22 Q I'm not asking what you told him. I'm asking you
23 if you can tell us what he told you?

1 A He told us initially that he did not understand
2 what happened to her. That he thought she may have killed
3 herself. He went on to say that she did take medication, was
4 taking two hundred or so a month. That she had recently
5 fallen and broken her shoulder. There was many questions
6 from him to us as far as whether he should make a statement
7 or have an attorney and such.

8 Q Did the police ever follow through as part of your
9 investigation of this case whether or not Sandra Laing was
10 suffering from depression or was suicidal in any way? Was
11 that part of your investigation?

12 A Investigator Canham handled the investigation. I
13 did not follow up on that. Investigator Canham followed up
14 on that.

15 Q So to your knowledge, that was not part of the
16 investigation? You had no knowledge of that?

17 A Not personally; no.

18 Q The -- do you recollect now the incident where he
19 showed you his hands?

20 A No, sir. I do not.

21 MR. C. ANDERSON: I have no further questions
22 for this witness.

23 THE COURT: All right. Questions?

CROSS EXAMINATION

BY MR. ANDERSON:

Q Captain Buckman; is that right, sir?

A Yes, sir.

Q Captain Buckman, do you recall, sir, when the meeting took place, time-period-wise, the time of the day on August 1?

A Yes, sir. It was about 6:30 in the morning approximately.

Q And where did it take place, sir?

A At the criminal investigations division interview room.

Q And if I can, sir, were you at the scene at all on the 31st?

A No.

Q At the crime scene?

A No, sir.

Q So this would have, in fact, been the first time you talked to the Defendant in this case, Mr. Presley; is that right?

A Yes, sir.

Q And the first thing you did, sir, was -- the first thing you did was you Mirandized him; is that right, sir?

1 A Yes.

2 Q And you explained to him his right to an attorney?

3 A Yes, sir.

4 Q And would you recite for the jury, please,
5 specifically what it is that you say when you Mirandize a
6 person, sir?

7 A I read it off a Miranda form that we have. I do
8 not have a copy of it.

9 Q You told him he had a right to an attorney?

10 A Yes, sir. I did.

11 Q And you told him that anything he said could and
12 would be used against him in Court possibly?

13 A Yes, sir. I did.

14 Q And you told him he didn't have to talk to you?

15 A Yes, sir. I did.

16 Q And it was that point in time that he indicated to
17 you, Captain Buckman, that he didn't understand what happened
18 to her?

19 A Yes, sir.

20 Q And he said to you, sir, that -- specifically, that
21 she killed herself; is that what he said to you?

22 A I believe it was something to the extent of, "She
23 must have killed herself."

1 Q He said she must have killed herself?

2 A Or, "I thought she killed herself."

3 Q And he also told you, sir, that she had fallen and
4 broken a shoulder?

5 A On a previous occasion, not that --

6 Q Did he give you -- I'm sorry. Did he give you the
7 date of when she fell and broke her shoulder, sir?

8 A No. He did not.

9 Q Did he make any statements to you, sir, as to
10 whether or not he, in fact, touched her the evening prior to
11 your interview?

12 A Not that I can recall.

13 Q Captain Buckman, did he tell you at that time, sir,
14 that she was suicidal?

15 A No, sir. I don't believe so.

16 MR. ANDERSON: That's all I have.

17 THE COURT: Further questions?

18 MR. C. ANDERSON: No more questions, Judge.

19 THE COURT: May he go?

20 MR. C. ANDERSON: Yes, Your Honor.

21 THE COURT: Thank you very much. You're free
22 to go. Do not discuss your testimony with anyone until the
23 case is over.

C O N T E N T S (cont'd)

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PROCEEDINGS

(Whereupon, the court reporter was sworn.)

THE COURT: Good morning. Who would be your next witness?

MR. C. ANDERSON: Doctor John Lossing.

THE COURT: Dr. Lossing. Have a seat, sir.

Whereupon,

DR. JOHN HAROLD LOSSING,
a witness, was called for examination by counsel for the Defendant, and after having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. C. ANDERSON:

Q Doctor, could you state your name for the record, and spell your last name for the court reporter please?

A John Harold Lossing, L-o-s-s-i-n-g.

Q Dr. Lossing, what kind of a doctor are you? What is your speciality?

A I'm a board certified neurologist.

Q And how long have you been involved in the practice of medicine and neurology?

A Twenty-five years.

Q Could you please tell the jury about your training

1 in the field of neurology?

2 A Yes, sir. I trained medical school at the
3 University of Michigan. I was an intern at the University of
4 Minnesota. I returned to University of Michigan for three
5 years of neurology residency. And subsequent to service in
6 the Navy, I then had a two-year fellowship at the National
7 Institution of Health, where I studied brain injury, brain
8 swelling, and brain edema, and stroke.

9 Q And what are your -- what professional duties did
10 you assume after completing your medical education?

11 A I was the neurologist for the Great Lakes Naval
12 Base, which is north of Chicago, and south of Waukegan.

13 Q And if you could just run through what you've done
14 as a doctor, where you worked, that type of thing?

15 A Subsequent to my training at the National
16 Institution of Health, I was the supervisor of the neurology
17 clinic and epilepsy clinic, and electroencephalographer for
18 Georgetown University Hospital. And subsequent to that, I
19 entered private practice of neurology.

20 And subsequent to 1981 besides being active in
21 private practice in neurology, I was on the part-time staff
22 of the George Washington University, where I supervised the
23 neurology clinics and the hospital service of neurology for

1 about ten years on and off in very part-time capacities as
2 necessary.

3 Q And where do you -- do you hold any positions at
4 any hospital presently?

5 A I'm Associate Professor of Neurology at George
6 Washington University, and Assistant Professor of Neurology
7 at Georgetown University, and the Chief of Neurology section
8 at Sibley Memorial Hospital, Washington, D.C.

9 Q The -- do you have any special experience regarding
10 spinal cord anatomy or brain stem anatomy or anything like
11 that?

12 A Yes, sir.

13 Q And what is that?

14 A All neurologists have extensive training in
15 neuroanatomy and neuropathology necessary to satisfy board
16 requirements to become certified in neurology. Besides that
17 which is formal training, I've had twenty-five years of
18 experience figuring patients out with varying lesions,
19 stroke, brain injury, and spinal cord injury. It's called
20 the practice of medicine.

21 Q Have you ever been certified as an expert witness
22 in any court in the United States?

23 A Yes, sir.

1 Q On more than one occasion?

2 A Yes, sir.

3 MR. C. ANDERSON: I would move that Dr.
4 Lossing be qualified as an expert witness.

5 MR. ANDERSON: Not objected to.

6 THE COURT: So qualified.

7 BY MR. C. ANDERSON: (resumed)

8 Q Doctor, is that an accurate copy of your C.V?

9 A It does happen to be missing two pages, which are
10 just the lectures I've given in the year 1995 and 1996.

11 Q But it's up-to-date to '94?

12 A It is. Yes, sir.

13 Q Okay.

14 MR. C. ANDERSON: I'd like this marked as
15 defense exhibit six or seven, and placed into evidence.

16 THE COURT: Any objection?

17 MR. ANDERSON: Your Honor, if I might have a
18 minute?

19 (Whereupon, counsel conferred privately.)

20 THE COURT: Seven.

21 MR. ANDERSON: Your Honor, I'm not going to
22 object to its admissibility. This is Defendant's seven; is
23 that correct, sir?

1 THE COURT: Seven, without objection. All
2 right.

3 (Whereupon, Defendant's Exhibit No. 7 was marked
4 for identification and received in evidence.)

5 BY MR. C. ANDERSON: (resumed)

6 Q Dr. Lossing, what documents, testimony, x-rays,
7 medical records, et cetera, did you review to prepare for
8 your testimony here today?

9 A I received from your office a package of medical
10 records about two and a half inches thick.

11 Q And who were those medical records of?

12 A The decedent.

13 Q Did you review anything else?

14 A Yes. Part of the records that I received, besides
15 personal medical records of the decedent, included
16 transcripts of some hearings and things like that.

17 MR. ANDERSON: Your Honor, for purposes of
18 identification, if he could identify the decedent.

19 BY MR. C. ANDERSON: (resumed)

20 Q Are we talking about Sandra Laing here today,
21 Doctor?

22 A Yes, sir.

23 Q Thank you. Did -- did you also see an autopsy

1 report in this case?

2 A Yes, sir.

3 Q Did you see the emergency medical records for the
4 last hour or two of the deceased's death?

5 A I did.

6 Q At Loudoun County Memorial Hospital?

7 A (Responded in the affirmative.)

8 Q Based on your review of -- did you also see
9 photographs of the decedent?

10 A I did. Yes, sir.

11 Q Based on your review of all those records and
12 documents -- by the way, whenever I ask you a question,
13 Doctor, I'm going to assume that if you answer, that means
14 you have a reasonable degree of medical certainty about your
15 answer. I don't want you to guess.

16 A Yes, sir.

17 Q Could you explain to the jury why Sandra Laing
18 died?

19 A Yes, sir. It's my opinion that this lady died
20 because of suffocation. The doctors in the emergency room
21 were unable to successfully intubate her, and the complicated
22 intubation resulted in cessation of the ability to provide
23 air to the lady's lungs, witnessed by the fact that she had

1 the subcutaneous emphysema, which means the blowing up like a
2 balloon of tissues around the neck and chest, and the lungs
3 could not be expanded. She couldn't breathe.

4 Q Why was the -- if you have an opinion, why was the
5 intubation unsuccessful? Isn't that a fairly normal practice
6 at an emergency room?

7 A Yes, sir.

8 Q Why was it unsuccessful in this case, in your
9 opinion?

10 A That was part of the mystery of this case as to why
11 experienced doctors in the hospital emergency room were
12 unable to successfully intubate this woman. By intubate,
13 that means putting a tube --

14 MR. ANDERSON: Your Honor, if I might, sir.
15 For purposes of this witness' testimony, he is qualified as
16 an expert, as I recall, in neurology. He is now testifying
17 as to something out of his field of expertise, and I am
18 objecting to what it is that he has to offer that is outside
19 his field of expertise.

20 MR. C. ANDERSON: He's a medical doctor.

21 THE COURT: Overruled.

22 THE WITNESS: I've intubated plenty of people
23 in my life.

1 BY MR. C. ANDERSON: (resumed)

2 Q Go ahead.

3 A Especially babies.

4 THE COURT: You might have the doctor vouch
5 for the record in terms of that. I've overruled the
6 objection.

7 MR. C. ANDERSON: Okay.

8 BY MR. C. ANDERSON: (resumed)

9 Q Doctor, are you familiar with the intubation
10 procedure?

11 A Yes, sir.

12 Q And have you performed it yourself?

13 A I have.

14 Q Go on.

15 A To intubate, what it really means is to put a tube
16 down the patient's windpipe, trachea. And it can be very
17 difficult, and it takes a lot of practice. Surely, the
18 doctors in the emergency room were experienced doing that
19 because they may do it every day. Why was this patient more
20 difficult? The answer to that is that the patient had
21 congenital birth defect of the cervical spine. And I could
22 explain that.

23 Q Did you have a visual aid that would make it easier

1 for you to explain this to the jury, Doctor?

2 A It would help me a lot.

3 Q If you could bring that visual aid out, sir?

4 THE COURT: Yes, sir.

5 THE WITNESS: I have a bag here.

6 THE COURT: Doctor, if it would be more
7 comfortable for you to go down and stand in front of the
8 jury.

9 THE WITNESS: Thank you. I don't necessarily
10 have to do that yet.

11 THE COURT: All right.

12 BY MR. C. ANDERSON: (resumed)

13 Q It would make it easier for them to see, Doctor.

14 (Whereupon, the witness exited the witness stand.)

15 THE WITNESS: This I want to explain. This is
16 a skull. The brain is inside. The skull is connected to the
17 neck bones that would keep the bodies of the cervical spine
18 this way (indicating). And this is another model, which
19 shows the back part of the skull.

20 In order to intubate a person -- let's use this
21 guy. In order to intubate a person, in order to expose the
22 vocal cords -- you want to see the vocal cords because when
23 you see the vocal cords that look like that (indicating), you

1 stick the tube through there. And to intubate a person, you
2 stick something called a blade with the flashlight on it, and
3 you want to see the vocal cords.

4 And the way you do it. This man has a short neck.
5 In order to do it, you pull the head way back like this
6 (indicating). Say ah. And then you hook this blade down in
7 there and pull up, pushing the chin way forward. We need
8 somebody with a longer neck. He has a longer neck. I can't
9 do that to a juror. But you have to bend the head way back.

10 In order to hyperextend the neck, it helps to have
11 a long neck. If you have a short neck, it becomes
12 technically more difficult. A giraffe, easy to do. A
13 football player would be harder to do. This man has a short
14 neck. It would be hard to do. This patient was very, very
15 difficult to do.

16 BY MR. C. ANDERSON: (resumed)

17 Q Why was that, Doctor?

18 A And the reason was she had a birth defect of the
19 cervical spine and the skull. There are seven vertebral
20 bodies in the cervical spine. This patient did not have
21 seven. She really only had five. Because the top two had
22 not formed when she was being developed before she was born.
23 So she's down to five. The top one was tied to the skull.

1 And the bottom two were fused to the T-1 and T-2, which is
2 the thoracic spine.

3 So not only did she have a short neck anatomically,
4 but also missing two vertebral bodies here (indicating).
5 These were fused. It doesn't go. And instead of this type
6 of a hyperextension convenient for intubation, the fusion of
7 the spine and the shortness of the spine, it really couldn't
8 be brought back. Therefore, the first emergency room doctor
9 virtually had to intubate blind, hoping to see. Couldn't
10 see. Stick that tube in. Missed. Missed. Missed. Because
11 it's really hard to do.

12 If you could intubate people blind, they would do
13 it in ambulances. But they don't, because it's dangerous,
14 because you miss and you can make a hole for air to go down,
15 subcutaneous emphysema. Therefore, they call the
16 anesthesiologist.

17 Q Why would they call the anesthesiologist?

18 A Because these guys do the intubation of patients
19 twenty times a day, and they have -- they're better at it.
20 And, in fact, the anesthesiologist had some trouble,
21 according to the records. But eventually, he said he thought
22 he saw the vocal cords and was able to intubate her.

23 And we know that he was able to intubate her

1 because -- the anesthesiologist was able to intubate her
2 because eventually, they did hear breath sound. But it was
3 too late because the patient suffered a pneumothorax.

4 What a pneumothorax is, is the air gets to pumping
5 outside the lungs, and the lungs -- her lungs are blown up by
6 a vacuum (indicating). And when the air gets outside the
7 lungs, they're compressed. The lungs are just like plastic
8 bags. And they tried to treat that by sticking enormous
9 hypodermic needles, fourteen gauge needles, to get the air
10 out. That was unsuccessful, and she like -- it was
11 impossible to expand the lungs. It's too bad.

12 (Whereupon, the witness returned to the witness
13 stand.)

14 BY MR. C. ANDERSON: (resumed)

15 Q Why did the doctors try to intubate her in the
16 first place?

17 A They were concerned about her inability to continue
18 breathing on her own. They felt that it was necessary to
19 intubate her to support her respirations.

20 Q Why did they think that?

21 A I -- apparently, she appeared to be having trouble
22 breathing.

23 Q Why do you think she was having trouble breathing?

1 A It's my opinion that she was having trouble
2 breathing because of excess dose of sedative drug medications
3 which she had ingested.

4 Q And what role -- when you say sedative drugs, what
5 are you talking about?

6 A Well, alcohol is the best one I know. It sure
7 does, you know, cause a certain amount of sedation. She was
8 also taking Amitriptyline, and her blood level of
9 Amitriptyline was sky high. And also, she was taking
10 Valium. An individual can have respiration stopped with
11 Valium alone on overdose.

12 Q Is there any significance to the fact that she was
13 taking Valium, Amitriptyline, and alcohol together?

14 A Yes, sir.

15 Q And what is the significance of that?

16 A These drugs potentiate. They interact with each
17 other. And it's a dangerous cocktail.

18 Q What role do you think the alcohol and
19 Amitriptyline and Valium played in her death?

20 MR. ANDERSON: Judge, I'm going to ask for a
21 foundation to be placed as to this question. He's asking
22 what he thinks the result was. I believe the proper
23 foundation should be laid as to the basis of the opinion that

1 he's about to give.

2 BY MR. C. ANDERSON: (resumed)

3 Q Doctor, as part of your testimony here, did you do
4 any research on the effects of drugs and what were
5 therapeutic levels, toxic levels, lethal levels?

6 A I checked the therapeutic range to refresh my
7 memory, and Amitriptyline does.

8 Q And was the Amitriptyline level in Susan [sic]
9 Laing's body in the therapeutic range?

10 A No, sir. It was too high. It was higher than
11 therapeutic.

12 Q The -- what happens if you have too high a level of
13 -- what kind of impact, if you know, of having too high a
14 level of Amitriptyline, Valium, and alcohol in your system?

15 A Well, the -- among varying symptoms, the patient
16 can be sleeping. The patient can be stuporous, which means
17 hard to wake up. Or the patient can be comatosed, depending
18 on the patient. And the higher dose of Amitriptyline,
19 eventually some dose of Amitriptyline, can actually stop the
20 heart by cardiac arrhythmia. And some dose of alcohol and
21 also some dose of Valium can stop respirations. The patient
22 sort of forgets to breathe.

23 Q Forgets to breathe?

1 A Virtually, the respiratory drive is suppressed so
2 much that they just don't breathe. Alcohol alone can make
3 people stop breathing. I've seen it.

4 Q Now, Doctor, you know that this --

5 A In the Navy, I've seen it.

6 Q Doctor, you know that this woman had a subdural
7 hematoma; don't you?

8 A I do.

9 Q And did that cause her death, in your opinion?

10 A In my opinion, the subdural hematoma caused the
11 following symptoms: I'm sure that it caused headache,
12 because a typical symptom of subdural hematoma is headache,
13 and it's likely to cause a severe headache. It's likely that
14 the headache led the patient to increase the doses of
15 medicines like Amitriptyline, which is an anti-pain
16 medicine. She was given Amitriptyline for other pains
17 related to motor reflexes anyway. It's likely that the
18 headache led to that.

19 With regard to the physiological effect of the
20 subdural hematoma, it is possible a subdural hematoma of the
21 size described in the autopsy could cause mental confusion.
22 It happens that the subdural hematoma was not in the right
23 location to cause the patient to be weak or paralyzed on one

1 side or the other. Although, the patient might have had some
2 visual symptoms since it was an occipital part.

3 May I use my model?

4 Q Is there a visual aid?

5 A Subdural hematoma was on the back part of the
6 brain, and the back part of the brain is the visual part of
7 the brain. The patient might have had some visual symptoms
8 almost like a migraine. And also over the sensory part of
9 the brain, this part of the brain (indicating), which could
10 have caused numbness or tingling.

11 Q Is that the part of the brain that controls
12 breathing?

13 A No, sir. So those are symptoms that it's likely to
14 have caused if someone had asked her at the time, subdural.
15 Beyond a certain size, the subdural hematoma can cause
16 stupor, and beyond a certain size, it can cause coma.

17 Q Is a subdural hematoma necessarily a fatal problem?

18 A It's usually not a fatal problem.

19 Q The -- why is that? What happens to it?

20 A It's usually not a fatal problem for different
21 reasons. The first reason is the subdural hematoma enlarge
22 slowly over days. And the reason is that a subdural hematoma
23 is due to bleeding from veins.

1 MR. ANDERSON: I'm going to object to the
2 generalization. If he has any conclusions that he's formed
3 based on the analysis of this case, I believe it's different
4 from what he's testifying to as to generalities that have
5 nothing to do with this case, Your Honor.

6 THE COURT: Overruled.

7 BY MR. C. ANDERSON: (resumed)

8 Q You may continue.

9 A Subdural hematomas usually grow slowly at low
10 pressure because they come from venous bleeding. They
11 usually are not fatal. Not that they can't eventually be
12 fatal in an undeveloped country maybe.

13 But they're usually not fatal because they produce
14 symptoms that will bring the patient to the doctor, such
15 headache, such a numbness, tingling, visual symptoms, larger
16 unsteadiness, sleepiness, confusion. They usually come to
17 diagnosis and treatment. And the treatment of such a
18 hematoma is quite simple, which involves drilling a small
19 hole in the skull, and the blood is drained out, and the
20 patient usually makes it to the recovery room.

21 Q Weren't there some medical findings in this case
22 that indicated that there was --

23 MR. ANDERSON: He's leading his witness, Your

1 Honor.

2 BY MR. C. ANDERSON: (resumed)

3 Q What significance, if any, do you give to the
4 autopsy report, I believe the exact -- just one second; I'm
5 sorry -- the exact words were compression of the left
6 'reital' -- parietal and occipital lobes, left uncal
7 grooving, and perivascular brain stem hemorrhages. Sounds
8 pretty bad to me. Isn't that what killed her?

9 A I don't think that -- I'll say again the thing that
10 killed her is that she couldn't breathe because of
11 pneumothorax. But did those things make her sick? Or more
12 specifically, did those things which you just described lead
13 to severe respiratory suppression such that it required
14 intubation of the patient? And I don't think that those
15 things did prove that the subdural caused those things.

16 I'm inclined to think that there was insufficient
17 evidence with regard to those descriptions you mentioned to
18 say that subdural hematoma stopped her breathing.

19 The reason I say that, not to be excessively
20 scientific or anatomic, but the descriptions of the things
21 you just mentioned, those words, were not the -- the
22 collection of anatomic findings put together with a medical
23 record. That is to stay, the physical exam findings in the

1 emergency room, which prove that the patient had enough
2 pressure from the subdural hematoma to compress the brain
3 stem to stop respirations.

4 The other thing I just have to say is that the
5 description that I read of the autopsy, that is the words and
6 the preliminary hearing, were confused in a way, which led me
7 to think that the pathologist had confused the cerebral
8 tonsils -- correction -- cerebella tonsils, with the cerebral
9 uncus. And they're just totally different anatomic
10 structures.

11 Q Could you show us what those cerebral tonsils are
12 and the uncus are? Do you have a visual aid that could show
13 that to the jury? Would this drawing help you?

14 A That drawing is not accurate in such a way -- I
15 could correct that drawing.

16 Q Go ahead and correct the drawing.

17 A But I want to show -- the model is a little easier.

18 (Whereupon, the witness exited the witness stand.)

19 THE COURT: Have the doctor use a different
20 color ink, if you have one, if he's going to correct that.
21 Because that is an exhibit in the case. Doctor, what color
22 ink do you have?

23 THE WITNESS: Blue.

1 THE COURT: Blue. All right.

2 BY MR. C. ANDERSON: (resumed)

3 Q What is this, Doctor?

4 A That's the spinal cord. The -- this is sort of
5 like moving Texas over west of California is what's happened
6 here. The brain stem is more down that way (indicating).
7 The cerebellum is more in the middle. That's kind of hard to
8 -- I can't correct that without ripping up the paper. But I
9 will show in the model. Skull.

10 Q Why don't you do it in the middle so all the jurors
11 can see it, Doctor?

12 A This is the cerebrum. This is the uncus, which is
13 the part of the temporal lobe of the brain; the uncus. And
14 the uncus -- and this is the cerebellum (indicating), which
15 is the motor part of the brain. The cerebrum is like on the
16 first floor.

17 THE JURY: We can't see that.

18 THE WITNESS: I'm going to show it. The
19 cerebrum is like the first floor of the skull. The
20 cerebellum --

21 BY MR. C. ANDERSON: (resumed)

22 Q Let me hold the skull for you, Doctor.

23 A Thank you. Thanks, Mr. Anderson.

1 Q Can everybody see it?

2 A Let's put it back together. Take that out.

3 There's just the empty skull. Okay. Now, let's put the
4 brain stem in. Now, let's put the cerebellum. These are the
5 cerebellar tonsils, they're called. Put that cerebellum in.
6 This is the foramen magnum, which on that picture says F.M.

7 Now, stick the brain stem up through there. That's
8 the brain stem. To make a person stop breathing, there has
9 to be destruction of the diencephalon, which is that part of
10 the brain stem. This is the cerebellum. Stick that up
11 there. That goes in like that. Then that's the basement.
12 The foramen magnum is the brain in your basement. Where
13 these structures are is the basement of the -- of the head.

14 Then there's something that goes in like that,
15 that's not a piece of Kleenex. It is called a tentorium
16 cerebra. And it is a firm, like leather, ligament. That is
17 like the first floor between the upstairs and the basement.
18 And then on top of this leather ligament, there's a hole in
19 it where you've got to have a hole for the brain stem to be
20 connected to the cerebrum. So there we put together -- back
21 together the brain and the skull.

22 The -- it's hard to draw a picture of this. But it
23 just happens that the uncus that was talked about, uncal

1 grooving in the left side -- the uncus, as you see, is
2 upstairs. And the grooving occurs where the uncus normally
3 is lying on top of that Kleenex. And if there's pushing from
4 this side that way (indicating), subdural is here. It will
5 make that uncus sort of slide over (indicating), fall down
6 through the hole in the leather. And then the brain is like
7 Jello. It's almost like a pudding, mushy.

8 And then you see that groove. It's just a plastic
9 model. There's a groove, if you take it out, if it has
10 fallen down in there. Where this all is going is the uncal
11 grooving is not a sign -- anatomic sign of brain death.
12 Uncal grooving is not an anatomic sign of irreversible --
13 can't breathe anymore.

14 In this case, the reason I'm sure that there was
15 not even enough pressure here to get into diencephalic
16 destruction --

17 Q What is that?

18 A Diencephalon is this next structure down. When you
19 got to diencephalic destruction, that's where patients can't
20 wake up again. So there's not enough pressure to cause
21 diencephalic destruction, because the patient never had
22 unilateral pupillary dilatation.

23 Q What does that mean?

1 A Because -- it's a little complicated. It's the
2 engineering of the brain. So you see on the bottom, the --
3 there's a yellow nerve, which is the third cranial nerve
4 right there (indicating). There's the uncus. If the uncus
5 gets 'squished' over by a subdural far enough, it will pinch
6 that nature and cause -- that's the left eye -- it will pinch
7 that nerve and cause the pupil to dilate. The patient never
8 had that. She never had that.

9 However, what if she did? If the pupil dilated on
10 one side, it would have produced a totally different reaction
11 in the emergency room, because instead of emergency calling
12 an anesthesiologist -- they called him anyway -- they would
13 have called a brain surgeon. Because when somebody comes in
14 with one pupil dilated, that is a sign to turn on the alarm
15 signal like the volunteer fire department, the siren, for the
16 brain surgeon to come in and drill a hole in the brain, in
17 the skull.

18 What if she had pupillary dilatation on this side
19 only? What if they called a brain surgeon? What if he was
20 unsuccessful? Destruction of the diencephalon, which is the
21 top part of the brain stem, which is -- would be -- this is
22 -- the brain stem is not a round ball. The brain stem is a
23 long thing, like a hot dog.

1 See, to redraw that, I do that down there. There's
2 the cerebellum. There's the brain stem; this lumpy, bumpy
3 thing like the model. This part -- destruction of that top
4 part, the patient would never awake again, like Karen Ann
5 Quinland (phonetic). But remember, Karen Ann Quinland
6 breathed for seven years on her own, because to kill a
7 patient with top to bottom pressure, you have to kill the
8 bottom part of the brain, which is the medulla oblongata.

9 And if the patient did not ever get to the point of
10 pressure even to kill the diencephalon, let alone to destroy
11 down in the bottom of the basement -- where that little red
12 thing is; the medulla oblongata -- if the patient -- if you
13 shoot somebody -- if you want to commit suicide, you would
14 shoot back there because you shoot right through your medulla
15 oblongata. You would never breathe again.

16 Q Thank you, Doctor. Very helpful.

17 A But the point is that the pressure was not -- was
18 not down there. It was up there (indicating).

19 Now, the other thing that is -- I'm sure that has
20 confused the analysis of this case by the pathologist is the
21 patient had an anatomic birth defect. An anatomic birth
22 defect, that she just happened to have, she had the
23 Arnold-Chiari malformation, which is referred to as the

1 Chiari malformation. And what that is, is the cerebellum --
2 put it back in -- if cerebellum is there, this skull is not
3 like the skull of a patient with Chiari malformation, let
4 alone someone who has Chiari malformation who has had surgery
5 to protect them from their malformation.

6 The Chiari malformation means that these things are
7 displaced downward so that -- that's the spinal cord you
8 see. The brain stem is not hanging out of the skull in this
9 man. And Chiari malformation, the brain stem is hanging out,
10 the medulla oblongata is hanging out, and also, the tonsils
11 of the cerebellum, which is the bottom part, are hanging
12 out.

13 Q When you say hanging out, does that mean they're
14 not in the skull?

15 A There they are (indicating). The tonsils are
16 hanging out of the cerebellum. And the patient did have
17 brain surgery, because that was discovered previously. And
18 the foramen magnum, which is the brain, was opened; not to be
19 pushed on the tonsils. Because if you push on those tonsils,
20 you have unsteady walking, because the cerebellum is the
21 motor part of the brain.

