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I N D E X

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1 (October 31, 1984.)

2 (Court is opened at 2:15 PM.)

3 MR. REINGOLD: Your Honor, they are bringing the
4 prisoner out.

5 THE COURT: State ready to proceed, Mr.
6 Reingold?

7 MR. REINGOLD: Yes, Your Honor. Mr. Hunt,
8 you've been charged with murder. This is a felony. Do you
9 desire preliminary hearing?

10 MR. JENKINS: Yes.

11 (Two witnesses are duly sworn.)

12 MR. JENKINS: Your Honor, may I approach the
13 bench a moment?

14 (Conference at the bench.)

15

16 THOMAS PATTON MURPHY, having been duly sworn to
17 state only the truth, testified on his oath as follows during
18 DIRECT EXAMINATION BY MR. REINGOLD:

19 Q. State your name for the Court, please.

20 A. Thomas Patton Murphy.

21 Q. Mr. Murphy, if you would, speak up a little bit.
22 Where do you live?

23 A. 3621 Yale Avenue, Winston-Salem.

24 Q. Are you employed, Mr. Murphy?

25 A. Yes, sir.

1 Q. Where do you work?

2 A. Hanes Finish Company.

3 Q. And where is that located?

4 A. On West End Boulevard, Chatham Road.

5 Q. Mr. Murphy, do you remember the morning of August
6 10th, 1984?

7 A. Yes, sir.

8 Q. Were you working on that morning?

9 A. Yes, sir.

10 Q. What time did you leave to go to work?

11 A. We left the house about quarter after.

12 Q. Quarter after what?

13 A. Six. AM.

14 Q. How long does it generally take you to get to work?

15 A. About twelve, fifteen minutes.

16 Q. On the morning of August 10th, 1984, did you notice
17 anything unusual as you drove to work?

18 A. Well, we was going off Spruce Street on West End
19 Boulevard, I saw a black male holding a white female on the
20 sidewalk about a hundred some foot down front of me. As I
21 went down the street, I was looking at them to see if there
22 was anything was wrong. And he had his arm around her neck
23 holding her right hand, and no movement, no struggling. I
24 looked at them, you know.

25 Q. If one of the deputies would go up -- would you

1 demonstrate for His Honor exactly how the black male was
2 holding the white female? You can step down from there, Mr.
3 Murphy, and show the judge what you saw.

4 A. Well, he was -- but he had his right arm around her
5 neck and holding her right hand and they were sort of leaned
6 into each other something like that. (Indicating.)

7 Q. Thank you. You can return to your seat.

8 Do you see that black male in the courtroom?

9 A. Yes, sir.

10 Q. Point him out to the judge.

11 A. Setting over there at the defense table. His hair is
12 different now than it was, a little shorter. (Indicating.)

13 Q. Are you sure that's the person you saw on that
14 morning?

15 A. I'm positive.

16 MR. REINGOLD: Your Honor, let the record show
17 the witness pointed to the defendant.

18 THE COURT: Let the record reflect the
19 prosecution witness identified defendant in this matter.

20 Q. Mr. Murphy, do you know approximately what time of
21 day it was that you saw the two of them together?

22 A. It was around six-twenty-five to six-thirty.

23 Q. In the morning?

24 A. In the morning.

25 Q. What kind of view did you have of the defendant's

1 face?

2 A. I had a real good view. He was standing facing the
3 street at just a slight angle, but they was not in the
4 curve. There is a curve around there, you know. I slowed
5 down enough to look at them.

6 Q. Exactly where was it you saw the two of them?

7 A. On the edge of the sidewalk, about fifteen foot from
8 where I was at.

9 Q. What road is that?

10 A. West End Boulevard.

11 MR. REINGOLD: Thank you very much. Your
12 witness.

13

14 CROSS EXAMINATION BY MR. JENKINS:

15 Q. Mr. Murphy, I'm sorry, I didn't get your first name.

16 A. Thomas Patton Murphy.

17 Q. Spell that.

18 A. P-A-T-T-O-N.

19 Q. Where do you live, Mr. Murphy?

20 A. 3121 Yale Avenue, Winston-Salem.

21 Q. How old are you, Mr. Murphy?

22 A. Forty-two.

23 Q. How long have you lived in Winston-Salem?

24 A. Fifteen years.

25 Q. How long have you worked at Hanes Dye?

- 1 A. Be four years this coming April.
- 2 Q. Do you drive the same route to work everyday?
- 3 A. Yes, sir.
- 4 Q. Does that route take you on the street that you were
- 5 describing a minute ago?
- 6 A. Yes, sir.
- 7 Q. Everyday?
- 8 A. Everyday.
- 9 Q. Driving by yourself or with someone?
- 10 A. By myself.
- 11 Q. Do you recall what the weather conditions were on
- 12 that morning?
- 13 A. They were clear.
- 14 Q. Clear? Any clouds?
- 15 A. I hadn't looked at the sky, but it was clear.
- 16 Q. What kind of light conditions were they?
- 17 A. Light conditions good. Didn't need lights,
- 18 headlights.
- 19 Q. No headlights. Did you have the radio on?
- 20 A. No, sir.
- 21 Q. Did you have windows up or down?
- 22 A. Down.
- 23 Q. What time had you gotten up that morning?
- 24 A. I get up at quarter till six.
- 25 Q. What time are you due at work?

1 A. Seven.

2 Q. How many other people did you see out there that
3 morning?

4 A. --

5 Q. From the corner of where -- was it, Fourth, Fifth,
6 Sixth Street crosses West End Boulevard down to the --
7 during that whole block, grounds around Crystal Towers?

