

**CLEMENCY PETITION**

**On Behalf of**

**LARRY BILL ELLIOTT**

**Submitted by**

**Tom Kelly and Joanne Hepburn  
K&L Gates LLP**

**Robert Lee  
Virginia Capital Representation Resource Center**

**August 2009**

**Second of Two Notebooks**

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- A two-page attachment, obtained by the police From AT&T, showing call Bill made and received on his cell phone (443-562-5663), including a call he made on January 2, 2001 at 5:24:05 AM to Ms. Gragg's cell phone (703-338-3819)

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**Appendix 97:** November 30, 2006 Court Order directing that whatever evidence items the police had not yet destroyed were all to be transferred to the Virginia Department of Forensic Science. [APP 6286]

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# **APPENDIX 1**

STATE OF VIRGINIA            )  
  ) ss.  
COUNTY OF SUSSEX         )

I, LARRY BILL ELLIOTT, do depose and say:

1. I am petitioning Governor Kaine for clemency in regard to my death sentence.

2. I have reviewed the drafts of the Clemency Petition that my lawyers have prepared and have made suggestions and clarifications.

3. I believe that the Clemency Petition accurately states the grounds upon which I ask Governor Kaine for clemency. But I also want to say here that I did not murder, or participate in any way in the murder of, Dana Thrall or Robert Finch. I also did not aid anyone in any way in regard to the murders. Like anyone else who learned of their murders, I am very sorry that they were murdered. At the trial, it was clear from the testimony that they were people who were doing their best, that they loved their children and family, and that they were loved by many.

4. On the advice of my trial counsel, I did not take the stand. They told me that I was the type of witness who wants to put so many details in my answer to any question, that they feared that the jury would misunderstand my personal style and think that I was being evasive. I recognize that I am a wordy person and that I am always putting lots of



explanations into my conversations with people. Also, they said that the prosecution would want to question me about my personal relationship with Rebecca Gragg and ask about all the money I gave her and how I met her through the Internet. I must admit that I was defensive about those subjects whenever they were brought up. My trial counsel said that they feared that, if I testified, the trial would only further degenerate into an argument by the prosecution about how bad a person I was to even associate with Ms. Gragg. So my trial counsel strongly advised me not to testify and, never having faced a trial in my life, I accepted their advice.

5. When the police came to my office at Ft. Meade on January 3<sup>rd</sup>, I was cooperative with them. I admit that I was not forthcoming with them about my relationship with Ms. Gragg. I was embarrassed about it and worried that my wife would find out about it and about how much money I had spent on Ms. Gragg, so I tried to describe the relationship as more of a business relationship (as Ms. Gragg helping me with a micro-brewery business that I had started in West Virginia). But on the details of what I had been doing during the late evening of January 1<sup>st</sup> and during the early morning hours of January 2<sup>nd</sup>, I gave truthful and honest answers to the police. To avoid confusion, I will refer to the time period from 12:01 AM until the pre-daylight hours of January 2<sup>nd</sup> as the "Morning" of January 2<sup>nd</sup>.



6. The police did not seem to want to hear what I had to say. Instead, they wanted me to agree that I had committed the murders, which was not true. I kept trying to explain what I had been doing, and they kept going back to their version of what they thought had happened.

7. I have already signed two affidavits in which I discussed matters that were at issue in my habeas proceedings at the time. I understand that my lawyers are giving the Governor copies of those affidavits, so I will not repeat here what I said in those affidavits. But there are several matters that pertain to the Clemency Petition on which I have relevant testimony to give.

8. This is how I came to be in the neighborhood of the townhouse on the Morning of the murders. For several weeks prior to January 2, 2001, I had been trying to help Ms. Gragg in the custody battle she was having with Robert Finch. The custody hearing was set for the next Friday, January 5, 2001. I had paid for an investigator, whom Ms. Gragg hired, to try to get pictures of misbehavior by Finch that would aid her in her custody case. When the investigator was unsuccessful, Ms. Gragg asked me to try to take such pictures. I had made a few earlier attempts to do so, but without any success.



9. Ms. Gragg called me on my cell phone during the evening of January 1<sup>st</sup>. She said that she was driving up from Florida and would be driving through the night. She asked me if she could call me while she was driving, as a way of helping her stay awake on the road. I said I would stay up to take her calls and that I would occasionally call her. Because my wife did not know of my relationship with Ms. Gragg, I could not take her calls at home. So, instead of going home that evening, I drove around Maryland and northern Virginia, to be able to take Ms. Gragg's calls and to try to keep awake myself. For example, I drove up to a rest stop in Maryland. Later I drove down to Ms. Gragg's house and moved some motor oil I had earlier dropped off for her car.

10. About 3:20 AM, I went to a nearby 7-11 and got a cup of coffee. The police later obtained still photographs from the video surveillance camera of me while I was in the 7-11. I understand that my lawyers have included copies of those photographs in the Clemency Petition. The photographs show me wearing a brown jacket. I continued to wear that brown jacket throughout the Morning and until I got to my home a few minutes before 6:00 AM. I do not own, and was not wearing, a very light colored jacket with a hood, which was the jacket that Mary Bracewell, the Washington Post newspaper delivery person, testified that the prowler she



saw was wearing. Instead, I was wearing a dark brown jacket that did not have a hood. And Ms. Bracewell said the man she saw had a "skinny build." That does not describe me. I am 5' 11" tall and at the time weighed approximately 200 pounds. The 7-11 photos showed that I have a stout, or stocky, build.

11. Because my cell phone battery had died, I went outside the 7-11 and used a pay phone to call Ms. Gragg's cell phone. It was during that call that Ms. Gragg again asked me to attempt to take photographs of Robert Finch. She told me that she had called Mr. Finch earlier and the discussion ended with them arguing with each other. She said that she was going to call Mr. Finch back and deliberately attempt to upset him. She told me that she expected Mr. Finch would "cool down" from the argument by going outside to smoke marijuana, and she asked me to be ready to photograph him doing so. In hindsight, it now seems to me like the perfect set up by her, so as to have me be in the area near the time of the crimes but, at that time, I had no reason to doubt her motives and agreed to help her.

12. I then drove over to the neighborhood near the townhouse. I parked my GMC pick-up truck on Belfry Lane. Belfry Lane has townhouses on both sides of the street. I parked my truck in a visitor's parking spot which was next to the intersection of Belfry Lane and Getty Lane. I had



been on Belfry Lane a number of times and so I know that there are a number of visitor's parking spots scattered along Belfry Lane in order to accommodate the visitors to the many townhouses on the street. Also, I recently looked at a Mapquest map of Belfry Lane and Getty Lane, which confirmed my recollection of where I had parked.

13. I was present at my trial when Mary Bracewell described to the jury where on Belfry Lane the Chevrolet truck was that she saw. I also recall that Officer Daniels (the officer who responded to Ms. Bracewell's call of a possible prowler) testified firmly that the pick-up truck she pointed out to him was located in front of 3530 Belfry Lane. In looking at the Mapquest map for 3530 Belfry Lane, it is apparent that that address is some distance from intersection of Belfry and Getty, the location where I parked my GMC truck. The location she described for the Chevrolet was also closer to the Thrall/Finch townhouse than where I parked my GMC.

14. There was no one delivering newspapers when I parked and exited my truck. Nor did I see anyone walking or driving on the street where I had parked. I took my camera with me, walked around the area, and relieved myself in a ditch behind a nearby guardrail. I then went over to the development where the townhouse was, went onto Joustlers Way, which was



the street on which the townhouse was located, and looked to see if Robert Finch was outside his townhouse. I didn't see him outside.

15. I then left, because I wanted to stop off at my workplace early so that I could let my co-workers know that I was going to deal with a problem (a lot of my technical magazines were spread in piles around one of the classrooms there and needed to be moved) as soon as I got back from taking my daughter to her school.

16. I walked back to my pick-up truck. I then drove away. As I told the detectives, the total time from the time that I left my pick-up until the time that I got back to it was about 20 minutes. My estimate is that it was about 4:00 AM, give or take a minute or two, when I left Belfry Lane. When I returned to my pick-up, no one -- to include Ms. Bracewell and any policeman -- was there. As I later learned from the evidence that has been uncovered in the habeas investigation, I must have left the neighborhood at least 10 minutes before the 911 call of gunshots came in from the neighbor next door to the townhouse.

17. After getting back in my pick-up, I then drove directly to my work at Ft. Meade. I did not go to Kaufmann's Restaurant in Gambrills, Maryland.



18. When I went into my office building, I stopped at the men's room, and, while there, talked with Todd Prach. I think this was about 5:10 or 5:15 AM. I understand that he testified in his affidavit that it was between 5:00 and 5:30 AM.

19. I had been able to recharge my cell phone while I was driving and, after talking to Mr. Prach, I went out to my office parking lot to make a cell phone call to Ms. Gragg. I had to go to the parking lot because I did not get good cell phone reception inside the building. My cell phone records show that I made the call at 5:24:05 AM. Ms. Gragg's records show that she received the call at 5:23:46 AM. I attribute the 19 second time difference to a difference in the synchronizations of the clocks at the two locations (sending and receiving) of the cell phones.

20. My job at Ft. Meade at that time included supervision of the classrooms in my office building. As I explained in my July 2, 2008 Affidavit, one of the classrooms had become quite messy over the past few months. I had promised the instructors who taught there that I would clean up the classroom, which had piles of technical magazines scattered about, during the Christmas holidays but I had failed to do so. Since those instructors would be using the classroom on January 2<sup>nd</sup>, I knew they would be upset with me. I wanted to get to the office early that day, so that I could

leave them a note, explaining that I would clean up the mess in the classroom later that day. And I did leave them a note.

21. I then drove the approximately 3 miles from Ft. Meade to my home, at 1921 Portobago Lane, Hanover, MD. I arrived at home just a few minutes before 6:00 AM. This is also the time that my wife, Kathy Elliott, indicated in her affidavit.

22. One of my duties was to drive my daughter, Kaitlynn, to school each morning. When I arrived home, I took a shower, had a bite to eat and took my daughter to school. I then went to work.

23. In regard to the blood drop that the police said was found on the back gate, here is what I can say:

a. When I was interviewed by the police detectives, they repeatedly asked me about the front of the townhouse on the night of the murders. For example, they asked if I had gone up to the front door of the townhouse that night and they asked if I had knocked on the front door. The answer that I repeatedly gave them was "No." And I give that same answer now, under oath.

b. What the detectives never asked me was whether I had ever gone up to the back gate. In fact, they never made any mention to me about the back gate. If they had asked me that question, I would have said that, in





the course of my trying to get photographs of Robert Finch that might help Ms. Gragg in her custody hearing, I did have an occasion to go up to the back gate. As I recall, I did so on either December 29<sup>th</sup> or December 30<sup>th</sup>.

c. I had done a lot of traveling on those two days. I was in Tennessee for the bowl game on December 28<sup>th</sup>. I made two visits to the brewery in Davis, West Virginia -- one on December 29<sup>th</sup> and the other on December 30<sup>th</sup>.

In the first visit to Davis, on the 29<sup>th</sup>, I got the abrasion that I had received on my hand and the back of my fingers when I was trying to get the beer kegs out of the blue plastic tubs in the back of my truck. Debra Sampson, Rosalinde Benson and Terry Benson all gave affidavits explaining how I had cut myself there.

The trip that I made to Davis on December 30<sup>th</sup> was a quick one-day round trip.

d. On whichever date I went up to the back gate, I did pull on the gate, to see if I could open the gap between the gate and the fence, so that I might be able to take a photograph, if Finch happened to be there.

e. I cannot positively recall catching a finger on the rough surface of the inside edge of the gate. What I can say is that it certainly is possible that I caught it on a splinter and didn't notice that I got a minor cut, which



left a drop of blood and it is possible that I could have left behind a drop of blood from the abrasion that I got from working on the beer kegs earlier in the day on December 29th. I'm not saying that happened, but it could have happened and I didn't notice it.

24. My own view is that the most likely source for that blood spot is one of the bandages that I had discarded after I showered. I had had a problem with a boil on the back of my thigh for some time. After the boil broke, it continued to occasionally bleed for some time. This was due to the fact that I kept irritating the wound when I would get into my pick-up truck and slide onto the seat. So I would then put a bandage on the back of my thigh.