22 Well, we know the patient was an unsteady walker.
23 She was in accidents and was unsteady, and even her nickname

1 was Tumbleweed, because she was falling down all the time.
2 That falling down was not from the alcohol. It was from the
3 Chiari malformation.

4 So in reviewing the report, the pathologist
5 reported that the part of the brain next to the spinal cord,
6 which is down through the foramen magnum, quote, the hole at
7 the bottom of the skull -- the uncus, she said -- but the
8 uncus never -- the uncus never gets down there. The uncus
9 never gets down there because it's almost two inches away.
10 And there's something there. There's something in the way
11 there because of the cerebellum.

12 What she meant to say is that the cerebellum
13 tonsils were down where the spinal cord goes out of the skull
14 in the foramen magnum. But the reason it was down was
15 because in May, in 1995 when she had an MRI scan, wide awake
16 and alive --

17 Q What's an MRI scan?

18 A An MRI scan is like a CT scan. It's a scan of the
19 brain. It showed that her tonsils were down. And I guess
20 she must have seen that there was grooving of the cerebella
21 tonsils. And I think there was a little confusion that -- I
22 just have to say that this is complicated neuroanatomy, and I
23 compliment you to try to understand it because there are

1 doctors or neurologists who are a little foggy on this,
2 because I examine them before they take their boards, and
3 some of them don't quite understand.

4 Now -- well, the reason it's hard to understand,
5 it's hard to understand with a two dimensional picture. But
6 with models, you get the picture. Did that answer your
7 question?

8 Q Yes, Doctor. Thank you.

9 (Whereupon, the witness returned to the witness
10 stand.)

11 THE WITNESS: So in summarizing, I don't think
12 that the subdural caused the pressure to affect
13 respirations. It was the drug overdose.

14 BY MR. C. ANDERSON: (resumed)

15 Q Doctor, do you think if somebody got hit in the
16 face, that would cause a subdural?

17 A No, sir.

18 Q How about if they got punched in the face? Would
19 that normally cause a subdural?

20 A No, sir.

21 Q Why do you believe that?

22 A There are two explanations why a punch in the face,
23 punch in the jaw, punch in the nose, punch in the eye, things

1 like that, would not normally cause a subdural hematoma.
2 Experimentally, there's a -- an experimental organization
3 that studies this all the time called boxing. And as an
4 example, the best study is the New York State Boxing
5 Commission that's been keeping records on fights for about
6 fifty years.

7 The New York State Boxing Commission studied, in a
8 paper I reviewed, three hundred and twenty-five knockouts in
9 the ring. These are men knocked out. Of the three hundred
10 and twenty-five knockouts in the ring, only ten wound up in
11 the hospital. We're talking about professional fighters,
12 real hitters.

13 And so sort of experimentally, apparently, a real
14 fighter can't hit somebody hard enough, and I think they try
15 as hard as they can, to cause a subdural hematoma. Ten out
16 of three hundred and twenty-five knockouts cause emergency
17 room visits, hospitalization, but those were not death.
18 Those were not subdural hematomas. Those were a variety of
19 things; broken noses and so on, broken jaws.

20 I conclude from the boxing analysis that it's
21 almost impossible, even as an expert board certified
22 professional fighter, to cause a subdural hematoma with a
23 punch. Now, that's experimental.

1 Q Doctor, these boxers are wearing gloves. Doesn't
2 that affect their ability to cause a subdural hematoma?
3 Isn't that why they wear gloves? So they won't cause
4 subdural hematomas?

5 A I have to disagree with you. My understanding of
6 the boxing sport and gloves is that the objective of the
7 gloves is to reduce lacerations from sharp, bony fists, which
8 cause a bloody fight; blood all over the spectators. The
9 problem with gloves is that they're not all that padded.
10 They may prevent some of the lacerations from the sharp
11 bones, but, if anything, gloves may increase injury because
12 besides the weight of the hand and fist and arm, there's also
13 the weight of the gloves. And the gloves weigh a certain
14 amount.

15 So the problem -- the gloves do not particularly --
16 not only do the gloves not particularly protect the head from
17 the acceleration, the brain from the acceleration, but the
18 larger issue is that once you hit the guy, then he falls back
19 and hits his head on the mat, which is the other part in the
20 miracle that you don't get more subdurals in professional
21 boxing.

22 Q From the punch, or the fall and hitting the head on
23 the mat?

1 A Both. Particularly, the fall. Those gloves are
2 not -- I mean if you really want to protect the head in
3 boxing, you wear a helmet. For some reason, they don't pay
4 to see people boxing in helmets.

5 Q The --

6 A That's the experimental explanation. But there's
7 an anatomic explanation.

8 Q Give me the anatomic explanation, in layman's
9 terms, if you can.

10 A Okay. The -- what the brain is like -- as I say,
11 the brain is very soft. It's like -- it's not quite like
12 Jello. It's not quite like pudding. But it's very soft.
13 It's nothing like muscle. It's very soft. You could rip it
14 apart if you wanted to, and it's 'bendy' and wiggly. So if
15 you think about the brain inside the skull, it's like Jello
16 inside a can. And be -- but it's a hard can, like a
17 canister.

18 The thing that causes subdural hematoma is that the
19 blood vessels -- which you see blood vessels on the surface
20 of the brain -- vein -- the blood vessels on the surface of
21 the brain will rip when you send a pressure wave through the
22 brain to distort the brain.

23 Now, the question is how to send a pressure wave

1 sufficiently to the brain to get the brain to slosh around.
2 It happens. It's obvious from boxing that a punch
3 (indicating), doesn't do it. Because it doesn't accelerate
4 the brain inside the skull. It may hurt the skull a little.
5 But then the guy will go back, but if you watch boxers, they
6 do a little bit of that, like a whiplash in a car sort of,
7 but they're not all that much.

8 The way you really have to do it, the good way to
9 do it to get a subdural hematoma, let's get the brain really
10 going and the skull really going altogether (indicating).
11 The skull stops. The brain keeps going. Whap. And that's
12 the thing that rips veins. In other words, a forward fall or
13 a backward fall. And that's why you better wear your seat
14 belts, because you don't want to be in the back seat of your
15 car and wind up in the front seat. The car stops. When you
16 stop, your skull stops, and your brain keeps going. Smack.
17 And that's where you get the ripping.

18 To put it in other terms, I was trying to figure
19 out how to explain this. Think about Halloween, and you buy
20 a fresh pumpkin. And you take your fist and you try to punch
21 through that pumpkin. Well, I don't think anybody can punch
22 through a fresh pumpkin. Then take that same fresh pumpkin,
23 drop it five feet. You're likely to fracture that pumpkin,

1 because the punch doesn't do it. But once you get that
2 pumpkin going, when it stops, it 'smooshes'.

3 Now, if you really want to fracture that pumpkin,
4 let's have a human being attached to the pumpkin. Head,
5 shoulders, thorax. So when you're going forward -- let's
6 imagine I'm the pumpkin man, I've got a pumpkin head, and I
7 go forward, I weigh a hundred and seventy pounds, hit that
8 pumpkin with the weight of the body behind it, back to the
9 brain. Skull stops. Brain keeps going.

10 That is sufficient injury in the way of a forward
11 or backward fall or sideways fall to cause the smacking or
12 sloshing of the jellylike brain with the blood vessels
13 attached, to rip those blood vessels. And that's why your
14 type of injuries will cause the subdural hematomas; in the
15 car accidents, somebody hitting the dash board, the ice
16 skater, or worst of all is a person who is intoxicated or
17 ataxic for some other reason.

18 If I fall -- I mean I almost tripped getting out to
19 the jury box. If I fall, I would catch myself. I'm always
20 falling over our Golden Retriever.

21 MR. ANDERSON: Judge, I'm going to object to
22 any further testimony along these lines. It's purely
23 speculative.

1 THE COURT: Overruled. He's testified to a
2 reasonable degree of medical certainty.

3 MR. ANDERSON: I think he's going beyond his
4 reasonable degree of medical certainty. That's my objection.

5 THE COURT: All right. Well, you can
6 cross-examine him.

7 THE WITNESS: I'm certain that if I trip over
8 my dog, I'll catch myself. I won't hit my head on the
9 floor. I'll catch myself. I might sprain my wrist, but I'll
10 catch myself. But if I have lost -- if a person loses his
11 catching reflexes because of intoxication, which means
12 alcohol, which means Amitriptyline and Valium, et cetera,
13 those people don't catch themselves. And this is why
14 alcoholics have an injury of subdural hematomas. And, in
15 fact, my professor of neurology at the University of Michigan
16 died from a subdural hematoma and alcoholism just that way.

17 BY MR. C. ANDERSON: (resumed)

18 Q Thank you, Doctor.

19 MR. C. ANDERSON: No further questions.

20 THE COURT: All right. Before you begin your
21 cross-examination, let me see --

22 (Whereupon, a brief discussion was held off the
23 record.)

1 A If you would like to switch from a hypothetical to
2 a specific, I would be happy to answer it.

3 Q I'm asking you to answer that question, Doctor.

4 A I think that in varying circumstances, that a
5 person of any size hitting another person of any size could,
6 on an occasion, perhaps a rare occasion, cause a subdural
7 hematoma or even knock their head right off.

8 Q Well, Doctor, depending on the size of the
9 individual, it's possible, as you said, as I understand your
10 testimony --

11 A Especially, if the recipient was a child.

12 Q -- depending on the force of the blow, could knock
13 the head right off; isn't that correct?

14 A Yes.

15 Q So if the force of the blow could knock the head
16 right off, the force of the blow could cause a hematoma or a
17 hemorrhage; isn't that right?

18 A It would be a possibility.

19 Q Doctor, have you ever worked as an emergency room
20 physician?

21 A I have.

22 Q And when did you do that, sir?

23 A I worked in the emergency room at the Havana County

1 Nortriptyline, and -- I'm sorry -- the Erythromycin?

2 A Well --

3 Q The presence of -- if I might, sir. The presence
4 of those substances in the body, along with alcohol, it's
5 your opinion caused the respiratory arrest; is that correct,
6 sir?

7 A No, sir.

8 Q Then let me ask you this question, if I might.

9 A But -- because you said Erythromycin, which is an
10 antibiotic, which has nothing to do with it. But correcting,
11 not to leave any misconception, the cause of her respiratory
12 arrest was alcohol, Amitriptyline, Nortriptyline, and
13 Nordiazepam.

14 Q Yes, sir.

15 A That's why she was having trouble breathing or
16 stopping breathing. But not Erythromycin, which is an
17 antibiotic.

18 Q I understand. Thank you. Thank you for correcting
19 me. But let me understand something as well. The
20 Amitriptyline, Nortriptyline, and Nordiazepam in the presence
21 -- their presence in her body, along with the alcohol, would
22 have caused her death regardless of any other condition that
23 she had; is that your testimony?

1 A Only by cessation of respirations.

2 Q So she would have experienced --

3 A They're not like cyanide or anything like that.
4 But if somebody stops breathing, they don't survive.

5 Q Yes, sir. Doctor, so if I understand your
6 testimony, that cause of death or that proximate causation
7 had nothing to do with the hemorrhage in the brain; is that
8 correct, sir?

9 A What do you mean by proximate? It's a legal thing.

10 Q Well, let me put the question to you this way.

11 A I think she stopped breathing and had trouble
12 breathing. I think she had trouble breathing and stopped
13 breathing because of the drugs. And I think that she had a
14 nasty headache from the subdural, and it can cause confusion
15 or stupor, maybe even leading to her accidentally overdosing
16 herself on pain medicine.

17 I think everything is connected. It's a real
18 patient with real problems. But I do not think that the
19 subdural hematoma because of absent physical signs and
20 anatomic signs stopped her breathing.

21 Q Let me ask you this, Doctor. If, in fact, the
22 hematoma were big enough, there is a possibility with a
23 reasonable degree of medical certainty based on your

1 whether or not this was or was not within the therapeutic
2 range, what, if any, basis do you have in making that
3 statement, sir?

4 A The therapeutic range of the additive. The amount
5 of Amitriptyline and Nortriptyline is between eighty and two
6 hundred and fifty nanograms percent, which converting to the
7 units of this lab would be between point eight and one point
8 five zero milligrams per liter. And she is -- the additive
9 of this -- what I -- two point five zero. And adding this
10 together is three point five, which is almost a hundred
11 milligrams per liter more than the maximum therapeutic range
12 of two point five.

13 And the thing about therapeutic range, an awful lot
14 of people that tap into the therapeutic range can't tolerate
15 the drug at all. So it's a theoretical range, but not
16 necessarily a practical range.

17 Q Are you taking the -- reading, sir, from the liver
18 reading or the heart blood?

19 A Heart blood.

20 Q If I ask you, sir, to drop down to the liver
21 reading --

22 A Yes.

23 Q -- if you add the -- and the reason I'm somewhat

1 confused is because the heart blood readings are in
2 milligrams per liter, sir; is that right?

3 A They are.

4 Q And the liver readings are for milligrams per
5 kilogram; is that right?

6 A Yes.

7 Q And the same question to you, sir, in analyzing the
8 milligrams per kilogram --

9 MR. C. ANDERSON: Judge, I'm going to object
10 to this form of questioning. We have not qualified him as an
11 expert in toxicology. We had a toxicologist here. We got to
12 question the toxicologist as long as he wanted. We're not
13 saying -- I'm sure if he can get fifteen or twenty questions
14 in, they'll probably find something that this doctor doesn't
15 know about toxicology, but it's not -- you know, he's here to
16 talk about the brain, not about chemicals.

17 THE COURT: I'll overrule the objection. Go
18 ahead.

19 BY MR. ANDERSON: (resumed)

20 Q Doctor, if I can, sir, the liver readings are in
21 milligrams per kilogram; is that right?

22 A They are.

23 Q So the same question to you, sir, would be that if

1 take another break, and you call your office and find out
2 where the messenger --

3 MR. C. ANDERSON: I might also be able to find
4 out what they say.

5 THE COURT: Might.

6 (Whereupon, the proceedings continued in open
7 court, as follows:)

8 THE COURT: Ladies and gentlemen, I'm going to
9 have to tell you you're going to have to go back to the jury
10 room again, if you would, please. Go back to the jury room.

11 (Whereupon, the following continued at the
12 side-bar:)

13 MR. C. ANDERSON: Could I use the phone back
14 there?

15 THE COURT: As soon as the jury is back in the
16 jury room.

17 MR. C. ANDERSON: Thank you, Judge.

18 THE COURT: We'll be in recess.

19 (Whereupon, a recess was taken at 11:02 a.m. After
20 which, the proceedings continued at 11:37 a.m., as
21 follows:)

22 MR. C. ANDERSON: Judge, we got the
23 messengered stuff from the National Capitol Poison Control

1 Center. The -- what the document shows is that -- I have a
2 discovery problem. What the document shows is that on 11:03
3 [sic], somebody identifying herself as Sandra Laing called
4 them and said that they had taken -- that someone had taken
5 Nortriptyline, twenty-five milligrams, forty of them in a few
6 minutes. That the caller states that a friend just took
7 this; asked if it was a problem. They answered it was
8 potentially toxic, and recommended they need to call 911;
9 offered to make the call for that person. Sandra Laing said
10 the friend needed E.R. ASAP.

11 Then approximately five minutes later, the patient
12 or friend called back asking if this was a toxic amount,
13 recommended needed E.R. Recommendation is above.

14 Then on August 1, 2:28, approximately three hours
15 later, it says patient in route to E.R., unresponsive [sic],
16 E.R. nurse calling, some medical terminology. And it says
17 3:15, the E.R. nurse, D.R.N, called back, said the patient
18 took Soma compound, asked if this is A.S.A. I was too busy
19 -- they were too busy for more information.

20 Then at 4:27, they called back and told them that
21 she had died. But the thing that's of interest to me is that
22 it indicates that on August 1, 1995, at 12:59 in the
23 afternoon, Captain Jeff Brown with the Loudoun County C.I.D.

1 called regarding this case. After discussion with T.L. in
2 receipt of the attached fax, which a copy is here, I reviewed
3 the information from the chart with him. He explained that,
4 if necessary, the record might be subpoenaed.

5 The attached fax is a fax bearing the County of
6 Loudoun, Office of the Sheriff, gives their address. It's a
7 form. It's to the Poison Control Center. It's from Captain
8 Brown at Criminal Investigation Division, and it says, "I
9 would like to discuss a phone call your office received from
10 9744 [sic] Smith Circle around eleven p.m. on July 31. This
11 call would have involved -- the something -- Sandra Laing,
12 who is now deceased." There's a date, time stamp on this
13 fax. August 1, 1995. Tuesday, 12:12.

14 The prosecutors have said that this is the first
15 time they were aware of this. This is the first time I'm
16 aware of this. I want to call Captain Brown as a witness. I
17 believe this should have been provided to me in discovery as
18 exculpatory evidence. And I also believe it's admissible
19 under my theory of the case, which is that the police
20 continuously ignored evidence.

21 THE COURT: So what is your motion? It is
22 obviously exculpatory. I don't think anyone who sat and
23 listened to the testimony could reasonably conclude

1 otherwise.

2 MR. C. ANDERSON: Move for a mistrial.

3 THE COURT: Do you want to be heard?

4 MR. ANDERSON: Can I just have a moment?

5 THE COURT: Yes, sir.

6 (Whereupon, counsel conferred privately.)

7 MR. ANDERSON: Judge, the Commonwealth's
8 position in this case is that there is a cure at this point
9 in time. Mr. Anderson is making a suggestion to the Court.
10 I understand your position, Judge, that this is potentially
11 or is, in fact, exculpatory. But the cure in this case, I
12 believe, could be granted by this Court for a brief recess so
13 that Mr. Anderson can subpoena or secure the presence of
14 Captain -- former Captain Brown for him to be here to testify
15 in this case, Your Honor. I believe a mistrial is not called
16 for in this case because of the fact that there is a
17 potential cure.

18 THE COURT: Well, at this point in time, Mr.
19 Anderson has had no opportunity to explore with all of his
20 experts the contents of this document, which is relevant as
21 to cause of death, among other things.

22 MR. ANDERSON: Judge, he's put experts on the
23 stand that have indicated that a drug overdose was not, in

1 fact, the cause of death. That may be contradicted by some
2 of the other experts he's placed on the stand, but he's got
3 experts on the stand that have not indicated -- in fact, have
4 indicated to the contrary, that a drug overdose was not the
5 cause of death. That it was a subdural hematoma in this
6 case.

7 THE COURT: He's put on experts who have
8 testified both ways. Both ways.

9 MR. ANDERSON: I believe there's a cure, Your
10 Honor.

11 THE COURT: To call Mr. Brown?

12 MR. ANDERSON: I'm sorry?

13 THE COURT: To call Mr. Brown in this case?

14 MR. ANDERSON: To call and give him the
15 opportunity to call Mr. Brown as a witness and ask him --
16 give him the opportunity to address with his experts, and
17 possibly give him the opportunity to recall his experts, in
18 light of the discovered evidence that he has right now that
19 was not available to the Commonwealth.

20 MR. C. ANDERSON: I don't believe my experts
21 are available. They're in D.C. They're in Baltimore.
22 They're in -- I don't know where. It's very expensive to get
23 them, even if I could. These are busy people. They should

1 have had the opportunity to consider this when they were
2 forming their opinions.

3 THE COURT: Well, there's another problem too
4 is that he doesn't have the opportunity to cross-examine your
5 expert. She's already testified.

6 MR. ANDERSON: Judge, I believe that certainly
7 the Court can cure that problem in giving him the opportunity
8 to reopen cross-examination of the Commonwealth's experts in
9 this case, whichever expert he decides that he wants to
10 recross or cross-examine, as a result of this information.

11 THE COURT: Can you offer an explanation as to
12 why this record wasn't produced?

13 MR. ANDERSON: All I can tell you, Judge, is
14 that since January 1, there have been letters that have gone
15 out to the sheriff's department in every one of the criminal
16 cases that are tried in this courtroom indicating the
17 importance of this particular -- just this type of a
18 situation. And those are -- that is standard procedure
19 within this office.

20 I cannot speak as to what happened before January 1
21 of 1996, but I can tell you, Judge, that it's my firm belief
22 that this is a curable situation.

23 THE COURT: Well, I think first we ought to

1 get Mr. Brown in here, and you have a right to examine him
2 out of the presence of the jury as to why you didn't receive
3 this report.

4 MR. C. ANDERSON: Thank you, Judge.

5 THE COURT: I think that should be made part
6 of the record in this case. Where is he? Is he around?
7 That's another question. Where is Mr. Brown?

8 MR. ANDERSON: Judge, we just saw this report
9 five minutes ago.

10 MR. C. ANDERSON: It just came in. Nobody saw
11 it, as far as I know.

12 MR. ANDERSON: We will make inquiries to get
13 Mr. Brown.

14 THE COURT: We've got to get him over here.
15 How many copies of that report do you have?

16 MR. C. ANDERSON: I just have the one.

17 THE COURT: Why don't you make a copy for Mr.
18 Anderson, since this is the first he's ever seen this, and
19 Mr. Strom. We'll make a copy of that for you. Just one.
20 Yes. A copy for both counsel.

21 Well, this is going to take some period of time?

22 MR. ANDERSON: Judge, the victim/witness
23 person has gone back to determine the status of Mr. Brown.

1 THE COURT: All right. Why don't we recess
2 until 1:15.

3 MR. ANDERSON: Very well.

4 THE COURT: Or let's see. We'll recess here
5 until quarter of one. The jury is not going to be able to
6 eat for another forty-five minutes. We'll go ahead and
7 recess until quarter of one. And then we'll go ahead and
8 take up these matters out of the presence of the jury.

9 Wait until Mr. Parr gets back here, and then we'll
10 -- so you have a copy of this report in your hand, Mr.
11 Anderson.

12 MR. ANDERSON: Yes, sir.

13 THE COURT: This is the report that I ordered
14 produced yesterday?

15 MR. C. ANDERSON: No, Judge. You ordered this
16 -- the one you ordered produced yesterday was telephone
17 records from the telephone company. This was another
18 subpoena that I -- that you also ordered but may not recall.

19 THE COURT: Yes. I remember.

20 MR. C. ANDERSON: The day before that, I
21 think.

22 THE COURT: Right. Okay. May I suggest, Mr.
23 Anderson -- did you wish to discuss this report with anyone

1 who has testified in the case?

2 MR. C. ANDERSON: I don't think I'm going to
3 be able to reach any of my experts, Judge.

4 THE COURT: All right. Did you want to
5 discuss this report with anyone who has testified in the
6 case?

7 MR. ANDERSON: No, sir.

8 THE COURT: All right. Mr. Parr, we're going
9 to go ahead and recess until 12:45. 12:45.

10 (Whereupon, a recess was taken at 11:48 a.m. After
11 which, the proceedings continued at 12:45 p.m., as
12 follows:)

13 THE COURT: All right.

14 MR. C. ANDERSON: Officer Brown.

15 THE COURT: All right.

16 MR. ANDERSON: Judge, before Officer Brown is
17 called to the stand, I would ask the Court to note the
18 following.

19 THE COURT: All right.

20 MR. ANDERSON: The transcript will reflect
21 that during the course of cross-examination of the
22 Defendant's expert witnesses, every one of them indicated
23 that they reviewed the medical records in this case, which

1 included the E.R. report from Loudoun Hospital Center. My
2 understanding of reviewing the record in this case indicates
3 that the subpoena duces tecum on these documents were
4 returnable for March 21 of 1996.

5 Contained within the narrative of those notes, Your
6 Honor, is the context of this particular transcript from
7 Poison Control with the times and the dates as reflected
8 within the medical records, which every one of the experts
9 from the defense has indicated not only that they've had but
10 they've reviewed.

11 And it's the position of the Commonwealth that they
12 have had this information for a period of time; certainly,
13 from the period of time of the return of the subpoena duces
14 tecum, which was back in March before this trial started.
15 And also, that their experts had this information, Your
16 Honor.

17 THE COURT: Let him go ahead and call Mr.
18 Brown. And then we'll take up the issue of his motion for a
19 mistrial.

20 While we're doing that, Mr. Basham, Mr.
21 Maslakowski, you're here on Rodriguez.

22 (Whereupon, a brief discussion was held off the
23 record.)

1 THE COURT: How much longer do you anticipate
2 that if this case goes forward with the trial, how much
3 longer do you anticipate this case is going to take?

4 MR. ANDERSON: We've got two rebuttal
5 witnesses, Your Honor.

6 THE COURT: How long is it going to take?

7 MR. ANDERSON: Brief. Two hours total.

8 (Whereupon, a brief discussion was held off the
9 record.)

10 THE COURT: All right. You're going to call
11 Officer Brown?

12 MR. C. ANDERSON: Yes. I thought I did,
13 Judge. I'm sorry. Officer Brown.

14 THE COURT: Have a seat.

15 All right, sir.

16 Whereupon,

17 OFFICER JEFF BROWN,
18 a witness, was called for examination by counsel for the
19 Defendant, and after having been first duly sworn, was
20 examined and testified as follows:

21 DIRECT EXAMINATION

22 BY MR. C. ANDERSON:

23 Q Officer Brown, my name is Charles Anderson. I

1 represent William Alan Presley on trial for murder here
2 today. Do you know why you've been called?

3 A Yes, sir.

4 Q Has anybody discussed -- what have they told you so
5 far?

6 A Just that there was a fax transmission sheet in
7 question. And I've just looked at the sheet.

8 Q You've looked at that sheet?

9 A Yes.

10 Q And were you able to refresh your recollection
11 about that event by looking at that sheet?

12 A Yes. I recognize the sheet as my writing.

13 Q Do you recollect the phone conversation that you
14 had with somebody at the National Capital Center --

15 THE COURT: Just so the record is complete, if
16 we could have Mr. Brown identify himself for the record and
17 the nature of his employment. And then we can move on with
18 the testimony.

19 MR. C. ANDERSON: I'm sorry, Judge.

20 BY MR. C. ANDERSON: (resumed)

21 Q Officer Brown, would you identify yourself for the
22 record?

23 A Sure my name is Jeff Brown. I'm a deputy sheriff

1 in Loudoun, and I've been with them sixteen years.

2 THE COURT: All right. Now, Mr. Anderson.

3 MR. C. ANDERSON: Yes.

4 BY MR. C. ANDERSON: (resumed)

5 Q The faxed cover sheet; is that what we've been
6 talking about?

7 A Yes, sir.

8 MR. C. ANDERSON: Could I have that marked as
9 defense's next exhibit, whatever number it is?

10 BY MR. C. ANDERSON: (resumed)

11 Q And is this a cover sheet that's you've sent to the
12 National --

13 THE COURT: Eight.

14 (Whereupon, Defendant's Exhibit No. 8 was marked
15 for identification.)

16 BY MR. C. ANDERSON: (resumed)

17 Q -- Poison Control Center?

18 A It appears to be. Yes, sir.

19 THE COURT: Are you moving eight into
20 evidence?

21 MR. C. ANDERSON: Yes, Judge.

22 THE COURT: Any objection to eight?

23 MR. ANDERSON: No objection.

1 THE COURT: All right.

2 (Whereupon, Defendant's Exhibit No. 8 was received
3 in evidence.)

4 BY MR. C. ANDERSON: (resumed)

5 Q Do you -- back in August 1 of 1995, what was your
6 position with the Loudoun County Sheriff's Office?

7 A I was in charge of criminal investigations.

8 Q The -- and specifically, what was your position --
9 what was your involvement within the Presley case or the case
10 of the death of Sandra Laing?

11 A I was, as I said, the supervisor in charge of the
12 section, and then would have -- Dave Canham worked for me at
13 that time, worked under me. It would have been my section
14 that handled the case.

15 Q Do you recollect a phone conversation that you had
16 of August 1, '95, at approximately 12:59 in the afternoon
17 with the Poison Control Center, a follow-up to the fax that
18 you sent them?

19 A I don't recollect the content of it, sir. No.

20 MR. C. ANDERSON: May I approach the witness
21 and see if I can refresh his recollection?

22 THE COURT: Yes.

23 BY MR. C. ANDERSON: (resumed)

1 Q I'm going to give you a form to look over. This is
2 from the Poison Control Center, and it's with regards to
3 phone conversations that they kept a record of with Sandra
4 Laing that took place on July 31, '95, at 23:03 and again at
5 23:08. Could you review those? That's a typed-up version.
6 Could you review that and see if that refreshes your
7 recollection?

8 A Yes. I've looked at it, sir.

9 Q Does that refresh your recollection of a telephone
10 conversation that you had with them on August 1 around almost
11 one o'clock in the afternoon?