8 A. I seen three other ones besides him -- four -- well
9 him and her and three other people.

10 Q. Three other people?

11 A. Right.

12 Q. Can you describe those other people for me?

13 A. Well, the one on the lower end of the block down
14 there was approximately six foot tall, black, sort of --
15 hair was sort of frizzed, bushy a little bit. And the one
16 on down --

17 Q. Excuse me. With regard to this man you saw further
18 down the block, where was he?

19 A. He was approximately a hundred, hundred twenty-five
20 foot further down the street.

21 Q. When you say further down, down towards Hanes Dye?

22 A. Down towards Chatham Road.

23 Q. Beyond --

24 A. Yeah.

25 Q. Okay. What was he wearing?

1 A. Sort of a -- wasn't light, wasn't dark colored
2 clothes, checked shirt.

3 Q. All right. What about the other people? Did you
4 recognize that man?

5 A. No, sir.

6 Q. Never seen him before?

7 A. Well, there was one down there that I had seen
8 before, a little further down from where he was.

9 Q. This man that you just described, had you seen him
10 before?

11 A. No.

12 Q. Have you seen him since?

13 A. No, sir.

14 Q. All right. The other people you saw out there --

15 A. Well, the one, I don't know his name. He lives right
16 there at the bottom of the hill there at Buxton Street.

17 Q. How do you know that?

18 A. You see him around there all the time.

19 Q. Black or white?

20 A. He's black.

21 Q. He was further down than this man who was a hundred
22 twenty-five feet away?

23 A. Right. He was on the -- where Buxton Street turns
24 down off West End and Chatham Road there.

25 Q. The man you described minutes ago as being six feet

1 tall, what was he doing?

2 A. He was just standing looking back up the street?

3 Q. Towards which way?

4 A. Towards the defendant and the woman.

5 Q. He wasn't moving?

6 A. No, sir, he was standing still, just standing there
7 looking.

8 Q. All right. Describe the other people you saw out
9 there.

10 A. Well, like I said, the one lived down there, he's
11 very tall, dark complected. And there was one that we pass
12 every morning further down on Chatham Road.

13 Q. Okay. But in this block between Buxton Street and
14 Sixth Street?

15 A. Just -- Hunt and the young lady and the man that was
16 on the end of the street and the one that lives right there.

17 Q. Did you stop your car when you went by them?

18 A. No, sir.

19 Q. What was Mr. Hunt wearing, if that's who it was?

20 A. Well, it was sort of a dark colored clothing. I
21 didn't really pay too much attention. I was looking at
22 their faces, you know, looking at them more than I was
23 anything.

24 Q. You don't know what kind of clothes he was wearing?

25 A. Wasn't light, wasn't real, real black or nothing like

1 that, dark. They were dark, though.

2 Q. Did his clothing have any kind of pattern on it?

3 A. Well, it seems that I seen a check like on the shirt.

4 Q. A check?

5 A. Yes, checked or squared or something another. But as
6 far as to what kind of pattern, I don't really know.

7 Q. Was he wearing a hat?

8 A. I don't recall.

9 Q. You don't know whether he was wearing a hat and you
10 don't know whether he had any facial hair, beard or
11 mustache?

12 A. I seen no facial hair.

13 Q. Did the people that you saw down there appear to be
14 struggling?

15 A. No, sir. They were just standing there.

16 Q. What attracted your attention to them?

17 A. Well, just the fact that they were standing there and
18 you don't usually -- I haven't never seen nobody down there,
19 and my understanding it's a field, you know, on the edge of
20 the street, you know. I first thought they were drunk. And
21 as I went by them, they just wasn't moving, wasn't no
22 struggling. As I went on past, I was looking at the one on
23 the end of the street and looked in the rearview mirror and
24 he was still standing there when I made the turn, on Chatham
25 Road.

1 Q. If you will, go back to the blackboard, please, and
2 just make a general drawing of the street and how these two
3 persons were positioned in relationship to the street.

4 (The witness goes to the blackboard.)

5 A. Drawing of the street?

6 THE COURT: You can erase what's already on the
7 board, sir.

8 A. Okay.

9 (The witness draws a diagram.)

10 A. They were right along here, and that would be about
11 the direction they was looking. They were facing as I come
12 around by them.

13 MR. JENKINS: Your Honor, may I walk up there?
14 I can't see what the witness is saying.

15 THE COURT: Yes, sir, you may approach the
16 witness.

17 Q. You say they were looking directly across the street?

18 A. Not directly across, but sort of at an angle.
19 Because she was facing --

20 Q. Which one was which?

21 A. He was looking more down West End Boulevard and he
22 was facing Fifth Street.

23 Q. Were any cars parked on the street?

24 A. One sitting right here, a little blue Nova.

25 Q. Any trees out there?

- 1 A. None between them and the highway.
- 2 Q. Any trees close there where the car was parked?
- 3 A. The Nova -- no. There was a light pole close to him.
- 4 Q. A light pole?
- 5 A. Yes, right here close to where that Nova was parked.
- 6 Q. Any other cars parked up there?
- 7 A. Back there away from it, three or four. Her car was
- 8 parked somewhere up here.
- 9 Q. Do you know where there was any shrubbery on the side
- 10 of the street?
- 11 A. Yes, right down below them here, comes into where you
- 12 got the sidewalk and the shrubbery comes out something about
- 13 like that and goes down. That's all shrubbery right in
- 14 here.
- 15 Q. How close to the shrubbery were they?
- 16 A. Maybe fifteen, twenty feet.
- 17 Q. Were they on the sidewalk?
- 18 A. Yes, on the edge of the sidewalk.
- 19 Q. Which edge? The edge closest to the road or the edge
- 20 away from the road?
- 21 A. The edge away from the road. And you had four foot
- 22 of sidewalk between them and the road.
- 23 Q. The man that you saw out there, what did he do when
- 24 you drove by?
- 25 A. They were just standing there. They didn't do

1 nothing, didn't move. Went on down the street; one on down
2 the street here. Didn't move either. He just stood there,
3 looking back up.