25. During the time that I had this problem with the boil wound, I would occasionally shower at Ms. Gragg's house. My practice was to put the bandage into the wastebasket in her bathroom. So Ms. Gragg had access to the bandage and to some of my blood. I think that it is likely that she, or someone working on her behalf, put some blood from that bandage on the back fence, either a few days before or a few days after the murder.

26. Another possible source for my blood is that one of the bandages that I had used for the December 29<sup>th</sup> cut on my hand had been seized by the police detectives when they searched my home on January 3<sup>rd</sup>.



I know that they went into the bathroom where I had showered on January 2<sup>nd</sup> and then on January 3<sup>rd</sup>. It was my practice to throw the bandage into the wastebasket in the bathroom. In light of the fact that the police detectives in this case have shown themselves ready to do whatever it took to secure my conviction, they could have taken the bandage and put the blood on it on the gate. Now that we know, from Sergeant Zinn, that the blood drop was not found until one or two days after the murders, it is physically possible for the detectives to have done so.

27. The conclusion that the detectives were willing to break the rules to get my conviction is also shown by the fact that they "staged" a photograph they took of the interior of my truck. The staging occurred late on January 3, 2001. Earlier that day, the detectives came to see me at my office. After we talked for a while, they asked me if I would agree to accompany them to nearby police station in Anne Arundel County, Maryland, so that we could talk at length. I agreed to do so. They drove to the police station in their vehicle. I followed in my pick-up truck, and parked it in the police station parking lot and locked the truck.

28. When I parked the truck, I put my cell phone in the center console and closed the lid of the console. When I got out and locked the truck, there was nothing on my front seats. I did have two canvas bags,



which I kept on the floor behind the front seats. I kept the usual gear in those bags, including: two flashlights, a jumper cable, a first aid kit, which had a box of bandages, one of those emergency blankets, and so forth.

When I got out and locked the truck, the flashlights and the box of bandages were in the canvas bags and not on the seats of my truck.

29. I am a very neat person. And I always kept my truck very clean and very neat. My practice was not to leave anything out on the seats of my truck. In regard to my cell phone: if I did not take it with me when I left the truck, I always put it in the covered storage console between the two front seats. At the time I had a relatively expensive cell phone which would have been attractive for car thieves, so I never left it out in plain sight.

30. By the time that the detectives interviewed me on January 3<sup>rd</sup>, they had the report of the officer who had responded to the call from Ms. Bracewell about the car prowler. The officer stated in the report that he saw a cell phone on the passenger seat of the truck Ms. Bracewell had pointed out to him. And Ms. Bracewell had said that the prowler had a flashlight in his hand when she saw him walking away from the truck.

31. After the detectives had questioned me for a while at the police station, they asked me if I would agree to let them search my pick-up truck.



I agreed and they did the search. However, they did not let me accompany them for the search. I remained inside.

32. My trial counsel obtained copies of the photographs that Detective Hoffman took on January 3<sup>rd</sup> during the course of the search of my truck. My trial counsel and I were able to tell, from the numbering of the photographs, the order in which the photographs were taken. The first photographs of the interior of the cab of the truck showed the front seats and also showed that there was nothing on the seats. But a photograph taken later in the series showed that my cell phone, one of my flashlights and a box of bandages had been placed on the passenger seat.

33. I know that, when I parked and locked my pick-up truck at the police station on January 3<sup>rd</sup>, my cell phone, my flashlight and my box of bandages were not on the passenger (or on the driver's) seat. And, when I later returned to my truck, after the detectives had completed their search and returned to the police station, none of those three items was on the seats. Rather, the cell phone was in the console. And the next time I looked through the canvas bags, the flashlight and the box of bandages were there. By the way, the police did not impound my pick-up truck that night, nor did they take any items from it. It was days later that the truck was impounded.



34. Based on these facts, I am convinced that the detectives wanted to try to link me to the murders, regardless of what the evidence showed. To help them do that, I believe that, when they searched my truck on January 3<sup>rd</sup>, they took my cell phone out of the center console and took a flashlight and a box of bandages out of my canvas bags, placed them on the truck seat and took a "staged" picture. The idea was to try to use the staged picture to link me and my truck to the prowler and his truck.

35. The fact that the photograph was staged came out in the first trial because Hank Asbill, one of the attorneys who represented me in the first trial, did an effective job examining Detective Hoffman on this issue. Mr. Asbill questioned Detective Hoffman about whether he could have taken photographs of the seats with nothing on them and then taken photos with items on the seats that were put there in the course of the search. Detective Hoffman answered the question by admitting that such a staging "could have happened."

36. Unfortunately, Bill Moffitt failed to examine Detective Hoffman on the staged photograph in the second trial. So the jury was left with the false impression that Detective Hoffman wanted them to have.



37. I continue to believe that my innocence will eventually be proven. I hope that the Governor will recognize how questionable and unreliable the "evidence" against me is, and will spare my life.



SIGNED AND SWORN UNDER PENALTY OF PERJURY OF THE LAWS OF VIRGINIA AND THE UNITED STATES OF AMERICA. FURTHER THE AFFIANT SAYETH NOT.

Larry B. Elliott  
LARRY BILL ELLIOTT

SUBSCRIBED and SWORN TO before me this 26  
day of August, 2009, at Waverly, Virginia.

[Signature]  
Notary Public in and for the State of Virginia.  
My commission expires: 11/30/2013



[Signature]



# **APPENDIX 2**

STATE OF VIRGINIA        )  
  ) ss.  
COUNTY OF SUSSEX        )

I, LARRY BILL ELLIOTT, do depose and say:

1. I am the Petitioner in *Elliott v. Kelly*, U.S. District Court No. 1:08-CV-00430-LO-JFA, and make this affidavit based upon personal knowledge.

2. I did not murder, or participate in any way in the murder of, Dana Thrall or Robert Finch. I did not aid anyone in any way in regard to the murders.

3. In my second trial (“Trial 2”), Rebecca Gragg testified that she thought that I had had sex with her on the night before she was supposed to have surgery for breast augmentation, after she supposedly had taken some relaxation medication. APP 1527-28. She said that she was surprised “that he would have sex with me without my knowledge” and that “[h]e had taken advantage of me while I was not coherent I guess, or under the medication.” APP 1528. Her testimony is false. The event she described that night never happened. Since she claimed that it occurred when she and I were alone together in a hotel room, I was the only person who could have refuted her testimony.

4. My trial counsel did not consult with me in regard to their decision to reject the trial court’s proposal that the jury be given a jury instruction regarding “mere presence.” If I had been consulted, I would have told my trial counsel to agree to the “mere presence” instruction. My trial counsel did not have any discussion with me about any tactical decision about whether or not to seek this instruction. There was no discussion about wanting to avoid liability as a principal in the second degree. To the contrary, my trial

counsel did initially propose a form of a “mere presence” instruction but then they decided, without discussing the issue with me, to withdraw that instruction.

5. My trial counsel did not consult with me in regard to asking the trial judge to give a “triggerman” instruction. If I had been consulted, I would have told my trial counsel to request the “triggerman” instruction.

6. Contrary to the assertion in the Habeas Opinion of the Virginia Supreme Court, I did not supply my trial counsel with information for them to rely upon in regard to their decisions about the “mere presence” and the “triggerman” instructions.

7. My trial counsel did not consult with me about not requesting in Trial 2 the Victim Impact jury instruction that had been given in my first trial. If I had been consulted, I would have told my trial counsel to request that instruction.

8. Although I asked my trial counsel to contact Todd Prach before my first trial on the murders in July 2002 (“Trial 1”), they never did. During Trial 1, the importance of Prach’s testimony became obvious and I again requested that my counsel interview Prach, telling them that Prach’s testimony was critical. Between Trial 1 and Trial 2 in late March/early April 2003, I repeatedly asked my counsel to go to Ft. Meade and interview my co-workers, including Prach. The Friday before Trial 2 began, I called Attorney Paris and asked whether he had gone to Ft. Meade to interview Prach and two other witnesses. Paris only inquired as to how long it would take him to get there from his office in DC. He never went. I have reviewed the affidavit that Prach submitted in

the habeas proceedings. The facts that he testified to reflect the information that I understood him to have and that I advised my trial counsel about.

9. On the morning of January 2, 2001, I saw Todd Prach in the restroom at Ft. Meade. After seeing him, I left the restroom and went out to my truck. I was standing in front of my truck in the Ft. Meade parking lot when I made the 5:23 a.m. phone call to Ms. Gragg. The cell call would have been relayed through a local cell phone relay station near Ft. Meade (as well as through the local cell phone relay station near where Ms. Gragg was receiving the call). I asked my trial counsel to subpoena the records of the cell phone relay station, which would have shown that I was in the vicinity of Ft. Meade (as opposed to being in the vicinity of Woodbridge or the restaurant where she claimed I had gone) when I made the phone call at 5:23 a.m.

10. After leaving Ft. Meade, I returned home, took a shower and did a load of laundry. The laundry was a normal and a necessary practice because, at that point, I had been traveling for nine days.

11. I regularly took my daughter, Kaitlynn, to school in the morning, usually leaving our home around 7:15 a.m. That was the reason I left Ft. Meade on the morning of January 2, 2001, after my cell phone call to Ms. Gragg. After I took my shower, I drove Kaitlynn to school in my truck at about 7:15 a.m. There were no bloody bags in my truck at that time, nor were there ever any bloody bags in my truck.

12. Kathy Elliott, my wife at the time, was willing to assist in my defense. I had brought Kathy to my counsel's offices before I was arrested. During Trial 1, it was Kathy who gave my counsel the information from Diane DiGiovanni regarding the comments Ms. DiGiovanni overheard one of the jurors making in the courthouse

cafeteria, which resulted in the mistrial. Kathy testified during the penalty phases of both trials and was available to testify at the guilt phases (as described in the affidavit she submitted in the habeas proceedings). Although we are now divorced, we remain in contact and she has never indicated any unwillingness to assist in my defense.

13. I told my trial counsel about many witnesses and requested that they be called. In regard to some of those witnesses, my trial counsel contacted them but did not put them on in the guilt phase of Trial 2, even though they had information that was relevant to that phase (as is demonstrated in the affidavits they submitted in the habeas proceedings). Those witnesses are: Terry L. Benson; Byron Dean; David Dyke; Patrick Finnegan; Eugene Lessman; Gail McGraw; and Debra L. Sampson.

14. I also told my trial counsel about a number of other witnesses who had information that was relevant to the guilt phase and/or penalty phase (as is demonstrated in the affidavits they submitted in the habeas proceedings) and requested that those witnesses be called, but my trial counsel failed to do so. These witnesses include: Robert G. Barrow; Rosalinde Benson, Michael Booher, Kathy (McKinney) Carroll; Charles Elliott; Christina Elliott; Kaitlynn Elliott; Mildred Elliott; Terry Elliott; William Bryan Elliott; Theresa Eskridge; Alan Haught; Eldon Haught; Alisha Hershman; Rebecca Kim Larew; Terry McGraw; Chris McSpadden; Sandy Rooks; Donald H. Shiles; Pamela Stanley; and Linda Steckman.

15. I advised my trial counsel of the facts that I expected all of the witnesses listed in the two preceding paragraphs would testify to. I have reviewed the affidavits of those witnesses. The facts that they testify to reflect the information that I understood them to have. If my trial attorneys had contacted these witnesses and called them at

trial, each of them would have been able to testify at trial to the facts that they have now provided in their affidavits.

16. I also told my trial counsel about additional witnesses, including some who worked with me, and what they would testify to. Ed Chase and Jacob Gregory were Basic Electronics Instructors who worked at my office building. They would have been able to testify that one of the classrooms for which I had responsibility had become quite messy prior to my leaving on my nine day trip to West Virginia and Tennessee at the end of the 2000. I had told them before I left that I would clean up the "mess" in the classroom over the Christmas holiday, but, since I was on the extended trip to West Virginia and Tennessee, I had failed to do so. The reason I stopped off at the office at Ft. Meade early in the morning on January 2, 2001, before I went to my home, was to leave them a message, explaining that I would clean up the "mess" later that day. I had occasion to talk on the cell phone to Ms. Gragg at 5:23 A.M. while I was in the parking lot at Ft. Meade and I mentioned to her that I had to clean up the "mess" in that classroom. This may have been the source of what she later distorted into my supposedly talking about a "bloody mess."

