

1 (Open court; defendant present.)

2 THE COURT: Ready.

3 (Jury enters courtroom.)

4 THE COURT: Mr. Scott.

5 CROSS-EXAMINATION

6 Q. (BY MR. SCOTT) Detective, I think we had
7 talked for a little while yesterday about the scene
8 and what you observed out there yesterday; is that
9 correct, sir?

10 A. Yes, sir.

11 Q. All right.

12 MR. SCOTT: May I approach, your
13 Honor?

14 THE COURT: You may.

15 MR. SCOTT: That is, the witness.

16 Q. (BY MR. SCOTT) In relation to the diagram,
17 Detective, you testified to, the CSU has testified
18 to, there has been a diagram shown to the jury about
19 that. Let me ask you, though, about other items that
20 are not necessarily enumerated in the log or whatever
21 you want to call the area that says -- that applies
22 myself to the numbers. Okay?

23 A. Okay.

24 Q. And I'm thinking there are some pictures
25 that show it also. So let me -- let's start with

1 Number 7. Oh, you've got one. Okay. Good. Number
2 7. And Number 7 would be up in the top left-hand
3 corner of the living room, right?

4 A. Yes, sir.

5 Q. If that's what you want to call that room.
6 Living room? Is that all right?

7 A. That's fine.

8 Q. All right. Number 7 up here?

9 A. Yes, sir.

10 Q. Okay. Number 7 says metal table legs,
11 correct?

12 A. Yes.

13 Q. All right.

14 A. Yes.

15 Q. Okay. That's part of it.

16 A. Yes.

17 Q. All right. Thank you. Okay. Here we go.
18 Now, in relation to 7, metal table legs, the marker
19 on State's Exhibit Number 88 is Number 7, correct?

20 A. Yes, sir.

21 Q. All right. Now, in relation to that, what
22 is located right to the right of the Marker 7? What
23 would this be?

24 A. That was -- it looks like a car bench seat
25 that had been removed and was being used as a piece

1 of furniture.

2 Q. So, this would be the bottom side what
3 appears to be a car seat out of an automobile or a
4 pickup truck of some type?

5 A. Some type, yes, sir.

6 Q. Okay. As matter of fact, it might even be
7 out of the Suburban possibly?

8 A. Possibly.

9 Q. And on the diagram then, Number 7, is that
10 this elongated drawing do you think that shows that
11 or is it something else? Do you know?

12 A. I don't know for certain, but that would
13 make sense to me.

14 Q. Okay. So this elongated item depicted in
15 the chart under the 7 we're thinking might be that
16 upside down car seat, correct?

17 A. Yes.

18 Q. Now, also in relation to State's Exhibit
19 Number 88, it does show some metal table legs; is
20 that correct?

21 A. Yes.

22 Q. Those would be the legs -- some set of legs
23 that have been introduced and possibly the one right
24 here in the box with the seat. Or I'm sorry, not
25 seat.

1 A. Whatever that is.

2 Q. Whatever that is, right? That might be the
3 one.

4 A. That would be consistent with the picture,
5 yes, sir.

6 Q. All right. Fine. Also in that -- and I
7 don't see it enumerated on your list of items --
8 there is also a upside down chair?

9 A. Yes.

10 Q. A wooden chair; is that correct?

11 A. Yes, sir.

12 Q. Looking at that wooden chair that is also
13 depicted in 88, that looks similar then to the chair
14 that was Number 8.

15 A. The bottom of it that was in that back
16 bedroom, yes, sir.

17 Q. I'm sorry. Back over here, right?

18 A. Yes.

19 Q. All right. So that chair, while it's not
20 enumerated on your -- no, it's not drawn there, is
21 it? Do you think Number 7 -- this must be the table
22 legs probably and this is the car seat and this is a
23 caution or something?

24 A. I believe -- okay. So the elongated object
25 would be that car bench seat.

1 Q. Yes, sir.

2 A. I believe kind of overlapping that car seat
3 that might be the representation of that wooden chair
4 or it might be that square object, you know, I guess
5 directly down from Number 7.

6 Q. All right. Okay. So wherever it is, it's
7 not enumerated at least on the list.

8 A. It was not tagged as evidence so.

9 Q. But in conjunction with that there were
10 likewise some wooden pegs or dowels depicted in 88,
11 correct?

12 A. Are you speaking about the chair?

13 Q. Yes, sir. By the chair.

14 A. Right. That chair is not broken.

15 Q. That chair is in one piece.

16 A. It appears to be, yes, sir.

17 Q. You see this dowel right underneath that
18 chair?

19 A. Yes.

20 Q. Okay. There were dowels that are
21 located -- I guess you want to call them dowels.
22 They were introduced. They are all those wooden pegs
23 that appear to come out of chairs, correct?