4 Q. Have you ever seen Mr. Hunt prior to today?

5 A. Other than a picture, line-up, and then I seen him in
6 a line-up at the --

7 Q. Prior to that morning, had you ever seen him?

8 A. No, sure hadn't.

9 Q. All right. Did you say anything about this to anyone
10 at work when you got there that morning?

11 MR. REINGOLD: Objection.

12 A. I spoke to one boy.

13 THE COURT: Overruled.

14 A. Was explaining to him, you know, what I had seen. We
15 was talking about it. And other than that, no.

16 Q. What did you say to him?

17 A. Just, you know, if he had been coming down that way
18 and he said no he hadn't.

19 Q. What did you tell him you had seen?

20 A. Well that a black male and white woman standing up
21 there and looked like they was drunk, together.

22 Q. Do you ever wear glasses, Mr. Murphy?

23 A. No, sir.

24 Q. Do you have any restriction on your driver's license
25 or glasses?

- 1 A. No, sir.
- 2 Q. Do you have any other restrictions on your driver's
3 license?
- 4 A. No, sir.
- 5 Q. Do you have any kind of medical problems that require
6 you to take medicine?
- 7 A. No, sir, not now.
- 8 Q. What do you mean not now?
- 9 A. Well, I mean back in the spring I did.
- 10 Q. What kind of medicine?
- 11 A. It was just pain medicine.
- 12 Q. What was that for?
- 13 A. I had a knee operation and also I had appendix to
14 rupture and bust.
- 15 Q. Were you taking any medication on this morning?
- 16 A. No, sir. Haven't taken none since June.
- 17 Q. When was the first time you talked to the police
18 about this matter?
- 19 A. About three-thirty that evening, maybe four o'clock.
- 20 Q. How did that happen?
- 21 A. As I come in from work, I was sitting there and they
22 showed some kind of a news flash on television and I seen
23 the car and they had it marked off, said something about a
24 murder. When I seen the reporter's car, they was talking
25 about it, and that's when I called them. Because every

1 morning that week up until that day, I had seen her get out
2 of the car and go back up to where she walked back up
3 towards Sixth Street. But her car was sitting there that
4 morning and --

5 Q. Is her car the blue Nova you were talking about?

6 A. No, it was another little type; Opal or something
7 like that.

8 Q. Do you know where that was parked?

9 A. Back up the street a good hundred foot, where the big
10 trees are.

11 Q. Where did you talk with the police the first time you
12 talked with them?

13 A. I talked to them on the phone and then at the police
14 station.

15 Q. They ask you to come in?

16 A. Yes, sir.

17 Q. And you went down there?

18 A. Yes, sir.

19 Q. What time did you get down there?

20 A. About six something.

21 Q. Six o'clock that evening?

22 A. That evening.

23 Q. Who did you speak with?

24 A. I don't know, it was about a half dozen or so I
25 talked to.

1 Q. Do you remember any of them?

2 A. Well, Mr. Daulton was one.

3 Q. All right. What did you tell them at that time?

4 A. What I had seen, and they asked me to give a drawing.
5 I give them a picture drawing.

6 Q. Drawing of what?

7 A. Of the suspect.

8 Q. Did you give them a description of the suspect?

9 A. Yes, description, you know, drawing type thing.

10 Q. And what was the description that you gave them?

11 A. Like of him.

12 Q. I would like for you to tell me exactly what it was
13 you told them.

14 MR. REINGOLD: Objection.

15 THE COURT: State care to be heard?

16 MR. REINGOLD: No, Your Honor.

17 THE COURT: Overruled. You may answer the
18 question.

19 A. Okay. That I really couldn't draw the picture out
20 like him, but I could give, you know, give them one close
21 enough. It was something about his face that I had to see,
22 you know, when I seen him.

23 Q. What description did you give them of him? Tell them
24 how tall he was, how much he weighed?

25 A. Yes, how tall, approximately how much he weighed.

1 Q. Well tell me what you told them.

2 A. Well he was around six foot -- between five ten and
3 six foot. He was sort of slender built, wasn't heavy.
4 Hundred and 40. Hundred 50 pounds, something like that.

5 Q. Did you give them any other description?

6 A. Not that I know of.

7 Q. Did you describe anything about his clothing?

8 A. Just that it was sort of dark and wasn't light, you
9 know, checkered type. It wasn't a light color or it wasn't
10 real dark.

11 Q. Wasn't light, but it wasn't real dark. Was it check
12 all over?

13 MR. REINGOLD: Objection.

14 THE COURT: Overruled.

15 MR. REINGOLD: Your Honor, he's already covered
16 this. Second or third time we went through this clothing
17 description.

18 MR. JENKINS: Your Honor, he said it had some
19 checks on it. He didn't say where they were. Trying to
20 find out a better description of the article. If he knows.

21 THE COURT: Okay. Sustained.

22 MR. REINGOLD: You don't have to answer.

23 Q. Did you tell them whether or not he was wearing a
24 hat?

25 MR. REINGOLD: Objection. This has been asked

1 and answered.