12 A Obviously, I talked to them. I don't recall the
13 conversation, sir. But obviously, I did talk to them.

14 Q Do you recall them telling you --

15 MR. C. ANDERSON: Your Honor, for purposes of
16 this examination, could I treat him as a hostile witness and
17 use cross-examination? He's --

18 THE COURT: Try not to lead him too much. I'm
19 not sure he's hostile just yet, Mr. Anderson.

20 MR. C. ANDERSON: Okay.

21 THE COURT: Go ahead.

22 BY MR. C. ANDERSON: (resumed)

23 Q The -- do you recall someone at the National

1 Capital Poison Control Center telling you that on July 31,
2 1995, at 23:03, they had had a phone call from Sandra Laing,
3 Sandra D. Laing, and that she had reported to them that --
4 "Caller states a friend just took this. Is that a
5 problem?" Referring to Nortriptyline, twenty-five
6 milligrams, plus a Soma compound, in the amount of forty of
7 them, and that they had taken all those pills in a few
8 minutes. Do you recall that phone conversation at all?

9 A No. No, sir. I don't.

10 Q Do you recall them telling you that either Sandra
11 Laing or someone else called back five minutes later and
12 asked is this a toxic amount?

13 A No, sir.

14 Q Okay. The -- do you know if you passed this
15 information on to anyone? Who would you report it to in the
16 Loudoun --

17 A I didn't get the information, sir.

18 Q Okay. Let's talk about that. You say you didn't
19 get the information.

20 A A fax sheet is what I recall, sir.

21 MR. C. ANDERSON: Could I have defense exhibit
22 eight?

23 THE COURT: Eight.

1 BY MR. C. ANDERSON: (resumed)

2 Q Okay. Is this your handwriting at the bottom of
3 this fax sheet?

4 A Yes, sir.

5 Q Okay. And does this say -- this is sent to the
6 Poison Control Center. It's from Captain J.M. Brown. And it
7 says, "I would like to discuss a phone call your office
8 received from 19744 Smith Circle around eleven p.m. on July
9 31, '95. This call would have involved a Sandra Laing, who
10 is now deceased." You sent them that fax; right?

11 A Yes, sir. I did.

12 Q And what would be the purpose of sending them that
13 fax?

14 A My main interest was to find out whether or not the
15 proper notification was made by their office to our
16 communication center, sir.

17 Q You were just checking to see -- when you said
18 proper notification --

19 A Yes.

20 Q -- does your office have an arrangement with the
21 Poison Control Center?

22 A No. Our office was made aware through, I think,
23 the emergency room here in our county that there had been a

1 previous call there. And I was concerned whether or not our
2 communication center had been called, and when, and when we
3 were dispatched accordingly in regards to this.

4 Q Were you involved in the investigation of the death
5 of Sandra Laing?

6 A No. I assigned --

7 Q You were not involved?

8 A I assigned Dave Canham to work it.

9 Q Okay. Did you tell Mr. Canham about what you
10 discovered in this phone conversation? Do you have any
11 memory of telling Mr. Canham any of this information?

12 A Not specifically that --

13 Q Do you understand --

14 A Let me --

15 MR. ANDERSON: Judge, let him answer the
16 question.

17 THE COURT: Hold on. One question at a time,
18 Mr. Anderson. Go ahead and ask -- let him finish his answer,
19 and then move on to the next question. Go ahead. Ask your
20 question.

21 MR. C. ANDERSON: I'm sorry.

22 THE WITNESS: I guess your question is did I
23 discuss the fax I sent them?

1 BY MR. C. ANDERSON: (resumed)

2 Q No. The phone conversation you had with them. The
3 information that you got.

4 A No. I don't particularly remember discussing that
5 with them. No.

6 Q Did you assign this murder case to Officer Canham?

7 A Our office did. Whether or not I specifically did
8 or Bob Buckman did, one of us did, depending on who was there
9 first or who was asking who was going to carry the case.

10 Q If you recall, in August of '95, approximately how
11 many pending murder cases did you have under your control?

12 MR. ANDERSON: Objection. Relevance.

13 MR. C. ANDERSON: I want to see if it's
14 reasonable to think he would have no memory of a murder case.

15 THE COURT: All right.

16 THE WITNESS: A bunch.

17 THE COURT: I'll overrule the objection. He
18 said a bunch.

19 THE WITNESS: Several.

20 BY MR. C. ANDERSON: (resumed)

21 Q A bunch. How many is a bunch?

22 A Characterizing a murder case, I'm talking about a
23 serious death investigation, I remember --

1 Q We're not talking about traffic accidents.

2 A No. I'm not talking about those either. One, two,
3 three -- five, I think, that I can remember. Not to -- not
4 to include serious malicious wounding cases that could have
5 resulted in death.

6 Q When you say that Investigator Canham was under
7 you, does that mean he reported to you what he was doing?
8 You were his supervisor?

9 A He reported to Bob Buckman directly and to me if I
10 asked him a question or routinely saw him in the hallway.

11 Q On a rank, what was your --

12 A Captain.

13 Q Did Bob Buckman report to you?

14 A Yes. Buckman reported to me. He was a
15 lieutenant. I was a captain at the time.

16 Q So Canham reported to Buckman, and Buckman reported
17 to you?

18 A Exactly. Exactly.

19 Q Did you understand that they were investigating the
20 murder of -- alleged murder of Sandra Laing?

21 A Yes. Yes, sir.

22 Q And did you understand that their theory of the
23 case was that Sandra Laing had been beaten to death?

1 MR. ANDERSON: Judge, I believe we're beyond
2 the scope of what the purpose of this examination is as to
3 whether or not this was exculpatory information that should
4 have been disclosed. He's getting into an area that's
5 certainly beyond this scope.

6 MR. C. ANDERSON: My theory of the case,
7 Judge, which I --

8 THE COURT: Overruled. Go ahead.

9 BY MR. C. ANDERSON: (resumed)

10 Q Did you understand that the police, the Loudoun
11 County Sheriff's Department, theory of this case was that
12 Sandra Laing had been beaten to death?

13 A Yes.

14 Q Did you not think that it might be significant to
15 know that it appeared that she may have taken forty
16 'Noramitriptyline'? Did you ask them what that might --
17 when you said --

18 MR. ANDERSON: Judge, that hasn't been
19 established that she took forty.

20 MR. C. ANDERSON: No. Just that she made a
21 phone call.

22 THE COURT: Sustained to the form of your
23 question.

1 BY MR. C. ANDERSON: (resumed)

2 Q Did you understand that the gist of this report is
3 that --

4 MR. ANDERSON: I'm sorry. If we could
5 identify what report we're talking about.

6 MR. C. ANDERSON: I'm sorry. I'm talking
7 about the Toxic Exposure Surveillance System Report provided
8 by the National -- let me mark this as an exhibit, Judge.
9 I'm sorry.

10 THE COURT: It should be marked.

11 MR. C. ANDERSON: Yes. The -- I'm going to --
12 I believe this is nine.

13 THE COURT: Nine for identification. All
14 right.

15 (Whereupon, Defendant's Exhibit No. 9 was marked
16 for identification.)

17 MR. C. ANDERSON: (resumed)

18 Q Were you aware that they had arrested Alan Presley
19 on the -- in regards to this case?

20 A Yes.

21 Q Okay. And why did you think they arrested him, if
22 you know?

23 A Why did I think they arrested him?

1 Q Yes.

2 A Because they had suspicion that he had committed a
3 murder.

4 Q And do you know how they suspected he committed
5 this murder?

6 A She was assaulted in some way.

7 Q Okay. The -- now, if you learned that she had, in
8 fact, taken an overdose of a drug that --

9 THE COURT: Let him finish his question.

10 MR. ANDERSON: Okay.

11 MR. C. ANDERSON: (resumed)

12 Q -- that according to the Poison Control people was
13 potentially toxic, that they told her to call 911, that they
14 told her to get to the emergency room, do you think that
15 might have any relevance in a murder case with regard to
16 cause of death?

17 MR. ANDERSON: There's no evidence -- I'm
18 going to object to the question. There's no evidence
19 presented.

20 THE COURT: Sustained to the form of your
21 question. Rephrase your question, Mr. Anderson.

22 MR. C. ANDERSON: (resumed)

23 Q In a murder case, is cause of death of any interest

1 to the police in Loudoun County?

2 A Sure.

3 Q In this case, approximately within the eight hours
4 of this person's death, according to this record, you had
5 talked to someone who provided you with information that
6 indicated this person had taken a possible lethal dose of a
7 drug. Did you understand the significance of that at that
8 time?

9 A Sir, I don't remember the phone call that you're
10 talking about. I remember sending the fax, the fax
11 transmission. I was interested in the phone call that their
12 office had received, and what they, in turn, did with that
13 information was my only interest in this case.

14 Q Okay. So you didn't have any interest in passing
15 this information on to your investigator?

16 MR. ANDERSON: Objection.

17 THE COURT: Sustained. I think you're arguing
18 with the witness. Move on.

19 BY MR. C. ANDERSON: (resumed)

20 Q Did you pass this information -- to your knowledge,
21 did you pass this information on to anyone?

22 MR. ANDERSON: Judge, if we could identify
23 what information he's talking about.

1 THE COURT: What information?

2 BY MR. C. ANDERSON: (resumed)

3 Q The information concerning the possible drug
4 overdose by Sandra Laing?

5 A The fax sheet, I may or may not have put a copy in
6 Dave's box. I don't remember. The -- what you're telling me
7 is a response to that fax sheet, I've never seen until today
8 in Mr. Anderson's office.

9 Q Is there any way looking at this fax sheet that you
10 can tell whether you've copied it? What do these notations
11 up in the right-hand side mean, if anything?

12 A You're talking about where the Court has marked it
13 as evidence?

14 Q Is that the Court?

15 A I'm assuming that's what that is. I don't know.

16 Q Good. Is there anything that you can tell by
17 looking at the fax sheet that would indicate --

18 THE COURT: The Delta mark is the Court's
19 mark.

20 BY MR. C. ANDERSON: (resumed)

21 Q -- that you circulated that to anyone?

22 A No.

23 MR. C. ANDERSON: I have no further questions

1 for this witness, Judge.

2 THE COURT: Do you have any questions?

3 MR. ANDERSON: Briefly.

4 CROSS EXAMINATION

5 BY MR. ANDERSON:

6 Q Sheriff Brown, the fax that you've been shown -- I
7 believe is Defendant's seven?

8 MR. C. ANDERSON: I just walked off with the
9 exhibits.

10 THE COURT: You did.

11 BY MR. ANDERSON: (resumed)

12 Q I'm sorry. Eight.

13 A Okay.

14 Q How many pages does it indicate were sent in that
15 fax, sir?

16 A One, including this page.

17 Q Okay. And would you state, sir, is it your
18 testimony that the purpose of the telephone call, Sergeant
19 Brown, was because of a communication problem or concern
20 about a communication problem?

21 A Yes, sir.

22 Q What, if any, problem did you have or cause you to
23 be concerned about the communication problem?

1 A When I got involved in this case, I gleaned from
2 somewhere that the Poison Control people had been called
3 previously in the evening about this case. I believe I heard
4 that from the -- from the -- our emergency room here in
5 Leesburg; either told me or told someone else who, in fact,
6 told me that there had been a phone call from that residence
7 to this Poison Control Center that I had never had any
8 contact with.

9 And in the interest of trying to find out exactly
10 when they were called, I called them and tried to find out
11 what their policy is about letting the sheriff's office or
12 someone else know that there may be a problem in the house.

13 Q So is it a fair statement, sir, that the initial
14 reason for your call was because of a conversation you had
15 with the Loudoun Hospital Center as to information that they
16 had that the call was made?

17 A Yes. Yes, sir.

18 Q Is that all you knew about this case at that time,
19 at the time you sent this fax, sir, on August 1?

20 A Yes. I knew there was a lady who had been
21 assaulted and --

22 MR. ANDERSON: That's all I have.

23 THE WITNESS: That's it.

REDIRECT EXAMINATION

BY MR. C. ANDERSON:

Q Officer, could you explain to me how you remember that crystal clear, but when we get to the conversation with the Poison Control people, your memory goes dead?

MR. ANDERSON: That's argumentative, Your Honor. I believe he's answered the questions.

THE COURT: Your question is argumentative. If you'll have a seat outside.

THE WITNESS: Yes, sir.

MR. C. ANDERSON: I'd like to call Investigator Canham.

THE COURT: All right. Investigator Canham. While they're getting Investigator Canham, where did Mr. Basham go?

(Whereupon, a brief discussion was held off the record.)

THE COURT: All right. Have a seat, sir.

MR. C. ANDERSON: If I could have the exhibits again, Judge?

THE COURT: Yes, sir.

Whereupon,

INVESTIGATOR DAVE CANHAM,

1 a witness, was called for examination by counsel for the
2 Defendant, and after having been first duly sworn, was
3 examined and testified, as follows:

4 DIRECT EXAMINATION

5 BY MR. C. ANDERSON:

6 Q Would you state your name for the record, sir?

7 A Dave Canham. I'm an investigator with the Loudoun
8 County Sheriff's Office, Loudoun County, Virginia.

9 Q Were you in this courtroom listening to testimony
10 the last half hour or so before we took the lunch break?

11 A No.

12 Q Do you know why you're being called now?

13 A No.

14 Q Okay. The -- drawing your attention -- what was
15 your job with the Loudoun County Police back on August 1 of
16 1995?

17 A I was an investigator; same as I am now.

18 Q And who was your supervisor?

19 A Captain Jeff Brown.

20 Q The -- and did you report to him on a regular
21 basis? Is that --

22 A He was my -- he was in charge of criminal
23 investigations division; yeah. He was my main supervisor.

1 Q And what was your responsibility -- did you
2 discussion ongoing cases with him --

3 A Yes, sir.

4 Q -- that you were involved in?

5 A Yes, sir.

6 Q And did you report to him the status of those cases
7 on a regular basis?

8 A When asked; yes, sir.

9 Q The -- and were you assigned to the case of the
10 death of Sandra Laing?

11 A Yes, sir.

12 Q And did you discuss that investigation with then
13 Captain Brown?

14 A Yes, sir.

15 Q The -- did -- did there come a time when Captain
16 Brown told you that he had information that Sandra Laing may
17 have ingested forty Nortriptyline, plus some Soma compound, a
18 few minutes on the evening of July 31, 1995?

19 A No, sir. Not in those exact words. I mean I was
20 never given any information about the quantity.

21 Q Okay. What did Captain Brown tell you, if you
22 remember?

23 A And I'm -- I'm not a hundred percent sure that it

1 was Captain Brown that first brought this information to my
2 attention. But I became aware that a call had been made to
3 the Poison Control Center.

4 Q And did you learn the substance -- did you learn
5 who made that call?

6 A No.

7 Q Did you learn the substance of the information
8 given in that call?

9 A Later.

10 Q Okay. When you say later, what do you mean?

11 A Well, there came a time when I learned what the
12 substance of the call was.

13 Q Approximately when was that, if you recall?

14 A Maybe an hour ago.

15 Q And when did you first learn that there had been a
16 call to the Poison Control Center?

17 A On August 1, '95.

18 Q And did you realize at that time, that that was a
19 call from the house where Sandra Laing was found on the
20 evening of July -- I'm sorry -- the early morning hours of
21 August 1?

22 A No.

23 Q Okay. This was just a -- why did you think this

1 Poison Control Center call had anything to do with this case?

2 A Because it was referenced from the Loudoun County
3 emergency room.

4 Q Okay. And you were investigating the death of
5 Sandra Laing; is that correct?

6 A That's correct.

7 Q And as part of that investigation, did you think it
8 was part of your responsibility to try to ascertain what
9 might have caused her death?

10 A That's correct.

11 Q Okay. And so you found a reference or -- did you
12 find a reference from the Loudoun County -- excuse me. Did
13 you find a reference in the Loudoun County Emergency Room
14 records, or did somebody at the Loudoun County Memorial
15 Hospital tell you something?

16 A There was verbal communication between myself and
17 Captain Brown. And Captain Brown at that time -- like I say,
18 I'm not a hundred percent -- because there was so much going
19 on that first day -- who the exact person was I initially
20 heard it from. But that there had been a call to the Poison
21 Control Center. And it had something to do with Ms. Laing
22 who had been -- who had died at the E.R.

23 Q The -- and as part of your investigation, did you

1 talk to people at the E.R?

2 A No. I didn't.

3 Q Did you have somebody else working with you that
4 you had assigned to talk to somebody at the E.R. about Sandra
5 Laing?

6 A No, sir.

7 Q Did you look at the records at the E.R. about
8 Sandra Laing?

9 A Yes, sir.

10 Q Did -- when did you do that?

11 A It was sometime after Ms. Laing had passed.

12 Q Okay. Did you know that on August 1 at
13 approximately one o'clock in the afternoon, that Captain
14 Brown had a conversation with the people at the Poison
15 Control Center?

16 A No, sir.

17 Q The -- did you ever receive for your attention a
18 copy of this fax from Captain Brown to the Poison Control
19 Center?

20 A No, sir.

21 Q Did there come a time at any time during this
22 investigation when you learned that Sandra Laing had
23 apparently called the Poison Control Center at about 23:03 on

1 July 31, 1995, and asked them if ingesting forty
2 Nortriptyline, plus a Soma compound in a few minutes, would
3 cause a problem?

4 A Not until today. I was aware that a call -- that
5 the Poison Control Center had received a call. But not that
6 there was a positive identification as to who it was, or as
7 you've referred to in the document there, about the quantity.

8 Q In this case, the -- Mr. Presley was initially
9 arrested and charged with malicious wounding; is that
10 correct?

11 A That's correct, sir.

12 Q And some weeks or a month or so went by until that
13 charge was amended to murder; is that correct?

14 A That's correct, sir.

15 Q And during that time, were you -- you were in
16 charge of the Laing then murder investigation; is that
17 correct?

18 A That's correct.

19 Q And during that time, were you trying to ascertain
20 how Sandra Laing -- the manner of her death, what caused her
21 death? Was that of interest to you as part of that
22 investigation?

23 A Yes, sir.

1 Q The -- and when you -- during that time period
2 between when her death happened and when the charge on Mr.
3 Presley was changed to murder, did you look at the emergency
4 room records to see how she died?

5 A That's correct, sir. I looked at the emergency
6 room records and a copy of the autopsy.

7 Q Okay. And did you note in those records at that
8 time -- when did you first, if your memory -- was it August 1
9 that you said you first learned about the Poison Control
10 call?

11 A Correct, sir.

12 Q And the emergency room records listed the cause of
13 death as drug overdose, slash, trauma; is that correct? Do
14 you remember?

15 A I can't say that I remember that off the top of my
16 head; no, sir.

17 Q Were you aware when you were conducting this
18 investigation that one of the issues in the case was whether
19 or not Sandra Laing had died of a drug overdose?

20 A Initially, that was an issue.

21 Q Okay. And in investigating the case, you didn't
22 pursue -- you didn't make a phone call to Poison Control or
23 ask anybody -- you didn't talk about it -- you had this

1 information that there had been some Poison Control
2 involvement with Sandra Laing four hours before -- four or
3 five hours before her death; that wasn't something that you
4 pursued?

5 MR. STROM: Judge, I believe he's already
6 testified that he had no idea that it had come from Sandra
7 Laing.

8 THE COURT: Rephrase your question.

9 BY MR. C. ANDERSON: (resumed)

10 Q The Poison Control information that you learned on
11 August 1 --

12 A Yes, sir.

13 Q -- that was part of the Sandra Laing investigation;
14 is that correct?

15 A It was information that came to me early in it;
16 yes, sir.

17 Q And you knew that this was involving, potentially
18 involving, Sandra Laing, the deceased; is that correct?

19 A Correct.

20 Q And you knew that the emergency room people had
21 listed her cause of death as a drug overdose, slash, trauma;
22 is that correct?

23 A I don't -- I don't recall the exact wording on

1 the --

2 MR. STROM: Judge, I'm going to object. I
3 think that we've lost the focus of this hearing, which is
4 Captain Brown's communication with Poison Control. That's --
5 that's the issue, as I understand it, before the Court.
6 We've already -- we've already established that all of the
7 medical experts have had the emergency room report, which in
8 the report, references calls to and from Poison Control. So
9 it's not something that this investigator has done. It has
10 to do with Captain Brown.

11 THE COURT: The document that was produced by
12 Poison Control is the issue that's before the Court right
13 now. If you would explore that issue, then there may be
14 other issues that you'll want to explore before the jury in
15 the case, Mr. Anderson.

16 BY MR. C. ANDERSON: (resumed)

17 Q In your investigation, did you ever see a document
18 from Poison Control that starts off -- the first two or three
19 pages are handwritten, and then the last two pages are a
20 typed-up version of the handwritten report? Did you ever see
21 that as part of your investigation?

22 A No, sir.

23 Q Pardon?

1 A No, sir.

2 Q The -- in this document, it refers to a phone
3 conversation with Captain Brown where it says that this
4 record might be subpoenaed. Did Captain Brown tell you to
5 subpoena these records?

6 A No, sir.

7 Q Did Captain Brown, to your knowledge, subpoena
8 these records?

9 A Not to my knowledge.

10 Q Did anyone under your control or anybody in your
11 knowledge in the Loudoun County Sheriff's Department have
12 access to these records before today?

13 A Not to my knowledge.

14 MR. C. ANDERSON: I have no other questions
15 for this witness.

16 THE COURT: Questions?

17 CROSS EXAMINATION

18 BY MR. STROM:

19 Q Investigator Canham, there was some mention there
20 that it was more than a month after this incident of July 31,
21 August 1, that the charge was amended to murder. Are you
22 aware -- well, did you have occasion to attend the autopsy?

23 A Yes, sir.

1 Q And would it be fair to say that when the autopsy
2 of the skull proceeded and the trauma was discovered, that
3 was a significant piece of information to Dr. Field who
4 conducted the autopsy?

5 A That's correct.

6 Q But she did not render an opinion, or final
7 opinion, as to cause of death until the further toxicological
8 and other tissue samples were studied?

9 A That's correct.

10 Q And after the autopsy was actually finally drafted,
11 reviewed, and signed and received, did you have a meeting
12 with Dr. Field?

13 A Yes, sir. I did.

14 Q And did you discuss with her what significance, if
15 any, the drug and alcohol levels had in her final analysis of
16 cause of death?

17 A Yes, sir. I did.

18 Q And did she give you any reason to believe, based
19 on that conversation, that drugs or alcohol or drug overdose
20 in any way played a part in the death of Sandra Laing?

21 A No way whatsoever.

22 MR. STROM: That's all.

23 MR. C. ANDERSON: Briefly.

1 THE COURT: Yes, sir.

2 REDIRECT EXAMINATION

3 BY MR. C. ANDERSON:

4 Q Do you know if anybody from the Loudoun County
5 Sheriff's Department told Dr. Field that Sandra Laing may
6 have ingested forty Nortriptyline within four hours of her
7 death, five hours of her death?

8 A Not to my knowledge.

9 Q The --

10 MR. C. ANDERSON: I have no other questions.

11 THE COURT: All right. If you'll have a seat
12 outside. Do not discuss your testimony with anyone until the
13 case is over.

14 Do you have any other witnesses on this limited
15 issue?

16 MR. C. ANDERSON: No, Judge.

17 THE COURT: Do you have any witnesses you wish
18 to call?

19 MR. ANDERSON: No, sir.

20 THE COURT: It would be my intent to take your
21 motion for a mistrial under advisement at this time, Mr.
22 Anderson. Depending upon the outcome of this case, you may
23 re-argue that issue.

1 MR. C. ANDERSON: Thank you, Judge.

2 MR. ANDERSON: I ask the Court to note for the
3 record that the argument on behalf of the Commonwealth as to
4 the medical records in this case contains not only the dates
5 and time, but the contents of the transcript. It's on page
6 twenty-six.

7 THE COURT: I'm going to take the motion for a
8 mistrial under advisement since we are fairly far along in
9 this trial.

10 MR. ANDERSON: Yes, sir.

11 THE COURT: All right. Are you ready to
12 proceed then, Mr. Anderson?

13 MR. C. ANDERSON: Yes. Can I have a five
14 minute break?

15 THE COURT: Yes, sir. While we're taking five
16 minutes, where did Mr. Basham go?

17 (Whereupon, a brief discussion was held off the
18 record.)

19 MR. C. ANDERSON: May I be excused?

20 THE COURT: We're going to take a brief
21 recess, and I'll come back.

22 (Whereupon, a recess was taken at 1:23 p.m. After
23 which, the proceedings continued at 1:31 p.m., as

1 follows:)

2 MR. ANDERSON: Judge, as a preliminary matter,
3 Your Honor, Dr. Sabella was here and ready to testify before
4 the break. The victim/witness is contacting him to ask him
5 to get here as soon as possible. We are ready to go forward
6 with Dr. Field. But hopefully, Dr. Sabella will be here upon
7 the completion of her testimony, direct and cross. I don't
8 foresee any problems, but I just wanted to note it for the
9 Court.

10 THE COURT: Are you ready to proceed?

11 MR. C. ANDERSON: Yes, Judge.

12 THE COURT: I'm going to talk to Mr.
13 Maslakowski and Mr. Basham.

14 MR. C. ANDERSON: I'm not going to put on --
15 well, I'm going to call Officer Brown before the jury.

16 (Whereupon, a brief discussion was held off the
17 record.)

18 MR. C. ANDERSON: Judge, before the jury gets
19 here, I would like to make a motion to have Officer Brown
20 declared a hostile witness. He has a good memory whenever
21 the prosecutor asks him anything. He has no memory when I
22 ask him.

23 THE COURT: You may ask him leading questions.

1 MR. C. ANDERSON: Thank you.

2 THE COURT: In the Rodriguez matter.

3 (Whereupon, a brief discussion was held off the
4 record.)

5 THE COURT: All right. Bring the jury in,
6 please.

7 Do you wish to call --

8 MR. C. ANDERSON: Officer Brown.

9 THE COURT: Brown.

10 (Whereupon, the jury entered the courtroom at 1:37
11 p.m.)

12 THE COURT: Nine has not been formally moved
13 into evidence.

14 MR. C. ANDERSON: Could I do so, Judge?

15 THE COURT: Any objection to nine?

16 MR. ANDERSON: What is nine, Judge?

17 THE COURT: That's the report that was the
18 subject of the subpoena.

19 MR. ANDERSON: May we have a side-bar, Judge?

20 THE COURT: All right.

21 (Whereupon, the following was held at the
22 side-bar:)

23 MR. ANDERSON: Judge, I believe the statute is

1 8.01-413 as to whether or not this is properly authenticated
2 for admissibility of evidence, and I object to it.

3 THE COURT: Now, wait a second. I've got a
4 motion for a mistrial in this case because of the document
5 not being produced. If you now object to it, I probably will
6 have to grant the motion for a mistrial because there's no
7 way to authenticate it at this point.

8 MR. ANDERSON: I'll withdraw the motion.

9 THE COURT: All right.

10 (Whereupon, the proceedings continued in open
11 court, as follows:)

12 THE COURT: All right, sir.

13 Whereupon,

14 OFFICER JEFF BROWN,
15 a witness, was called for examination by counsel for the
16 Defendant, and after having been first duly sworn, was
17 examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MR. C. ANDERSON:

20 Q Officer Brown --

21 MR. C. ANDERSON: Could I have eight and nine,
22 Judge?

23 BY MR. C. ANDERSON: (resumed)

1 Q Give your name and rank for the record.

2 A Jeff Brown, Deputy Sheriff, Sergeant, for the
3 Sheriff's Office in Loudoun.

4 Q Drawing your attention back to August 1 of 1995,
5 what was your position and rank at the Loudoun County
6 Sheriff's Department at that time?

7 A Captain. I was in charge of criminal
8 investigations.

9 Q And as part of your duties in charge of criminal
10 investigations, were you responsible for the investigation of
11 the death of Sandra Laing?

12 A My office was; yes.

13 Q And was that Investigator Canham under you who was
14 reporting to you on that investigation?

15 A Yes, sir.

16 Q Isn't it true, Officer Brown, that at approximately
17 12:12 in the afternoon --

18 MR. ANDERSON: I object to the form of the
19 question, Judge. It's leading for the purposes of this
20 witness.

21 THE COURT: You can lead the witness, but
22 don't go overboard with it.

23 MR. C. ANDERSON: Okay.

1 BY MR. C. ANDERSON: (resumed)

2 Q Isn't it true, Officer Brown, that on August 1,
3 1995, at approximately 12:12 in the afternoon, that you sent
4 a fax to the Loudoun County -- I'm sorry -- from the Loudoun
5 County Sheriff's Office to the Poison Control Center, Dr.
6 Toby Livitz, Director? Is that the fax that you sent?

7 A Yes, sir. It's a cover sheet that I sent; yes.

8 Q And could you read the bottom part of that fax? Is
9 that your handwriting?

10 A Yes, sir. It is. "I would like to discuss a phone
11 call to your office received from 19744 Smith Circle around
12 eleven p.m. on 7/31/95. This call would have involved a Mrs.
13 Sandra Laing, who now is deceased."

14 Q And that's where Sandra Laing was residing on
15 August 1, 1995; is that correct?

16 A Yes, sir.

17 Q And isn't it also true, Officer Brown, that on
18 August 1, 1995, at approximately 12:59 in the afternoon, you
19 had a discussion with Toby Livitz in which he told you that a
20 Sandra D. Laing had called the Poison Control people on July
21 31, of 1995, at 23:03, and reported that someone had ingested
22 either -- I believe someone had ingested forty Nortriptyline,
23 twenty-five milligrams, plus soma compound?