24 A. Yes.

25 Q. There is at least one of those items under

1 the chair in 88, correct?

2 A. Yes.

3 Q. The are others, and I think 25 shows
4 another wooden item --

5 A. Yes, sir.

6 Q. -- that is close to the chair, correct?

7 A. Yes.

8 Q. And that is the chair by the seven which is
9 a different chair than the chair in the bedroom,
10 correct?

11 A. Yes.

12 Q. All right. Then it also shows different,
13 same type of dowels, wooden instruments in the bottom
14 left-hand corner of State's 25; is that correct?

15 A. Yes.

16 Q. All right. Now I guess I was confused
17 until I looked at that 88, but that was not the couch
18 the people had been talking about. The car seat is
19 different than the couch, correct?

20 A. No. That is the couch right there. It's
21 standing on its end.

22 Q. It stands on its end and kind of back
23 toward that corner, correct?

24 A. Uh-huh.

25 Q. This item right here on exhibit 10 we're

1 assuming was meant to be the couch; is that correct?

2 Is that the way you would interpret that?

3 A. Yes.

4 Q. So this looks like it's sitting flat like
5 everything else. It was up on its end?

6 A. Yes, sir.

7 Q. At least out of the normal position for
8 somebody to sit on.

9 A. I couldn't sit on it like that.

10 Q. Right. Now Number 30, once again that
11 is -- Number 30 shows that same piece of the metal
12 table.

13 A. Yes.

14 Q. Correct? Part of it?

15 A. Yes.

16 Q. And it likewise at the bottom shows the
17 extension or the long length of that upside down car
18 seat, correct?

19 A. Yes. It's a shot of seven from a slightly
20 different angle.

21 Q. All right. Now, Number 60. Would you help
22 me? Obviously a bathroom, interior of a bathroom,
23 correct?

24 A. Yes.

25 Q. What bathroom is that? Do you know?

1 A. I believe that's the back bathroom.

2 Q. Is that the same bathroom then that is
3 contained in 60?

4 A. I believe so.

5 Q. The tile looks the same anyway, right?

6 A. Yes.

7 Q. So while -- I'm sorry. 61 would be a view
8 into that bathroom from another room, correct?

9 A. Yes.

10 Q. And then Number 60 would be a continuation
11 around behind the wall --

12 A. Yes, sir.

13 Q. -- into that bathroom, correct?

14 A. Yes, sir. I believe so.

15 Q. All right. And here's -- a better picture
16 of that would be 59, correct? At least a picture
17 that --

18 A. Another shot through the doorway of that
19 bathroom, yes, sir.

20 Q. All right. Now, in relation to that, you
21 say that you went back into this area of the
22 residence which is not shown on the diagram but is up
23 there, correct?

24 A. Yes, sir.

25 Q. And you went back into that area either --

1 well, probably more than once, but more particularly
2 in relation to information that you had been given --
3 either that you had gotten or Detective Elliott had
4 gotten; is that correct?

5 A. Yes, sir.

6 Q. Okay. And that information had to do with
7 the sexual assault allegation basically; is that
8 correct?

9 A. Yes, sir.

10 Q. All right. So when you went into this
11 area, you knew what you were looking for, correct?

12 A. Yes, sir.

13 Q. It wasn't a situation that you looked and
14 came back and heard about it later but didn't go back
15 to verify, correct?

16 A. I'm sorry? Like, what do you mean?

17 Q. Okay. You walk into this area of the
18 house, look around, you don't see anything basically.

19 A. That's correct.

20 Q. Okay. Then you leave out of there and you
21 later hear that something was supposed to have
22 happened back there.

23 A. Right.

24 Q. But you never go back to verify.

25 A. No. We did. We did go back and look even

1 closer.

2 Q. All right. So it wasn't the reverse. It
3 was yeah, we heard that. We might have looked in
4 there earlier but didn't see anything. But then we
5 actually make an effort on our part with knowledge to
6 go back and look for particular --

7 A. Specific to a sexual assault, yes, sir.

8 Q. Okay. Then that means you would have
9 likewise known about possibly kicking the door open,
10 going into the bathroom, and that sort of
11 information, correct?