2 THE COURT: Overruled.

3 A. I told them I didn't know.

4 Q. All right.

5 A. I was looking more at the face.

6 Q. Did you tell them whether or not he had any
7 distinguishing features about him, anything special about
8 his face?

9 A. No, sir, other than it was one I wouldn't forget.

10 Q. Did they make a drawing based on your description?

11 A. Yes, sir.

12 Q. Of them? Did they make more than one?

13 A. I don't think so.

14 Q. Did they show you any pictures of Mrs. Sykes that
15 day?

16 A. No, sir.

17 Q. They did not on that day?

18 A. No, sir.

19 Q. When was the first time they showed you any pictures
20 of Mrs. Sykes?

21 A. I haven't seen none.

22 Q. You've never seen one? Have you ever seen any
23 photographs of Mr. Hunt?

24 A. The one -- only photograph I seen of him was in a
25 picture line-up that they give me at the police department.

- 1 Q. When was that?
- 2 A. Two or three weeks after it happened.
- 3 Q. Two or three weeks later?
- 4 A. Right.
- 5 Q. How many pictures did they show you?
- 6 A. All total?
- 7 Q. Yes, sir.
- 8 A. Between five hundred and a thousand.
- 9 Q. Can you describe how it was that they presented the
10 pictures to you?
- 11 A. How do you mean that?
- 12 Q. Well, did they give you a book and say here, look at
13 all these pictures, or somebody sit down and go through them
14 with you one at the time?
- 15 A. Give me a book and stacks of pictures.
- 16 Q. Did you find Mr. Hunt's picture among those?
- 17 A. Not among those.
- 18 Q. Okay.
- 19 A. It was later on, like I said. Two or three weeks.
- 20 Q. Well when did you look at these books of pictures?
- 21 A. The first night -- well, all along there, the whole
22 time.
- 23 Q. And how many different times did you go back in and
24 look at pictures?
- 25 A. I don't know for sure, three or four.

1 Q. Three or four different times. Well, describe the
2 occasion when you identified Mr. Hunt's picture.

3 A. Well, I know it was in the morning about six o'clock
4 before I went to work. They called me and asked me if I
5 would come by. As I went by, they had a little envelope
6 they give me, had five or six pictures in it. And as I was
7 going through them, I found his and told them I would love
8 to see him better.

9 Q. You said what?

10 A. I would love to see him better.

11 Q. Did you say that this was the man?

12 A. Yes, I told them then.

13 Q. You said this is positively the man?

14 A. Oh, no.

15 Q. You weren't sure?

16 A. I was sure when I pulled the picture out.

17 Q. Well, you were sure or you weren't sure?

18 MR. REINGOLD: Objection.

19 THE COURT: Overruled. Ask your question again.

20 Q. All right. I understood you to say that it was
21 somebody you would like to see better?

22 A. Yes. I would like to see him in person.

23 Q. So you were not positive based on the picture?

24 A. I was positive I wanted to see him in person.

25 Q. But you were not positive he was the person?

1 A. No.

2 MR. REINGOLD: Objection.

3 THE COURT: Sustained.

4 Q. How many other pictures were in the envelope?

5 A. There was either -- like I said, either four or five
6 more with his picture.

7 Q. How, would you describe what the other pictures
8 looked like?

9 MR. REINGOLD: Objection.

10 THE COURT: Overruled.

11 A. Just similar people, you know, similar to his
12 description and all, his looks.

13 Q. Were any of the pictures marked in any way?

14 A. No, sir.

15 Q. Didn't have any names or dates or anything like that?

16 A. I haven't seen none.

17 Q. What kind of pictures were they?

18 A. I didn't --

19 Q. Polaroid pictures? Kind of pictures that develop
20 quickly?

21 MR. REINGOLD: Objection.

22 A. That, I don't know.

23 THE COURT: Overruled.

24 Q. You don't know whether it was that kind of picture or
25 not?

1 A. I don't whether it was Polaroid or not.

2 Q. Who asked you to come down there that morning?

3 A. I believe it was Sergeant Daulton.

4 Q. What did he say to you?

5 A. Well, we had been out --

6 MR. REINGOLD: Objection.

7 THE COURT: Sustained.

8 MR. JENKINS: Your Honor, I think it could be
9 very important as to what went on surrounding the
10 identification of the photographs. This could be a very
11 crucial point, Your Honor, and I think we're entitled to
12 know.

13 MR. REINGOLD: I'm putting Detective Daulton on
14 the stand, Your Honor.

15 THE COURT: I think at this point, I'll let you
16 ask Detective Daulton some questions.

17 Q. Was anyone present other than Officer Daulton when
18 you were looking at those photographs that morning?

19 A. There was a couple more officers, but I don't know
20 who they were.

21 Q. Did anyone say to you that there was someone in that
22 group that they suspected?

23 A. No, sir.

24 Q. Did they say whether or not they had anybody in
25 custody at that point?

1 A. No, sir.

2 Q. Have you made any written statements concerning what
3 you saw on the morning of the tenth?

4 A. Yes, sir, to the police department.

5 Q. How many different times have you made written
6 statements or signed statements about it?

7 A. One or two. I don't remember. I think it was one or
8 two times, I'm not for sure.

9 Q. The other people who were in the pictures, did any of
10 them have any facial hair?

11 A. Some of them did.

12 Q. Some of them had facial hair? Were all of them
13 approximately the same age?

14 A. Yes.

15 Q. As Mr. Hunt?

16 A. They was, I don't know, within the same range, you
17 know.

18 Q. What do you mean the same range?

19 A. Looked like they was in their twenties, thirties.

20 Q. Twenties or thirties? What sort of hair styles did
21 they have?

22 A. All different types.

23 Q. Well, did you describe the hair styles to the police?
24 Did you tell him what kind of hair Mr. Hunt had?

25 A. I told him, you know, some kind of pigtails or

1 something.

2 Q. Did any of the other pictures have pictures with
3 people wearing pigtails?

4 A. I think so. I looked at so many, I really couldn't
5 tell you.

6 Q. You don't know whether they did or not?

7 A. I don't really know.

8 Q. How far away from you were the two people you saw out
9 there when you first noticed them?

10 A. At least a hundred fifty foot.

11 Q. How fast were you traveling?

12 A. Ten or fifteen miles an hour on that street.

13 Q. And how long did you view persons' faces out there?

14 A. I wouldn't really have no time limit. I couldn't
15 really say, other than that I slowed down real slow to look,
16 because I didn't know whether something was wrong or what it
17 was. And as far as time, there was no way I could tell.