17. I also told my trial counsel about the testimony that another worker in my office, Mark Uker, could give and I asked them to contact him. He would have been able to testify about the reasons why there was a discussion about using silencers on the shooting range that we were planning on constructing in the attic of our office building. Uker and Chris McSpadden were the two people who had originally proposed that we use the attic space for a shooting range, and they came to me to help implement the idea. The attic space had been used for storage of computers but a decision had been made

not to store the computers there any longer, so the space was free. Because of the concrete construction of the building, it was safe to have the shooting range in the attic (and there were no funds to construct a stand-alone building for a shooting range). The only problem was the loud noises from firing the weapons. That led us to discuss the feasibility of having silencers on the weapons that would be used at this office shooting range. It may have been an impractical or somewhat unusual idea, but it was discussed by a number of people at the office and, more importantly, there was nothing sinister or illegal in our discussions or in my inquiring about the availability of silencers. Mark Uker's testimony at trial would have established those points.

18. The last time I washed my truck was at a car wash on New Year's Eve, December 31, 2000. Because some beer had been spilled, I also cleaned the interior, including cleaning the mats inside the truck.

19. The prosecutor argued in closing that I was "arrested over in Maryland leaving at a high rate of speed," implying that I had tried to avoid arrest and that this was evidence of my guilt. APP 1946. This is false. In fact, I had been contacted by the office of my trial counsel one day in May 2001, who told me that they had been told that I had just been charged with the murders and that they had arranged for me to surrender myself in Manassas. I immediately began driving south on the Baltimore-Washington Parkway to go to Manassas. I was driving the speed limit, 50 mph, when I was pulled over by a Maryland State policeman. I believe that the Prince William County police arranged for the Maryland State police to pull me over. In any event, I was not speeding and I was not fleeing. To the contrary, I was turning myself in.

20. The day before the sentencing hearing, Bill Moffitt visited me at the jail. He had just picked up the Presentence Report. He skimmed it, gave it to me, and told me I needed to bring it to court the next day because it was his only copy. I did as he requested. When I reviewed the report, I saw that the report revealed that Clayton Finch had told the pre-sentence officer about Detective Hoffman's misconduct regarding Hoffman's "accidental" statement on the stand about the polygrapher. When I arrived at court the next day, I tried to draw my trial counsel's attention to this fact, but they were busy preparing for the sentencing hearing and did not listen to me.

21. I have read a copy of the Affidavit of Catherine A. Drews In Support of Elliott's Motion, which was filed in support of my Motion for Leave to Conduct Depositions of Witnesses in my state habeas petition, *Elliott v. Warden*, No. 050573. Among the depositions requested was that of Bob Marsh, the Court Clerk for Prince William County and the custodian of the exhibits in my trial. Ms. Drews' Affidavit discusses her examination, on or about November 1, 2004, of Court's Exhibit No. 9, which was described as "Sealed envelope of Gragg email to Willett." Exhibit No. 9 was admitted as an exhibit on July 22, 2002, but not sent to the jury room. APP 383. Drews Aff. at ¶3. Ms. Drews testified that, when the Court Clerk, Bob Marsh, opened the envelope, the only content of the envelope was a 48 page document, which is in the trial record at APP 237-284 and which was provided to my trial counsel. Drews Aff. at ¶4. Ms. Drews testified that it appeared to her that what was originally filed in the sealed envelope as Court Exhibit No. 9 was (a) the complete email communications between Ms. Gragg and Mr. Willett, and (b) the 48 page excerpt from the complete email communications.



22. I was present in court on July 22, 2002 when there was a hearing on my motion to produce all documents produced by Ms. Gragg, including all notes she wrote and all email communications between Ms. Gragg and Mr. Willett. At the hearing, Mr. Willett stated that Ms. Gragg had email communications with him. My trial counsel requested that Ms. Gragg's notes and the email communications between Ms. Gragg and Mr. Willett be part of the record. The judge ordered that the email be produced and that it be sealed. APP 514-15. The reason that it was sealed was because it contained pages in addition to the 48 pages that were produced to my trial attorneys, and the prosecution was claiming that it did not have to give anything more in discovery to us, other than the 48 pages. Mr. Ebert said that the only copy the prosecution had of the email was back at their office and the judge ordered the prosecution to bring what they had to the courtroom and make it into a sealed exhibit before the end of the case.

23. I was also present in the courtroom, shortly thereafter, when Mr. Willett brought in a thick stack of pages which he told my trial counsel were the materials that the judge had directed him to produce and put into a sealed envelope. I saw him put that thick stack of pages into an envelope and hand it up to the clerk to be sealed. I am familiar with the thickness of the 48 pages that were provided to my attorneys. The stack of pages that Willett put into the envelope was much thicker than the thickness of those 48 pages. Also, Judge Hamblen wrote a letter, dated February 19, 2003, to Mr. Moffitt and Mr. Ebert, memorializing that the unredacted materials were sealed and preserved as Court's Exhibit No. 9. APP 231. I believe that someone has, without authorization, removed from Court's Exhibit No. 9 the complete email communications

between Gragg and the prosecution/police and/or the notes that she wrote to the prosecution.

24. During Trial 1, Mr. Asbill handed me a note and asked me to pass it to Mr. Moffitt. Before passing the note to Moffitt, I read it. It stated: "Bill -- you have to stay up (awake) in my closing -- I know the dialysis is hitting you." APP 5811. This note was just one of several that Asbill passed to Moffitt regarding his sleeping during Trial 1. I myself observed that, on a number of occasions in Trial 1, Moffitt would be struggling to stay awake and appeared to fall asleep. In fact, in order to pass the note to Moffitt, I actually had to wake him up. Moffitt continued to have health difficulties in Trial 2. For example, on April 3, 2003, the day that he was supposed to propose, and argue, jury instructions for the Penalty Phase and to defend me in the Penalty Phase (which only lasted one day), Moffitt was late. APP 1961-62. As a result, Mr. Paris, his first year associate, had the task of submitting jury instructions. Because Mr. Paris was not involved in Trial 1, I now believe that is why he did not submit the Victim Impact jury instruction that had been proposed and used in Trial 1. While Moffitt told the judge that he was late because of traffic, he later indicated to me that it was due to the fact that there had been a power interruption at the facility where he went in the morning to get his kidney dialysis. Moffitt looked very poorly that day. I believe that a major reason why he did such a substandard job in the Penalty Phase -- in terms of proposing, arguing, and preserving the record on the jury instructions, objecting to the Prosecution's examination of its witnesses and cross-examination of those witnesses, presenting witnesses on my behalf, failing to object to the Prosecution's closing and rebuttal argument; and making the defense closing argument -- is that he was ill from

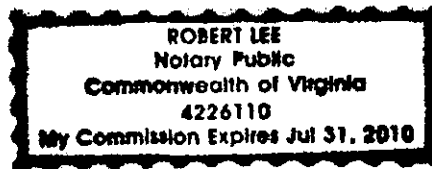
this interrupted dialysis treatment and not capable of performing his duties on that crucial day.

SIGNED AND SWORN UNDER PENALTY OF PERJURY OF THE LAWS OF THE UNITED STATES OF AMERICA. FURTHER THE AFFIANT SAYETH NOT.

Larry B. Elliott  
LARRY BILL ELLIOTT

SUBSCRIBED and SWORN TO before me this 2<sup>d</sup>  
day of July, 2008 at Sussex, Virginia.

R. Lee  
Notary Public in and for the State of Virginia.  
My commission expires: July 31, 2010.



# **APPENDIX 3**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

LARRY BILL ELLIOTT,

Petitioner,

No. 1:08-CV-00430-LO-JFA

v.

LORETTA K. KELLY,  
Warden of Sussex I State Prison,

Respondent.

AFFIDAVIT OF LARRY BILL ELLIOTT  
REGARDING TRIAL EXHIBITS

STATE OF VIRGINIA     )  
                  SUSSEX     ) ss.  
COUNTY OF SUSSEX     )

I, LARRY BILL ELLIOTT, do depose and say:

1. I am the Petitioner in the above entitled matter and make this affidavit based upon personal knowledge.

2. On the date of the murders, I owned a GMC pick-up truck. The red GMC logo was in large letters on the front grille of the truck. There was also a red GMC logo on the back gate. The exterior of the truck was painted in two colors. On the top was a dark blue. The sides were blue on the top part but then, towards the bottom on each side, they were painted a silver color.

3. The bed of the truck had a cover. The cover was not plastic. Rather, it was metal. It had a number of panels that were hinged in a piano-hinge style, so that the panels could be folded up and then strapped down.

4. I was present in court on July 22, 2002 when there was a hearing on my motion to produce all documents produced by Ms. Gragg, including all notes she wrote and all email communications between Ms. Gragg and Mr. Willett. At the hearing, Mr. Willett stated that Ms. Gragg had email communications with him. My trial counsel requested that Ms. Gragg's notes and the email communications between Ms. Gragg and Mr. Willett be part of the record. The judge ordered that the email be produced and that it be sealed. APP 514-15. The reason that it was sealed was because it contained pages in addition to the 48 pages that were produced to my trial attorneys, and the prosecution was claiming that it did not have to give anything more in discovery to us, other than the 48 pages. Mr. Ebert said that the only copy the prosecution had of the email was back at their office and the judge ordered the prosecution to bring what they had to the courtroom and make it into a sealed exhibit before the end of the case.

5. I was also present in the courtroom, shortly thereafter, when Mr. Willett brought in a thick stack of pages which he told my trial counsel were the materials that the judge had directed him to produce and put into a sealed envelope. I saw him put that thick stack of pages into an envelope and hand it up to the clerk to be sealed. I am familiar with the thickness of the 48 pages that were provided to my attorneys. The stack of pages that Willett put into the envelope was much thicker than the thickness of those 48 pages.

6. My attorneys have advised me that the trial exhibits cannot now be found, including the sealed Court's Exhibit No. 9, described above. Based upon my observations of what Willett put in the sealed envelope, I believe that, even before the entire exhibit went missing, someone had, without authorization, removed from Court's

Exhibit No. 9 the complete email communications between Gragg and the prosecution/police and/or the notes that she wrote to the prosecution.

SIGNED AND SWORN UNDER PENALTY OF PERJURY OF THE LAWS OF THE UNITED STATES OF AMERICA. FURTHER THE AFFIANT SAYETH NOT.

  
LARRY/BILL ELLIOTT

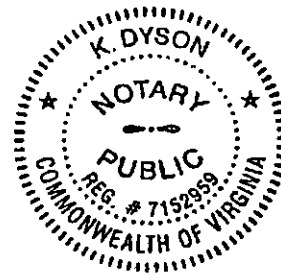
SUBSCRIBED and SWORN TO before me this 5<sup>th</sup>  
day of ~~December, 2008~~ at Sussex, Virginia.

JANUARY, 2009



Notary Public in and for the State of Virginia

My commission expires: 5-31-2011



# **APPENDIX 4**



STATE OF VIRGINIA

DALE CITY

)  
) ss.  
)

**AFFIDAVIT OF LOUSE FINCH**

I, LOUISE FINCH, do depose and state as follows:

- 1 My name is Louise Finch and I am the mother of Robert Finch, who was murdered on January 2, 2001, in Woodbridge, Virginia. I am also the grandmother to Cameron and Chandler Finch, Robert's two children with Rebecca Gragg. I am over the age of 18, and I have, unless otherwise indicated below personal knowledge of the facts set forth in this affidavit and believe that those facts are true and correct.
- 2 Mr. Elliott's defense counsel did not speak to me about Robert, Rebecca, or Mr. Elliott or his case before his trial. In fact, the first time I was ever contacted by anyone about this case was just several months ago. If Mr. Elliott's lawyers or anyone else working on Bill's defense team had contacted me earlier, I would have told them all the information in this affidavit and would have testified to it in court if necessary.
- 3 On the morning of January 2, 2001, at approximately 9:30 a.m., my husband and I went to my son's residence (3406 Jousters Way. This was actually Dana's house and Robert was living there) because my daughter had told us that she had been unable to reach either her brother or Dana on the phone.
- 4 When we arrived the street to Robert and Dana's home was blocked off. My husband parked the car, and we got out of the car to see what was going on. The police approached us and said there was a problem, but they would not tell us what had happened.
- 5 The parking lot in front of my son's home was filled with people. I saw police and reporters there.
- 6 I knew that Rebecca was supposed to return [REDACTED] and [REDACTED] to Robert on January 1, 2001. I found out when we went to Robert's on January 2, 2001, that Rebecca had not returned. I knew that the Friday following the murders (January 5, 2001) that Robert and Rebecca were supposed to go to court for a final custody hearing about the children.
- 7 The police asked me who could have killed Robert and Dana, and I said "Rebecca Gragg" without a moment's hesitation. Robert had told me and his father that if anything happened to him, that Rebecca was involved.
- 8 Robert and Rebecca both had violent tempers. Robert had attended anger management classes and had learned to control his temper. Rebecca, however, when she got mad, she was an evil person.