1 A I don't recall the conversation, sir, with that
2 lady.

3 Q Do you recall her -- Livitz telling you that there
4 was a call back at 23:08 on July 31 from the same residence
5 and asked if this was a toxic amount?

6 A No, sir. I don't recall that either.

7 Q Do you recall the Poison Control people telling you
8 that they told Sandra Laing that this was a potentially toxic
9 dose of Nortriptyline and soma compound?

10 A No, sir. I don't recall that either.

11 Q Do you recall them telling you that the Poison
12 Control people had told Sandra Laing she needed to call 911?

13 A No, sir. I don't recall the conversation with the
14 lady, sir, at all. I recall the fax transmission sheet
15 vaguely, but not any response to it or any phone call
16 subsequent to that.

17 Q Now, your immediate -- your Investigator Canham --

18 A Yes, sir.

19 Q -- who was investigating the death of Sandra
20 Laing --

21 A Yes, sir.

22 Q -- the -- this was within eight hours of her death
23 -- the -- what did you tell him about what you had learned

1 from the Poison Control Center?

2 MR. ANDERSON: Your Honor, for purposes of
3 clarification, wherever -- the statement made, "This is
4 within eight hours of her death," if we could identify what
5 it is that we're talking about, within eight hours of the
6 death.

7 THE COURT: If you would, qualify.

8 BY MR. C. ANDERSON: (resumed)

9 Q Isn't it correct that Sandra Laing died at
10 approximately 4:14 in the morning of August 1, that your fax
11 went out at 12:12 in the afternoon of August 1, and according
12 to the report here, the phone conversation took place on
13 August 1 at 12:59?

14 A Sir, I don't know when she was pronounced. And I'm
15 taking your word for when the fax was sent, sir. I don't
16 know.

17 Q Do you remember relaying this information to
18 Investigator Canham about this drug overdose --

19 A Not specifically.

20 Q -- with Sandra Laing?

21 MR. STROM: Judge, there's no evidence that
22 there's a drug overdose. That's an intention.

23 THE COURT: Sustained to the form of your

1 question.

2 BY MR. C. ANDERSON: (resumed)

3 Q Do you remember passing on any of the information
4 that you got from the Poison Control people to Investigator
5 Canham?

6 A I may have, sir. I don't remember specifically
7 doing that.

8 Q Do you remember telling anybody in the Commonwealth
9 Attorney's office that you had learned this information from
10 the Poison Control people at any point after August 1, 1995,
11 until today?

12 A Whether or not I discussed it with the
13 Commonwealth's Attorney, I don't recall, sir, at the time.

14 Q The --

15 A I wasn't working the case, sir. I was the
16 supervisor in the office.

17 Q This was a murder case though; correct?

18 A It was after the medical examiner's report came
19 back; yes, sir.

20 Q And you were in charge of Criminal Investigations
21 Division?

22 A Yes, sir.

23 Q Did you have any other cases that were a higher

1 priority to you than murder cases?

2 A We had several murder cases going on at the same
3 time, sir.

4 Q And do you see your role in law enforcement as to
5 make sure innocent people don't get charged as well as --

6 MR. ANDERSON: Judge, I'm going to object to
7 that.

8 THE COURT: Sustained to the form of your
9 question. That's argumentative. You can argue that.

10 BY MR. C. ANDERSON: (resumed)

11 Q Is it part of a murder investigation to try to
12 ascertain whether somebody has been murdered?

13 A Yes, sir.

14 Q And is one of the questions that you ask is what
15 was the manner and cause of death? Did you try to follow
16 that up as part of your investigation?

17 A Yes. The medical examiner decides it, sir.

18 Q Did you tell the medical examiner that you had
19 information -- the medical examiner that did the autopsy, I
20 believe, on August 3? Or August 2?

21 A Did I talk to the medical examiner?

22 Q On August 2, did you tell the medical examiner that
23 you had information that Sandra Laing may have ingested

1 forty --

2 MR. ANDERSON: Judge, I'm going to object to
3 this.

4 BY MR. C. ANDERSON: (resumed)

5 Q -- Nortriptyline late in the evening of July 31?

6 MR. ANDERSON: He's asking his question as a
7 result of a telephone call that this individual has already
8 said he doesn't recall ever having. I'm going to object to
9 that.

10 THE COURT: Overruled.

11 THE WITNESS: I don't recall talking to the
12 medical examiner about this case, sir. Again, I don't talk
13 routinely to medical examiners.

14 BY MR. C. ANDERSON: (resumed)

15 Q Do you have a recollection of telling anyone about
16 this information?

17 A No. I only remember being told about a call being
18 made to the Poison Control Center, sir, and following up on
19 that. That's all.

20 Q When you say following up --

21 A Yes.

22 Q -- okay -- what do you think that means? What do
23 those words mean when you say it?

1 A I was interested, as I told you earlier, to find
2 out if our communication center had been called by that
3 organization about this alleged event at the Smith Circle
4 address. Only administratively, sir. I wasn't working the
5 criminal case at all.

6 Q And when you say telling me earlier, you're
7 referring to me calling you a half an hour ago approximately?

8 A Yes, sir.

9 Q You and I -- you didn't tell me or anybody about
10 this before today; right?

11 A I don't -- about what, sir? About the fax sheet?

12 Q About the fax sheet, about the conversation you had
13 with Poison Control people, anything like that?

14 MR. ANDERSON: He's arguing with the witness,
15 Judge. I think we go back to the issue of whether or not he
16 recalls the conversation. He testified he doesn't recall on
17 more than one occasion.

18 THE COURT: This is another question. If you
19 would ask your question again.

20 BY MR. C. ANDERSON: (resumed)

21 Q You didn't tell -- is it that you don't remember
22 telling people?

23 A I don't specifically recall telling anybody

1 specifically about that, sir.

2 Q Okay.

3 A About that fax transmission sheet at all.

4 Q I'm not interested in the fax transmission sheet,
5 Officer.

6 A That's all I recollect, sir.

7 Q I'm interested in the information that you obtained
8 from the Poison Control people when you talked to them at
9 12:59 August 1.

10 A Sir, I don't recollect that conversation, sir, at
11 all.

12 MR. ANDERSON: Judge, same objection.

13 THE COURT: Sustained. He testified that he
14 doesn't recall.

15 MR. C. ANDERSON: No further questions.

16 THE COURT: Questions?

17 CROSS EXAMINATION

18 BY MR. ANDERSON:

19 Q Sergeant Brown, the fax transmission sheet that you
20 were shown --

21 A Yes, sir.

22 Q -- that I believe is Defendant's exhibit 8, sir --

23 A Yes, sir.

1 its metabolized by-product is present in her system?

2 A No.

3 Q Now, when you conducted your autopsy, somebody else
4 does the toxicology examination; correct?

5 A Yes.

6 Q Do you wait for the toxicology report before you
7 prepare your final report as to cause of death and final
8 findings?

9 A It depends on the nature of the case. If there's
10 an obvious cause of death at the time of the autopsy that
11 would be unaffected by drug level, then the cause of death is
12 given immediately. The report is usually not finalized until
13 after the drug tests come back.

14 MR. STROM: May I -- Judge, I think it's
15 exhibit one, but I'm not sure. The autopsy.

16 BY MR. STROM: (resumed)

17 Q Doctor, Commonwealth's exhibit -- it's number two,
18 that's your autopsy?

19 A Yes.

20 Q It was performed on the 2nd, but it was not
21 finalized until the 28th?

22 A That's correct.

23 Q Did you have occasion to study the toxicology

1 report with regard to the Amitriptyline levels that are
2 reported on the toxicology report?

3 A Yes.

4 Q And how -- what did you do to study the results
5 that you got from toxicology?

6 A Well, I compare the levels that I get back from the
7 toxicologist with books which give indication of therapeutic
8 levels, toxic levels, and lethal levels.

9 Q Now, are you familiar with the book, Disposition of
10 Toxic Drugs and Chemicals in Man, by Randall C. Bassault and
11 Robert H. Cravey?

12 A Yes. I am.

13 MR. C. ANDERSON: Judge, may I voir dire
14 here? They're trying to get in the reference. I want to see
15 if she has actually looked at this book before this trial or
16 yesterday.

17 THE COURT: All right.

18 MR. C. ANDERSON: Dr. Field, when you
19 testified in the first day of this trial, you didn't make any
20 reference to looking at books and finding out what
21 therapeutic and toxic and lethal levels of Amitriptyline
22 were; did you?

23 THE WITNESS: I don't believe I was asked the

1 question.

2 MR. C. ANDERSON: In this case, didn't you, in
3 fact, figure out the cause of death and write your -- did you
4 conclude what the cause of death was before you even got the
5 drug results back?

6 THE WITNESS: Yes.

7 MR. STROM: Judge, I'm going to object to that
8 question. I think it's argumentative, and it's not
9 appropriate on the voir dire of this particular issue.

10 THE COURT: Overruled.

11 MR. C. ANDERSON: In this case, didn't you, in
12 fact, conclude what the cause of death was before you even
13 got the drug results back?

14 THE WITNESS: Yes. I did.

15 MR. C. ANDERSON: So you had no need to look
16 up and see whether these were therapeutic, toxic, or lethal
17 levels that were found in this woman's body because you
18 already figured out she had died from something else; is that
19 correct?

20 THE WITNESS: That's correct.

21 MR. STROM: Judge --

22 BY MR. STROM: (resumed)

23 Q Doctor, after you got the toxicology report back,

1 THE COURT: Well, all she is going to do is
2 state what's in the book, not her own opinions as to what's
3 in the book. Her opinion is that --

4 MR. STROM: Judge, like any expert, her
5 opinion is developed according to a review of the literature
6 and her experience. And her testimony was that in her
7 opinion previously --

8 THE COURT: She's not qualified as a
9 toxicologist. She hasn't been qualified in that way.

10 MR. STROM: Neither was the forensic
11 pathologist --

12 THE COURT: He was.

13 MR. STROM: -- or the neurologist, both of
14 whom offered opinions as to drug levels and toxicity and/or
15 lethality. And they all testified that it was based in part
16 on their review of the literature.

17 THE COURT: Correct.

18 MR. STROM: And that is the same literature
19 that they referenced.

20 THE COURT: Well, this is literature that one
21 of the experts referenced.

22 MR. STROM: I'm sorry. The one. The one.
23 The forensic toxicologist. And what I would proffer is that

1 and Amitriptyline. When -- they have another chart which
2 shows people who died as a result of Amitriptyline intake,
3 and in those cases, the Nortriptyline level is less than the
4 Amitriptyline.

5 Q And that's what -- that's what your toxicology
6 report showed in each case?

7 A It shows a greater amount of Nortriptyline as seen
8 in therapeutic cases.

9 Q Now, if I can, go back to the one thousand. If
10 somebody took a thousand milligrams of Amitriptyline, let's
11 say approximately four hours before their death, would you
12 expect to have some significant evidence of that at a
13 toxicology report as part of the autopsy?

14 A Yes.

15 Q What might you expect or what kind of range might
16 you expect to see in terms of Amitriptyline and/or
17 Nortriptyline?

18 A If someone took a very high dose as a thousand
19 milligrams, I would expect to see a large amount of
20 Amitriptyline both in the blood and liver, which are the
21 samples that are tested by our laboratory, and a smaller
22 amount of Nortriptyline. In addition, in the majority of
23 overdose situations, I would expect to see some drug

1 remaining in the -- in the stomach contents.

2 Q Is there any evidence in the toxicology or any
3 other evidence as that -- that you got as part of your
4 autopsy that showed any Amitriptyline or Nortriptyline
5 contents in the stomach?

6 A No. That was negative.

7 Q Pardon me?

8 A There was no drug in the stomach.

9 Q And were they submitted to the toxicologist for
10 examination and report?

11 A Yes.

12 Q Now, in terms of the -- the blood or the heart
13 blood or the liver, can you quantify in any way what you
14 might expect? You said larger doses of Amitriptyline. Can
15 you quantify in any way what you might expect to find in
16 terms of either milligrams per liter or milligrams per
17 kilogram, which are the measurements used by the toxicologist
18 in this case?

19 A The problem with Amitriptyline and Nortriptyline is
20 that the levels after death increase so those levels are
21 unreliable. The most reliable indicator of an overdose with
22 this drug is the -- a level in the liver above fifty and the
23 ratio of the Amitriptyline to Nortriptyline.

1 But with ingestion of a thousand milligrams, I
2 would still expect to have seen a much higher level of
3 Amitriptyline in the blood.

4 The Third Edition of Bassault does mention blood
5 levels in a person who took about six hundred milligrams, and
6 -- between six hundred and three to five grams. And they
7 found nine milligrams in the blood, and -- with a range of
8 three to fifteen, and a range in the liver of ninety-two to
9 four hundred twenty.

10 Q Ninety-two to four hundred twenty?

11 A In the liver. Those would be levels more in line
12 with what I would expect to see in an overdose situation.

13 Q Now, with regard to these multiple drugs in the --
14 in the toxicology report, can one develop a tolerance to
15 alcohol, for example?

16 A Yes.

17 Q And can one develop a tolerance -- and once again,
18 you've been qualified as an expert, and I'm assuming that
19 your answers are either factual or with a reasonable degree
20 of medical certainty; is that correct?

21 A Yes.

22 Q Can one develop a tolerance to Amitriptyline?

23 A I am not certain about that. I have not seen any

1 literature one way or the other on that.

2 Q Can one develop a tolerance to Valium or Diazepam?

3 A Yes.

4 Q Is it possible to develop a cross-tolerance, as in
5 if you -- if you developed a tolerance for alcohol, that you
6 -- that tolerance would cross over the Valium because
7 they're both central nervous system depressants?

8 A There is known to be a cross-tolerance between
9 alcohol and Valium.

10 Q Doctor, you testified previously about the
11 magnification under which you looked at the tissue samples.
12 Have you had cause to review that issue as to what
13 magnification you may have looked at the tissue slides at?

14 A Yes. Partially at least.

15 Q I'm sorry?

16 A Partially. The microscope has two lenses, and I
17 looked at the lower -- the number on the lower lenses of my
18 microscope.

19 Q And was that lower magnification two hundred and
20 fifty?

21 A No. Well, it was -- forty was the highest on the
22 bottom. But what you do is multiply the top eyepiece. And I
23 do not know if that is ten or fifteen. So the magnification

1 would have been either four hundred or six hundred depending
2 on what the top lens was, and it did not have a number on
3 it. Well, I don't remember what the number was.

4 Q Have you had cause for any reason to change your
5 opinion about the aging of various bruises of the body as you
6 previously testified about them with regard to your naked-eye
7 observation as well as your microscopic examination?

8 A No.

9 Q In re-reviewing the microscopic issue as to at what
10 power you looked at these items as well as the information
11 contained in Bassault and -- I'll ask you the question --
12 contained in Bassault regarding Amitriptyline or Diazepam,
13 does that in any way cause you to change your opinion as to
14 the cause of death, which is that it was by virtue of
15 subdural hemorrhage?

16 A No.

17 Q Bassault. Is there any better authority that
18 you're aware of where you might go to look for the toxicity
19 and the levels of toxicity regarding any of the drugs that
20 are in question in this particular case?

21 A There are other texts, but this is the one used by
22 most toxicologists and medical examiners that I know of.

23 Q The best one as far as most people are concerned?

1 MR. STROM: Judge, the rules specifically, I
2 believe, do not allow for the publishing of this information.

3 MR. C. ANDERSON: I'm not going to write out
4 the entire test here, Judge. I'm asking her to discuss range
5 of safety in Amitriptyline.

6 THE COURT: You certainly have a right to
7 question her concerning this text.

8 BY MR. C. ANDERSON: (resumed)

9 Q With fatalities, people who died of Amitriptyline.

10 THE COURT: But you needn't write it all up on
11 the board.

12 MR. C. ANDERSON: I'm just going to make it
13 clear.

14 BY MR. C. ANDERSON: (resumed)

15 Q The Amitriptyline levels went from two point seven
16 to four point seven in blood; is that correct?

17 A Yes. In the cases they've studied.

18 Q In the cases studied that we're talking about?

19 A That's right.

20 Q And the Nortriptyline levels for blood, there were
21 fatalities. Fatalities mean people died; right?

22 A Yes.

23 Q The Nortriptyline, what was the range for that in

1 the blood, Doctor?

2 A Zero point five to one point seven.

3 Q Is it -- zero point five to ---

4 A One point seven.

5 Q -- one point seven. We've agreed before that you
6 can add these things up; right, because they have the same
7 effect?

8 A Yes.

9 Q So in the blood, if we add these up, the range is
10 three point two to six point four. Is my math right there,
11 Doctor?

12 A Yes.

13 Q Okay. Now, I want to draw your attention to the
14 toxicology report that you received in this case. And by the
15 way, all your opinions with regard to the toxicology levels
16 found in Sandra Laing assume that the toxicology report was
17 accurate; is that correct?

18 A Yes.

19 Q The toxicology report was done through your office?

20 A Through the Division of Forensic Science.

21 Q Okay. Now, what is the blood -- I'm going to put
22 here the -- this is Sandra Laing's blood. What was her
23 Amitriptyline level in her blood?

1 A One point three three.

2 Q One point three three. Blood. And what was her
3 level in the -- I'm sorry -- Nortriptyline in the blood?

4 A Two point two three.

5 Q This is Nortriptyline?

6 A Yes.

7 Q And this is blood?

8 A Yes.

9 Q Could you give me that number again, Doctor?

10 A Two point two three.

11 Q Two point two three?

12 A Yes.

13 Q And I'm allowed to add those up together to get the
14 impact; right, Doctor?

15 A I'm not sure what you mean by impact.

16 Q Well, I get to add the Amitriptyline to the
17 Nortriptyline?

18 A Yes.

19 Q And I get three point five six in the blood; right?

20 A Yes.

21 Q And where does three point five six fall in the
22 range of fatalities for Amitriptyline use, Doctor?

23 A Well, as I --

1 Q Does it fall outside the range or inside the range?

2 MR. STROM: Judge, this is argumentative.

3 MR. C. ANDERSON: This is not argumentative.

4 MR. STROM: Judge, she didn't answer the
5 question.

6 THE COURT: You asked her two questions. One
7 question at a time.

8 BY MR. C. ANDERSON: (resumed)

9 Q Sandra Laing had three point five six; isn't that
10 correct, if you add the two from your toxicology report,
11 Doctor?

12 A That's correct.

13 Q And the range where there was fatalities for
14 Amitriptyline range from three point two to six point four;
15 isn't that correct, Doctor?

16 A Yes; that is correct.

17 Q Okay. Let's talk about liver. It also does liver
18 fatalities; doesn't it, Doctor, on that graph?

19 A Yes.

20 Q Only this time we're talking about weights, not --
21 we're talking about milligrams as opposed to milligrams per
22 kilogram; correct?

23 A This is milligrams per kilogram for the liver.

1 Q Correct. Okay. Now, on liver, for Amitriptyline
2 where there was some fatalities, the range was from thirteen
3 to three seventeen; isn't that correct, Doctor?

4 A Yes.

5 Q And for Nortriptyline in the liver, what was the
6 range, Doctor?

7 A Seven point five to sixty-four.

8 Q Seven point five to sixty-four. I get to add them
9 together; right, Doctor, to have the true indication of the
10 impact?

11 MR. ANDERSON: Judge, if she could answer
12 before he writes it down.

13 THE COURT: Yes. Why don't you ask her and
14 then let her. You're attempting to write -- to adding those
15 numbers up.

16 BY MR. C. ANDERSON: (resumed)

17 Q I'm sorry, Doctor. Doctor, in order to understand
18 the full impact of the Amitriptyline on the body and the
19 liver, it's -- what we do here is we add the Amitriptyline
20 and the Nortriptyline, the metabolic; is that correct?

21 A Yes. The problem with doing something like this in
22 all these cases though is that you don't know by these
23 numbers whether the same patient who had the thirteen --

1 Q Right.

2 A -- also had the seven point five. He may have had
3 the sixty-four.

4 Q You don't know what the range is. But this is the
5 range. The range of these people that died from
6 Amitriptyline overdose in their liver was thirteen to three
7 seventeen and seven point five to sixty-four; isn't that
8 correct? Isn't that what the graph shows?

9 A Yes. But you don't know whether the person who had
10 the thirteen had the seven point five.

11 Q I understand. They could have had -- the person
12 with the thirteen could have had the sixty-four, and the
13 person with the seven point five could have had the three
14 seventeen. You can't tell that from the information provided
15 in that book?

16 A That's correct.

17 Q But this is, in fact, the range they give, the
18 range of thirteen to three seventeen for liver for
19 Amitriptyline and seven point five to sixty-four for the
20 Noramitriptyline [sic] --

21 A Right.

22 Q -- on the fatalities?

23 A Yes. But they don't add them up.

1 Q Now, what was Sandra Laing's liver contents?

2 A Her Amitriptyline was seven point five.

3 Q Seven point five. And what was her -- this is the
4 Amitriptyline. What was her Noramitriptyline [sic] level?

5 A Nortriptyline? Twenty-one point five.

6 Q Twenty-one point five. And we add those together
7 and we come up with what number, Doctor?

8 A Twenty-nine.

9 Q Twenty-nine. Does that twenty-nine put us in the
10 range of fatalities for Amitriptyline overdose, Doctor,
11 according to that graph?

12 A Well, as I indicated, you don't know that twenty --

13 Q I understand what you're saying, Doctor, that you
14 don't know what all the people --

15 MR. STROM: Judge --

16 THE COURT: Let her --

17 MR. STROM: Judge, this is not a
18 conversation. This is a question and answer --

19 THE COURT: I know. But that was not an
20 answer to his question. That called for a yes or no. If she
21 can't answer it that way, then she could state it.

22 Go ahead, Mr. Anderson. If you would slow down and
23 just ask her one question at a time.

1 MR. C. ANDERSON: I'm sorry, Judge. I get
2 excited. I apologize.

3 THE COURT: Go ahead.

4 BY MR. C. ANDERSON: (resumed)

5 Q Sandra Laing had Amitriptyline in her liver of
6 seven point five, and she had a Nortriptyline level in her
7 liver of twenty-one point five; isn't that correct, Doctor?

8 A Yes.

9 Q And when we add those two together, we get
10 twenty-nine; isn't that correct, Doctor?

11 A That's correct.

12 Q And twenty-nine puts us in the range of fatalities
13 for Amitriptyline and Nortriptyline; isn't that correct,
14 Doctor?

15 A The way you have added them up, yes.

16 Q Okay. You're not suggesting I have a unique way of
17 adding; are you, Doctor?

18 A Well, yes. Because we don't know --

19 Q But you can't tell from that book; can you, Doctor?

20 MR. STROM: Judge --

21 THE COURT: Wait a second. Let her answer the
22 last question.

23 BY MR. C. ANDERSON: (resumed)

1 Q Go ahead, Doctor.

2 MR. STROM: Judge, it's more than he's
3 excited.

4 THE COURT: Hold on just a second, Mr. Strom.
5 I've already sustained your objection.

6 Go ahead. And let her answer the question. Go
7 ahead.

8 MR. C. ANDERSON: Okay.

9 THE COURT: Go ahead.

10 THE WITNESS: Based on the way you assume the
11 same patient who had the thirteen Amitriptyline had the seven
12 point five, it does fit in that range.

13 BY MR. C. ANDERSON: (resumed)

14 Q Doctor, the -- that same reference that you have,
15 is there another graph in it?

16 A (Indicating).

17 Q And the -- this graph is for people who have not
18 died from Amitriptyline; is that correct?

19 A That's correct.

20 Q And what does it put down as when people don't die
21 from Amitriptyline, what is their typical blood level,
22 Doctor, on that graph?

23 A You want the range?

1 Q I thought it gave an average. Does it gave a
2 range?

3 A Yes. They both give average.

4 Q Give me the -- go ahead and give me the range.

5 MR. STROM: Judge, I'm not sure where she's
6 testifying from.

7 MR. C. ANDERSON: Same source.

8 THE COURT: Doctor, which page are you one?

9 THE WITNESS: Page thirty-nine.

10 THE COURT: Thirty-nine.

11 BY MR. C. ANDERSON: (resumed)

12 Q And these are people that didn't die; right,
13 Doctor?

14 A They died from unrelated causes.

15 Q Okay. What is the -- and the people that didn't
16 die from Amitriptyline, what was their blood?

17 A Do you want the average or the range?

18 Q Whichever you prefer. The average -- would you say
19 the average -- go ahead and give me the average.

20 A Zero point one eight.

21 Q Zero point one eight. Okay. How about the
22 Nortriptyline?

23 A The average is zero point three zero.

1 Q Zero point three zero. And then we -- the average,
2 we add that up, and we get point four eight, Doctor; is that
3 correct?

4 A Yes.

5 Q And how does that compare to Sandra Laing's -- and
6 that was blood?

7 A That was blood.

8 Q And what does -- how does this average compare to
9 what Sandra Laing had in her body, Doctor?

10 A Her Amitriptyline was one point three three, and
11 Nortriptyline, two point two three.

12 Q Okay. So that's three point five six.

13 A Yes.

14 Q Approximately seven times the average; is that
15 correct, Doctor?

16 A Yes. Of course, it increases at her death. So you
17 can't use the blood level.

18 Q Okay. But this is -- let's talk about -- let me
19 just see that graph again. I don't remember it as well as
20 you probably do. That has liver there too; doesn't it,
21 Doctor?

22 A Yes.

23 Q What's the -- these are for the -- this is for the

1 living; right?

2 A Well --

3 Q These people died anyway because you got it through
4 liver. What does it show there if these people didn't die of
5 an Amitriptyline overdose though? What was the liver average
6 for the people who didn't die from the overdose?

7 A Well, I'll give you the range. It was zero point
8 four to seventeen. The average is four point seven.

9 Q You started to go to range now. You're not
10 comfortable with average?

11 A Well, I think it will show --

12 Q Okay. We'll do range. Zero point four.

13 A To seventeen. And that's Amitriptyline.

14 Q Okay. What was the average?

15 A Four point seven.

16 Q Four point seven. That's for Amitriptyline. And
17 the Nortriptyline, what was that range?

18 A Zero point three to twenty-eight.

19 Q Zero point three to twenty-eight. And what was
20 that average?

21 A Eight point nine.

22 Q I'm sorry? Eight point nine?

23 A Eight point nine.

1 Q Okay. And the average was thirteen point six. And
2 the range went from point seven to forty-five. What was her
3 liver total? Thirty?

4 A Total, twenty-nine.

5 Q Twenty-nine. So she might have made it. However,
6 she was, on the liver, over two times the average; is that
7 correct?

8 MR. ANDERSON: Judge, he's testifying.

9 THE COURT: Now you're making a statement.

10 MR. C. ANDERSON: I'm sorry.

11 BY MR. C. ANDERSON: (resumed)

12 Q Now, Doctor, you mentioned that you can't -- that
13 the levels are unreliable. The liver levels are unreliable?

14 A The blood levels are unreliable.

15 Q The blood levels are unreliable. Because
16 postmortem, there's redistribution of Amitriptyline
17 throughout the system; right?

18 A Yes.

19 Q Why do they bother testing for it, Doctor?

20 A They do a general drug screen, and any drugs that
21 come up positive, they do quantitation. And it is a known
22 fact that in people who have therapeutic blood levels, there
23 is a certain ratio of Amitriptyline and Nortriptyline. And

1 level; correct?

2 A Yes. That's correct.

3 Q And in each case, there is a range of what will be
4 therapeutic for one person, and what would be toxic for one
5 person, and what would be lethal for one person based on age
6 and size and general health and tolerance?

7 A Yes.

8 Q Doctor, did you have occasion to review the Loudoun
9 Memorial Hospital Emergency Room report before your autopsy
10 was completed?

11 MR. C. ANDERSON: Objection. Beyond the scope
12 of cross.

13 THE COURT: Sustained.

14 MR. STROM: That's all.

15 THE COURT: Questions of the Doctor?

16 RECROSS EXAMINATION

17 BY MR. C. ANDERSON:

18 Q The information that we've been talking about there
19 of the Amitriptyline fatalities, it doesn't say anything
20 about those people having alcohol and Valium or any other
21 drugs in their system; does it?

22 A No. This part doesn't; no.

23 Q And if a person had other drugs such as alcohol or

1 the metabolic equivalent of Valium in their system, would
2 that make the toxic range or the lethal range greater or
3 lesser than the number that you rely on?