18 Q. What kind of car were you driving?

19 A. I have a four wheel drive truck.

20 Q. You were in a pickup truck?

21 A. Right -- no, it's not a truck, it's a Blazer.

22 Q. Were the street lights on at that time?

23 A. No, sir.

24 Q. They had gone off?

25 A. All the lights were off. I had turned the lights off

- 1 on the truck.
- 2 Q. When did you turn the lights off on the truck?
- 3 A. When I was coming through town on Sixth Street --
- 4 Fifth Street.
- 5 Q. After the police -- after you picked out Mr. Hunt's
- 6 picture, did -- have you seen Mr. Hunt since that -- did you
- 7 see him in a line-up at any time.
- 8 A. Sometime after that. I don't remember when it was.
- 9 Q. Do you recall approximately?
- 10 A. Just in the evening.
- 11 Q. Okay. Will you describe that for me?
- 12 A. Well, it was him and four other gentlemen with
- 13 numbers.
- 14 Q. Okay.
- 15 A. Was showed to me and I told them what number he was.
- 16 Q. How far away from him were you?
- 17 A. When, on the line-up?
- 18 Q. Yes, sir.
- 19 A. Four, five, six foot.
- 20 Q. Okay. Can you describe the other persons who were in
- 21 that line-up other than Mr. Hunt?
- 22 A. No, sir.
- 23 Q. Do you recall how they were dressed?
- 24 A. No, sir.
- 25 Q. Do you recall anything about their ages?

1 A. They was all around approximately the same age, I
2 know that.

3 Q. Do you recall anything about their hair styles?

4 A. Well, they was wearing different type hair styles.

5 Q. What was Mr. Hunt's hair style?

6 A. His was still braided.

7 Q. Was anybody else up there with braided hair styles?

8 A. I don't know for sure. I believe there was, but I'm
9 not positive.

10 Q. How about height and weight? Were they similar or
11 not?

12 A. They were similar, some was heavier than others and
13 some were a little taller than others.

14 Q. Have you viewed any other line-ups with respect to
15 this case?

16 A. No, sir.

17 Q. That's the only one?

18 A. Yes, sir.

19 Q. Who was there with you at that time?

20 A. Sergeant Daulton and another officer.

21 Q. Were you told that Mr. Hunt would be in the line-up?

22 A. No, sir, they just said they had some people they
23 wanted me to look at.

24 Q. Did you make any kind of written -- or sign any
25 written statement or make a written statement following that

1 line-up identification?

2 A. Yes, I did.

3 Q. Did the police say anything to you after you had
4 identified him in the line-up?

5 MR. REINGOLD: Objection.

6 THE COURT: Overruled to that question. You can
7 answer that one.

8 A. As to what?

9 Q. Concerning his identification, did they say, you
10 know, that's the man who was in the picture or congratulate
11 you or anything like that?

12 MR. REINGOLD: Objection.

13 THE COURT: Sustained to that.

14 Q. Did they make any comments whatsoever?

15 MR. REINGOLD: Objection.

16 A. Not that I recall.

17 THE COURT: Overruled.

18 Q. Did they tell you whether or not he had been picked
19 out by anybody else?

20 MR. REINGOLD: Objection.

21 THE COURT: Sustained.

22 Q. Did you know Mr. Hunt's name at that time?

23 A. No, sir.

24 Q. When did you find that out?

25 A. When I got the paper.

1 Q. When you got what?

2 A. It was in the newspaper.

3 Q. You have a copy of that newspaper?

4 A. --

5 MR. REINGOLD: Objection.

6 THE COURT: Overruled.

7 A. I guess. I don't know. We keep them there at the
8 house.

9 Q. Do you have a copy of the paper that has his picture
10 in it?

11 A. I'd say it's there somewhere.

12 Q. Have you looked at it many times?

13 A. Just the day the paper come out with it in it.

14 (A tape recorder at the defense table emits a
15 shrill noise.)

16 Q. Are you aware of any other evidence that was in your
17 possession prior to the identification of Mr. Hunt that
18 would tie into this crime?

19 A. No, sir.

20 Q. How many different times did you view the
21 photographs, the envelope that contained the photographs
22 which you eventually identified Mr. Hunt?

23 A. I think that was the first time I had seen them.

24 Q. Did you see them more times after that?

25 A. No, sir.

1 Q. You don't know whether that was the first time?

2 A. Yes, that was the first time, I'm sure, because I
3 hadn't knowed him.

4 Q. Had you been told anything by the police about Mr.
5 Hunt?

6 A. No, sir.

7 MR. REINGOLD: Objection.

8 THE COURT: Overruled.

9 Q. Have you seen any pictures of Mr. Hunt since your
10 identification in addition to that one picture in the
11 newspaper on the television at any time?

12 A. I believe that was all. I can't --

13 Q. You don't believe you've ever seen it other than
14 that?

15 A. Other than in my mind.

16 Q. Do you recall what Mrs. Sykes was wearing?

17 A. No. I sure don't.

18 Q. Don't have any idea?

19 A. I don't have no idea.

20 Q. Do you recall -- how would you describe her?

21 A. As to what?

22 Q. Physical description of her, what did she look like?

23 A. About five ten to six foot. Hair would seem like
24 medium length.

25 Q. What do you mean by medium length. Show me on your --

- 1 A. Somewhere along there.
- 2 Q. Shoulder length?
- 3 A. Yes, shoulder length. Light complected --
- 4 Q. Light -- I'm sorry, what?
- 5 A. Real light, white complected.
- 6 Q. What color hair?
- 7 A. It was just dark. I have no idea whether it was
- 8 brown or black or what.
- 9 Q. Was she wearing a hat?
- 10 A. No, I don't think -- she didn't have no hat on.
- 11 Q. Did you recognize Miss Sykes that morning?
- 12 A. No, sir, I didn't.
- 13 Q. What was Mr. Hunt wearing in the photo that you saw
- 14 of him?
- 15 A. I don't remember.
- 16 Q. Do you recall what he was wearing in the line-up?
- 17 A. No, sir.
- 18 Q. Do you remember hearing any thunder that morning when
- 19 you were coming to work?
- 20 A. No, sir.
- 21 Q. Have you talked with any of the men that you saw out
- 22 there on West End Boulevard since that morning?
- 23 A. No, sir, sure haven't.
- 24 Q. Did you notice the expressions on the faces of either
- 25 Miss Sykes or Mr. Hunt?