12 A. We would have I think seen if that would
13 have happened, if it was immediately apparent that
14 that door had been forced, yes.

15 Q. Well, let me ask you this way: Did you
16 know that before you went back either the second time
17 or at least in relation to the verification of a
18 potential sexual assault in that area?

19 A. Specifically whether the bathroom door had
20 been forced?

21 Q. Yes, sir.

22 A. I don't recall.

23 Q. But whether you knew that or not in
24 advance, you obviously looked and to your information
25 it had not been forced like we normally think of

1 kicking a door open, correct?

2 A. Correct.

3 Q. All right. There was some testimony -- and
4 I can't remember who did it. Either Woody did it. I
5 can't remember. Let me just ask you. In relation to
6 the dowels or pieces of chair or those pieces of
7 wood, okay, somebody testified that there appeared to
8 be a tennis shoe imprint on one of those. Did you
9 say that or --

10 A. I haven't mentioned anything about tennis
11 shoes, to my recollection.

12 Q. Okay. Did you know that? Do you know
13 that?

14 A. I did not.

15 Q. Okay. All right. So you didn't say it.
16 All right. There was no indication, though, that a
17 footprint appeared on that door that led into that
18 bathroom there, was there?

19 A. No.

20 Q. Now, I think we talked yesterday -- maybe
21 not about this -- I think it was this picture, 73?

22 A. Yes, sir.

23 Q. And that had to do with we're thinking the
24 same part of furniture with the steel pipes and the
25 flat surface, whatever it was used for, correct?

1 A. Yes.

2 Q. And you said that you thought that -- yeah,
3 that's when we got into that. You thought that was a
4 picture in the kitchen?

5 A. Yes, sir.

6 Q. Because of the tile floor, correct?

7 A. Yes, sir.

8 Q. All right. By looking at these items in
9 73, do they appear at least looking at them in your
10 opinion to be similar to the ones that you found
11 other places in the house?

12 A. Yes, they do.

13 Q. All right. Did you have any prints or
14 anything taken? I know these weren't collected. At
15 least you said they weren't collected.

16 A. They were not.

17 Q. Okay. They were not collected. Did you
18 print or have those items printed?

19 A. No, we did not.

20 Q. All right. And I don't know. I've heard
21 it 15,000 times. It appears the surface could have
22 been possibly printed. Would that be a way to --

23 A. It appears to be a printable surface. Yes,
24 sir.

25 Q. All right. By the way, did you print the

1 door or anything about that door that went into that
2 restroom as into whether or not there was any prints
3 on the doorknob or anything like that?

4 A. No, we did not.

5 Q. Would that help -- was anything printed
6 during this investigation, to your knowledge?

7 A. Not to my knowledge, no.

8 Q. Now that's the process of dusting and
9 lifting and things that probably everybody is
10 familiar with, right?

11 A. Yes.

12 Q. But that was not done here at this scene,
13 correct?

14 A. No.

15 Q. All right. And I don't remember what you
16 told us, if you did, in relation to Exhibit 95. It
17 shows the residence down the street, correct?

18 A. Yes.

19 Q. That's at the red door residence as opposed
20 to the one where the other photographs were taken.

21 A. Right, where one of the women had run for
22 help.

23 Q. Yes, sir. That one. All right. Do you
24 remember whether or not you printed or had anything
25 done in relation to the weight, the bar bell that was

1 in fact -- here it is -- was in fact collected and
2 brought in? Was anything done with that other than
3 just collected?

4 A. No.

5 Q. All right. Just briefly. 29 is a picture
6 of that living room area again, and it certainly
7 shows more distinctively that upside down car seat,
8 correct?

9 A. Yes, sir.

10 Q. All right. And it also shows the couch
11 more clearly, correct?

12 A. Yes.

13 Q. Now, in relation to Number 5 -- and Number
14 5 is this V shape location?

15 A. Yes, sir.

16 Q. All right. I think it's backwards.
17 Anyway, five is a piece of that same metal furniture
18 object, right?

19 A. Yes, sir.

20 Q. And five is located under a cushion?

21 A. Yes, sir.

22 Q. And the cushion, I gather, if you -- yeah,
23 there was some question about that. If you look at
24 the pattern on the couch on the end --

25 A. The upholstery matches.

1 Q. Yeah. The upholstery matches with that
2 cushion, right?

3 A. Yes.

4 Q. Okay. Now, while the diagram has the V
5 going in the other direction, it's backwards?

6 A. But it's still the same item.

7 Q. Yes, sir. Okay. The blood, I'm assuming
8 State's Exhibit Number 85 that shows Number 5 also
9 shows a cushion that matches that couch, correct?