ORIGINAL

9. On February 5, 1999, my son came home from picking up his kids in Bartow, West Virginia. Robert had been badly beaten--he had been hit a number of times in the face, had a black eye and injuries to his nose. It appeared that these injuries had just happened to him. He blurted out that Rebecca's husband Jamie Gragg and his cousins beat him in front of his kids, and that Rebecca had set it all up.
10. Robert then told me the following about what had happened to him: He had driven to Bartow, West Virginia to pick up his kids. When Robert arrived at where Rebecca Gragg was staying in Bartow, the children weren't there and she told him she was going to pick them up. When she returned with the children, she said he needed to get car seats. Normally, Rebecca let Robert take the car seats when he picked up the children. Rebecca offered to buy the car seats, and Robert said he gave her the money. Although the store was only 45 minutes away, it took her 3 ½ hours to return. A few minutes after she returned, a pick-up arrived with three men. One was Jamie Gragg and the other was his cousin, Lewis Ray. Lewis Ray yelled at Robert and began to beat him in front of the children. There was no hospital in Bartow, so Robert had to drive about one hour before he could report the incident and receive medical attention.
11. I was so concerned about this beating that I took photographs of Robert on the day of the beating showing his condition. He was severely beaten and had a black eye and cuts on his nose and face. A true and correct copy of one of those photographs is attached hereto as Attachment A and incorporated herein by reference.
12. During the investigation and before Mr. Elliott's first trial, my husband and I told Mr. Willett and Mr. Ebert about Robert being beat up in West Virginia by Rebecca's husband Jamie Gragg and his cousins. We also gave Mr. Ebert the pictures that were taken when Robert was beaten that showed his injuries. The prosecutors showed no interest in the photos or in the fact that those who beat up Robert might have been the ones who murdered him later. We don't know where those pictures are today.
13. We gave the pictures to Mr. Ebert and Mr. Willett because we thought they were still looking for Robert and Dana's killers. We wanted to make sure that they and the police knew that there was a good possibility that Rebecca was part of a plot to kill Robert. We believe that Rebecca manipulated someone to murder Robert and Dana.
14. During the trial, I heard Detective Hoffman state he'd never seen the pictures. The Judge also asked Mr. Ebert if he had seen the pictures and Mr. Ebert stated he had not. I wish I could have stood up and said "you're a liar because you have seen them!"
15. When I found out that Rebecca Gragg was a witness for the prosecution, I almost died! My husband and I were in Mr. Willett's office when he asked us, "Well why are you putting Rebecca down? She's on our side." I just about hit the floor, I was so shocked. I could not understand why the prosecutor and police failed to closely look at Robert and Rebecca's relationship and the custody battle for the kids,
16. Rebecca testified that she and Robert had sex in October 2000, just before the murders. I don't believe that Robert would have sex with her since they were having a heated child

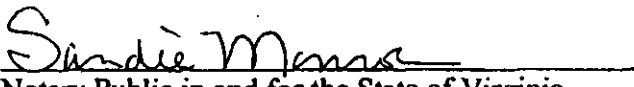
custody battle. It would not be beyond Rebecca to use that against Robert—she would have turned it into a rape charge against Robert. Robert just wouldn't have taken that chance because he wanted his kids. He obtained custody of the kids in June 2000 and was supposed to have them until August 2000. The court awarded Robert temporary custody for another two months. Rebecca was not happy about Robert getting the children or that he was building a house for Dana, and that Dana and Robert were happy.

17. Rebecca as a mother wasn't going to let anybody have her kids, and she would do anything to keep her children. Mr. Ashton, the guardian ad litem, told us that Robert position in the custody battle was looking much better and in his eyes would be getting the kids at the hearing on January 5, 2001. So, if Rebecca found this out, that there was a chance that Robert was going to get the kids, she wasn't going to let him have the kids. That is how I feel. She had to have something to do with Robert and Dana's murders.
18. Bill Elliott's defense counsel did not ask me to testify during the guilty phase or during the penalty phase of either of his trials. Had they asked me to testify, I would have testified to what I've written above and to the fact that I did not want Mr. Elliott to receive the death penalty.

SIGNED AND SWORN UNDER PENALTY OF PERJURY. FURTHER THE AFFIANT SAITH NOT.

  
LOUISE FINCH

Subscribed and sworn to before me this 28 day of February, 2005, at Dale City, Virginia.

  
Notary Public in and for the State of Virginia  
My commission expires: August 31, 2008

Embossed Notary Seal  
Confirmation of Virginia Notary Public Seal  
My Commission Expires: 08/31/2008  
SANDIE MANNA



5434

Attachment A

# **APPENDIX 5**

STATE OF VIRGINIA

)

DALE CITY

)

ss.

)

**AFFIDAVIT OF CLAYTON FINCH**

1. I, CLAYTON FINCH, do depose and state as follows:
2. My name is Clayton Finch and I am the father of Robert Finch, who was murdered on January 2, 2001, in Woodbridge, Virginia. I am also the grandfather to Cameron and Chandler Finch, Robert's two children with Rebecca Gragg. I am over the age of 18 and I have personal knowledge of the facts set forth in this affidavit and believe that those facts are true and correct.
3. I was not interviewed or asked to testify by Mr. Elliott's defense counsel. Had they interviewed me and/or asked me to testify during the guilt phase of Mr. Elliott's trial, I would have testified as follows:
4. On the morning of January 2, 2001, at approximately 9:30 a.m., my wife and I went to my son's residence (3406 Jousters Way), (this was Dana's house, Robert was living with her) because my daughter had told us that she had been unable to reach either her brother or Dana on the phone.
5. When we arrived, the street to Robert and Dana's home was blocked off. I parked my car, and my wife and I got out of the car to see what was going on. The police approached us and said there was a problem, but they would not tell us what had happened.
6. The parking lot in front of my son's home was filled with people. I saw police and reporters there. There were television cameras set-up in front of my son's house, but I was not allowed to come near the townhouse, and the police made us leave the scene at 12:30 p.m. when they removed Robert's body. The media was allowed to remain and report on the removal of my son's body, which was shown on the local news and in the next morning's paper.
7. Detective Hoffman, and two other detectives were the first to interview me in their car. Detective Hoffman asked me basic questions such as whether Robert owned a gun. Detective Hoffman also asked me if I knew of anyone who would want to kill my son. I told him yes, Rebecca Gragg. The police also asked my wife and oldest daughter the same question, and they also told the police it was Rebecca Gragg.
8. I believe that Jamie Gragg, Rebecca's husband, and his group from West Virginia may have participated in the murders of Robert and Dana. These were the people who were primarily involved in beating Robert up in Barstow, West Virginia. Rebecca certainly knew and had enough, could manipulate or could relate enough of an influence on many

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people to pull something like this off. I just think that Larry Bill Elliott was too smart to for Rebecca to manipulate him into murdering Robert and Dana.

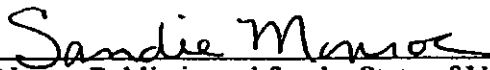
9. I told the prosecutors about my concerns that Rebecca, Jamie and their friends/relatives in West Virginia were involved in planning and doing the murders. I gave Mr. Willett a copy of the photograph that showed Robert's beating. Mr. Ebert and Mr. Willett showed no interest in investigating the beating that Robert received or in pursuing any leads about anyone other than Elliott.
10. I also went back to speak with Mr. Ebert because having Rebecca testify for the prosecution just didn't make sense. Mr. Ebert replied, "well Mr. Finch, frankly we feel that we've done our job and this is the way it's going to be". We don't believe her [Rebecca Gragg], and there's a possibility she may be involved, but this is our case and we're moving forward." This news just infuriated me.
11. I went to and spoke to Mr. Moffitt and Mr. Ashbill near the end of the first trial, and told them that I believed Larry Bill Elliott did not kill my son and Dana. We shook hands and said that they would be in touch. That was the end of it.
12. During Mr. Elliott's second trial, Detective Hoffman and another detective from the Commonwealth's office were standing in the hallway and I was seated behind them on a bench. The other detective from the Commonwealth office slapped Hoffman on the back and said to him, "that was a pretty good trick with the polygraph examination you pulled in there with the defense as far as giving the name up," and Hoffman looked at him and smiled, and said "shhh shhh, that's Finch," and they turned around and walked by into the holding area of the court. I believe that Hoffman deliberately told the jury about the polygrapher, as to make the jury think that Rebecca passed the two polygraph tests she took, when in fact she did not.
13. My son always carried around \$50 and \$100 bills wrapped around \$1.00 bills. After Robert died, his friend Mike Diaz, told me to look for a bag of money in the townhouse. This is consistent with Robert not putting money into the bank. Mike asked me if we found a bag of cash in a gym bag. He said that Robert had \$50,000 in wrapped \$1 bills. We did not find the bag with cash, nor did the police. This makes me think that Robert and Dana may have been killed by robbers.
14. We cannot find the engagement ring that Robert bought for Dana at Christmas time. This further suggests to me that robbers killed Robert and Dana. police have refused to return Robert's personal belongings to us.
15. The police took, I believe, over 200 pieces of evidence from Robert and Dana's home. This included their computer, business records and other personal items. Although it saddens me to say so, I did know that my son had some involvement in drugs. I must also say, that I was somewhat surprised, given his and Dana's limited finances, that they were planning on buying a \$350,000 house. So I believe that there is some basis for thinking that the murders were part of a drug deal or drug connection gone bad.

16. In addition to be willing to testify to all of the preceding the guilt phase of the second trial, I would also have testified in the penalty phase. If I had been called by Elliott's attorneys in the penalty phase of the second trial, I would have testified that I did not want Bill Elliot to get the death penalty. I believe that Larry Bill Elliott did not murder either my son or Dana Thrall. Bill Elliott had too much going, he was in the wrong place at the wrong time. I would also have testified that that I was very disappointed that the police and the prosecutor had not done a thorough job investigating the case; that they should have investigated as suspected the friends and relatives of Rebecca who beat Robert up and that they should have focused on Rebecca's motive and actions.
17. It is my experience that Rebecca is an evil, evil, person. She's going to keep on doing what she's doing because she feel she can get away with it and she can make money from it. Until somebody puts a stop to her.

SIGNED AND SWORN UNDER PENALTY OF PERJURY. FURTHER THE AFFLIANT SAITH NOT.

  
CLAYTON FINCH

Subscribed and sworn to before me this 28<sup>th</sup> day of February, 2005, at Dale City, Virginia.

  
Notary Public in and for the State of Virginia  
My commission expires: August 31, 2008

Embossed Hereon is My  
Commonwealth of Virginia Notary Public Seal  
My Commission Expires Aug 31, 2008  
SANDIE MONROE



# **APPENDIX 6**

1 In the Supreme Court of Virginia

2 Record No. 050573

3 **CERTIFIED COPY**

4 Larry Bill Elliott, )

5 Petitioner )

6 v. )

7 Warden of Sussex I )  
8 State Prison, )

9 Respondent. )

**RECEIVED**  
SEP 20 2007  
KIRKPATRICK & LOCKHART  
FREESTON GATES ELLIS LLP

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13 Video Deposition of CLAYTON FINCH

14 Thursday, August 30, 2007

15 Woodbridge, Virginia

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19 ATKINSON-BAKER, INC.  
20 COURT REPORTERS  
(800) 288-3376  
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21 Reported by: T.S. Hubbard, Jr.

22 File No.: A106AC6

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Thursday, August 30, 2007

11:00 a.m.