1 A. They were just straight, wasn't -- you know, just
2 straight --

3 Q. Just straight faced?

4 A. Straight faced.

5 MR. JENKINS: No further questions, Your Honor.

6 THE COURT: Anything further?

7 MR. REINGOLD: One question.

8

9 REDIRECT EXAMINATION BY MR. REINGOLD:

10 Q. Mr. Murphy, when did you realize that it was Miss
11 Sykes out there with Mr. Hunt on that occasion?

12 MR. JENKINS: Objection, Your Honor.

13 THE COURT: Overruled.

14 A. When I was -- went home and I seen that news flash
15 and I seen a picture of her car and he had that tape or
16 bandage around it. That was when I realized it was her car.
17 Because I had seen her every morning that week.

18 MR. REINGOLD: All right. Thank you, Mr.
19 Murphy. You can come down.

20 THE COURT: You may step down.

21

22 J. I. DAULTON, having been duly sworn to state
23 only the truth, testified on his oath as follows during

24 DIRECT EXAMINATION BY MR. REINGOLD:

25 Q. State your name and occupation, please.

1 A. J. I. Daulton, police officer, City of Winston-Salem.

2 Q. Officer Daulton, did you investigate this incident we
3 have been discussing here this afternoon?

4 A. Yes, sir, I did.

5 Q. Do you know where Miss Sykes' body was found on that
6 occasion?

7 A. Yes, I do.

8 Q. Where was it found?

9 A. It was found in the zero hundred block of West End
10 Boulevard approximately hundred fifty to two hundred fifty
11 feet from where she had parked her car.

12 Q. You heard Mr. Murphy's testimony?

13 A. Yes, I did.

14 Q. Did you hear and see where he said Mr. Hunt and Mrs.
15 Sykes were standing together?

16 A. Yes, I did.

17 Q. How close from that spot was this body found?

18 A. Approximately seventy-five to a hundred feet.

19 Q. You have a piece of paper in your hand. What is
20 that?

21 A. Autopsy report.

22 Q. Can I see that -- approach the witness?

23 Who is the doctor that did the autopsy to this
24 report?

25 A. Dr. Michael Shkrum.

1 Q. Would you read his opinion in the last paragraph?

2 A. "In my opinion, the decedent died of a stab wound of
3 the left arterial chest. The circumstances of the situation
4 the disarray of the clothes, the nature of the attack, the
5 presence of an abrasion in both the vagina and the anus and
6 the presence of sperm in the vagina and anus were consistent
7 with sexual assault."

8 MR. REINGOLD: Your Honor, at this time, the
9 State moves to introduce this autopsy report into evidence.

10 THE COURT: All right.

11 MR. JENKINS: May I see that, Your Honor?

12 (A paper writing is handed to Mr. Jenkins by the
13 Court, and returned to the Court by Mr. Jenkins.)

14 MR. REINGOLD: No further questions.

15

16 CROSS EXAMINATION BY MR. JENKINS:

17 Q. Were you present when Mr. Murphy came in at six
18 o'clock, approximately, on the night of the tenth?

19 A. No, sir, not at that time.

20 MR. REINGOLD: Your Honor, I would object to
21 that. Outside the scope of my direct examination.

22 MR. JENKINS: Your Honor, I believe the law is
23 clear in North Carolina that cross examination is not
24 restricted to what was discussed on direct. I would cite
25 both the rules of evidence which have been enacted. Also,

1 State V Waddell, North Carolina Supreme Court case 289 North
2 Carolina page 27.

3 Quote, in this jurisdiction, cross examination is not
4 confined to the subject matter of direct testimony but may
5 extend to any matter relevant to the case -- citing numerous
6 cases -- We recognize this liberal practice for the purpose
7 of allowing the cross examiner to elicit details which might
8 be favorable to his case, to bring out new and relevant
9 facts and to impeach or cast doubt upon the credibility of
10 the witness.

11 Also quote one Stansbury, North Carolina Evidence,
12 Brandis Revision, subsection 35, pages 105, 107, Barnes V
13 Highway Commission, 250 NC 378, 109 Southeastern Second,
14 219.

15 THE COURT: Care to respond the that?

16 MR. REINGOLD: Your Honor, under the new rules
17 of evidence, I believe that it is limited to the scope of
18 the direct examination.

19 THE COURT: What rules are you citing?

20 MR. REINGOLD: If I may approach, I can find it
21 quickly.

22 (Mr. Reingold approaches the bench.)

23 MR. JENKINS: Your Honor, if I may refer to rule
24 611B of the Rules of Evidence, Scope of Cross Examination.
25 A witness may be cross examined on any matter relevant to

1 any issue in the case, including credibility.

2 THE COURT: Objection is overruled. Go ahead,
3 Mr. Jenkins.

4 Q. (By Mr. Jenkins, continuing.) You were not present
5 on the first evening when Mr. Murphy first came in?

6 A. Not when he first came in, no, sir.

7 Q. Did you come in later?

8 A. Yes, sir.

9 Q. Did you hear him give a description of the people he
10 saw out there?

11 A. Did I -- no, sir.

12 Q. You did not?

13 A. No, sir.

14 Q. What did you hear him say?

15 A. At that point, the only thing I heard him say --

16 MR. REINGOLD: Objection. Hearsay. Mr. Murphy
17 has been questioned.

18 THE COURT: Overruled.

19 A. He was downstairs looking at several photos and they
20 were in the process of doing a composite. And at that time,
21 we were interviewing several other people and then I got
22 with him and he and I went and rode around the uptown area.