10 A. Yes.

11 Q. And that appears to be blood on the
12 cushion, correct?

13 A. Yes.

14 Q. All right. Does it appear to be spattered
15 blood? It looks more like concentrated blood than
16 from just being shown around like you talked about
17 the other blood; is that correct?

18 A. Yes.

19 Q. Would that be accurate or safer?

20 A. It's a mixture of stuff. You know, it
21 looks like there's some transfer on it down here and
22 it looks like there might be some spatter on it, dots
23 an everything. So, it's a mix.

24 Q. Okay.

25 A. But there is definitely blood on it.

1 Q. Yes, sir. All right. Now, the only
2 information I gather that you're talking about having
3 to aid and assist you in relation to your
4 investigation out there would have come from Officer
5 Salcido who was the first officer on the scene. You
6 also talked about Woody Tompkins being there when you
7 got there?

8 A. Yes, sir.

9 Q. And maybe some other person that was in a
10 car or that was confined there; is that correct?

11 A. A witness.

12 Q. A witness?

13 A. Yes, sir. And the two additional people
14 that had been taken to the hospital prior to us.

15 Q. Yeah. Well, they weren't there, though?

16 A. Right.

17 Q. Yeah. Okay. And of course Mrs. Torres
18 down the street, the lady at the other house.

19 A. Yeah.

20 Q. Okay. Did you talk to Mrs. Torres or did
21 somebody else do that? Do you remember?

22 A. If I spoke with her, it was only briefly.
23 Sergeant Elliott would have talked to her in detail.

24 Q. All right. Also you talked about going
25 back -- I can't say "back." You talked about at some

1 point in time that you were looking for a .22
2 revolver, correct?

3 A. I was looking for a gun. I didn't know
4 specifically at the time that it was a revolver or a
5 .22.

6 Q. The State keeps showing a plastic gun.
7 You're not looking for that type of gun, were you?
8 In your opinion, you were looking for a real gun,
9 right?

10 A. I was looking for anything, either a gun or
11 anything that looked like a gun.

12 Q. All right. You hadn't been told that there
13 was a .22 revolver?

14 A. I don't believe so.

15 Q. Okay. But regardless you did not find a
16 .22 revolver, correct?

17 A. No, sir.

18 Q. All right. Now, in relation to the door
19 lock, the deadbolt door lock on the burglar bars --

20 A. Yes, sir.

21 Q. On the front door --

22 A. Yes, sir.

23 Q. Well, let me back up a bit. Is there an
24 actual locking mechanism on the actual front door of
25 that residence or not? Do you remember?

1 A. Yes, I believe there was a deadbolt there.

2 Q. There would be a deadbolt there also,
3 correct?

4 A. Yes, sir.

5 Q. All right. But there is -- we've seen --
6 and I don't remember if we've seen pictures or not.
7 But we sure have seen pictures of the burglar bar
8 door with the deadbolt, correct?

9 A. Yes.

10 Q. All right, sir. And you were looking for
11 two sets of keys, were you not?

12 A. Well, we had learned that the disturbance
13 had started because Mr. Armstrong had misplaced his
14 keys.

15 Q. You'd also learned that he had locked the
16 people in with keys, correct?

17 A. I'm not sure if I learned that at the scene
18 or after the scene was finished.

19 Q. But you are saying you did not find two
20 sets of keys. You found, I think you told us
21 yesterday, one set of keys?

22 A. Right. The key set I remember finding was
23 to the car.

24 Q. The car keys.

25 A. And I believe there were some other keys on

1 that as well.

2 Q. But you found the car keys, and they were
3 in the back bedroom or somewhere back there?

4 A. Yes, sir.

5 Q. Do you remember if they were in
6 Mr. Armstrong's room?

7 A. They were in Mr. Armstrong's room, yes.

8 MR. SCOTT: Pass the witness, your
9 Honor.

10 MR. PENEGRUY: No further questions of
11 this witness.

12 THE COURT: You're excused subject to
13 recall.

14 THE WITNESS: Yes, sir.

15 MR. PENEGRUY: State calls Officer
16 Walker.

17 THE COURT: From the State.

18 E.W. WALKER,

19 having been first duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 Q. (MR. PENEGRUY) Sir, will you please
22 introduce yourself to the jury?

23 A. Officer E.W. Walker.

24 Q. Sir, where do you work?

25 A. Houston Police Department.