Video Deposition of Clayton Finch

held at the residence of Clayton Finch

13910 Hedgewood Drive

Woodbridge, Virginia 21146

Pursuant to notice, before T. S. Hubbard, Jr.  
Court Reporter and Notary Public in and for the  
State of Virginia

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APPEARANCES:

Counsel for the Petitioner

By: Joanne Hepburn, Esquire.

Kirkpatrick, Lockhart, Preston Gates Ellis, LLP

925 Fourth Avenue

Suite 2900

Seattle, Washington 98104-1158

(Phone) 206.623.7580 Fax 206.623.7022

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WITNESS

PAGE

CLAYTON FINCH

6

EXAMINATION BY MS. HEPBURN

TABLE OF EXHIBITS

No exhibits were offered or marked.

1 P R O C E E D I N G S

2 THE VIDEOGRAPHER: I am Joey  
3 Thrower, your videographer and I  
4 represent Atkinson-Baker Incorporated of  
5 Glendale, California.

6 I am not financially  
7 interested in this action nor am I a  
8 relative or an employee of any attorney  
9 of any of the parties.

10 The date is August 30, 2007,  
11 the time is 11:09 a.m. This statement  
12 under oath is taking place at 13910  
13 Hedgewood Drive, Woodbridge, Virginia.

14 This is in the matter of Larry  
15 B. Elliott. The witness is Clayton  
16 Finch. Your court reporter is Steve  
17 Hubbard. Will counsel please introduce  
18 yourself.

19 MS. HEPBURN: My name is Joanne  
20 Hepburn. I am an attorney with  
21 Kirkpatrick, Lockhart Preston Gates &  
22 Ellis in Seattle, and I represent Larry

1 B. Elliott.

2 THE VIDEOGRAPHER: Thank you. Will  
3 the court reporter please swear in our  
4 witness.

5 (Whereupon, Clayton Finch is  
6 sworn:)

7 EXAMINATION BY MS. HEPBURN

8 Q Good morning, Mr. Finch. We have  
9 met before.

10 A Yes.

11 Q You know that I am Larry B.  
12 Elliott's attorney, right?

13 A Yes.

14 Q You know that Larry B. Elliott is,  
15 of course, incarcerated and on death row at  
16 Sussex One for the murders of Robert Finch  
17 and Dana Thrall.

18 A Yes.

19 Q You are Robert Finch's father,  
20 correct?

21 A Yes.

22 Q I would like to give you an

1 opportunity today to tell me first a little  
2 bit about your son and your relationship with  
3 him and then I would like to talk about Dana  
4 and your relationship with her.

5 A Okay. Well, Robert is our son, our  
6 first born. We had the normal family  
7 problems I believe as far as growing up was  
8 concerned.

9 Robert was a person that he tended  
10 to more or less do his own, be his own type  
11 of person, and of course, that takes after  
12 his father because I grew up that way also.

13 Robert had done a great deal  
14 towards pulling his life together and getting  
15 on the right track.

16 He was involved with other people  
17 or with his girlfriend which was the mother  
18 of his two children. They were involved in a  
19 very outspoken court or child custody battle  
20 which was going to be coming to an end as we  
21 understood it in that first week of January.

22 He was also involved with at this



1 time with Dana Thrall. They were living  
2 together and I believe engaged to be married.

3 They were in the process of  
4 building a house that they would be living  
5 in. His business had been growing quite-  
6 readily and they were both actively involved  
7 in this as Dana was working at Fairfax Foods  
8 at the time and involved in a pretty good  
9 life there.

10 Robert was doing his level best, I  
11 thought or felt at the time to put his life  
12 on track and go from there.

13 He was extremely happy, a good  
14 father to the kids, both his which would be  
15 [REDACTED] and [REDACTED] as well as Dana's kids,  
16 [REDACTED] and [REDACTED].

17 We were all like a family. I mean  
18 we babysat for Dana's kids for three or four  
19 years and maybe more than that. Dana was  
20 part of the family. Dana went on vacation  
21 trips with us. Was just you know a part of  
22 the family.

1 Q You were present at Larry B.  
2 Elliott's trial for the murders of Robert and  
3 Dana.

4 A Yes.

5 Q Did you have any concerns about the  
6 investigation and the trial that occurred in  
7 this case?

8 A I was extremely concerned about the  
9 way everything went because from the get-go  
10 it seemed like there was always two sides of  
11 the story. What came up in trial was about  
12 child abuse, about how I was raising my  
13 family.

14 We took Rebecca off the streets  
15 when she was pregnant with [REDACTED] instead of  
16 sleeping in the car. We brought her into our  
17 house.

18 Q You're talking about Rebecca Gregg.

19 A Right. Right. We opened up our  
20 house and brought Robert and her and her  
21 other kids, Chris, and as well as Cameron.

22 I will say between my wife and

1 myself I changed more diapers on Cameron and  
2 Chandler than they ever did, okay, but yet, I  
3 was made out to be the bad guy.

4           Very little was brought up about  
5 what was going on as far as you know why the  
6 murder, okay?

7           Robert, prior to this on several  
8 occasions had come up to us, and said, "Dad,  
9 or mom, if ever something should happen to  
10 me, go to Rebecca because look towards her,  
11 okay?"

12           We knew this was a reason for  
13 concern because Robert had problems with  
14 being beat up once when separated when he had  
15 gone his separate way as far as getting  
16 control of the kids and things like this.  
17 There was always a problem very very -- It  
18 was sad to see the kids.

19           I mean it is easy for a parent to  
20 look back on it because they have been  
21 through the experience. For Robert to see it  
22 and to take advice it was a little bit

1 harder.

2           Unfortunately as it turned out we  
3 lost two people. I don't feel -- One is  
4 always brought up to believe in the police  
5 department and in the legal system.

6           Since January 2, 2000, I have no  
7 faith. I have lost all that faith. I have,  
8 you know, I have seen stuff done or legal  
9 actions that believed that couldn't possibly  
10 be.

11           It is, but not for my faith, that I  
12 know that some day this will be taken care  
13 of.

14           I don't understand it. It doesn't  
15 make any sense. Yes, everybody makes  
16 mistakes, but not the kind of mistakes that  
17 were brought up in the trial.

18           Officers not wearing gloves coming  
19 into the scene not wearing gloves and the way  
20 we were addressed as just nobody by the  
21 defectives.

22           How stuff was brought up in front

1 of me as far as the antics going on in the  
2 courtroom, "Hey, that was a pretty good job  
3 you did out there," in reference to the way  
4 comments that a man destroyed other people's  
5 testimony.

6 The Commonwealth's attorney saying  
7 and pointing at me saying, "We all know that  
8 Robert was a good person, but the least of  
9 all his father wasn't any good either." This  
10 was right in front of the trial okay?

11 To be able to see somebody that we  
12 knew was involved in it, okay, allowed to sit  
13 in the same way seated as we were supposedly  
14 praying the Rosary, it was just absolutely  
15 sickening.

16 Having a deputy come up and tell us  
17 that we could not cry or because we smirked  
18 and my wife whimpered once in the courtroom,  
19 a whimper, and we were told, "Hey, I am going  
20 to bounce your butt out of here if it doesn't  
21 stop," and then the lawyer saying or the  
22 judge saying, "You will just have to sit down

1 until the court is empty."

2           You know the changes and the other  
3 people, Dana's family and what they said  
4 between the two different trials to me is  
5 just a joke.

6           I have sat and talked with Larry or  
7 with Bill with a piece of glass between us.

8           Q     You went to the prison.

9           A     Yes, I went to the prison. Yes, it  
10 took four or five years to do this, but we  
11 have been ill and I am not able to do a lot  
12 of traveling.

13           I finally felt it was time to do it  
14 and when I did it I had to same feeling all  
15 along the whole trial that Larry didn't do  
16 it.

17           I have felt this in my heart and in  
18 my mind. I really believe that my actions  
19 since the first trial where I was concerned  
20 about what was happening have put me  
21 you know on the wrong side of the  
22 post, okay?

1                   It was our son that was killed. It  
2 was Dana that was killed, okay? That is  
3 tragic. It really is.

4                   But I am not going to participate  
5 or I am not going to allow myself to make a  
6 tragic situation get any "tragiker," more  
7 tragic, by, you know, killing somebody  
8 especially when I don't believe he is guilty.

9                   Q       We want to memorialize your  
10 thinkings and feelings about Larry B. Elliott  
11 and you talked a little bit your visit with  
12 him.

13                   If you were in a position to talk  
14 to the Governor of Virginia and tell him what  
15 you thought about Larry B. Elliott and  
16 whether or not he should or shouldn't receive  
17 the death penalty what would you tell the  
18 Governor?

19                   A       I would tell the Governor that it  
20 was in my heart and in my very very firm  
21 Christian belief that Larry, Bill Elliott,  
22 was not guilty, and that if anybody, any

1 God-fearing Christian person would sit down  
2 and look with any kind of an open eye at what  
3 has transpired and the way it transpired and  
4 talk to, you know, us, that they would or  
5 could not help but even begin to think that  
6 he was innocent and that this whole thing has  
7 been a joke, a mockery on the system that we  
8 as citizens hold, supposedly hold, true to  
9 our hearts.

10 I would really ask them that they  
11 take -- You go back through any and every  
12 piece of paper, or what, pertaining to the  
13 actual murder of Robert Finch and Dana Thrall  
14 was brought up in that trial and I have a  
15 real hard time seeing anything and that is  
16 what I would tell him.

17 Q The Governor will have an  
18 opportunity to decide whether or not  
19 Mr. Elliott will be executed.

20 If you were able to make a  
21 recommendation to him on that point what  
22 would you rem mender?



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A That he not be executed.

MS. HEPBURN: That is all the questions I have today. Thank you very much.

THE VIDEOGRAPHER: We are going off the record. The time is 11:23. This marks the end of this statement and the conclusion of this tape.

1 STATE OF \_\_\_\_\_ )  
2 COUNTY OF \_\_\_\_\_ ) SS.

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I, the undersigned, declare under penalty of perjury that I have read the foregoing transcript, and I have made any corrections, additions or deletions that I was desirous of making; that the foregoing is a true and correct transcript of my testimony contained therein.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_, at \_\_\_\_\_, \_\_\_\_\_.  
(City) (State)

\_\_\_\_\_  
CLAYTON FINCH

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2  
3 **REPORTER'S CERTIFICATE**  
4

5 I, T. S. Hubbard, Jr., Court Reporter, certify:

6 That the foregoing proceedings were taken before me at the  
7 time and place therein set forth, at which time the witness was put  
8 under oath by me;

9 That the testimony of the witness, the questions propounded,  
10 and all objections and statements made at the time of the examination  
11 were recorded stenographically by me and were thereafter transcribed;

12 That the foregoing is a true and correct transcript of  
13 my shorthand notes so taken.

14 I further certify that I am not a relative or employee of  
15 any attorney of the parties, nor financially interested in the action.

16 I declare under penalty of perjury under the laws of the  
17 State of Florida that the foregoing is true and correct.