23 Q. All right. To the best of your knowledge, has Mr.
24 Murphy ever identified anyone other than Mr. Hunt being
25 involved in this matter?

1 A. No, sir, he has not.

2 Q. Do you know the names of the persons who were used in
3 the photograph line-up -- photographs that were in the
4 container, whatever, envelope that he had that said he had
5 four or five photographs in there -- do you know who those
6 other people were?

7 A. Yes, sir.

8 Q. Who were they?

9 A. I don't have them with me right now.

10 Q. Do you have those photographs in your possession?

11 A. Not right now, no, sir.

12 Q. Can you get them, those specific photographs?

13 A. Yes, sir.

14 Q. And do you know the names or can you find out the
15 names of the other persons who were involved in the line-up?

16 A. Yes, sir.

17 Q. Was Mr. Hunt advised of his rights prior to the
18 line-up proceeding?

19 A. Yes, sir.

20 Q. Do you have a signed statement from him waiving his
21 rights?

22 A. No, sir.

23 Q. Why did you fail to get such a waiver?

24 A. The -- we were at the District Attorney's office and
25 the District Attorney advised him himself of his

1 Constitutional Rights.

2 Q. But you didn't bother to get a signed waiver from
3 him?

4 A. No, sir.

5 MR. REINGOLD: Your Honor, I object.

6 THE COURT: Overruled.

7 MR. REINGOLD: Your Honor, may I be heard,
8 briefly? Your Honor, this is probable cause hearing.
9 Discovery is triggered by a probable cause hearing. This is
10 being used solely for discovery right now. Whether or not
11 the defendant was given his rights prior to the line-up is
12 not at issue right now. May be at issue in the Superior
13 Court if it indeed comes to that; but to use it solely as
14 discovery device is not proper.

15 A preliminary hearing -- after preliminary hearing,
16 if probable cause is found, that triggers to right to
17 discovery. And I would like the Court to be aware of that
18 and set some parameters in that.

19 THE COURT: The Court is very aware. I'm going
20 to let Mr. Jenkins proceed within reasonable limits.

21 MR. JENKINS: Your Honor, may I respond to that
22 briefly?

23 THE COURT: All right.

24 MR. JENKINS: I appreciate Your Honor allowing
25 me to continue. I would just cite for the Court Coleman V

1 Alabama, 399 US 10. States in all North Carolina law that
2 the preliminary hearing is an important procedure, important
3 step in the criminal process and that a defendant is
4 entitled to counsel at that stage. I think that the law
5 under the Sixth Amendment of the Constitution provides
6 someone to affective counsel which certainly includes the
7 right to cross examination.

8 In quoting from Coleman V Alabama, says, "Plainly the
9 guiding hand of counsel at the preliminary hearing is
10 essential to protect the indigent accused against an
11 erroneous or improper prosecution.

12 "First, the lawyer's skilled examination and cross
13 examination of witnesses may expose fatal weaknesses in the
14 State's case that may lead the magistrate to refust to bind
15 the accused over.

16 "Second, in any event, the skilled interrogation of
17 witnesses by an experienced lawyer can fashion a vital
18 impeachment tool for use in cross examination of the State's
19 witnesses at the trial, or preserve testimony favorable to
20 the accused of a witness who does not appear at the trial.

21 "Third, trained counsel can more effectively discover
22 the case the State has against his client and make possible
23 the preparation of a proper defense to meet that case at the
24 trial."

25 That's 399 US 10 at page 2003, Coleman V Alabama,

1 1970. I think that shows the importance of this, Your
2 Honor, and the acceptance of that by US Supreme Court.

3 THE COURT: I intend to let you examine him to
4 the extent that I think it's consistent with the demeanor of
5 the witness and credibility. When I think you're getting
6 into matters that are going to be made available as to the
7 discovery procedures, such basic facts of the matters, then
8 I'm going to tie the line. But you may proceed.

9 MR. JENKINS: Thank you, Your Honor.

10 Q. (By Mr. Jenkins, continuing.) Do you recall whether
11 the photographs that were shown to Mr. Murphy were marked in
12 any way, out of the group that he identified Mr. Hunt out
13 of?

14 A. They were marked, not marked in such a way as he
15 would know it. They were marked in a way that I would know.

16 Q. What kind of markings were there on there?

17 A. There were markings on the back of the photographs.

18 Q. What kind of markings?

19 A. The names.

20 Q. The names were on the photograph?

21 A. Yes, sir.

22 Q. If he turned it over, he could see the name?

23 A. He never turned it over.

24 Q. Were you there the entire time?

25 A. I certainly was, yes, sir.

1 Q. Do you recall how Mr. Hunt was dressed during the
2 photographic line-up?

3 A. No, sir, I do not.

4 Q. Do you recall how he was dressed in the other
5 line-up, the in-person line-up?

6 A. No, sir, not without referring to my notes.

7 Q. Did Mr. Murphy give a written statement about this
8 matter?

9 A. Yes, he did.

10 Q. Has he given more than one?

11 A. He's given two.

12 Q. What is the description of the assailant in those
13 reports?

14 A. Approximately five ten to six foot tall.
15 Approximately early to mid twenties, hundred fifty to a
16 hundred seventy pounds. Dark skin, black male.

17 Q. Any description of his dress?

18 MR. REINGOLD: Your Honor, I object. Statements
19 will be --

20 THE COURT: Objection sustained. Those are
21 statements that will be made -- sustained to what's in those
22 reports because they will be available to you.