4 A They have an additive effect so the toxic number
5 would be reduced.

6 Q Thank you.

7 MR. C. ANDERSON: No other questions, Judge.

8 THE COURT: Questions?

9 MR. STROM: No. Thank you, Judge.

10 THE COURT: Thank you very much, Doctor, for
11 your testimony. You have a nice day. You're free to go.

12 Who would be your next witness?

13 MR. ANDERSON: Dr. Donald Sabella.

14 THE COURT: Dr. Sabella. Have a seat, sir.

15 Whereupon,

16 DR. DONALD SABELLA,

17 a witness, was called for examination by counsel for the
18 Plaintiff, and after having been first duly sworn, was
19 examined and testified as follows:

20 DIRECT EXAMINATION

21 BY MR. ANDERSON:

22 Q Would you state your name, please?

23 A I'm Donald Sabella.

1 Q Doctor -- is it Dr. Sabella?

2 A Yes.

3 Q Could you spell your last name, please?

4 A S-a-b-e-l-l-a.

5 Q Dr. Sabella, how are you employed, sir?

6 A I work at the Loudoun Hospital Center. I'm in the
7 emergency department there.

8 Q Do you head up the emergency department?

9 A I do. I direct the department.

10 Q And can I direct your attention -- were you so
11 performing in that function back on the early morning hours
12 of August 1 of 1995, sir?

13 A I was.

14 Q And do you have any recollection of an individual
15 coming into the emergency room that night by the name of
16 Sandra Laing, sir?

17 A I do.

18 Q And did you treat that person, sir?

19 A I did.

20 Q Doctor, if I might, can I ask you, during the
21 course of your treatment of this individual, did you have
22 occasion to analyze or do any blood work on this person?

23 A Yes.

1 Q And what, if any, reason did you have for doing the
2 blood work or doing an analysis of the blood on this patient,
3 sir?

4 A There was a suspicion, because of her presenting
5 condition, of the possibility of drug overdose or head
6 trauma. And in those situations, we do various blood studies
7 to try to help us establish what the problem is.

8 Q And is one of the concerns that you had at that
9 time, sir, her blood and the ability to clot?

10 A That's one of the things that we checked; yes.

11 Q And did you have occasion, sir, to find out what
12 the status of her blood was on that night, sir?

13 A I did.

14 Q And was it normal?

15 A She -- in terms of clotting?

16 Q Yes, sir.

17 A Yeah. The parameters that we looked at were within
18 the acceptable limits.

19 Q So that if somebody were to take the stand and
20 testify as to a problem that she had with the blood clotting,
21 you would disagree with that; is that correct, sir?

22 A I feel that based upon the numbers that we
23 obtained, that her clotting ability was normal.

1 Q And so that was as a result of the testing that you
2 did from the blood extracted on that night, sir?

3 A Correct.

4 Q Doctor, how long have you been in the emergency
5 room or functioning in the emergency room at the hospital,
6 sir?

7 A Sixteen years.

8 Q And have you had occasion during that sixteen year
9 period, sir, to have individuals come in with various sorts
10 of head trauma?

11 A Many.

12 Q And during the course of your treatment of those
13 individuals with head trauma, sir, as part of your treatment
14 procedures, do you do a CT scan or a scan of the brain
15 itself?

16 A Yes. Since the CT scan became available at the
17 hospital, that's been the major diagnostic tool to look at
18 head trauma patients.

19 Q And you have CT scan capabilities at the hospital
20 and you -- I'm sorry -- you had CT scan capabilities on
21 August 1, 1995?

22 A Correct.

23 Q And did there come a point in time, sir, when you

1 were able to do a CT scan on Ms. Laing?

2 A Unfortunately, we had planned to do a CT scan on
3 her, but she became unstable and proceeded to expire prior to
4 obtaining that study.

5 Q And when you say she became unstable, when she
6 appeared in the emergency room, sir, was she conscious or
7 unconscious?

8 A She was unconscious. She was in a deep coma when
9 she arrived.

10 Q And were her vital signs, her other vital signs,
11 stable at that time?

12 A Her presenting vital signs were, for the most part,
13 normal, except for a rapid heartbeat.

14 Q Now, Doctor, based on your sixteen years of
15 experience, do you have an opinion, sir, as to the type of
16 force or blunt force trauma that would cause a hemorrhage in
17 the brain, sir?

18 MR. C. ANDERSON: I'm going to object, unless
19 this doctor is going to be qualified as an expert on blunt
20 force trauma in some way. We've had pathologists. We've
21 had --

22 THE COURT: Lay some foundation for this.

23 BY MR. ANDERSON: (resumed)

1 his testimony.

2 MR. C. ANDERSON: Very well.

3 THE COURT: All right.

4 (Whereupon, the proceedings continued in open
5 court, as follows:)

6 BY MR. ANDERSON: (resumed)

7 Q Doctor, based on your sixteen years experience as
8 an emergency room physician, do you have an opinion, sir, as
9 to the magnitude of force required to the skull to create a
10 subdural hematoma? Do you have an opinion on that, sir?

11 A Based upon my experience, I would say that
12 generally, a severe or significant force must be delivered to
13 the skull in order to cause a subdural hematoma.

14 Q And based on your experience in your sixteen years
15 as an emergency room physician, sir, have you observed cases
16 involving unconsciousness as a result of those types of head
17 trauma cases, sir?

18 A Yeah. Usually, accompanying that severe force is a
19 period of unconsciousness that follows.

20 Q And is that almost always the case, based on your
21 experience?

22 A Almost always.

23 Q And that unconsciousness, sir, does that come to a

1 point in time where individuals enter into comas?

2 A Absolutely. There's an initial period of
3 unconsciousness that can proceed or progress into a deep
4 coma. Or there can be a short period of unconsciousness, and
5 then a period of lucidity or 'awakeness', followed by
6 progression into coma.

7 Q Doctor, is it reasonable to expect that an
8 individual receiving a significant blunt force trauma to the
9 skull or to the head that would result in a hematoma, would
10 be, in fact, knocked unconscious at that time that they
11 received that trauma; is that right, sir?

12 MR. C. ANDERSON: Objection, Your Honor.
13 We're way beyond the scope. Plus, it assumes facts not in
14 evidence.

15 THE COURT: Sustained. Sustained.

16 MR. ANDERSON: I'm asking him to --

17 THE COURT: That will be stricken. Ask your
18 next question.

19 BY MR. ANDERSON: (resumed)

20 Q Doctor, you've indicated that there was blood work
21 done, analysis of blood done, in this case, sir?

22 A Yes.

23 Q And what, if any, reason did you have, sir, for

1 having that blood work done based on your observation of the
2 individual at the time she arrived?

3 A Because this individual was in a deep coma and had
4 evidence of trauma to her head, my concern was, indeed,
5 whether she had normal clotting ability, as it would be in
6 any case that presents that way. So I looked at that
7 particular parameter.

8 Q Did you have occasion, sir, to observe any other
9 trauma, or blunt force trauma, to other areas of the body
10 other than the head?

11 A I did. I noted on my record that there were some
12 bruises on the chest also.

13 Q Doctor, would you describe what, if any, blunt
14 force trauma you saw on the head itself?

15 A There was a bruise over the right eye. It looked
16 like a fresh bruise over the right eye. I didn't find any
17 other bruising of the head or the scalp.

18 MR. ANDERSON: That's all I have.

19 THE COURT: All right. Questions?

20 CROSS EXAMINATION

21 BY MR. C. ANDERSON:

22 Q Doctor, I'm Chuck Anderson. I've been playing
23 telephone tag with you for days.

1 A Yes.

2 Q I apologize. You ran blood alcohol counts as part
3 of that blood test on her too; didn't you?

4 A A blood alcohol level was obtained.

5 Q It was point two five seven; is that correct?

6 A Correct.

7 Q The -- and you got back a drug report that has on
8 it the word overdose; is that correct?

9 A We did a customary urinary toxic screen looking for
10 many of the common illicit drugs, and that came back
11 negative.

12 Q Doctor, this is your form so you're going to have
13 to tell me how to read it.

14 A Sure.

15 Q First, identify it. Is this your form?

16 A This is a laboratory report from the hospital; yes.

17 Q And it has on it the blood alcohol level of two
18 five seven we talked about?

19 A Correct.

20 Q Do you see at the bottom of that form under various
21 drugs the word overdose?

22 A I do.

23 Q What does that mean?

1 A I suspect that that was an indication on the
2 laboratory slip that we were ruling out an overdose, and
3 that's why we did the toxic screen.

4 Q Okay. Now, the words above it are all the word
5 negative?

6 A Correct.

7 Q Okay. So you think the way they would say that
8 somebody didn't have an overdose is they would write down the
9 word overdose?

10 A Please repeat that.

11 Q The way this form seems to read, doesn't it go
12 negative, negative, negative, negative, and then all of a
13 sudden, it says overdose?

14 A Right.

15 Q And your reading of that form -- you think that
16 somebody would read that form and they would conclude from
17 the word overdose that that meant there was no overdose?

18 A No. That wouldn't be the conclusion, because these
19 are only a few of the substances that we tested for. This
20 simply means that those substances weren't present. There
21 certainly could have been other substances present.

22 Q Don't you think the word negative would mean that
23 those substances --

1 MR. ANDERSON: Judge, he's arguing with the
2 witness. That's argument.

3 THE COURT: All right. Sustained, to the form
4 of your question.

5 MR. C. ANDERSON: I'm sorry, Judge.

6 BY MR. C. ANDERSON: (resumed)

7 Q Doctor, were you aware that the emergency medical
8 people, when they brought Sandra Laing to your facility,
9 brought some vials that had prescription medicine in them?

10 MR. ANDERSON: Beyond the scope of direct.

11 THE COURT: Overruled.

12 BY MR. C. ANDERSON: (resumed)

13 Q Were you aware that the emergency medical team
14 brought some pill vials with her when they brought her to
15 your hospital?

16 A Yes.

17 Q And were those pill vials full or empty?

18 A I believe they were empty. There was one bottle of
19 Amitriptyline, and one bottle of Erythromycin.

20 Q Did you ever see anybody with a black eye who
21 doesn't have a subdural hematoma?

22 A Absolutely.

23 Q Is that uncommon or uncommon [sic]?

1 A It's more common to see someone with a black eye
2 without a subdural hematoma, but they're usually not in coma.

3 Q And when you examined this patient, did you examine
4 this patient's eyes at all?

5 A I did.

6 Q And were both eyes always the same?

7 A Both eyes were symmetrically mid dilated; yes.

8 Q Did you ever see at any time where one of the eyes
9 was dilated differently than the other?

10 A No. We did not observe that.

11 Q And that would have been a significant thing if you
12 observed that; wouldn't it, Doctor?

13 A Absolutely. That would have been a significant
14 finding.

15 Q Can you get a subdural hematoma from falling?

16 A And hitting your head?

17 Q Yes.

18 A Yes.

19 MR. C. ANDERSON: No further questions.

20 REDIRECT EXAMINATION

21 BY MR. ANDERSON:

22 Q Doctor, just briefly. Are you familiar with the
23 procedures used in taking a blood sample at the hospital,

1 MR. C. ANDERSON: No, Judge.

2 THE COURT: All right. Ladies and gentlemen,
3 if you'll retire to the jury room, please.

4 (Whereupon, the jury exited the courtroom at 2:59
5 p.m.)

6 THE COURT: Do you wish to renew your motion
7 to strike for the record?

8 MR. C. ANDERSON: I do, Judge.

9 THE COURT: All right.

10 MR. C. ANDERSON: Can I argue it?

11 THE COURT: I'll defer ruling on it.

12 MR. C. ANDERSON: Until after the jury?

13 THE COURT: Correct.

14 MR. C. ANDERSON: Okay. Then I might as well
15 waive it. I'll make the argument. I'm not waiving my motion
16 to strike.

17 THE COURT: No. You're not waiving it. I'll
18 note your motion to strike. If you want to state for the
19 record specific reasons, I'll hear you.

20 MR. C. ANDERSON: Well, I think the specific
21 reason, Judge, is that I think I've proven beyond a
22 reasonable doubt that he's innocent. And they don't have any
23 facts to prove malice at all, and -- which is one of the

1 elements of a second degree murder charge. And I don't think
2 they have any facts to allow reasonable people to disagree
3 about whether or not Mr. Presley is guilty of this offense.

4 There are two main witnesses in this case as far as
5 the state is concerned; is basically, Billy Rossbach, the
6 fact witness of what happened at that house on that night.
7 He had twenty-four beers, and I forgot how many Valiums. I
8 believe he referred to himself as having a crisp memory of
9 the events.

10 And their other witness is basically Dr. Field,
11 who, under cross-examination, testified that the subdural
12 hematoma aging stretched from, I think, as recent as four to
13 as long as twenty-four hours. And that there was testimony
14 presented in the case through several witnesses that the
15 victim in this case had at least one, and possibly two, falls
16 within that period, besides the altercation that she had with
17 the Defendant.

18 I think under all those circumstances, that it is
19 impossible for reasonable people to reach the conclusion that
20 this case has been proven beyond a reasonable doubt.

21 On the issue of malice, as I understand it, the
22 only testimony they have, basically, is that a man hit a
23 woman. And I'm -- actually, I don't even think Billy

1 Rossbach saw a blow. And my memory of his testimony, and the
2 Court's would certainly control on this issue, is that Billy
3 Rossbach saw him holding her or grabbing her. I don't think
4 he ever saw -- said he saw him strike her.

5 I think under all those circumstances, frankly, if
6 Mr. Presley is found guilty, nobody in Loudoun County -- the
7 liberty of no one in Loudoun County is safe.

8 THE COURT: All right. Do you have the jury
9 instructions? I'm going to take your motion under
10 advisement.

11 MR. C. ANDERSON: Thank you, Judge. I gave my
12 jury instructions, proposed ones, to the Commonwealth. Do
13 you have any objection to mine?

14 THE COURT: Are they all out of the book?

15 MR. C. ANDERSON: Yes. All out of the book,
16 Judge.

17 MR. ANDERSON: There may be duplicates, Your
18 Honor.

19 MR. C. ANDERSON: The only ones I had
20 objection to of the Commonwealth was they had some going to
21 character and some going to --

22 MR. STROM: Judge, we would -- that's -- I'm
23 sorry. That is our -- that's the complete list that, as I

COURT OF APPEALS OF VIRGINIA

Present: Judges Willis, Annunziata and Bumgardner
Argued at Alexandria, Virginia

WILLIAM ALAN PRESLEY

v. Record No. 2265-96-4

COMMONWEALTH OF VIRGINIA

MEMORANDUM OPINION^{*} BY
JUDGE JERE M. H. WILLIS, JR.
JANUARY 20, 1998

FROM THE CIRCUIT COURT OF LOUDOUN COUNTY
Thomas D. Horne, Judge

Charles A. Anderson for appellant.

Kathleen B. Martin, Assistant Attorney
General (Richard Cullen, Attorney General, on
brief), for appellee.

On appeal from his conviction for voluntary manslaughter, William Alan Presley contends that the evidence was insufficient to support his conviction. We agree and reverse and dismiss the conviction.

"On appeal, we review the evidence in the light most favorable to the Commonwealth, granting to it all reasonable inferences fairly deducible therefrom. The jury's verdict will not be disturbed on appeal unless it is plainly wrong or without evidence to support it." Maynard v. Commonwealth, 11 Va. App. 437, 439, 399 S.E.2d 635, 637 (1990) (en banc) (citations omitted). See Horsley v. Commonwealth, 2 Va. App. 335, 339, 343 S.E.2d 389, 391 (1986) ("The credibility of the expert witness and the weight to be accorded the evidence were matters within

^{*}Pursuant to Code § 17-116.010 this opinion is not designated for publication.

the province of the jury."). When the sufficiency of the evidence is challenged on appeal, "it is our duty to look to that evidence which tends to support the verdict and to permit the verdict to stand unless plainly wrong." Snyder v. Commonwealth, 202 Va. 1009, 1016, 121 S.E.2d 452, 457 (1961).

Presley lived with Sandra Laing and William Rossbach in a Loudoun County residence owned by Presley's father. Although involved in an intimate relationship, Laing and Presley maintained separate bedrooms. In the early morning of August 1, 1995, Presley called the Virginia State Police and requested that they "kick" Laing out of the house. Trooper Alvin Blankenship advised Presley "to go to bed, get some sleep, and go to the magistrate's office the next day."

Rossbach testified that during that night, he heard banging noises and an argument between Laing and Presley. At one point, he entered the room where Laing and Presley were arguing and saw Presley's hand around Laing's throat. Presley removed his hands and said: "Sorry, God. I really messed up." Presley then telephoned for an ambulance. Laing was taken to Loudoun Hospital Center, where she died at 4:14 a.m.

The autopsy of Laing's body revealed a subdural hemorrhage on the left side and top of her head. Dr. Frances Fields, Assistant Chief Medical Examiner, testified that Laing's death resulted from this hematoma, which had been caused by blunt force trauma occurring within twenty-four hours prior to death. No external bruise was found over the hematoma. However, a bruise

was noted on Laing's right eyelid and a "small reddish abrasion" was seen on her left forehead.

Presley told Sergeant Eric Noble that he "beat the hell out of [Laing]" and that he had hit her with a chair. A broken chair was found near Laing. Presley admitted to Deputy Clete Kresge that he had hit Laing and that "[s]he had pissed me off tonight."

Four defense witnesses testified to Laing's poor motor coordination, which caused her to suffer frequent falls and bruises. Rossbach testified that Laing had stumbled and hit her face on a doorknob on the morning before she died.

Dr. Nicholas Lappes, a toxicologist, testified that the cumulative effect of the drugs in Laing's system was consistent with death by a drug overdose. Dr. John Adams, a forensic pathologist, testified that Laing's death was related to a congenital deformity of her spine and skull and to chronic liver disease. The spinal deformity caused her frequent falls and caused chronic pain in her neck and arms. The liver condition prevented proper blood clotting, causing abnormal bruising. Dr. Adams testified that Laing's subdural hematoma was at least twelve-hours old and that parts of it may have been seventy-two hours old. While noting that the subdural hematoma resulted from a combination of blunt force trauma and drugs and alcohol, he opined that it could have developed spontaneously due to improper blood clotting.

Dr. John H. Lossing, a neurologist, testified that Laing died of suffocation because emergency room personnel were unable

to intubate her successfully due to the deformity of her cervical spine. He opined that Laing's breathing difficulty resulted from excessive ingested medications. He opined that the hematoma caused a headache, which in turn led Laing to increase the dosage of her prescribed pain medicine, which may have produced an overdose.

Viewed in the light most favorable to the Commonwealth, the evidence failed to prove beyond a reasonable doubt that Presley intentionally killed Laing in the sudden heat of passion upon reasonable provocation. See Barrett v. Commonwealth, 231 Va. 102, 105-06, 341 S.E.2d 190, 192 (1986). Although he beat her, the evidence failed to prove that he inflicted the mortal injury. The medical examiner was unable to attribute Laing's subdural hematoma to Presley. She was unable to identify its cause. She acknowledged it could have occurred prior to the altercation between Laing and Presley. It could have resulted from Laing's prior accidental fall. See Hughes v. Commonwealth, 18 Va. App. 510, 518-19, 446 S.E.2d 451, 457 (1994) (en banc) (citation omitted).

Accordingly, the judgment of the trial court is reversed and the charge is dismissed.

Reversed and dismissed.

DEPARTMENT OF HEALTH
OFFICE OF THE CHIEF MEDICAL EXAMINER

NORTHERN VIRGINIA DISTRICT
9797 BRADDOCK ROAD
SUITE 100
FAIRFAX, VA 22032-1700
PHONE (703) 764-4640

AUG 1995
Received
No VA
Medical Examiner

REPORT OF AUTOPSY

IDENT SANDRA D. LAING

First Middle Last

Authorized by: Dr. George Hocker - Loudoun County

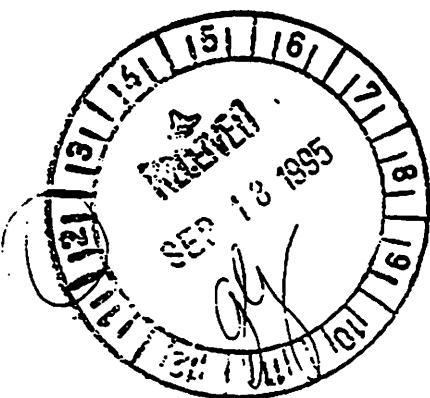
Identified by: Body Tag Persons Present at Autopsy:
Frances P. Field, M.D.; James C. Beyer, M.D.;
B. Harpster & D. Canham - Loudoun County
Sheriff's Office; E. Siromm - Loudoun County
CA's Office

complete X jaw _____ neck _____ arms _____ legs _____
color purplish distribution: posterior
34 Race W Sex F Length 64" Weight 113 Eyes brown Pupils: R RRE L RRE
k. blond Mustache _____ Beard _____ Circumcised _____ Body Heat cool

ing, Personal Effects, External wounds, scars, tattoos, other identifying features: See attached sheet.

HISTOLOGICAL DIAGNOSIS:

abrasion of forehead; contusion of right eyelids; contusion of tongue.
P AND SKULL: No evidence of trauma.
BRAL MENINGES AND BRAIN: Left subdural hemorrhage with compression on left parietal and
temporal lobes, left uncus grooving, and perivascular brain stem hemorrhages.
Pressure mark of left upper back, contusions of abdomen, left buttock, upper and
lower extremities; abrasions of lower extremities.
ER: Increased portal fibrosis; chronic nonspecific triaditis; moderate fatty metamorphosis
SS: Chronic bronchitis; pulmonary congestion.



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Continental's Exhibit No. 7
Case No. 10001 Date 6/3/96

Cause of Death:

SUBDURAL HEMORRHAGE

Provisional Report _____
Final Report ✓

Facts stated herein are true and correct to the best of my knowledge and belief.

8-28-95
Date Signed

NO VA ME OFFICE
Place of Autopsy

JP Field
Signature of Pathologist
Frances P. Field, M.D.

Form No. 10—Revised 6/89

A COPY TESTE: AUG 28 1995

JP Field
Assistant Chief Medical Examiner

000458

EXTERNAL EXAMINATION:

Body examined in the morgue at the Northern Virginia District Medical Examiner's Office on August 2, 1995 at 8:35 A.M. The body was refrigerated and was in a body bag. Pierced ears with yellow stones were in place; a silver-colored ring with a black stone was on the right fourth finger and a silver-colored ring with an orange stone was on the left fourth finger. The body was not clothed. Red polish was on the toenails. Two vials of medication, Amitriptyline and Erythromycin, were with the body.

A tattoo of a bird was on the left chest, a unicorn head on the right upper back, a butterfly on the left lower back, and a rose design around the right ankle. Whitish scars were on the posterior neck and lower extremities, and a purplish scar was on the left elbow region. There were small fractures of teeth #7 and #26 with smooth fractured edges; no evidence of trauma to the lips or anterior tongue.

Evidence of medical intervention included an endotracheal tube and gastric tube in the mouth, three EKG pads on the anterior chest and abdomen; bilateral subcutaneous thoracic catheters on the arm board with elastic bandage around left arm; intravenous lines in the left antecubital and the right forearm; a needle puncture surrounded by a 1 1/2 x 1 1/2" purplish contusion on the right antecubital fossa; and a urethral catheter in place.

The initials "GH" were written in ink on the mid-back and circled.

Dried blood was over the face, chest, right abdomen and right arm.

The fingernails were short and intact. Fingerprint ink was on the fingertips.

EVIDENCE OF TRAUMA:

FACE: Abrasion of left forehead; contusion of right eyelids (see body diagram); Purplish contusion of left postero-superior tongue, 1/4 x 3/16."

SCALP AND SKULL: No evidence of trauma.

CEREBRAL MENINGES: Subdural hemorrhage over left lateral parietal and occipital regions; 10 ml. of clotted blood with no evident adherence to the dura.

BRAIN: Flattening of the left lateral parietal and occipital lobes underlying subdural hemorrhage; left uncus grooving.

SKIN: Pressure mark of left upper back; contusions of abdomen, left buttock upper and lower extremities; abrasions of upper and lower extremities (see body diagrams).

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GROSS DESCRIPTION

RA, PERITONEUM
RICARDIUM:

Intact, smooth and glistening.

T:

240 gm. No valvular or congenital abnormalities. Coronary arteries, normal origin and distribution; right coronary artery predominant; left anterior descending, right coronary artery and left circumflex, no significant sclerosis all segments. Myocardium is intact with no gross evidence of inflammation or fibrosis. Aorta, no significant alteration

S:

Right 510 gm.; left 450 gm. Hyoid bone, no evidence of trauma. Larynx trachea and bronchi, intact and free of trauma or obstruction. Lungs, pulmonary congestion all lobes; no evidence of trauma, inflammation or pulmonary artery emboli. Hemidiaphragms intact.

R:

1940 gm. Capsule intact and smooth; parenchyma, no evidence of trauma, inflammation or fibrosis.

BLADDER:

No significant alteration.

EN:

120 gm. Capsule intact; parenchyma, no significant alteration.

REAS, ADRENAL
THYROID GLANDS:

No significant alteration.

TRACT:

No evidence of trauma, hemorrhage or ulceration. Stomach contains approximately 200 ml. of brownish fluid.

KEYS:

150 gm. each. Capsules strip with ease revealing intact, smooth cortic surfaces; no evidence of trauma or inflammation.

UARY BLADDER:

Wall intact; empty.

ITALIA:

No significant alteration.

IN:

1190 gm. See page 2.

LETAL SYSTEM:

No evidence of trauma.

ROSCOPICS:

Sections of brain reveal foci of perivascular hemorrhage in the brain stem. Sections of liver reveal increased portal fibrosis with some por to portal bridging, increased chronic inflammatory cells in the portal regions and approximately 50% of liver cells contain fat vacuoles. Sec of a major bronchus shows a moderate infiltraion of the submucosa by chronic inflammatory cells; the lungs show congestion. Sections of hea and uterus show no significant alteration. Sections of the subdural hemorrhage shows predominantly intact red blood cells enmeshed in fibrin. Sections of the contusion from the posterior left thigh show hemorrhage consisting of intact red blood cells in the subcutaneous tissue. Secti of the contusion of the right eye region show intact red blood cells wi a small infiltraion by neutrophils in the subcutaneous tissue. Section the contusion on the left elbow region show intact and degenerating red blood cells with some infiltration by neutrophils enmeshed in fibrin.