18 Dated this 13<sup>th</sup> day of September, 2007

19  
20 

21 T. S. Hubbard, Jr.

22 Notary Public State of Florida

23 Commission Number DD 527643

24 Commission Expires March 30, 2010

25

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CLAYTON FINCH AUGUST 30, 2007

<p style="text-align: center;"><b>A</b></p> <p>able 12:11 13:11 15:20 about 7:2,3 9:5,8,11,12 8:18 10:4 13:20 14:10 14:15 absolutely 12:14 abuse 9:12 action 5:7 actions 11:9 13:18 actively 8:8 actual 15:13 [redacted] 8:16 addressed 11:20 advice 10:22 after 7:11 allow 14:5 allowed 12:12 along 13:15 always 9:10 10:17 11:4 antica 12:1 anybody 14:22 anything 15:15 APPEARANCES 3:3 atkinson-baker 1:18 5:4 attorney 5:8,20 6:12 12:8 August 1:14 2:2 5:10 Avenue 3:7 a.m. 2:3 5:11 A106AC6 1:22</p> <hr/> <p style="text-align: center;"><b>B</b></p> <p>B 5:15 6:1,11,14 9:1 14:10,15 babysat 8:18 back 10:20 15:11 bad 10:3 battle 7:19 beat 10:14 before 2:11 6:9 begin 15:5 being 10:14 belief 14:21 believe 7:7 8:2 11:4 13:18 14:8 believed 11:9 best 8:10 between 9:22 13:4,7 Bill 1:4 13:7 14:21 bit 7:2 10:22 14:11 born 7:8 both 8:8,14 bounce 12:20 brought 8:18,20 10:4 11:4,17,22 15:14 building 8:4 business 8:5 butt 12:20</p> <hr/> <p style="text-align: center;"><b>C</b></p> <p>C 5:1 California 5:5 cama 8:11 [redacted] 8:15 9:15,21 10:1 car 8:16 care 1:12 case 9:7 [redacted] 8:15 10:2</p>	<p>changed 10:1 changes 13:2 child 7:18 9:12 children 7:18 Chris 9:21 Christian 14:21 15:1 citizens 15:8 clayton 1:13 2:4,6 4:3 5:15 6:5 come 10:8 12:16 coming 7:20 11:18 comments 12:4 Commonwealth's 12:6 concern 10:13 concerned 7:8 9:8 13:19 concerns 9:5 conclusion 16:8 control 10:16 correct 6:20 counsel 3:4 5:17 course 6:15 7:11 court 1:1,19 2:12 5:18 8:3 7:19 13:1 courtroom 12:2,18 cry 12:17 custody 7:19</p> <hr/> <p style="text-align: center;"><b>D</b></p> <p>D 4:1 5:1 Dad 10:8 Dana 8:17 7:3 8:1,7,19 8:20 9:3 14:2 15:13 Dana's 8:15,18 13:3 date 5:10 day 11:12 deal 7:13 death 6:15 14:17 decide 15:18 detectives 11:21 department 11:5 Deposition 1:13 2:4 deputy 12:16 destroyed 12:4 diapers 10:1 different 13:4 doing 8:10 done 7:13 11:8 down 12:22 15:1 Drive 2:7 5:13</p> <hr/> <p style="text-align: center;"><b>E</b></p> <p>E 4:1 5:1,1 easy 10:18 either 12:9 Elliott 1:4 5:15 8:1,14 14:10,15,21 15:19 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12:2,8,9 Governor 14:14,16,19 15:17 great 7:13 Gregg 9:18 grew 7:12 growing 7:7 8:5 guilty 14:8,22 guy 10:3</p> <hr/> <p style="text-align: center;"><b>H</b></p> <p>happen 10:9 happening 13:20 happy 8:13 hard 15:15 harder 11:1 Having 12:16 heart 13:17 14:20</p>	<p>hearts 15:9 Hedgewood 2:7 5:13 held 2:6 help 15:5 hepburn 3:5 4:4 5:19,20 6:7 16:2 her 7:4 9:18,20,20 10:10 Hey 12:2,19 him 7:3 14:12,14 15:16 15:21 hold 15:8,8 house 8:4 9:17,20 Hubbard 1:21 2:11 5:17</p> <hr/> <p style="text-align: center;"><b>I</b></p> <p>ID 13:11 INC 1:18 Incarcerated 8:15 Incorporated 5:4 Innocent 15:8 Instead 9:15 Interested 5:7 Introduce 5:17 Investigation 9:6 Involved 7:16,18,22 5:8 8:8 12:12</p> <hr/> <p style="text-align: center;"><b>J</b></p> <p>January 7:21 11:8 Joanne 3:5 5:19 Job 12:2 Joey 5:2 Joke 13:5 15:7 Jr 1:21 2:11 Judge 12:22 Just 8:21 11:20 12:14,22 13:5</p> <hr/> <p style="text-align: center;"><b>K</b></p> <p>kids 8:14,15,18 9:21 10:16,18 killed 14:1,2 killing 14:7 kind 11:16 15:2 Kirkpatrick 3:5 5:21 knew 10:12 12:12 know 8:11,14 8:21 10:5 11:8,12 12:7 13:2,21 14:7 15:4</p> <hr/> <p style="text-align: center;"><b>L</b></p> <p>Larry 1:4 5:14,22 6:11 8:14 9:1 13:5,15 14:10,15,21 lawyer 12:21 least 12:8 legal 11:5,8 less 7:10 level 8:10 life 7:14 8:9,11 like 8:22 7:3 8:17 9:10 10:16 little 7:1 10:4,22 14:11 Living 8:1,4 LLP 3:8 Lockhart 3:8 5:21 look 10:10,20 15:2 lost 11:3,7 lot 13:11</p>	<p style="text-align: center;"><b>M</b></p> <p>made 10:3 make 11:15 14:5 15:20 makes 11:15 man 12:4 marked 4:7 marks 16:7 married 8:2 matter 5:14 maybe 8:19 mean 8:17 10:19 memorialize 14:9 mender 15:22 met 6:9 mind 13:18 mistakes 11:16,16 mockery 15:7 mom 10:9 more 7:10 8:19 10:1 14:6 morning 6:8 mother 7:17 much 18:4 murder 10:6 15:13 murders 6:16 9:2 myself 10:1 14:5</p> <hr/> <p style="text-align: center;"><b>N</b></p> <p>N 4:1 5:1 name 5:19 nobody 11:20 normal 7:6 Notary 2:12 notice 2:11</p> <hr/> <p style="text-align: center;"><b>O</b></p> <p>O 5:1 oath 5:12 occasions 10:8 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# **APPENDIX 7**

STATE OF FLORIDA  
CITY OF PENSACOLA

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) ss.

AFFIDAVIT OF WILLIAM JOSEPH THRALL

I, WILLIAM JOSEPH THRALL, do depose and state as follows:

1. *WJ* My name is William Joseph Thrall. I live in Pensacola, Florida. I am the father of Dana Thrall and the ~~executor~~ <sup>ADMINISTRATOR</sup> of her estate. I am over the age of 18, and have personal knowledge of the facts set forth in this affidavit, and believe that those facts are true and correct.
2. *WJ* I attended both of Larry Bill Elliott's trials. During the first trial, I thought the prosecution's case was weak, and factually insufficient to convict anyone of capital murder. I also thought the defense did a poor job on following through with theories. For example, during the trial the prosecution talked about Robert's very large mastiff, named Naughty, and how the police would not go near the rear of the townhouse because of the dog's barking and aggressive behavior. But the defense never followed through and ask why anyone, especially Bill Elliott was going to cross that back deck and climb over the locked gate with that huge dog lunging after them? During the second trial, the prosecution didn't put on any better case, but defense didn't put on much of the case at all. The first trial went for 5 - 7 days, and the second trial ended in 2 or 3 days. I could not believe how poor the defense was ~~during the second trial~~ <sup>IN EITHER</sup>. Even if he was involved in some way, I am not convinced that Larry Bill Elliott was the shooter. *WJ*
3. Dana and Robert Finch met when Dana moved into one of my rental homes, which was across the street from Finch's residence. Robert Finch was a former boyfriend of Rebecca Gragg and the father of two of her children. Rebecca Gragg and Finch were engaged in a custody dispute at the time of the murders, for which the final hearing was scheduled for the Friday after the murders.
4. *WJ* Dana and Robert Finch were planning to ~~buy~~ <sup>buy</sup> a \$300,000 house. Dana told me previously that they were moving into this new house and Robert ~~was~~ <sup>was</sup> doing well in his company. But when I looked at their financial papers, I couldn't understand where the money was coming from. Robert wasn't earning the sort of money needed to buy a \$300,000 house. He had 8 people working for him, each with a mobile phone, and two or three vans. Robert also had a new pick up truck. His company assembled products for Home Depot and Lowe's and other companies. He would typically charge them \$25.00 to assemble a barbecue. Everything he had for his business, the computers and trucks, was guaranteed by Dana. All Robert had was debt. All the loan papers for the new house were in Dana's name *WJ*

*Dana told her*

5. *W* According to my daughter Kim, Robert was expecting a lot of money. ~~It could have been 100's of thousand or tens of thousands.~~ It was supposed to be coming in February of 2001. I don't know where the money was coming from.
6. The police released Dana's townhouse to us within a week or two after the murders.
7. *W* *Don't remember being given* I was ~~never presented~~ a search warrant for Dana's residence. I have no idea what the police took from her home. I asked the police what they had taken because I was responsible for filing her taxes and other paperwork for her estate. I did not know what paper, files, cash, or other items they took. I asked the police ~~for an inventory~~ *2 or 3 times* of what they took, but they were not forthcoming. Supposedly the police took about 93 items. I still don't know what was taken. The police are unwilling to provide me this information
8. *W* *ADMINISTRATOR* I believe the police investigation was inept and inadequate from the beginning. As Dana's ~~Executor~~, I cleaned and repaired her townhouse after the murders. I found bongos and other drug paraphernalia at the house. Also, after the police released Dana's house, several of Robert's friends came over to the townhouse and went straight for the attic. I don't know what they were looking for or whether they took anything. Afterwards, I told the police that these guys went into attic and also that I had found drug paraphernalia. I asked the police how they knew the murders weren't drug related? They responded that they were not going to pursue that avenue, that we have the man [Elliott] who did it, and they weren't going to do anything to help the defense. When I asked next about the house, how could Robert and Dana afford the house?, the police didn't want to hear any part of that either. They had Larry Bill Elliott and that was it.
9. Even though there was drug paraphernalia in the house, the investigators didn't want to look into that because, in their words, they didn't want "to open a can of worms that would help the defense." They did not pursue the drug issues or the unknown source of large amounts of money, which may have supplied other motives for the murders. They set their sights on Bill Elliott and were unwilling to look anywhere else.
10. *W* *1 drop of* Detective Hoffman called me about 3 or 4 weeks after the murder, and told me he wanted to take the back gate because they found blood on it. After they took the gate, I built a new gate and put it up. I've often wondered if there was blood on that back gate, why wasn't ~~the~~ *the* gate taken on day one?
11. *W* I have not spoken directly to Dana's children (my grandchildren), as they were whisked off to California right after the murders. However, I ~~have~~ heard that ~~...~~ said he saw either a black man or a man wearing black running from the rear of the townhouse. *W* Although the police talked to the boy, to my knowledge, the police never pursued this lead because ~~they~~ *the rest of my family* wanted to protect the boys.
12. *W* I believe Rebecca Gragg was behind the murders. Her trip to Florida was just too convenient and out of the ordinary. I believe she did it to set up an alibi. ~~I believe she was giving 100% tips so she would be remembered.~~ I have a hard time believing a career military officer with a daughter Dana's age, could shoot Dana, pistol-whip her and shoot her again.



13. Rebecca lied on the stand when she said she loved Dana. I know from talking to Dana that they hated each other. Dana did not like Rebecca and Rebecca didn't like Dana. Dana had Robert, and Dana was younger and had a natural beauty that Rebecca doesn't have. I think these things ate at Rebecca.

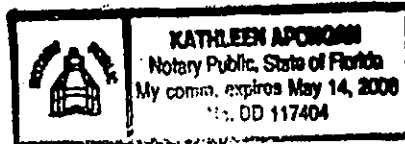
14. It is my belief that Larry Bill Elliott should not have received the death penalty. That serves no purpose. It doesn't solve anything for me. I do believe others (beside Bill Elliott) were involved.

SIGNED AND SWORN UNDER PENALTY OF PERJURY. FURTHER THE AFFIANT SAITH NOT.

*William Joseph Thrall*  
WILLIAM JOSEPH THRALL

Subscribed and sworn to before me this 1st day of March, 2005, at Pensacola, Florida

*Kathleen Apomgan*  
Notary Public in and for the State of Florida  
My commission expires: May 14, 2006



# **APPENDIX 8**

STATE OF VIRGINIA            )  
  ) ss  
CITY OF WOODBRIDGE        )

**AFFIDAVIT OF ROBERT CONWAY LESSEMUN**

I, ROBERT CONWAY LESSEMUN, do depose and state as follows:

1. My name is Robert Conway Lessemun. I am a licensed private investigator trading as Bob Lessemun Investigations Inc. in the State of Virginia. My business license is 11-2994. I was hired by the law firm of Preston Gates and Ellis, LLP on behalf of Larry Bill Elliott to investigate and conduct fact-finding for his state habeas petition. I am over the age of 18 and capable of making this affidavit. I have personal knowledge of the following facts, and believe the same to be correct.
2. I have 38 years experience with investigation, both as a homicide detective in England, and as private investigator in the United States. Additionally, I have been appointed by both the federal courts and the Virginia Circuit Courts to assist the defense on capital and non-capital murder investigations. Some of my representative clients include Craig Cooley, Michael Arif (Malvo case (capital)) James Connell (Cuong Lee (capital), Smith, Mandanapu and Powell (capital)) Daniel Lopez (Powell) Jon Sheldon (Bell, Powell) John J Wall ( domestics murders) Barry Zweig (Spanish gang murder, Casey Stevens (domestic murder) and Claire Cardwell (Route 29 stalker investigation). Attached as Attachment A and incorporated by reference herein, is a copy of my resume.
3. I was asked to interview a broad range of individuals related to Mr. Elliott's case. Where individuals were willing to do so, affidavits were obtained.
4. I interviewed the following individuals who did not provide an affidavit. The following excerpts from these interviews includes information relevant to the fact-finding and investigation for Bill Elliott's state habeas case.