23 Q. Have you talked to the other persons that Mr. Murphy
24 described out there that morning?

25 A. I talked to one of them, yes, sir.

1 Q. Who was that?

2 A. Charles Edward Wall, the subject he refers to as
3 living behind the area.

4 Q. Do you know what his address is?

5 A. Not right offhand, no, sir.

6 Q. Do you know who the person was who made the telephone
7 call identifying himself as Sammy Mitchell that morning?

8 A. Yes, sir.

9 Q. Who is that?

10 A. ^{Subject by the}
~~Submit a~~ name of Johnny Gray.

11 Q. Do you know where he lives?

12 A. Not without referring to my notes.

13 Q. Has he made any statements to the police?

14 A. Yes, sir.

15 Q. How many statements?

16 A. One.

17 Q. Are your notes available so that you could find his
18 address?

19 A. Yes, sir.

20 Q. Would you do so, please?

21 MR. REINGOLD: I object, Your Honor. He's
22 testifying without notes. The State is going to call Mr.
23 Gray. Be more than happy to give his address.

24 Q. Is Mr. Gray a suspect in this matter?

25 A. No, sir.

1 Q. Are you still conducting an investigation in this
2 matter?

3 A. Yes, sir.

4 Q. On September 13th, 1984, you applied for a search
5 warrant in Forsyth County to obtain certain items from the
6 person of Darrell Hunt, is that correct?

7 A. Yes, sir.

8 Q. Is Mr. Murphy the witness who is referred to as
9 having given you information that led to this?

10 MR. REINGOLD: Objection.

11 Q. To the obtaining the search warrant?

12 THE COURT: You want to be heard?

13 MR. REINGOLD: No, Your Honor.

14 THE COURT: Overruled.

15 A. Yes, sir.

16 Q. He is?

17 A. Not solely, but he provided the information.

18 Q. Who else provided information?

19 A. *Subject by the*
~~Subject~~ name of William Hooper and Johnny Gray.

20 Q. Hooper?

21 Q. Are they the same persons who provided you
22 information as a result of which you obtained a search
23 warrant on September 14th, 1984, to obtain certain articles
24 of clothing and other items at 760 Patterson Avenue?

25 A. Yes, sir.

1 Q. When was the first time you talked with Mr. Gray
2 about this matter?

3 A. I don't have the first date. I don't have my notes
4 with me.

5 Q. Do you know approximately?

6 A. It was approximately sometime around August the 22nd
7 through the 24th.

8 Q. How about Mr. Hooper?

9 A. Mr. Hooper was talked to on August the tenth.

10 Q. Are they both residents of Winston-Salem?

11 A. Yes, sir, they are.

12 Q. Have they both given written statements?

13 A. Yes, sir, they have.

14 Q. How many different written statements has each given?

15 A. Mr. Hooper has given one written statement. Johnny
16 Gray has given one written statement and one taped
17 statement.

18 Q. Do you know if Mr. Hooper or Mr. Gray were any of the
19 persons identified by Mr. Murphy as having been out there
20 that morning?

21 A. No, sir. They --

22 Q. They were not?

23 A. Mr. Murphy never identified anyone with the exception
24 of Mr. Hunt. And Charles Edward Wall. He did identify him
25 also.

1 MR. JENKINS: No further questions, Your Honor.

2 MR. REINGOLD: That's the evidence.

3 THE COURT: You may step down.

4 THE COURT: Anything from the defendant?

5 MR. JENKINS: No, Your Honor.

6 THE COURT: You care to be heard at all?..

7 MR. JENKINS: Well, Your Honor, seems to me that
8 there is real question here as to whether there is a
9 definite connection with all this. I'm not sure that Mr.
10 Murphy identified Mrs. Sykes as being the person that he saw
11 out there with Darrell Hunt. Said that he didn't recognize
12 her as he went by. There is no testimony as to any weapon,
13 that anybody saw him do anything to her. At best, we have
14 someone who places Mr. Hunt out there on that morning.

15 MR. REINGOLD: Your Honor, we have two questions
16 for you to answer, and that's was there a probable cause
17 that the crime was committed? The autopsy answers that
18 question for you.

19 And the second question is: Was there probable cause
20 that the defendant committed the crime? And you have
21 positive identification of the defendant and Mrs. Sykes out
22 there on the morning of the crime. Then you have testimony
23 by Detective Daulton saying that this woman's body was found
24 very, very close -- I can't remember the exact number of
25 feet -- talked about, fifty to seventy-five feet from where

1 the two were together.

2 The State has no intention of trying out its entire
3 case for preliminary hearing. And base on the evidence
4 given to you here at this hearing, we think that it is
5 certainly sufficient to bind the defendant over to Superior
6 Court.

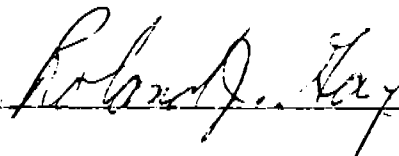
7 THE COURT: In this matter, I do find sufficient
8 evidence to find probable cause and do bind this matter over
9 to Superior Court for trial. He may go to Superior Court on
10 the same bond that he is on right now.

11 (At 3:16 PM, the preliminary hearing is ended.)

C E R T I F I C A T E

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2
3 I, Roland J. Gay, Official Court Reporter for
4 the Superior Court of Forsyth County, do hereby certify that
5 the foregoing 46 pages is, to the best of my knowledge, a
6 true and complete transcript of the evidence heard at the
7 trial of State of North Carolina versus Darrell Eugene Hunt,
8 84 CrS 42263, the same having been heard before the Honorable
9 Joseph J. Gatto, Judge Presiding, and a jury, commencing
10 October 31, 1984, the same having been taken down in
11 Stenograph and reduced to typewriting by me.

12 This the 1st day of November, 1984.
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Roland J. Gay, Reporter
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