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C00460

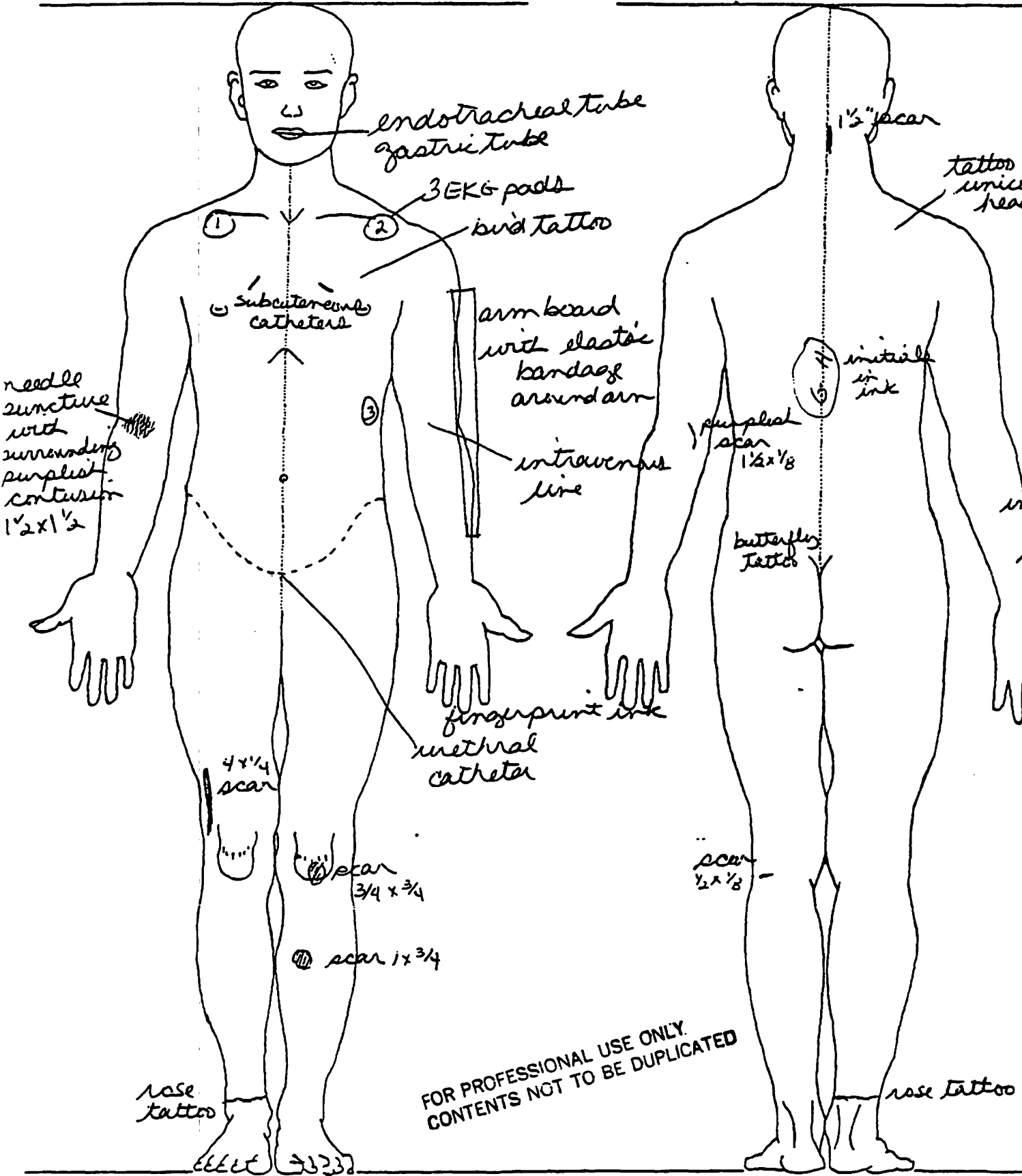
OTHER LABORATORY PROCEDURES: TOXICOLOGY ☒ BACTERIOLOGY ☐ DENTAL CHART ☐ X-RAY ☒ FINGER-PRIN
PHOTOGRAPHY ☒ SEROLOGY ☐ FORENSIC SCIENCE ☐ DNA CARD ☒ PERI

EVIDENCE: jewelry and PERK to Brian L. Harpster-Loudoun Co. S.O. 8-2-95 at 9:45 AM

BODY DIAGRAM

Front

Back



Decedent's Height 64 inches

Name Sandra Laing
 Examined By JP Xued Date 8-2

000461

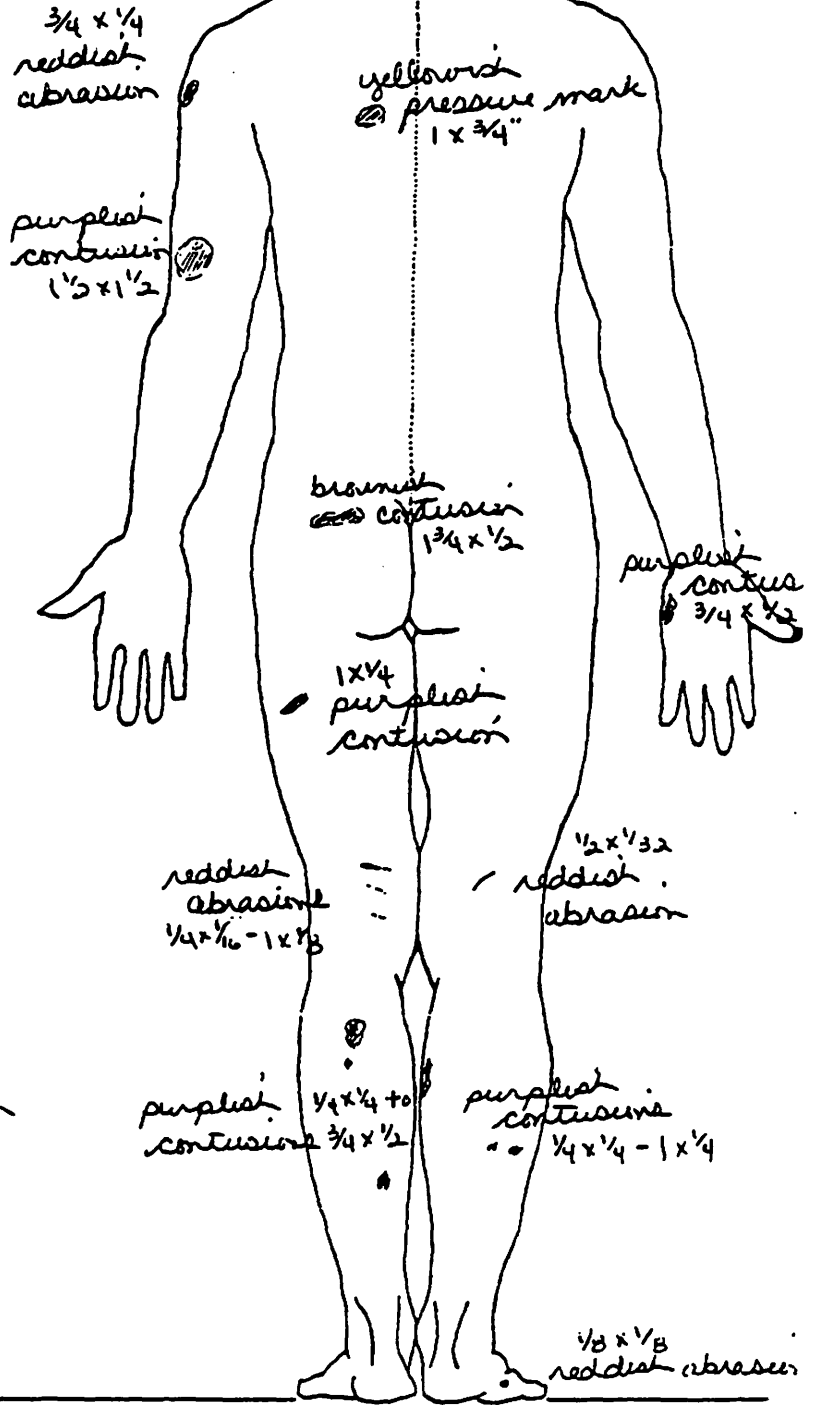
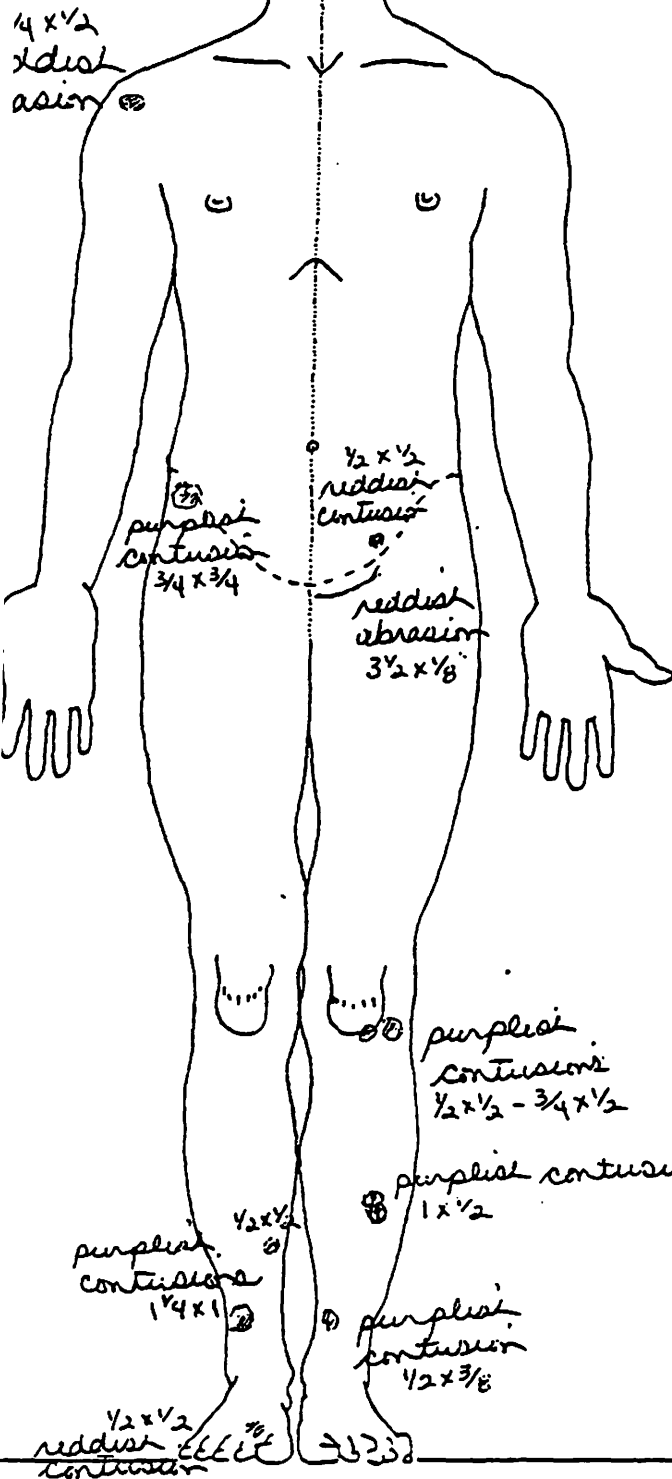
BODY DIAGRAM

Front

Back

PROFESSIONAL USE ONLY
CONTENTS NOT TO BE DUPLICATED

See
head
diagram



Decedent's Height 64 inches

Name Sandra Laing

Examined

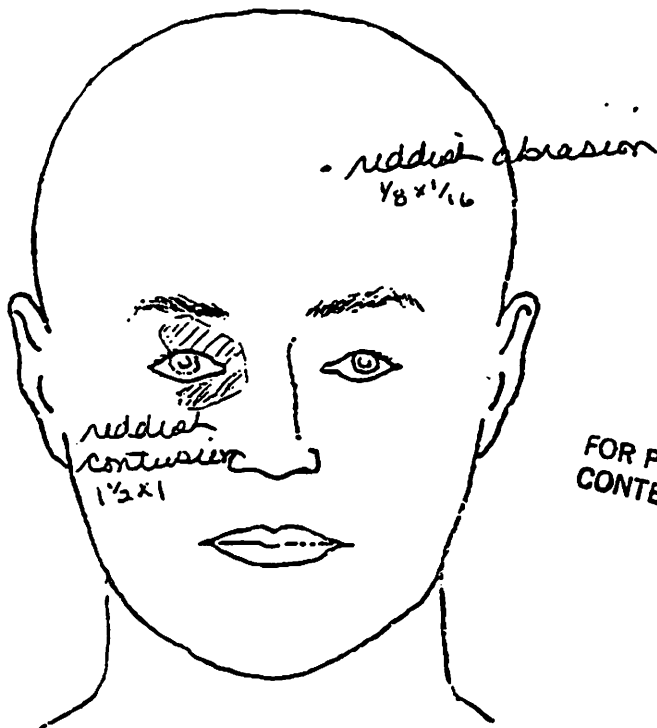
By

JO Xued

Date

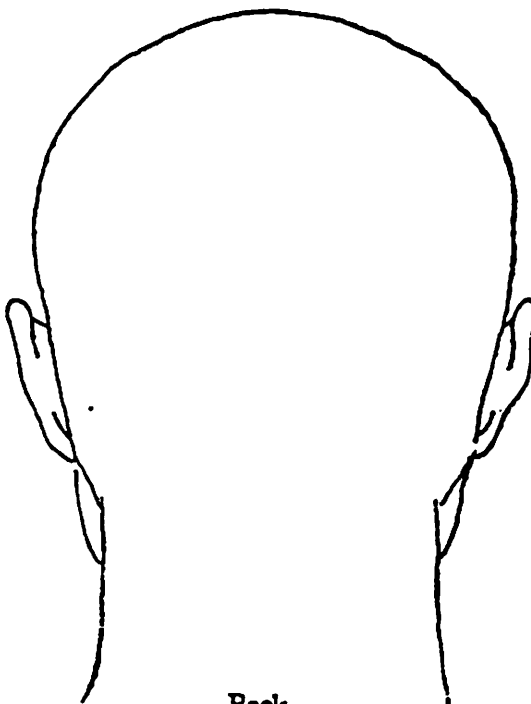
8-2-95

000462



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CONTENTS NOT TO BE DUPLICATED

Front



Back

Decedent's Name Sandra Laing

Examined

By JP Xued Date 8-2-95

000463



Department of Criminal Justice
DIVISION OF FORENSIC SCIENCE

CERTIFICATE OF ANALYSIS

August 9, 1995

ORIGINAL 4
Northern Laboratory AUG 1995
9797 Braddock Road
Suite 200
Fairfax, VA 22032
Received
No VA
Medical Examiner

Tel. No.: (703) 764-4600
Fax: (703) 764-4633
TDD/Voice: (804) 786-6152

TO: DR. FRANCES P. FIELD
OFFICE OF THE CHIEF MEDICAL EXAMINER
9797 BRADDOCK ROAD
SUITE 100
FAIRFAX VA 22032

FS Lab #N95-6103

Your Case #: 95-356

Victim(s): LAING, Sandra

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CONTENTS NOT TO BE DUPLICATED

Suspect(s): - - -

Evidence Submitted By: Dr. Frances P. Field

Date Received: 08/02/95

Item TX1 One (1) sealed vial of heart blood.
Item TX2 One (1) sealed vial of vitreous humor.
Item TX3 One (1) sealed vial of spinal fluid.
Item TX4 One (1) sealed vial of iliac vein blood.
Item TX5 One (1) sealed container of heart blood.
Item TX6 One (1) sealed container of liver.
Item TX7 One (1) sealed container of gastric contents.
Item TX8 One (1) sealed container of subdural blood.
Item TX9 One (1) sealed cardboard box containing one (1) sealed vial of blood.

RESULTS:

Heart Blood: - Ethanol 0.15% by weight by volume.
Vitreous Humor: - Ethanol 0.20% by weight by volume.
Spinal Fluid: - Ethanol 0.19% by weight by volume.
Iliac Vein Blood: - Ethanol 0.14% by weight by volume.
Subdural Blood: - Ethanol 0.18% by weight by volume.

Heart Blood: - Amitriptyline 1.33 mg/L. Nortriptyline 2.23 mg/L.
- Nordiazepam 3.54 mg/L.
- Erythromycin present.
- Phencyclidine, Morphine, Cocaine and Benzoylcegonine not detected.
- No other alkaline extractable drugs detected.
- No acidic or neutral drugs detected.

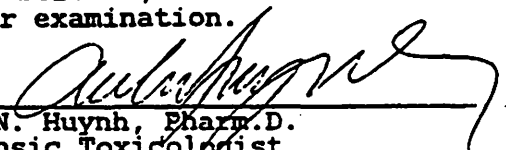
Liver: - Amitriptyline 7.5 mg/kg. Nortriptyline 21.5 mg/kg.
- Nordiazepam 0.7 mg/kg.
- Erythromycin present.

Gastric Contents: - No significant drugs detected. 4

Attest:

I certify that I performed the above analysis or examination as an employee of and in a laboratory operated by the Division of Forensic Science, and that the above is an accurate record of the results of that analysis or examination.

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Anh N. Huynh, Pharm.D.
Forensic Toxicologist

A COPY TESTE:

AUG 28 1995

ME: Dr. G. Hocker


Assistant Chief Medical Examiner

NICHOLAS T. LAPPAS
CURRICULUM VITAE

**PERSONAL
DATA**

Date of birth: January 24, 1943
Married with two children

**BUSINESS
ADDRESS**

Department of Forensic Sciences
The George Washington University
Washington, DC 20052
(202) 994-1468

**DEGREES
HELD**

Ph.D.
Pharmaceutical Chemistry
Duquesne University 1975

M.S.
Pharmacology / Toxicology
Duquesne University 1973

A.B.
Biology
Tulsa College 1964

**PROFESSIONAL
EXPERIENCE**

Associate Professor
1980 - present

Director, Chemical Toxicology Program
Department of Forensic Sciences
The George Washington University
1980 - 1981

Assistant Professor
Department of Forensic Sciences
The George Washington University
1975 - 1979

Toxicologist
Allegheny County Coroner's Office
Pittsburgh, PA
1968 - 1973

Research Assistant in Gastroenterology
Montefiore Hospital
Pittsburgh, PA
1965 - 1966

**PROFESSIONAL
MEMBERSHIPS**

The American Academy of Forensic Sciences
The Forensic Science Society
The Society of Forensic Toxicologists
The International Association of Forensic Toxicologists
The Mid-Atlantic Association of Forensic Scientists
The American College of Toxicology
Society of the Sigma Xi
American Chemical Society
The American Association for the Advancement of Science
The Pan-American Biodeterioration Society

000465

PUBLICATIONS

- R.L. Weaver, N.T. Lappas and W.F. Rowe, "Utilization of medically obtained evidence in cases of sexual assault: Results of a survey", *J. For. Sci.*, **23**, 809-823 (1978).
- N.T. Lappas, "Forensic science laboratories in the United States: A survey", *J. For. Sci. Soc.*, **18**, 171-180 (1980).
- N.T. Lappas, "The Identification of human bloodstains by means of thin-layer immunoassay: A preliminary report", *J. For. Sci. Soc.*, **21**, 301-305 (1981).
- N.T. Lappas and M.E. Fredenburg, "The Identification of human bloodstains by means of micro-thin-layer immunoassay procedure", *J. For. Sci.*, **26**, 564-569 (1981).
- N.T. Lappas and W.T. Lee, "The use of tetramethylbenzidine in conjunction with thin-layer immunoassay for the detection of hemoglobin", *Forensic Serology News*, **7**, 1-2 (1981).
- M.E. Fredenburg and N.T. Lappas, "The detection of opiates in urine by means of thin-layer immunoassay", *J. Analyt. Tox.*, **6**, 127-130 (1982).
- L.C. Shughart and N.T. Lappas, "The detection of opiates in blood by means of thin-layer immunoassay", *J. Analyt. Tox.*, **7**, 209-212 (1983).
- W. Sweeney, L.R. Goldbaum and N.T. Lappas, "Detection of benzoylecgonine in urine by means of UV spectrophotometry", *J. Analyt. Tox.*, **7**, 235-236 (1983).
- E.M. Whitehead, M.E. Fredenburg and N.T. Lappas, "The detection of fetal hemoglobin in bloodstains by means of thin-layer immunoassay", *J. For. Sci.*, **28**, 888-893 (1983).
- A.S. Masibay and N.T. Lappas, "Detection of p30 in seminal stains by means of thin-layer immunoassay", *J. For. Sci.*, **29**, 1173-1177 (1984).
- N.T. Lappas, "Detection of opiates in biological material by means of thin-layer immunoassay", in *Advances in Analytical Toxicology*, ed., R.C. Baselt, vol. 1, Biomedical Publications, Foster City, Calif., 1984.
- T.L. Stockham and N.T. Lappas, "Detection of opiates in postmortem tissues by thin-layer immunoassay", *J. Analyt. Tox.*, **9**, 194-196 (1985).
- L. R. Goldbaum, D.H. Chace and N.T. Lappas, "Determination of carbon monoxide in blood by gas chromatography using a thermal conductivity detector", *J. For. Sci.*, **31**, 133-142 (1986).
- D.H. Chace, L.R. Goldbaum and N.T. Lappas, "Factors affecting the loss of carbon monoxide from stored blood samples", *J. Analyt. Tox.*, **10**, 181-189 (1986).
- G.J. Burlin, N.T. Lappas and K.M. Brown, "An investigation of the effects of cocaine on neurulation in explanted chick embryos", *Teratology*, **35**, 55-56A (1987).
- K.G. Anitole, P.L. Stahle, C.S. Ridenour, N.T. Lappas and K.M. Brown, "Chlorpromazine-sensitive developmental processes in the sea urchin, *Lytechinus pictus*. 1. Inhibition of cleavage, gastrulation and primary mesenchyme cell differentiation", *Comp. Biochem. Physiol.*, **90C**, 47-53 (1988).

K.G. Anitole, C.L. Butler, N.T. Lappas and K.M. Brown, "Chlorpromazine sensitive developmental processes in the sea urchin, *Lytechinus pictus*. 2. Effects of neuroactive agents on the susceptibility of the gastrulation process to chlorpromazine", Comp. Biochem. Physiol., 90C, 55-60 (1988).

S. Dugan, S. Bogema, R.W. Schwartz and N.T. Lappas, "Stability of drugs of abuse in urine samples stored at -20°C", J. Analyt. Tox., 18, 391-396 (1994).

PRESENTATIONS

N.T. Lappas, "Graduate education in forensic sciences", an invited paper presented at the spring meeting of The Southern Association of Forensic Scientists, Tallahassee, FL, April 3, 1976.

J.W. Snyder and N.T. Lappas, "An estimate of the post-mortem interval by means of the *in vitro* glucose utilization by cerebral cortical homogenates", presented at the 12th semi-annual meeting of The Mid-Atlantic Association of Forensic Scientists, Pittsburgh, PA, September 29, 1978.

N.T. Lappas, C.E. O'Rear and W.F. Rowe, "Graduate education in the forensic sciences", presented at the 12th semi-annual meeting of The Mid-Atlantic Association of Forensic Scientists, Pittsburgh, PA, September 29, 1978.

A. Low-Beer and N.T. Lappas, "Detection of human chorionic gonadotropin in bloodstains", presented at the 13th semi-annual meeting of The Mid-Atlantic Association of Forensic Scientists, Gettysburg, PA, April 27, 1979.

A. Low-Beer and N.T. Lappas, "Detection of human chorionic gonadotropin in bloodstains by means of crossed electroimmunodiffusion", presented at the 32nd annual meeting of The American Academy of Forensic Scientists, New Orleans, LA, February 22, 1980.

N.T. Lappas, "The use of thin-layer immunoassay in forensic serology", presented at the 1st combined meeting of Forensic Scientist Associations, Louisville, KY, May 9, 1980.

N.T. Lappas, "The identification of human bloodstains by means of thin-layer immunoassay", seminar presented at the F.B.I., Washington, DC, May 16, 1980.

C.E. O'Rear, W.F. Rowe and N.T. Lappas, "From forensic science appreciation to forensic science education", Federation of Analytical Chemistry and Spectroscopy Societies, VII, Philadelphia, PA, September 29, 1980.

N.T. Lappas and M.E. Fredenburg, "Detection of morphine in urine by thin-layer immunoassay", presented at the annual meeting of The Society of Forensic Toxicologists, Toronto, Canada, October 3, 1980.

M.E. Fredenburg and N.T. Lappas, "The detection of fetal hemoglobin by means of thin-layer immunoassay", The Mid-Atlantic Association of Forensic Scientists, Arlington, VA, October 10, 1980.

N.T. Lappas and M.E. Fredenburg, "A novel method for the detection of morphine in urine", The Mid-Atlantic Association of Forensic Scientists, Arlington, VA, October 10, 1980.

M.E. Fredenburg and N.T. Lappas, "Application of thin-layer immunoassay in the forensic sciences", The Mid-Atlantic Association of Forensic Scientists, Charlottesville, VA, April 20, 1981.

E. Whitehead and N.T. Lappas, "The sensitivity and specificity of HbF detection in bloodstains by thin-layer immunoassay", The Mid-Atlantic Association of Forensic Scientists, Virginia Beach, VA, September 24, 1981.

W.T. Lee and N.T. Lappas, "The detection of ABO antigens in stains by thin-layer immunoassay", The Mid-Atlantic Association of Forensic Scientists, Virginia Beach, VA, September 25, 1981.

N.T. Lappas and M.E. Fredenburg, "The detection of opiates in urine by means of thin-layer immunoassay", American Academy of Forensic Sciences, Orlando, FL, February 10, 1982.

N.T. Lappas and E. Whitehead, "A novel method for the detection of HbF in bloodstains: Thin-layer immunoassay", American Academy of Forensic Sciences, Orlando, FL, February 10, 1982.

N.T. Lappas and W.T. Lee, "ABO typing of bloodstains and saliva by thin-layer immunoassay", American Academy of Forensic Sciences, Orlando, FL, February 10, 1982.

N.T. Lappas, L. Shughart, A. DeAngelo and T. Stockham, "Thin-layer immunoassay: A novel method for the detection of drugs in urine", Second International Conference on Immunopharmacology, Washington, DC, July 7, 1982.

A.S. Maslbay and N.T. Lappas, "Detection of p30 in semen by means of thin-layer immunoassay", The Mid-Atlantic Association of Forensic Scientists, Rosslyn, VA, October 13, 1982.

L.C. Shughart and N.T. Lappas, "Detection of opiates in blood by means of thin-layer immunoassay", Society of Forensic Toxicologists, Rosslyn, VA, October 14, 1982.

A.S. Maslbay and N.T. Lappas, "An inhibition thin-layer immunoassay for the detection of p30 in semen stains", "Forensic Science Symposium on the Analysis of Sexual Assault Evidence, F.B.I. Forensic Science Research and Training Center, Quantico, VA, July 8, 1983.

D.H. Chace, N.T. Lappas and L.R. Goldbaum, "Stability of carboxyhemoglobin in blood upon storage", The Mid-Atlantic Association of Forensic Scientists, Baltimore, MD, April 21, 1983.

D.H. Chace and N.T. Lappas, "Effects of various storage conditions on the stability of carboxyhemoglobin in blood", Sixth International Biodegradation Symposium, Washington, DC, August 10, 1984.

N.T. Lappas, "Problems of interpretation in forensic toxicology", The Mid-Atlantic Association of Forensic Scientists, Ocean City, MD, October 4, 1986.

G.J. Burin, N.T. Lappas and K.M. Brown, "An investigation of the effects of cocaine on neurulation in explanted chick embryos", Teratology Society, Palm Springs, CA, March 27, 1987.

L. Tonelli, T. Phillips and N.T. Lappas, "Detection of ABO blood group substances in saliva by an ELISA method using monoclonal antibodies", The Mid-Atlantic Association of Forensic Scientists, Alexandria, VA, October 16, 1987.

N.T. Lappas, "Factors which influence interpretation in forensic toxicology: I. Age", The Mid-Atlantic Association of Forensic Scientists, Bethesda, MD, May 30, 1991.

S. Dugan, S. Bogema, N.T. Lappas, "The stability of drugs of abuse in frozen urine samples", An International Symposium on Forensic Toxicology, FBI Academy, Quantico, VA, June 16, 1992.

RECORD OF EXPERT TESTIMONY

Admitted as an expert in forensic toxicology on over 60 occasions in the state courts of Maryland, Michigan, Pennsylvania, Virginia and West Virginia, the Superior Court of the District of Columbia and the United States District Court for the Eastern District of Virginia.

CURRICULUM VITAE

John E. Adams, M.D.
8420 Charles Valley Court, Suite B
Baltimore, Maryland 21204

Born: May 11, 1930
Cumberland, Maryland

College: Tufts University, 1948 - 1951
University of Maryland, 1951 - 1952, B.S.

Medical School: University of Maryland, 1952 - 1956, M.D.

Professional Appointments: Rotating Internship, Union Memorial Hospital, Baltimore, 1957

Assistant Resident in Medicine, University Hospital, Baltimore, 1957

Assistant Resident in Pathology, University of Maryland, 1957 - 1958

Chief and Assistant Pathologist, U.S. Air Force, Keesler A.F.B., Biloxi, 1958 - 1960

Assistant Resident in Pathology, Massachusetts General Hospital, Boston, 1960 - 1962

Teaching Fellow in Pathology, Harvard University Medical School, 1960 - 1962

Assistant in Pathology, Tufts University Medical School, 1960 - 1962

Fellow in Forensic Pathology, Office of the Chief Medical Examiner of Maryland, 1962 - 1963

Assistant Medical Examiner, State of Maryland, 1963 - 1965

Lecturer in Forensic Pathology, Johns Hopkins University School of Public Health and Hygiene, 1962 - 1965

Assistant Professor of Pathology, University of Maryland Medical School, 1962 - present

Instructor in Bioethics, Johns Hopkins University, 1980 - 1986

Curriculum Vitae
John E. Adams, M.D.
Page 2

Professional
Appointments
(cont.d):

Consultant in Pathology, Baltimore City Hospitals, 1970 - 1980

Consultant in Pathology, Sinai Hospital of Baltimore, 1982 - present

Associate Medical Examiner, State of Maryland, 1965 - 1980

Member, Board of Medical Examiners of Maryland, 1969 - 1984

Member, Commission on Medical Discipline of Maryland, 1973 - 1982

Chairman, Commission on Medical Discipline of Maryland, 1977 - 1981

Member, Baltimore County Health Services Focus Group, 1989 - 1990

Chief, Department of Pathology, Hospital for the Women of Maryland, 1965

Vice Chief of Staff, Greater Baltimore Medical Center, Baltimore, 1974 -1980 and 1988 - 1990

Director, Andrology/In Vitro Fertilization Laboratory, Greater Baltimore Medical Center, 1983 - 1990

Chairman, Department of Pathology, Greater Baltimore Medical Center, 1965 - 1990

Distinguished Emeritus Staff, Greater Baltimore Medical Center, 1990-present

President and Medical Director, Central Laboratories of Associated Maryland Pathologists, 1970 - 1990

President and Medical Director, Pathology Service Group, Ltd., 1983 - 1990

Curriculum Vitae
John E. Adams, M.D.
Page 3

Consulting Senior Forensic Pathologist,
Forensic Technologies International
Corporation, 1991 - present

Present Employment: Consultant in Anatomic and Clinical
 Pathology and Forensic Medicine and
 Pathology

Specialty Boards: Certified in Pathologic Anatomy, American
 Board of Pathology, 1962

 Certified in Forensic Pathology, American
 Board of Pathology, 1964

 Certified in Clinical Pathology, American
 Board of Pathology, 1966

Society Memberships: College of American Pathologists (Fellow
 and Delegate)

 American Society of Clinical Pathologists
 (Fellow and Delegate)

 Maryland Society of Pathologists

 American Academy of Forensic Sciences

 Medical and Chirurgical Faculty of
 Maryland

 American Medical Association

 Baltimore County Medical Association

 American Society of Law & Medicine (to
 1989)

 American Fertility Society (to 1990)

 American Society of Andrology (to 1990)

 American Association of Blood Banks (to
 1990)

Publications: Leukemogenic Thymoma. Report of a Unique
 Case. American Journal of Clinical
 Pathology, Vol. 40, No. 2, pp. 173, 1963

000472

Curriculum Vitae
John E. Adams, M.D.
Page 4

Publications
(cont'd):

Investigation of Aircraft Fatalities.
Journal of Forensic Sciences, 1965
(monograph)

Editorials, Maryland Medical Journal, 1965
through 1970

Multiple publications on physician
discipline, Maryland Medical Journal,
1977 - 1985

Ultrasonic Detection of Trisomy 18.
Prenatal Diagnosis, Vol. 1, 223-226, 1981

Pathology, A Review and Comment.
Reflections, 1981

Syllabus of Laboratory Medicine, 1982

Prenatal Diagnosis of 45,X/46,XY.
Maryland Medical Journal, Vol. 34, 883-
884, 1985

The Clinical Laboratory Diagnosis and
Treatment of Infertility. 1985, edited
1986, 1987 and 1988 (ASCP monograph)

Male Infertility. ASCP Check Sample, 1988

Assessment of Oocytes Retrieved from Stim-
ulated and Unstimulated Pig-Tail Macaques.
Zoo Biology, 33-46, 1989

Clinical Exhibits:

Medical and Chirurgical Faculty of
Maryland, Prenatal Diagnosis (1983) &
Receptor Assays (1985)

American Society of Medical Technologists
Drug Abuse Screening (1987)

Workshops:

Laboratory Diagnosis and Treatment of
Infertility. American Society of Clinical
Pathologists National Meetings, 1985,
1986, 1987, 1988

000473

Seminars

**Forensic Medicine Seminar, Maryland
Public Defender System, December 16, 1991**

**Forensic Medicine Lectures (3) Maryland
Criminal Defense Attorneys' Conference,
October 24-25, 1992**

**Forensic Medicine Full Day Seminar,
New Jersey Public Advocate System,
March 8, 1994**

November 1994

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SUITE NUMBER ONE
WASHINGTON D.C., 20037-2543
(202) 625-0261

JOHN H. LOSSING, M.D.