4.1. Sargent Charles Hoffman. I met with Sargent Charles Hoffman on January 20, 2005, at 2:00 p.m., in his office at the police station located on Cardinal Drive in Woodbridge, Virginia. Sargent Hoffman was the lead investigator of the Finch and Thrall murders, and he cooperated with my investigation. The interview was not taped and contemporaneous notes were taken.

4.1.1. I asked him about Rebecca Gragg. Sargent Hoffman told me that she remains a suspect in the murders. He also said that Rebecca is a lying and conniving woman that she is a co-conspirator in the murders. He stated that Rebecca had the motivation from the beginning. Everything she did made Sargent Hoffman even more suspicious of her. When I asked him if had a conversation with Peter Paris, one of Bill's former defense attorneys, to attempt to have Bill Elliott give him evidence against Rebecca, Sargent Hoffman conceded that he likely did because he wants to charge her with conspiracy to murder. He still believes she's involved with it.

4.1.2. I asked Sargent Hoffman about the results of Rebecca Gragg's polygraph tests. He confirmed that the first test was in conclusive and the second showed deception. After the second test, she changed her story after Hoffman finished interrogating her. Hoffman took her out for a smoke. He said that afterwards, she changed her mind and told the most credible story. Sargent Hoffman tape-recorded the interview that night. Sargent Hoffman stated she



continued to lie and be self-serving. He believed that no one believed her. I asked Hoffman why the police did not have Rebecca Gragg take a third polygraph test to confirm her veracity about her last statement, he told me a third polygraph was not considered. When I asked him about the ethics of putting a witnesses who he knew was lying, Sargent Hoffman responded that it was Jim Willett's call—he knew the score."

4.1.3. I asked him about his role in collecting evidence at the scene, in particular the collection of the blood from the back gate. He told me that Dave Watson, who is now retired and working in the Commonwealth Attorney's office found the blood on the rear gate and told the crime scene to collect it. He also stated that it was some months later that the rear gate was collected. When asked about the missing photographs of the back gate, he said the only one he knew about didn't come out.

4.2. Officer Robert Zinn (retired). I met with Robert Zinn on February 11, 2005 at 9:00 a.m., at Aunt Sarah's Family Restaurant, Jefferson Highway, Fredricksburg, Virginia. Ex. Sergeant Zinn was the crime scene supervisor for the Prince William County Police department until his recent retirement. He intends to return to the Prince William County Police Department in a civilian capacity within two weeks of the interview date. Robert Zinn co-operated and answered questions in an interview where contemporaneous notes were taken.

4.2.1. I began the interview by asking Mr. Zinn to take me through a typical crime scene investigation according to the practice and procedures in the Prince William County Police Department. The first note I made was "sequence of preservation was similar to U.K." We discussed the role of first officers attending the scene was to protect life, then to protect the scene and make inquiries as to potential witnesses. There would be an inner and outer perimeter and guards would be stationed either on the outer perimeter or between the inner and outer perimeter. Access to the inner perimeter would be limited to detectives and crime scene analysts ("CSAs").

4.2.2. I asked him who is in charge at the scene, and he replied the crime scene analyst has the responsibility at the scene for gathering evidence and chain of custody, but the lead detective has the overall responsibility.

4.2.3. I asked him at what stage were the video and photographs taken if at all. He said that both were taken and the crime scene would be video recorded without sound almost simultaneous with the preliminary walk through with the detective joined by the crime scene analyst. At that point the detective and CSA would decide on the parameters of the scene, discuss observations and scope of the scene.

4.2.4. He said the CSAs would then go about their work collecting evidence. He said at the conclusion of their evidence gathering process, another survey of the scene would be made and this would take into account any information gleaned from witnesses in the interim. He said inquiries would be made with neighbors and any others who might have useful information and the second survey would be conducted based upon that and items collected at the scene. Once the detective is satisfied he will give the OK. He said there is a written force policy on crime scene analysis. I asked how the scene would be protected and he said that they used tape to make an inner and outer cordon.

4.2.5. I asked him if there was a protocol for keeping a log at the scene to determine who visited the scene, what time they arrived and what time they left. He



said there was no protocol but the first officer attending usually created such a record which he would hand over to the detective in the case.

4.2.6. When asked he said that he didn't remember who the first officer at the scene was on this occasion. He did remember that the CSA in charge of the scene was Thomas K Leo. He said K M Woods would have assisted him and for a brief spell he was at the scene himself. He said as best he could remember he was at the scene for about 45 minutes initially. He said he returned later at the end of the day. He said Leo was the primary crime scene analyst.

4.2.7. He was asked to outline the parameters of the scene but he declined claiming that he remembered it was a town house, not an end unit. He was not sure where the inner perimeter was, but expected it to be front yard walkway and through the townhouse. He can't remember it being taped but it is custom and practice to do that. When asked he said that an officer would be posted front and back and either are positioned on the outer perimeter or between the outer and inner perimeter. He said the person allowed in the inner perimeter was restricted to CSAs and detectives.

4.2.8. He said the morgue would be called for. He was asked if the hands were bagged to preserve evidence. He said he can't say in this particular case but that was a practice they did use. He said the body would be wrapped in a clean new white sheet. Every dead body is so wrapped.

4.2.9. He was asked if the bodies were examined for fingerprints and he said it wasn't done in this case. The force did possess the technology for that to occur but it is not done routinely. He said the hands of the victims are swabbed for gun powder residue as a matter of protocol.

4.2.10. He said to the best of his knowledge the walk through occurred before his arrival at the scene. He said he believed that he arrived in daylight between 8. and 8.30am. Thought it had been video recorded but couldn't be sure. He said he was there primarily as a supervisor. He was not there gathering evidence. He said that when he arrived there were 2 CSAs and a detective or two. He remembers Dave Watson being there. He said he remembers a conversation where Dave was wondering if there was a weapon under the male victim.

4.2.11. He said shortly after he arrived Finch's body was turned over. He was present when that occurred. He said this is done to check for weapons. He said the whole collection is done methodically. It is not rushed whether there is one body or many bodies.

4.2.12. I asked if he treated the incident as a potential domestic given there were no signs of a forced entry. He said that he formed no opinions but kept an open mind as to what happened and reserved judgment.

4.2.13. I asked Mr. Zinn about entry and egress into the Thrall townhouse. He said he noted there was no forced entry.

4.2.14. I asked him what the Prince William County Police Department's protocols are for photographs. He said there would be overall, mid, and close photography at the scene. An overall view of the scene. Pictures of the room and close up photographs of anything of interest.



4.2.15. He was asked if the method for collating swabs was the same as I was used to namely damp swabs (moistened with distilled water) and he confirmed they employed the same method.

4.2.16. He was then asked what precautions they took to ensure there was no contamination of the scene. He said that each case was assessed on its merits. They always use new rubber gloves. He said booties were available and other protective equipment was available.

4.2.17. He was asked if there was a policy to ensure that different CSAs examined items not directly connected with the scene. For example did a different CSA officer examine Elliott's truck? He said there was no specific protocol but every CSA is cognizant of that possibility.

4.2.18. He was asked what the policy of the Commonwealth Attorney's office toward attending and supervising the scene. He said it depended on the Commonwealth Attorney, but they are informed at a very early stage. Some show up, others do not. He doesn't know what happened in this case. He said that liaison would be made to obtain search warrants early on. It is policy to obtain search warrants for scenes of crime. He said he would estimate the police obtain search warrants in 99% of cases.

4.2.19. I asked why he didn't produce a blood splatter report. He admitted there was blood splatter, but he said one is not done in all cases. He admitted that he observed blood splattering in the kitchen. He said there wasn't a full reconstruction conducted, but there were some trajectory work done and measurements and angles. He said the measurements would be documented. The bloodshed would be recorded and measured and further work is done if requested by the detective or the prosecutor. This was not so requested in this case. He said he remembers some impact splatter in the hallway and again in the kitchen, but there was not a physical reconstruction.

4.2.20. He was asked about the collection of the blood from the back gate. He said he was not initially aware of that but became aware of a problem and they went back within not more than 2 days or maybe the next day to collect the blood from the back gate. The blood was not collected on the day of the examination of the scene.

4.2.21. He was asked where he checked other areas after the blood was found on the back gate. For instance did he check the rear to see if there was any further blood? Did they check the rear garden? He said they did check the exterior portion of the scene.

4.2.22. He was asked when he became aware that there were no photographs of the blood appearing on the rear gate. He said he didn't know until he was interviewed by me, but that but protocol suggests that photographs should have been taken before collection. He was asked who found the blood. He said he didn't know who found the blood. It may have been a detective. He doesn't know whether the blood was a smear or a drop. He doesn't know who the officer was who was guarding the back.

4.2.23. He was asked if there were any outstanding footwear impressions. He said he didn't know. He was asked if they used ninhydrin for latent prints, and he said not routinely. He then went back to his statement regarding the recovery of the blood and he said he knows the blood was not recovered until next day or two and that at that time Elliott wasn't a suspect at that time to the best of his knowledge. I



said, "Did you get the blood off back gate. He said, "No." I said if the blood was the last thing gathered at the scene, even if it was recovered a day or two later then it would appear last on the evidential list of the inventory made by the crime scene analysts at the scene. He said he would expect it to be near the end.

4.2.24. I asked which detective ensured that the blood was recovered. He said that Sergeant Cantarella was in charge of the detectives at that time. Mr. Zinn said that he offered no supervision regarding the blood found on the gate. He said that Sergeant Cantarella was the officer in charge of the scene.

4.2.25. He was asked if the force did their own photograph processing and he confirmed they have their own photograph laboratory. He confirmed that negatives would still be filed, no matter whether the photos could be developed or not. He went on to say that officers do their own photography and sometimes there is a bad film or a bad canister or operator error. However he said the negatives were retained.

4.2.26. He said he was the only supervisor of the Crime Analysts Department, and on that day he had appointments to purchase a computer for \$2 million so that it would enhance their fingerprint identification system within force.

4.2.27. He was asked if he had any recollection of allegations that money might be missing from the scene. He said he had no such recollection. He said if \$10,000 was recovered then it would be taken in for safe keeping. He said he had no recollection of money at the scene. He said there were no signs of a search, no signs of a burglary. He said if drugs were seized it would be included on the evidence log because it is contraband and they are obligated to seize it. He said he did not see a drug squad officer at the scene.

- 4.3. Robert Kovach. I interviewed Robert Kovach by telephone on February 11, 2005 at 6:00 p.m. This officer has moved to Lake Worth, Florida since the murders. I asked him if he had spoken with the Thrall children ( ) the day of the murders. Mr. Kovach said he was one of the first officers on the scene and was responsible for the welfare of the Thrall children. He used the word "we" when admitting that he and another officer was with the Thrall children for some time after the shootings. He told me the children did speak to him and did tell him things, but he was not prepared to discuss those conversations without the consent of the Commonwealth Attorney's Office or Sargent Hoffman.
- 4.4. Detective Rich Leonard. I interviewed Detective Leonard at the Stafford Sheriff's Department on January 18, 2005, at Stafford, Virginia. I took contemporaneous notes. This officer admitted that he had been dating Rebecca Gragg in 1996 and that she had contacted him shortly after the murder, two weeks to a month afterward. He had made a report of this and forwarded same to Sargent Hoffman.
- 4.5. Ron McClelland. I interviewed Ron McClelland in person on February 18, 2005, around 3:00 p.m., at the Woodstock Jail, in Woodstock, Virginia. This officer has now retired. He was interviewed in relation to his involvement in the investigation. I asked him why he called Rebecca Gragg when she was being interviewed by Josh White of the Washington Post, in the presence of her attorney, Mark Henshaw, and demand she stop the interview or he would come and arrest her. He replied he had no recollection of the interview. I also asked him about the smoke break interview that occurred after Rebecca Gragg was confronted with her failed polygraph results. He said he had no recollection of being present when Rebecca Gragg was interviewed and made a statement which subsequently went missing. He stated that if he did work on this murder he would have a report on his home computer. He took my business card and



promised to email the document over the following weekend. He did not. He promised to contact Sargent Hoffman and email me his recollections. He never did.