NEUROLOGY
ELECTRO-MYOGRAPHY
ELECTRO-ENCEPHALOGRAPHY
FAX (202) 625-

13:11: Thursday, May 16, 1996

CURRICULUM VITAE

NAME: JOHN HAROLD LOSSING M.D.

Born: June 30, 1945, South Bend, Indiana

Married: Wife, Jane Blackman, M.D. and two children, age 10

EDUCATION:

| | |
|-----------|--|
| 1963 | Central High School, Flint, Michigan |
| 1962-1963 | Flint Jr. College |
| 1963-1966 | B.S. University of Michigan. Experimental Psychology |
| 1966-1970 | M.D. University of Michigan |

TRAINING

| | |
|-----------|---|
| 1970-1971 | Internship, Pediatrics University of Minnesota |
| 1971-1974 | Resident, Neurology University of Michigan |

MILITARY SERVICE

| | |
|-----------|--|
| 1974-1975 | U.S. Navy, Lt. Commander Consultant Neurologist, Chief, Neurology Service Great Lakes Naval Base, Illinois |
| 1975-1977 | U.S. Public Health Service Staff Associate, Membrane Transport Section Division of Cancer Treatment National Cancer Institute National Institutes of Health Bethesda, Maryland |

| | |
|------------|---|
| 1975, 1976 | Medical Officer USCGC Eagle Safety Assurance Officer Liquor Control Officer |
|------------|---|

APPOINTMENTS

Research Assistant, Neuropathology, Mental Health
Research Institute, Ann Arbor, Michigan, 1965
Abbott Laboratories, North Chicago Illinois
Consultant in Neurology, Division of New Product
Evaluation 1975-1976 (Part time)
Chicago Medical School
Adjunct Clinical Instructor, Neurology Department,
and Adjunct Vice Chairman, Neurology Department,
1975. (Adjunct Great Lakes Regional Medical Center)

000475

Center, US Navy).

Georgetown University, Neurology Department

Full Time Staff 1977-1979

Director Neurology Clinic, Epilepsy Clinic,
Electroencephalographer

Assistant Professor, Active Staff

Clinical Assistant Professor, Active Staff,
1979-

Quality Assurance Committee 1978-1979

Director, Seizure Control Program and Neurology
Clinic, Great Oaks State Hospital 1977-1980

Director Seizure Control Program and Neurology
Clinic, Forest Haven State Hospital 1979-1982

George Washington University,

Office of the Dean

Physicians Advisory Council 1991-

Member, Faculty Senate 1995-

Member, Stroke Map Committee 1996

Neurology Department

Clinical Assistant Professor, Clinical Staff
1982-1992

Clinical Associate Professor 1992-

Part time staff 1982-1990

Supervisor, in Resident's Neurology Clinic
1982-1990

Chairman, Continuing Med. Education Committee,
Neurology Department 1991-

Secretary, Credentials Committee, Neurology
Department 1991-4

Student Education Committee 1992-3

Co-Director: Sophomore Neurology Course
1992-3

Quality Assurance Committee, Neurology 1993-
Chairman, 1994-

Internal Medicine Department

Clinical Assistant Professor 1988-1992

Clinical Associate Professor 1993-

Section of Physical Medicine. EMG Clinic

Part time supervisor 1988-1989;

Lecturer, 1988-9

G.W.U. Attending Physicians Association, Active
Member

G.W.U. Senate Committee on Admissions and Advanced
Placement 1991-1993

G.W.U Faculty Senate 1995-

Speaker Resource, G.W.U. Public Relations
Department, 1985-

Osler Institute

Terre Haute, Indiana

Program Director, Neurology Courses 1991-1992

Director, Neurology Review Course, March 1991

Lecturer, Neurology Review Courses, October,
1990, April 1991, April 1992, Jan 1993,
Jan 1994, May 1995

Sibley Hospital Courtesy Staff 1979-

Delegate to MSDC House of Delegates, 1992

Chief, Neurology Section, 1994-

Suburban Hospital Courtesy Staff 1979-95*

000476

Washington Hospital Center Courtesy Staff 1982-90
Changed to Consulting Staff 1990-96*
Washington Hospital Center Courtesy Staff 1980-1995*
Leland Hospital Courtesy Staff 1981-83*
Jefferson Hospital Courtesy Staff 1981-83*
Shady Grove Hospital Courtesy Staff 1981-83*
Columbia Hospital for Women 1993-95*
*Resigned: inactivity.

Organizations

DC Medical Society, Active Member 1977-1996
Membership Committee, 1982
Chairman, House Committee 1985
Member, Finance Committee, ex officio House Committee 1985
Member, Constitution and Bylaws Committee 1987
Editorial and Publications Committee 1988
Member, Membership Committee 1991-1992
Member, Solo Practitioner's Committee 1991-
Member, Neurology Section, MSDC 1977-96
Candidate for Speaker, House of Delegates 1991.
Delegate to Provisional House of Delegates/Sibley Hospital. May 1992.
Member: Governance Reference Committee, Provisional House of Delegates. 1992
Member, Neurology Section Peer Review Committee 1992-
Member, Third Party Payer Committee 1993-1995
Member, Constitution and Bylaws Committee 1993-1995
Member-At-Large, Solo practioners' committee, MSDC 1993-1995
Member, Select Care Oversight Committee 1993
Delegate/Neurology Section/ MSDC House of Delegates, 1993-96
Member-at-Large; Neurology section. 1994-96
Member Ad Hoc Reference Committee on Collective Bargaining, MSDC 1993-1994
Member, Ad Hoc Reference Committee on Governance, MSDC, 1993-1995
Elected Member, Strategic Long Range Planning Committee, MSDC. 1993-1995
Member, Rules Committee, MSDC House of Delegates 1993-1995
Member, Editorial Board, MSDC 1993-1995
Chairman, Ad Hoc Quality Assurance Committee 1993-1995
Member, Ad Hoc Blue Shield Relations Committee 1994
Chairman, Solo Practioner Section 1995
Speaker, MSDC House of Delegates 1994-1995
Member, Board of Trustees 1994-1995
MSDC Delegate Board Member, Physicians Alliance for National Capital Area. 1995-96
Chairman, MSDC Neurology Section 1996
American Medical Association 1977-1982; 1992-95
American Society of Internal Medicine 1985-1988
Epilepsy Foundation for National Capital Area 1977-95
Member, Professional Advisory Board 1977-95
Chairman, Professional Advisory Board 1981-1985
President, Board of Directors 1985-1987
Secretary, Board of Directors 1987-1988
Member, Honorary Board of Directors 1988-
American Academy of Neurology, 1971-, Active Member 1975-Member, Headache and Facial Pain Section 1993-
Stroke and Vascular Neurology Section 1994-
Michigan Neurological Association 1971-1974

000477

Chicago Neurological Society 1974-1975
Washington D.C. Child Neurology Society 1977-1979
Russell N. De Jong Society 1982-95
American Epilepsy Society, Active Member 1977-95
American Medical EEG Society 1977-1982
International League against Epilepsy, Member, 1977-95
American Society for Study of Headache. Member. 1979-95

National Capital Reciprocal Insurance Company
Member, NCUI, Marketing Committee 1994-
National Capital Reciprocal Insurance Company Physicians
Organization
Member, Marketing Committee 1994-
Co-Chairman, Credentials Committee 1994-

Licenses

| | |
|----------------------|-----------------|
| Minnesota | Internship only |
| Michigan | Residency only |
| District of Columbia | 4038 |
| Maryland | D23747 |
| Virginia | 31316 |

Certification

State of Michigan Medical Practice Board. 1970
National Board of Medical Examiners, 1970.
Board of Neurology and Psychiatry, in Neurology, 1977

Private Practice of Neurology 1979-

Professional Activities

Consultant for Neurology Practice, Pennsylvania Blue
Shield/Medicare, 1986-
Consultant for Neurology, Social Security Administration,
Disability Determination Services, (Maryland and District of
Columbia), 1983- (Virginia 1993-)
Consultant for Neurology, Rehabilitations Services
Administration (Washington D.C). 1986-
Consultant Neurologist, Consultative Examinations, Inc.
Chicago, Ill. 1984-1986
Consultant, Agency for Health Care Policy and Research, D.H.S.
1992-1994
Consultant, DELMARVA PRO. 1994

Civic Activities

President Latin, Shakespeare, Physics Clubs 1961-3
Captain, Debating Team, Flint Central High school. 1963
President, Tallpine Council, Explorer Scouts of America. 1963
President, Markley Council, University of Michigan, 1964.
Delegate, Interquadrangle Council, University of Michigan,
1964.
Co-Coordinator, with Dr. Robert Good: International
Bicentennial Reception for Tall Ships Medical Officers, "Op-
Sail '76", Sloan-Kettering Memorial Hospital, July 3, 1976
Charter Member, Kensington Historical Society 1977-
Member, Traffic Committee, Town of Kensington, 1988
Chairman, Community Resource Committee, Town of Kensington
1989-1990
Secretary, Local Advisory Committee, Montgomery County
Historic Preservation Commission 1988-1990
Ajax Condominium Association, Aspen, Colorado
Secretary and director, Board of Directors 1987-1989,
President and director, and Chairman, Board of Directors,
1989-

Member, Board of Directors 1993-
Vice President, Board of Directors, 1994-
National Capital Reciprocal Insurance Company
Marketing Committee 1994-
National Capital Reciprocal Insurance Company Physicians
Organization. Co-Chairman, Credentials Committee

Publications

Letters and Brief Communications

1. Lossing JH. Prevention of ballistic injuries by handgun control. Flint Journal. 1962
2. Lossing JH. Letter. Primate model for muscular dystrophy. N Eng J Med. 1968.
3. Lossing JH. Flat EEG on TV. N Eng J Med. 1970; 283:99
4. Lossing JH. Goring by bull and Bell palsy. J.A.M.A. 1974; 230:540
5. Saper J.R., Lossing J.H.; Prolonged Trance-Like Stupor in Epilepsy. Arch Intern Med. 1974; 134:1079-82.
6. Lossing JH, Fenstermacher J. Brain edema in Squalus acanthias. Bull Mt Desert Island Biol Lab. 1976; 16:76-78.
7. Lossing JH. Sewing machine serial sectioning. J Amer Med Tech. 1976;39:32
8. Lossing JH. DC General needs a CT Scan Machine. Wash Post. October 10, 1979.
9. Lossing JH: 25th Anniversary of the (rarely used) Longway Planetarium. Flint Journal 1984.
10. Lossing JH. Let doctors practice scientific medicine. Wash Post 1986.
11. Lossing JH. Justifying the rising cost of health care. Wash Post. September 20, 1988.
12. Lossing JH. Liability risk of Caesarian section. N Eng J Med. 1989; 320:1693.
13. Lossing JH. Facilitating flow in Washington's arteries. (Dr. Gridlock Column) Washington Post. February, 1990.
14. Lossing JH. Vehicular traction in Aspen and Washington. (Dr. Gridlock Column) February, 1990.
15. Lossing JH. Deprenyl and Parkinson's disease. Neurology. 1991;41:1704
16. Lossing JH. Sticking it to the troops. The A.M.A. strikes again. MSDC Physician V.9 September 1991.
17. Computer vendors for medical practices. MSDC Physician V. 9 September 1991.
18. Lossing JH. What Americans Value. Washington Post Health Section: December 31, 1991.
19. Lossing JH. Medicare Limits CT scan of the Head in Headache Patients. MSDC Newsletter, June 1992.
20. Lossing JH. Things are worse than ever. [Pertaining to problems with third party insurance companies.] MSDC Physician V.10 October 1992, p5-6
21. Lossing JH. Things are worse than ever. Reprint in Alabama Medicine, 1992 in press.
22. Lossing JH. Seizure emergencies. The Advocate. (Epilepsy Foundation for National Capital Area Newsletter). Winter, 1992.
23. Lossing JH. A Dose of Reality. Washington Post. February 15, 1993. p. B2.
24. Lossing JH. Membership Survey on Health cost economies. MSDC Physician. V. 11, April 1993. p 7.
25. Lossing JH. Report on Computer Based Macro-Managed Care. MSDC House of Delegates. pp 16. March 6, 1993.
26. Lossing JH. Physician Payment: Fee for Time. JAMA 271:425, 1994.

27. Lossing JH. Practice Profiles. New Eng J Med 331:201-202, 1994
28. Lossing JH. Magnetic Resonance Imaging of the Brain and Spine. Annals of Internal Medicine. 121:896-897, 1995. letter
29. Lossing JH. Why local pharmacies are checking out. Washington Post. November 19, 1995. Page A24.

Invited Lectures. Presentations

- 1971-73 Neurology Journal Club, University of Michigan
 "Differential Diagnosis of Myotonia "
 "Differential Diagnosis of Dementia "
 "Anti-Coagulation in Stroke "
 "Use of corticosteroid in various neurologic conditions"
 "Treatment of Brain Edema with Glycerol "
 "Pneumoencephalograph is overused in demential
 evaluation"
 "Is endarterectomy ever indicated for prophylaxis of
 stroke? "
 "Nitroblue Tetrazolium Test in occult meningitides."
 "Management of neonatal seizures."
 "Differential Diagnoses of Myopathies"
 "Management of Normal Pressure Hydrocephalus"
 "Interpretation of various methods to test for spinal
 fluid gamma globulin"
 "Optic Neuritis and Multiple Sclerosis"
 "The Differential Diagnosis of Headache."
 "Practical Differential Diagnosis of Peripheral
 Neuropathy."
 "350 Consecutive Neurology Clinic Patients. What did they
 have?"
- 1976 "Report and films of the Recovery and Transport from
 Iuback to New Haven of the Remains of Capt. Hopley
 Yeaton, First Commissioned Officer of the US Coast Guard,
 USCGC Eagle, 1975
 USCG Auxiliary, Chesapeake Division
- 1977 "Report and Films of the Tall Ships Collision. Hamilton
 Bermuda, 1976"
 1, USCG Auxiliary, Chesapeake Division.
 2, N.I.H. Sailing Club
- 1977 "Military Neurology: 1865 consecutive outpatient visits."
 Georgetown Neurology Rounds
- 1978 Neurology Postgraduate Course, Georgetown University
 "Convulsive Disorder Management"
 " EEG's: When to order and what does the report mean (if
 anything) ?"
 "Neurology and Infectious Disease"
 "The Classic Brain Stem Syndromes."
- 1978 "Epilepsy Questions and Answers" Radio WUST
- 1981 "Living with Epilepsy" Radio WUST
- 1983 Lectures: Medical Staff Neurology CME course, Aramco
 Hospital, Dharan, Saudi Arabia
 -Diagnosis and Management of Coma
 -Entrapment Neuropathies
 -Diagnosis and Treatment of Headache: newer therapies
 (steroids, beta blockers, etc.)
 -Newer anticonvulsant drugs.
 -Management of status epilepticus
 -Subacute and chronic infections of the nervous system
 (with special emphasis on neurosyphilis and slow virus
 infection--subacute sclerosing panencephalitis).
 -Management of Parkinson's Disease
 -Differential Diagnosis of "TIA", migraine, variants and

- STROKES IN THE YOUNG
-General principles of management of acute trauma to the nervous system (what to do until the surgeon arrives)."
-The intercity, transcontinental and intercontinental dumping syndromes: update.
- 1984 Charlie Rose Show: (NBC). "Everything about Epilepsy" [sic]
- 1985 Presidents Committee on Employment of the Handicapped. "The physician's role in assisting people with epilepsy in meeting employment and social problems."
- 1985 "Futility of Carotid Endarterectomy in Patients with Cerebrovascular Disease: Chart Review and Analysis."
 Sibley Hospital Grand Rounds
- 1986 "Patterns of Practice. Carotid Endarterectomy." G.W.U. Neurology Department Journal Club
- 1987 "How Neurologists take care of Epilepsy Patients." Staff Inservice training: Epilepsy Foundation for the National Capital Area.
- 1988 Q. and A. pertaining to Barbara Crawford's stroke. Sonia Live: CNN. (This wasn't my idea)
- 1989 "Neurologic Conditions with the Best Hope of Rehabilitation: What to watch for."
"Update: Epilepsy, Headache, Parkinsonism" Schlein Group.
 Rehabilitation Services Administration (District of Columbia).
- 1990 United Nations Session and Reception, NYC. Guest, Prime Minister of the Republic of Vanuatu ("Bali Hai").
 Osler Institute Neurology Review, Washington D.C.
"Neurology Case Management"
- 1991 Osler Institute Neurology Review, Houston.
"Epilepsy Update"
"How to figure out Problems in Stupor and Coma Cases"
"Immunologic aspects of neurology"
"Headache management:"
"Stroke management"
 Osler Institute, Neurology Review Course, New Orleans
"Neurology Case Management"
- 1992 Osler Institute Neurology Review, Houston
"Stupor and Coma."
"Headache Management."
"Case Reviews in General Neurology."
 G.W.U. Sophomore Neurology Lecture Series
"Spinal Cord Anatomy and Clinical Correlations."
"Brain Stem Anatomy and Clinical Correlations."
"Differential Diagnosis and Management of Dementia"
"Diagnosis and Treatment of Amyotrophic Lateral Sclerosis"
 G.W.U. Lecture to Division for Aging Studies and Services
"Update on Stroke, Parkinson's Disease, and Epilepsy"
"Update Stroke, Headache, Epilepsy" Yater Clinic
- 1993 Osler Institute Neurology Review, Houston
"Stupor and Coma."
"Headache Management."
"Case Reviews in General Neurology."
 George Washington Neurological Institute Grand Rounds
"Diagnosis and Treatment of Refractory Headache Cases."
- 1994 Osler Institute Neurology Review, Baltimore
"Case Reviews in General Neurology."
"Stupor and Coma."
"Headache Differential Diagnosis."
"Review of Medical and Surgical Stroke Prevention"

- "Review and Report on 160 stroke admissions at Sibley in 1993."

Howard University Family Practice Grand Rounds

- "Acute Stroke Management"

1995 George Washington University Neurology Course

- "Diagnosis of Seizures"

Osler Institute Neurology Review, Washington D.C.

- "Case Reviews in General Neurology."

1996 George Washington University Neurology Course

- "Differential Diagnosis of Acute Mental Status Change and Coma."

- "Syncope Vs. Seizure Vs. Hyperekplexia: Differential Diagnosis of Transient Neurological Symptoms"

- "Neurology Case Reviews: Diagnosis and Management"

Civic Testimony

1979 Testimony to House Subcommittee on Drug safety: Problem of delays in drug testing and approval by the FDA.

1982 Testimony to Northern Virginia Health Planning Agency in support of Certificate of Need for installation of hospital CT scan machine, for the Jefferson Memorial Hospital.

1987 Testimony to the Senate Sub-committee on Automobile Safety, on behalf of Epilepsy Foundation of America, regarding routine air bag installation in American cars.

1994 DC City Council. Support of Bill which would outlaw irrational physician economic profiling.

Prior areas of Research Interest or Effort

1965 Goldfish neuroanatomy and neurohistology. Agranov Laboratory, Mental Health Research Institute, University of Michigan.

1969 Liver metabolism: ornithine transcarbamylase activity in cirrhotic liver (in rat). Department of Gastroenterology.

1971 Sodium transport activity in frog skin, affected by Cystic fibrosis patient serum. Department of Pediatrics, University of Minnesota

1976-1977 Experimental therapeutic modification of brain edema in various animal models. Laboratory of Experimental Therapeutics, National Cancer Institute

1979 Dimethyl sulfoxide management of fatal brain edema. Georgetown University Hospital

Awards and Distinctions

1963-1966 College Honors Curriculum, University of Michigan, College of L.S. & A.

1966-1970 Honors Curriculum, University of Michigan Medical School

1991 Osler Institute Teaching Award.

1993 Certificate of Appreciation: Founding Chairmanship of Ad Hoc Quality Assurance Committee. Medical Society of D.C.

1995 Sibley Memorial Hospital. Chair given in appreciation for work on Stroke Quality Assurance Project.

1995 Presidential Certificate of Appreciation. Medical Society of D.C.

Continuing Medical Education

19

1995

- 6 GWU neurology grand rounds CME 1
- 4 Sibley Hospital Grand Rounds CME 1
- 8 Osler CME course; neurology CME 1
- 1 NCRIC lecture CME 1

115

1994

- 63 American Academy of Neurology CME 1
- 5 GWU Hospital Neurology Grand Rounds CME 1
- 3 GWU Health Sciences Research Symposium CME 1
- 4 Sibley Hospital Rounds CME 1
- 60 Osler Institute Neurology Review Course, CME 1.

20

1993

- 8 Gave 2 hours of CME 1 lectures, and 6 hours of Neurology review practicums, Neurology Review Course, Houston
- 12 GWU Neurology Grand Rounds CME 1

69

1992

- 31 World Stroke Congress CME 1
- 12 World Stroke Congress CME 2
- 20 Neurology Grand Rounds, (GWU George Washington University Hospital
- 6 Gave 6 hours of CME 1 lectures, Neurology Review Course, Houston

ALL BELOW CME 1

1991

- 11.5 Stroke Prevention Conference, NYU
- 24 Fifth International Headache Congress, Wash D.C.
- 60 Neurology Review Course, Osler Institute
- 10 Neurology Grand Rounds, GWU
- 3 Neurology Conference, Holy Cross Hospital
- 4 Gave 6 hours CME 1 lectures, Neurology Review Course, Houston
- 4 Gave 4 hours of CME 1 lectures, Neurology Review Course, New Orleans
- 112.5 Total for 1991

1990

- 3 Neurology Grand Rounds, GWU
- 1 Neurology Grand Rounds, WHC
- 4 Gave 2 hour CME 1 lecture, Osler Institute, Washington D.C.
- 8 Total for 1990

1989

- 48.5 American Academy of Neurology
- 4 Parkinsonism Review, Rush Medical College
- 6 Epilepsy Course, American Epilepsy Society
- 16 Evoked Potentials Course, Cadwell Laboratories
- 74.5 Total for 1989

1988

- 24 American Epilepsy Society, Annual Meeting
- 6 American Epilepsy Society Course: Anti-Epileptic Drug Treatment
- 15 American Neurological Association Annual Meeting
- 7.5 Movement Disorders Symposium, ANA
- 51.5 Total for 1988

C00483

7 #10
28
65

CURRICULUM VITAE

Frances P. Field, M.D.

BIRTH DATE: August 24, 1947

BIRTH PLACE: St. Joseph, Louisiana

HIGH SCHOOL: Owego Free Academy
Owego, New York
Graduated 1965

COLLEGE: Syracuse University
Utica, New York
Graduated 1969
B.S. Degree

Board of Registry Certifying Exam for Medical Technology
(ASCP): 1969

EMPLOYMENT: Chemistry Technologist:
Wilson Memorial Hospital
Endicott, New York
1969-1972

Binghamton General Hospital
Binghamton, New York
1972-1973

Hematology Technologist:
St. Joseph Hospital
Houston, Texas
1975-1976

MEDICAL
SCHOOL: Universidad Central del Este
San Pedro De Macoris, Dominican Republic
Graduated 1979
M.D. Degree

C00484

Curriculum Vitae
Francis P. Field, M.D.
Page 2

Education Commission for Foreign Medical Graduates
January, 1978.

EXTERNSHIP: Allegheny General Hospital
Pittsburg, Pennsylvania
Rotating Externship
January, 1979 - July, 1979

Federal Licensure Exam (FLEX) June, 1980.

RESIDENCY. Allegheny General Hospital
Pittsburg, Pennsylvania
Residency in Anatomic Pathology and
Clinical Pathology
Director: Robert J. Hartsock, M.D.
1979 - 1983

LICENSURE: Pennsylvania, Maryland, Virginia

CERTIFICATION: Diplomate of the American Board of Pathology
1983 Anatomic and Clinical Pathology
1985 Forensic Pathology

EMPLOYMENT: Staff Pathologist
Armed Forces Institute of Pathology
Washington, D. C.
Department of Pulmonary and Mediastinal Pathology
L. Hochholzer, M.D., Chairman
July, 1983 to July 1984

FELLOWSHIP: Fellow in Forensic Pathology
Office of the Chief Medical Examiner
Baltimore, Maryland
Director: Thomas D. Smith, M.D.
July, 1984 to July, 1985

MEMBER OF: Mid-Atlantic Forensic Pathology Association

American Academy of Forensic Sciences

National Association of Medical Examiners

PRESENT
EMPLOYMENT: Assistant Chief Medical Examiner
Office of the Chief Medical Examiner
Fairfax, Virginia
Chief Medical Examiner, Marcella Piarro, M.D.
July 1985 to present

000485



FAX TRANSMITTAL REPORT
County of Loudoun
Office of the Sheriff
39 Catoctin Circle SE
Leesburg, Virginia 22075

#8
25
6/5

Fax Numbers

Administration: 703/771-5744
Criminal Investigations: 703/777-0570
Detention Center: 703/777-0498
Communications: 703/771-5470
University Substation: 703/729-0404

Voice

Administration: 703/777-0408
Criminal Investigations: 703/777-0475
Detention Center: 703/777-0405
Communications: 703/777-0444
University Substation: 703/729-0612
Metro: 478-1810

Date: 8-1-95
To: POISON CONTROL CENTER, DR. TOBY LITVITZ, DIRECTOR
Fax Phone Number: 202-362-8377

From: CAPTAIN J. M. BROWN
Division: CRIMINAL INVESTIGATIONS DIVISION
Phone: 703-777-0475

Number of Pages (Including this page): 1

Call to Confirm receipt of FAX? YES NO X

Message Instructions and other Remarks:

I would like to discuss a phone call your
office received from 19744 Smith Circle around
11:00 pm on 7-31-95. This call would have
involved a Mrs Sandra Loring who now is deceased.

Rev. 2/84

C00486

A-17e

It is not all right - but that is as good as it gets

000487

Letter to cell 11)

It is not all right - but that is as good as it gets

MANAGEMENT PLAN FOLLOW-UP NOTES AND OUTCOME: (Time & date each entry)

MANAGEMENT PLAN FOLLOW-UP NOTES AND OUTCOME: (time & date each entry)

~~9/15~~ = 9/15 ~ pt called back. asked: is this a type out, we have
 9/17 ~ remember to drive.

$3^{95} 2:2^a -$ NT envle T T. unrepense: FR Atruso colly
 $(2:22)$
 $VS = 194 / 92 - 92 -$: the full name

we: had L-C-C- → C-IV. but
 1 ↓ RA = inflation: too soon

support. $\Delta P_{AB} - f_{AC}$ est élevée à 50
by \bar{c} ha $\bar{c} = 10$ effes.

8 95 3:15 - E'll name - Dec 12.
 also but - pt took new count. added if
 the low HCA - 46: (too long to pt for new inf.)
 pt has some coagulation abnormalities.

3:55 4:27 - ER nurse called: Σ more reports.
multiple trauma Σ 1st Police suspect PT was ~~drunk~~ ^{FAVOR}.
beaten (Σ a chair) had Σ ruptured testes, no need
other to intubate = unsuccessful. - Confront

CONSULTANTS/RESOURCES USED:

☐ Medical director _____ ☒ Other consultant _____

☐ Texts ☒ 1 ☐ Other ☐ Roisindex®

000488

PREPARED BY: W
 FORM COMPLETED BY: W
 FORM REVIEWED BY: W

30000000 1.

| | |
|--|-----------|
| PATIENT NAME: Sandra Loring | HOSPITAL: |
| CHART NUMBER: 02105039 | PHONE: |

AUG 55 12: 50

Captain Jeff Brown with Landon
Canty (in) calling re: this case.

After discussion with TL, and receipt
of attached fax, he reviewed
information from this chart
re him.

He explained that if necessary,
record might be subpoenaed.

QC

AAPPC Toxic Exposure Surveillance System.

Case Number: 02105039

Date / Time: July 31, 1995 23:03 (Time of initial Call to NCPC)

Name: Sandra D. Laing

Age: 34 y.o. F. BD= 7-30-61

Caller Data: Friend

Substance Data:

Substance: Nortriptyline 25 mg + Soma Compound

Amount: (40)

Time of / Duration of exposure: Few Minutes

Route Of exposure: Ingestion

History, Symptoms, Calculations & Assessment: Adult dose = 75 - 150 mg / day
= 1000mg

Sx: None.

Hx: Caller states a friend just took this, asked , "is this a problem.?"

I: Pot. Toxic.

MP: Rec. need call 911 (offered to call 911) Friend need ER ASAP. MB

~~1 August 95~~ Error

31 JUL 95: Pt. or friend, called back: Asked, is this a toxic amount.
23;08 Rec. need ER. recommendations as above.MB

1 Aug. 95 - Pt enroute to ER. Unresponsive: ER Nurse calling.
2;28 VS = 144/92 - 92- : Also took soma.
Rec. Need L-C-C,- MDC . IV bicarb. If ↓ RR= intubation.
Tox. Screen, support. Apap.+ Asa levels. Enroute to ER
Tx. With Narcan = No effect. _____ MB

000490

Case Number: 02105039 Continues:

- 1 Aug. 95 3:15 - ER Nurse, Dee RN, called back - Pt. took soma compound. Asked if this have ASA. Yes. (too busy with Pt for more info Pt. does have coagulation abnomalities. _____ MB
- 1 Aug. 4:27 - ER Nurse called with more information. Pt.expired at 4:14. Pt. had multiple trauma. ER MD + police suspect Pt. was ~~beaten~~ ^{Err} beaten (with a chair) had a ruptured trachea, several attempts to intubate = unsuccessful. Coroners case. Postmorten to be done _____ MB
- 1 Aug. 95 12:59 Captain Jeff Brown with Loudon County CID calling re: this case. After discussion with TL, and receipt of attached fax, I reviewed information from this chart with him. He explained that if necessary, record might be subpoenaed. JE

C00491

VIRGINIA: IN THE CIRCUIT COURT OF LOUDOUN COUNTY

COMMONWEALTH OF VIRGINIA :

vs.

: CRIMINAL NO. 10001

WILLIAM ALAN PRESLEY :

ORDER

The 3rd day of June, 1996 came Robert D. Anderson, Attorney for the Commonwealth, Eric N. Strom, Assistant Attorney for the Commonwealth, and also came the defendant, William Alan Presley, who stands indicted of a felony, to-wit: murder, and who was led to the bar of this Court in the custody of a deputy sheriff. Also came Charles A. Anderson, counsel for the defendant herein.

Thereupon the defendant was duly arraigned, and after private consultation with, and being advised by counsel, entered a plea of not guilty to the charge, which plea was tendered by the defendant in person. The Court, after inquiring and being of the opinion that the defendant fully understood the nature and effect of said plea, and of the penalties that may be imposed upon conviction, doth accept said plea as being freely, voluntarily, and intelligently made.

The Court then impanelled twenty qualified jurors, free from exception, for the trial of the defendant in the manner provided by law. Whereupon the Attorney for the Commonwealth and defense counsel each alternately exercised their rights to strike the names of four veniremen from the panel, as provided by law, and the remaining twelve jurors, constituting the jury for the trial of the defendant were duly sworn.

After opening statements, the Court and jury proceeded to hear the evidence presented by the Commonwealth. Upon conclusion of the Commonwealth's evidence, the hour being late,

A COPY TESTE
RICHARD KIRK CLERK

000492

BY


DEPUTY CLERK

Court was adjourned for the day with the jurors being admonished not to discuss the case with anyone, nor allowing anyone to discuss the case with them.

And the defendant was remanded to the custody of the Sheriff.

The 4th day of June, 1996 came the defendant, in custody, and all counsel.

Defense counsel moved the Court for the production of certain evidence as stated to the record. Upon conclusion of all the argument of counsel in regard thereto, the Court did direct that certain matters be disclosed as stated to the record.

Defense counsel then moved the Court to strike the evidence and dismiss the charge against the defendant herein for reasons stated on the record, which motion was opposed by the Commonwealth for reasons stated to the record. Upon conclusion of all the argument of counsel in regard thereto, the motion was heard and denied by the Court, to which ruling defense counsel noted his exception.

Defense counsel thereupon proceeded to present evidence on behalf of the defendant herein.

During the presentation of the defendant's evidence, the hour being late, Court was adjourned for the day with the jurors being admonished not to discuss the case with anyone, nor allowing anyone to discuss the case with them.

And the defendant was remanded to the custody of the Sheriff.

The 5th day of June, 1996 came the defendant, in custody, and all counsel.

Defense counsel continued the presentation of his evidence on behalf of the defendant. During the presentation of this evidence, upon receipt of documents obtained under a subpoena duces tecum, defense counsel moved the Court for a mistrial for reasons stated to the record.

Upon conclusion of all the evidence and argument of counsel in regard thereto, the Court

did take the motion under advisement.

Upon conclusion of the evidence offered on behalf of the defendant, defense counsel renewed his motion to strike, which motion was opposed by the Commonwealth and on which motion a ruling was deferred by the Court.

After hearing all of the evidence, the instructions of the Court, and argument of counsel, the jurors were sent to the jury room to consider their verdict.

During their deliberations, the hour being late, Court was adjourned for the day with the jurors being admonished not to discuss the case with anyone, nor allowing anyone to discuss the case with them.

And the defendant was remanded to the custody of the Sheriff.

The 6th day of June, 1996 came the defendant, in custody, and all counsel.

The jurors continued their deliberations.

They subsequently returned their verdict in open Court, reading, "We, the jury, upon the evidence, find the defendant, William Alan Presley, guilty of voluntary manslaughter, Paul R. Hunter, Foreman."

Upon conclusion of all the evidence and argument of counsel then presented in regard to sentencing, the jurors were again sent to the jury room to consider their verdict with regard thereto.

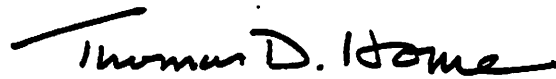
They subsequently returned their verdict in open Court, reading, "We, the jury, after having found the defendant, William Alan Presley, guilty of voluntary manslaughter, fix his punishment at eighteen months imprisonment in jail, Paul R. Hunter, Foreman." The Court corrected the verdict to a sentence of one year and six months.

It is ORDERED that this case be continued to June 13, 1996 at 12:00 noon for further

hearing of defense counsel's motion to strike and motion for a mistrial.

And the defendant is remanded to the custody of the Sheriff.

ENTER: 11 June, 1996



THOMAS D. HORNE, JUDGE

000495

V I R G I N I A :

IN THE CIRCUIT COURT OF LOUDOUN COUNTY

COMMONWEALTH OF VIRGINIA

v.

WILLIAM ALAN PRESLEY

Defendant

CRIMINAL CASE NO. 10001

M O T I O N T O S E T A S I D E V E R D I C T

AND ENTER A JUDGMENT OF ACQUITTAL

Under Rule 3A:15(b) - Insufficient Evidence

Comes now the Defendant, William Alan Presley, by counsel, and moves this Court to set aside the guilty of Voluntary Manslaughter jury verdict and enter a judgment of acquittal because the trial evidence is insufficient as a matter of law to sustain a conviction.

The only remedy the Defendant seeks is the entering of a judgment of acquittal. The Defendant specifically is not asking for and does not want a new trial. If the Court finds an error that would justify setting aside the verdict and granting a new trial the Defendant waives his right to a new trial. Under no circumstances is the Defendant requesting a new trial.

This is not a motion for a new trial. The sole purpose of this motion is to have the Court test the sufficiency of the trial evidence. If the Court finds the evidence is sufficient to uphold the verdict but there was error committed during the trial that would justify the granting of

Charles A. Anderson
Attorney at Law
11718 Bowman Green Drive
Reston, Virginia 22090
(703) 435-0230

000496

a new trial the Defendant waives his right to a new trial.

If the Court finds the trial evidence was insufficient as a matter of law to sustain a conviction he asks the Court to enter a judgment of acquittal and order his release from custody.

Respectfully submitted,
William Alan Presley

By 
Charles A. Anderson
Counsel



Charles A. Anderson
Counsel for William Alan Presley
Virginia Bar #16631
11718 Bowman Green Drive
Reston, VA. 22090
Phone: (703) 435-0230
Fax: (703) 435-4043

Certificate of Service

I certify that on June 26, 1996 I mailed a copy of this Motion to Strike to Eric Strom, Loudoun County Commonwealth Attorney's office, at 20 E. Market Street, Leesburg, Virginia 22075.


Charles A. Anderson

Charles A. Anderson
Attorney at Law
11718 Bowman Green Drive
Reston, Virginia 22090
(703) 435-0230

C00487

V I R G I N I A :

IN THE CIRCUIT COURT OF LOUDOUN COUNTY

2018 JUL 31 10:05:56

COMMONWEALTH OF VIRGINIA)

v.)

CRIMINAL CASE NO. 10001

WILLIAM ALAN PRESLEY)

Defendant)

MEMORANDUM IN SUPPORT OF
MOTION TO SET ASIDE VERDICT
AND ENTER A JUDGMENT OF ACQUITTAL

Under Rule 3A:15(b) - Insufficient Evidence

Comes now the Defendant, William Alan Presley, by
counsel, and in support of this Motion states:

ARGUMENT

Dr. Field's testified the death blow occurred within 24
hours of death. She also testified the subdural hematoma
could have been caused by either a blow or a fall. Finally
she conceded the levels of Amitriptyline and Nortriptyline
found in the deceased's body fell within the toxic to lethal
range.

It was uncontroverted the deceased fell and banged her
head, within 24 hours of her death, on at least one and
possibly three occasions not counting her altercation with
the defendant. The first fall was the one occurring earlier
on the day before her death when she slipped in the bathroom
and broke her fall by hitting her head on a door knob. The
second fall was the one in the bathroom or hall leading to
the bathroom that occurred either late in the evening before

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Reston, Virginia 22090
(703) 435-0230

C00498

her death or early on the morning of the death. The third possible fall can be inferred from her being found lying on the floor next to her bed when she was last seen "snoring" loudly while lying on her bed.

The multiple falls and the fatal range drug levels are all reasonable alternative hypothesis of what caused Sandra Laing's death. Under the facts of this case and the law William Alan Presley is entitled to an acquittal order.

THE FACTS:

The Court's attention is drawn to following statements made by Dr. Field and taken from her trial testimony transcript on June 3, 1996 at the page(s) and line(s) noted:

Timing of death blow:

In response to questions about Dr. Field's estimate that the injury that caused the death occurred within two to four hours of her death she testified:

A The -- these are estimations. Different people have different reactions. So it is not a precise number --
(Page 17/Lines 17-18)

A There are a lot of variables.(Page 17/Line 23)

A ...I couldn't put a precise time on the injury
(Page 18 Lines 4/5)

Dr. Field also conceded the failure of the subdural hematoma blood clot to adhere to the dura meant the injury that caused the clot to form occurred between four hours and four days of death. See Dr. Field's testimony Pages 92 Line 19 through Page 94 Line 10.

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Reston, Virginia 22090
(703) 435-0230

000499

Dr. Field also testified it was consistent with her findings, based upon her microscopic examination of tissue samples, that the injury causing the subdural hematoma occurred within 24 hours of death. See Dr. Field's testimony Pages 96 Line 19 through Page 97 Line 10.

In the timing of the death blow Dr. Field testified that while her estimate was consistent with a 2-4 hours estimate it was also consistent with an injury occurring beyond that range of time: "Yes. They're estimates based on the types of cells present. But the ranges are approximate." (Page 125 Lines 16-17)

And she put the death blow at within 24 hours of the death. (Page 128 Line 12)

Fall vs. Hit

Dr. Field agreed a subdural hematoma could be caused by falling and banging one's head testifying:

A Yes. If you fell hard enough and hit it on a hard surface. (Page 76/Lines 17-18)

Dr. Field also said "Well, either a blow or a strike can cause a subdural hematoma." (Page 98 Lines 1-2) and it would not be possible to tell with a reasonable degree of medical certainty which trauma caused the subdural hematoma - "Not without the other information; no." (Page 98 Line 22)

The drugs

Dr. Field also testified that the mixture of alcohol, Amitriptyline, Nortriptyline, and Nordiazepam found in the deceased's body had an additive effect which "It means that when you take both of these drugs, they work together and

increase the toxic effect." (Page 109 Lines 10-11) and she agreed all of these drugs are central nervous depressants that can shut down somebody's breathing. (Page 109 Line 19 - Page 110 Line 1)

Dr. Field conceded Sandra Laing's combined blood level of Amitriptyline and Nortriptyline (3.56) fell within the 3.2 - 6.4 range where there were fatalities from Amitriptyline overdoses. (Rebuttal 6/5/96 Page 32 Lines 4 - 11)

She also testified Sandra Laing's liver level of Amitriptyline and Nortriptyline of 29 fell within the 13 - 317 range where there were fatalities from Amitriptyline overdoses. (Rebuttal 6/5/96 Page 32 Lines 12 through Page 37 Line 7)

Finally Dr. Field testified the presence of alcohol and the metabolic equivalent of Valium in the deceased's body would have an additive effect. This additive effect would reduce the toxic number. So the toxic to lethal range for Sandra Laing's levels of Amitriptyline and Nortriptyline would be lower than a person who did not have these other drugs present. In other words, Sandra Laing, was more likely to die from an Amitriptyline and Nortriptyline overdose because she had other drugs also impacting on her central nervous system. (Rebuttal 6/5/96 Page 48 Lines 13-23)

Dr. Field's testimony is not sufficient to prove William Alan Presley guilty of Voluntary Manslaughter. Her testimony in the areas of cause of death, manner of death and time of the death blow:

000501

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Holland v. Commonwealth, 190 Va. 32(1949); Smith v. Commonwealth, 185 Va. 800 (1946); Mansfield v. Commonwealth, 146 Va. 279 (1926).

An acquittal must result when "The evidence does not exclude every reasonable hypothesis except that of guilt." Thomas v. Commonwealth, 187 Va. 265 (1948). It is not sufficient that facts and circumstances proven be consistent with defendant's guilt. To sustain a conviction they must be inconsistent with every reasonable hypothesis of his innocence. McCall v. Commonwealth, 192 Va. 422 (1951); Spratley v. Commonwealth, 154 Va. 854 (1936). The evidence must exclude every reasonable hypothesis except that of guilt. The guilt of a party is not to be inferred because the facts are consistent with his guilt, but they must be inconsistent with his innocence. Cameron v. Commonwealth, 211 Va. 108 (1970); Cox v. Commonwealth, 140 Va. 513 (1924).

The interpretations more favorable to the accused should be adopted unless it is untenable under all the facts and circumstances of the case. Dixon v. Commonwealth, 162 Va. 798 (1934); Sutherland v. Commonwealth, 171 Va. 485 (1938).

Suspicion of guilt is not sufficient. It must be shown beyond a reasonable doubt that the accused is the criminal agent and this essential burden always rests with the Commonwealth. Brown v. Commonwealth, 97 Va. 791.

It is elementary that the burden is on the Commonwealth to prove every essential element of the offense beyond a reasonable doubt. This evidence must exclude every reasonable hypothesis of innocence and be consistent only

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with the guilt of the accused. Powers v. Commonwealth, 211 Va. 386 (1970).

Burden is upon the Commonwealth to prove killing is not accidental. Martin v. Commonwealth, 218 Va. 4 (1977).

Those circumstances which are proven must each be consistent with guilt and inconsistent with innocence, and that they must also be consistent with each other, that is to say, they must concur in pointing to the defendant as the perpetrator beyond a reasonable doubt. Cantrell v. Commonwealth, 229 Va. 387 (1985).

Where inferences are relied upon to establish guilt, they must point to guilt so clearly that any other conclusion would not be reasonably possible." Dotson v. Commonwealth, 171 Va. 514 (1938).

Whenever "evidence leaves indifferent which of several hypotheses is true, or merely establishes some finite probability in favor of one hypothesis, such evidence does not amount to proof of guilt beyond a reasonable doubt." Sutphin v. Commonwealth, 1 Va. App. 241 (1985) (citing Massie v. Commonwealth, 140 Va. 557 (1924) Also see Pemberton v. Commonwealth, 17 Va. App. 651 (1994).

Respectfully submitted,
William Alan Presley

By 
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Counsel

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Certificate of Service

I certify that on July 15, 1996 I ^{hand delivered} ~~mailed & faxed~~ a copy of this Memorandum to support Motion to Strike to Eric Strom, Loudoun County Commonwealth Attorney's office, at 20 E. Market Street, Leesburg, Virginia 22075. CA 11


Charles A. Anderson

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000504

VIRGINIA:

IN THE CIRCUIT COURT OF LOUDOUN COUNTY

COMMONWEALTH OF VIRGINIA

vs.

Criminal No. 10001

WILLIAM ALLAN PRESLEY

RESPONSE OF THE COMMONWEALTH

Comes now the Commonwealth providing its response to this courts instruction of July 17, 1996, referencing citations within the trial transcript of testimony of Dr. Frances P. Field which support The Commonwealth's opposition to the motion to set aside the verdict in this matter and in support of which cite the following:

1. Page 13/Line 2. (out of the presence of the jury)
2. Page 13/Line 12. (out of the presence of the jury)
3. Page 13/Line 17. (out of the presence of the jury)
4. Commonwealth exhibit #7 admitted in to evidence by stipulation Page 11/Line 19.
5. Page 32/Line 20 as to the finding and the condition of the subdural brain hemorrhage.
6. Page 34/Line 22 as to the condition of the brain hemorrhage.
7. Page 35/Line 17 as to the age of the brain hemorrhage in relation to the time of death.
8. Page 36/ Line 11 as to the injury to the eye; also at Line 18.
9. Page 36/ Line 23 as to the age of the brain hemorrhage relative to the time of death.
10. Page 38/Line 9 as to additional bruises in relation to the time of death.
11. Page 40/Line 20 as to the cause of the brain hemorrhage. Also referenced at Page 41/Line 5.
12. Page 53/Line 13 as to the cause of the brain hemorrhage.

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13. Page 92/Line 19 as to the time period for the dura to react to the blood which testimony is consistent with the condition of the blood itself as testified to at Page 36/Line 23.

14. Page 97/Line 4 as to the condition of the dura being consistent with death occurring within 24 hours of injury. This testimony addressed the dura not the blood and is consistent with Dr. Field's prior testimony. Additional testimony at line 10 as to the brain injury occurring within 24 hours of death is also consistent with prior testimony. It is to be noted that this testimony addresses the dura not the condition of the blood.

15. Page 98/Line 11 This testimony is relevant to the extent that it is consistent with the testimony of Dr. Sabella the treating emergency room physician who stated that a blunt force trauma sufficient to cause a brain hemorrhage almost always renders the victim unconscious. Testimony was to the effect that the victim was not unconscious prior to her encounter with the defendant.

16. Page 117 /Line 22 as to the distinction between analysis of the blood and the dura (continuing to Page 118/Line 23 and Page 125/Line 10.

17. Page 125/Line 16 This question addresses the eye wound, additional bruises, blood found in the brain and the condition of the dura and is consistent with prior testimony. It is not contested that the condition of the dura is consistent with an injury occurring within twenty-four (24) hours of death noting that four (4) hours is certainly within twenty-four (24) hours.

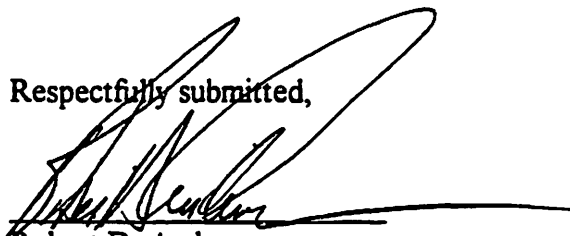
18. Page 128/Line 10 As to whether the subdural blood indicated an injury within twenty-four (24) hours of death. The court has recognized that four (4) hours is within twenty-four (24) hours for purpose of this testimony. Transcript of June 5, 1996: Day Three

1. The Commonwealth is of the position that there is no testimony within this transcript which relates to the relationship of the time of injury to the time of death.

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It is therefore the position of the Commonwealth that the evidence as cited and taken in the light most favorable to the Commonwealth is sufficient to sustain the verdict of the jury in this matter.

Respectfully submitted,



Robert D. Anderson
Commonwealth's Attorney

CERTIFICATE

I hereby certify that a true and correct copy of the foregoing document was faxed to 435-4043 and mailed this 19 day of July 1996, to Charles A. Anderson, 11718 Bowman Green Drive, Reston, Virginia 22090.



Robert D. Anderson

61 JUL 19 1996

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TWENTIETH JUDICIAL CIRCUIT
OF VIRGINIA

RAYNER V. SNEAD, JUDGE RETIRED
CARLETON PENN. JUDGE RETIRED

WILLIAM SHORE ROBERTSON, JUDGE
POST OFFICE BOX 985
WARRENTON, VIRGINIA 22186

FAUQUIER, LOUDOUN AND
RAPPAHANNOCK COUNTIES

THOMAS D. HORNE, JUDGE
POST OFFICE BOX 727
LEESBURG, VIRGINIA 22075

JAMES H. CHAMBLIN, JUDGE
POST OFFICE BOX 123
LEESBURG, VIRGINIA 22075

July 24, 1996

The Honorable Robert D. Anderson
Commonwealth's Attorney
County of Loudoun
20 East Market Street
Leesburg, Virginia 20178

Charles A. Anderson, Esq.
11718 Bowman Green Drive
Reston, Virginia 22090

VIRGINIA
In the County of Loudoun Circuit
24 July 1996
Received and filed this the
24th day of July 1996
By: Richard H. H. Clark Deputy Clerk

Re: Commonwealth of Virginia v.
William Allan Presley, Cr. No. 10001

Gentlemen:

The Court has previously taken under advisement the motion of the defendant to set aside the jury verdict in this case. A transcript of the testimony of Dr. Frances P. Field was prepared for the benefit of counsel and the court. Having review the transcript and considered the authorities and argument of counsel, the court is of the opinion that the jury, based upon the evidence presented, could have concluded beyond a reasonable doubt that Sandra D. Laing died from a traumatic head injury and that the injury was inflicted upon her by the defendant.

Furthermore, the jury could have found that the defendant, in a heat of passion generated by the events of that evening, intentionally inflicted the fatal blow. The jury was instructed, and could find under the facts of this case, that the death of Ms. Laing was either specifically intended by the defendant or was a probable consequence of the harm intentionally inflicted by him.

Accordingly, the Court will deny the motion of the defendant and set the matter for further scheduling on my Motions Day docket in August. Mr. Anderson may draw an order consistent with this opinion to which counsel for the defendant may note his exception.

Very truly yours,

Thomas D. Horne
Thomas D. Horne

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VIRGINIA: IN THE CIRCUIT COURT OF LOUDOUN COUNTY

COMMONWEALTH OF VIRGINIA :

vs. : CRIMINAL NO. 10001

WILLIAM ALAN PRESLEY :

Offense Date: 8/1/95

Social Security No: 228-98-0232 Date of Birth: 2/1/65

Hearing Date: 20 August 1996 Judge: Thomas D. Horne

Hearing Type: sentencing

Attorney for the Commonwealth: Robert D. Anderson

Attorney for the Defendant: Charles A. Anderson, retained

Conviction Offense Description: 1 ct. voluntary manslaughter

Concluding Status of Defendant: in custody

O R D E R

On the above date came the Attorney for the Commonwealth, the Attorney for the defendant, and the defendant. The defendant stands convicted of the felony described above and came to the bar of this Court in the custody of a deputy sheriff.

Prior to the imposition of sentence herein the Court had presented to it the appropriate discretionary sentencing guideline worksheets, and the Court has reviewed and considered the suitability of the applicable discretionary sentencing guidelines established pursuant to Chapter 11 of Title 17 of the Code of Virginia. It is hereby stated for the record, by the Court, that before imposing sentence, such review and consideration has been accomplished, and the Court makes the completed worksheets a part of the record in this case as required by Section 19.2-298.01 of the Code of Virginia.

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A COPY-TESTE
RICHARD KIRK, CLERK

BY
DEPUTY CLERK

The defendant having been found guilty, of one (1) count voluntary manslaughter, and the Court having heard evidence and argument in mitigation or extenuation, the Court then asked if the defendant wanted to say if there was any reason why sentence should not be imposed. Nothing having been offered, consistent with the jury's verdict in this case, it is the judgment of this Court that the defendant be sentenced to confinement in a facility operated by the Department of Corrections, for the Commonwealth of Virginia, for a period of one (1) year and six (6) months and that the Commonwealth recover her costs in these proceedings in the amount of \$2031.50.

By separate Order, the Court did direct that, pursuant to Section 19.2-310.3 of the Code of Virginia, 1950, as amended, the defendant shall have a sample of his blood taken for analysis and shall be responsible for all fees and costs related thereto.

And the defendant is remanded to the custody of the Sheriff.

ENTERED this 5th day of September, 1996

Thomas D. Horne

THOMAS D. HORNE, JUDGE

6-12-96
VIRGINIA:

IN THE CIRCUIT COURT OF LOUDOUN COUNTY

COMMONWEALTH OF VIRGINIA

v.

WILLIAM ALLAN PRESLEY

CASE NO.: 10001

ORDER

THIS COURT, having previously taken under advisement the defendant's Motion To Strike The Commonwealth's Evidence, and the Court having reviewed the testimony of Dr. Field's from the transcript, as well as considering the arguments and authorities presented by counsel, consistent with this Court's Letter Opinion of July 24, 1996, hereby **DENIES** the Motion To Strike The Evidence and **ORDERS** this case be continued to August ^{2nd} 9th, 1996 at 8:30 a.m. for further scheduling.

Entered this 12th day of September, 1996.

Thomas D. Horne

Thomas D. Horne
Circuit Court Judge

Seen and agreed to by:

Robert D. Anderson
Robert D. Anderson
Commonwealth's Attorney

7/24/96
Date

Charles A. Anderson, Esq.
Charles A. Anderson, Esq.
Counsel for the Defendant

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Objection to for reasons stated in Memorandum in Support of Motion to Set Aside Verdict previously filed.

V I R G I N I A :

IN THE CIRCUIT COURT OF LOUDOUN COUNTY

COMMONWEALTH OF VIRGINIA

v.

WILLIAM ALAN PRESLEY

Defendant

CRIMINAL CASE NO. 10001

2265-96-4

NOTICE OF APPEAL

WILLIAM ALAN PRESLEY, Defendant in a case heard in the Loudoun County Circuit Court, hereby appeals to the Court of Appeals of Virginia from the Order of this Court entered on September 5, 1996.

A transcript, testimony and other incidents of the case will be filed.

CERTIFICATE

The undersigned certifies as follows:

(1) The name and address of the appellant are:

William Alan Presley
Loudoun County Jail
2 Church Street NE
P.O. Box 229
Leesburg, VA 20176

(2) The name, address and telephone number of counsel for appellant are:

Charles A. Anderson
11718 Bowman Green Drive
Reston, Virginia 20190
(703) 435-0230

(3) The name and address of appellee are:

Commonwealth of Virginia
20 E. Market St.
Leesburg, Virginia 21076

Charles A. Anderson
Attorney at Law
11718 Bowman Green Drive
Reston, Virginia 20190
(703) 435-0230

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(4) The name, address and telephone number of counsel for appellee are:

Robert D. Anderson
Eric N. Strom
20 E. Market St.
Leesburg, Virginia 20176
(703) 777-0242

(5) Counsel for appellant has ordered from the court reporter who reported the case the transcript for filing as required by Rule 5A:8(a).

(6) Counsel for defendant has been privately retained.

(7) A copy of the Notice of Appeal has been mailed to all opposing counsel and to the Clerk of the Court of Appeals this 17th. day of September, 1996.


Charles A. Anderson
Counsel

Charles A. Anderson
Attorney at Law
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