- 4.6. Chief Charles Dean. Chief Dean declined to be interviewed in a letter, but in a telephone conversation on January 25, 2005, he stated that he had not interviewed the Thrall children and referred me to the officer in the case, Sargent Hoffman.
- 4.7. Officer Thomas K. Leo. I interviewed Thomas Leo by telephone on March 1, 2005. I reached him at the Prince William Police Department, in Manassas, Virginia. When I asked him when he collected the blood from the back gate, he replied that he definitely collected it on January 2, 2001. He also agreed that Dave Watson found the blood on the gate, and that Officer Woods was with him when he collected the blood. He also told me that he maintained the scene for five days. He confirmed that the negatives to the 1700 photographs taken would be with Prince William County Photo technician and that he had the inventory he completed when gathering the exhibits but that he could not release same without his Chief Officers permission.
- 4.8. Mark Henshaw. I interviewed Mr. Henshaw on January 31, 2005, at his law office in Manassas, Virginia. Mr. Henshaw is the lawyer of Rebecca Gragg. He claimed legal privilege and although polite refused to assist in the investigation other than to confirm there were no-deals between the prosecution and Rebecca Gragg.
- 4.9. Cameron Thrall. I met with Cameron Thrall on February 24, 2005 at 3pm, in Pensacola, Florida. Cameron Thrall is the brother of Dana Thrall, and is in the process of adopting her two sons, [redacted]. Based on my interview with Robert Kovach, I knew the police had spoken with [redacted]. Cameron confirmed that [redacted] referred to a black man running out of the of the town home right after the murders. Cameron said he did not mind telling me this because this was not new information. The boys were counseled after the murder by Prince William County counselor.
- 4.10. Byron Edmonds. Formerly with the Virginia Department of Forensic Science, and now with the Los Angeles Sheriff's department. Mr. Edmonds conducted the DNA testing of the biological evidence found at the crime scene and the blood found on the rear gate. I interviewed Byron Edmonds on January 25, 2005 by telephone. I asked him whether he checked any other individuals as suspects, and he admitted he had only checked Mr. Elliott, and that he never had any other samples to check against. I asked him if any biological material belonging to Mr. Elliott was found in the house. Mr. Edmonds admitted that there was DNA identified located on Robert Finch, and Finch, Thrall, and Elliott were excluded as contributors. Mr. Edmonds also examined the interior of Mr. Elliott's truck for biological material. He did not locate any blood from either Robert Finch or Dana Thrall in the truck.
- 4.11. Shelton Creamer. I interviewed Mr. Creamer on February 11, 2005, by telephone. He agreed to being interviewed on tape after having problems making appointments due to other commitments. He explained he was one of the first officers attending and identified officers at the scene. He concentrated on trying to save the life of Dana Thrall and escorted her to Fairfax hospital.
- 4.12. James Moore. I interviewed Detective Moore by telephone at his office at the Prince William Police Department on March 3, 2005. Detective Moore was present at the crime scene of the Finch/Thrall murders on January 2, 2001. When asked what he remembered of the case, he replied that he remembered very little other than he attended the scene with Dave Watson. He further stated that either he or Mr. Watson were present at the crime scene throughout the two days they collected exhibits from the crime scene. When asked if he removed any evidence from the house, he replied "no."





Mr. Moore said he was there with Thomas Leo, the CSA, who was responsible for recovering and packaging exhibits in the case.

4.12.1. When asked whether there was security at the crime scene, Mr. Moore stated that uniformed police provided security at the scene, but he could not recall for how long. He remembered that Sargent Cantrell (CID Supervisor) was there from time to time.

4.12.2. I asked him if he worked with Robert Finch as a police informant and he replied no.

4.12.3. He was asked if he had seen blood on the back gate. Mr. Moore said that he didn't and was unsure who found it. He said that he believed that Thomas Leo recovered it, but he couldn't remember when.

4.13. Josh White, Washington Post Reporter who interviewed both Rebecca Gragg and Larry Bill Elliott. He mentioned the telephone call from Detective McClelland to Rebecca Gragg which was subsequently denied by the detective.

4.14. Carole Anne Tyrrell This Prince William police officer stated that she was one of the five police officers attending the call to the murder. She went into the house and did a search for possible assailants. She picked up a wallet to confirm the identity of one of the victims and then took up security duties. She did say that another officer previously unknown and not yet interviewed was present and interviewed the Thrall children with Officer Kovach.

4.15. Rebecca Gragg was central to this investigation. She initially avoided contact with me. She claimed that she had been temporarily out of the country. She then changed her mind and agreed to be interviewed. That took place in a public restaurant in Fredericksburg and following that a report of the interview was made. This was submitted and an affidavit prepared for her signature based upon the contents of that interview. Reproduced below is the contents of that affidavit which I have examined and can say was a fair and accurate representation of the facts as suggested by Rebecca Gragg. This was then emailed to her at her request. She read it over and in a subsequent telephone call she admitted possession of the affidavit and referred to the missing statement and said that she is now sure that was in the possession of Mr. Ebert and Mr Willett when they interviewed her a few days after she had made the statement.

This is a copy of the affidavit as prepared.

"AFFIDAVIT OF REBECCA GRAGG

"I, REBECCA GRAGG, do depose and state as follows:

1. My name is Rebecca Gragg, and I live in \_\_\_\_\_, Virginia. I am over the age of 18, and I am capable of making this affidavit. I have personal knowledge of the facts set forth in this affidavit and I believe that those facts are true and correct.
2. I was questioned many times by the police about Larry Bill Elliott and the murders of Dana Thrall and Robert Finch. I took at least three polygraphs. The first one lasted all day. Detectives Masterson and Hoffman were present during the first polygraph, as well as a sergeant and the polygraphist. A policeman named Watson was in and out. I believe that the polygraph was videotaped, but I'm not sure. The police accused me of being evasive and said that they didn't believe me.



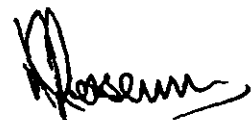
3. I was never made aware of the results of the second polygraph that the police gave me. But after I took the second polygraph, the detectives interviewed me and suggested that I knew more than I was telling.
4. The third polygraph was on May 10<sup>th</sup>. The police had a completely different attitude that day and I called my lawyer to determine whether I was being arrested. After I took the polygraph, they told me that the polygraph results showed that I was being deceptive and I believed them. It was at that time that Hoffman and I went outside for a cigarette. I know that his tape recorder was still recording us when we were talking outside but I understand that a large chunk of it went missing.
5. When Hoffman and I came back inside, I made a statement about the phone conversations with Bill Elliott. It was handwritten and then Detective Hoffman typed the statement. I think he used a computer to type it but I know that it was printed out. I initialed and signed the statement. After I signed it, I asked for a copy. When I asked for the copy, Hoffman, Masterson, McClelland and a sergeant who had been viewing the polygraph behind a screen were all present. I was told that the photocopier wasn't working. My understanding was that the police were going to take the statement to the prosecutor and that it would be used to decide whether or not I would be prosecuted.
6. I was never given another polygraph after I gave the statement on May 10th.
7. Some time after the May 10<sup>th</sup> polygraph, I got a call from my lawyer, Mark Henshaw, who said that my presence was required in Jim Willett's office. I went to his office and I was put through a series of questions. I was then asked to wait in another room. They then came out and said that they wanted me to testify for them.
8. I am positive that I initialed and signed the statement. It was very significant to me, particularly when I was waiting to see what the reaction of the prosecutor was going to be to the statement. Detective Hoffman was not telling the truth when he denied at the second trial that I had made a written statement on May 10th.
9. I asked for my written statement on a number of occasions, both before and after the first trial. I had several conversations with Mr. Ebert, Mr. Willett and Detective Hoffman about my getting the statement, but none of them ever gave me either the handwritten or the typed version. I remember asking Mr. Willett for a copy long before the trial. I still don't have a copy of the statement, so I can't say verbatim what was in it.
10. After they asked me to be a witness, Mr. Willett asked me to prepare a log of events, which I did. But that log of events is not the written statement that I initialed and signed.
11. Robert Finch did not trust banks after being arrested regarding drugs. I don't know if Robert was dealing drugs at the time of his death, but I do believe that he was probably smoking marijuana. Bill Elliott had told me, well before Robert's death, that he had done some surveillance of Robert on three or four occasions, with the thought that it might show that Robert was smoking marijuana. Bill had never seen Robert smoking during the surveillance and I never had occasion to tell my lawyer about Bill's doing this surveillance.
12. I know that Robert Finch had a number of enemies. For example, Robert was beaten by a man named Louis Ray (I don't know his last name) at a gas station in Durban, West Virginia. Louis Ray is a cousin of my husband, Jamie Gragg.
13. Bill Elliott did ask me to sign a promissory note but that was more to do with Bill wanting to be able to claim a write off for bad debt on his tax return rather than with him wanting me to repay it. I didn't want to sign because I was concerned about Bill's wife having some problem with it.



14. Mr. Willett asked me if I would be prepared to testify in trial about a felony in Maryland involving my pretending that I was Bill's wife. He explained that I would be admitting to a felony and suggested that I seek legal advice before committing to do so.
15. I did date Detective Leonard for two years; this was before the murders occurred. Sometime after the murders, Hoffman and Masterson had pulled me into a room at the police station when I went there to deliver some paperwork. They showed me a photograph of Detective Leonard and asked me about the relationship.
16. I didn't really believe that Bill Elliott had anything to do with the murder. When he said the crazy stuff on the telephone that I told the police about, I took that to be something between Bill and his wife.
17. I don't think the jury was presented with the whole story, but merely facts that were twisted. The trial just left me asking more questions."

At 9am on 28<sup>th</sup> February 2005, I contacted her and she indicated that she had made minor amendments to the affidavit and was prepared to get it notarized and signed. I made arrangements to call her back at 11am to collect same but since that date and subsequently she has avoided all contact.

5. The following individuals either did not respond to my request for an interview or declined to be interviewed:
  - 5.1. Officer Scott Biggar (one of the initial officers on the scene) Did not respond to at least 5 messages and a letter sent to him through the chief officer of police.
  - 5.2. Detective Masterson (co-investigating officer) Did not respond to numerous messages left and a letter sent through the chief officer of police.
  - 5.3. Detective David Watson, (now retired and working as an investigator direct for the Commonwealth Attorney) He answered my initial call indicating that he would speak with me but wanted to clear it through Mr Jim Willett the prosecutor first as a matter of etiquette. Did not return the call and despite further message left in person at the Commonwealth Attorney's office still failed to respond.
  - 5.4. Virginia Department of Forensics. Legal counsel for the department was unwilling to allow its employees to speak with me. She stated I would need permission from the Commonwealth of Virginia Attorney General.
  - 5.5. Laura Didion. Rebecca Gragg's mother.
  - 5.6. Kim Lephart. Dana Thrall's sister.
6. Investigation Experience. I have been an investigator for 38 years in the UK, Caribbean and USA. I was trained by British National Police College in the field/techniques of homicide investigation. I have also attended Nationally recognized Criminal Investigation Courses at junior and advanced level. I trained other detectives at advanced levels. I am a former hostage negotiator, detective training instructor at Birmingham National Detective School. I served as a detective from constable through to detective superintendent. I have been senior investigating officer on countless murders, I am trained in the all aspects of detective work



and I used to lecture to senior detective officers on the management and investigation of homicide. I have investigated in excess of 100 murders in the UK.

- 6.1. I am experienced in managing the scene of a crime and I have had opportunity of comparing the UK and USA system of protection and examination of the scene of the crime. The only difference as I see it is that the forensic expert is encouraged to attend the scene of the crime in England and in Virginia that is not necessarily the case. There is also more emphasis on avoiding contamination of the scene in England with the use of protective clothing and ensuring that crime scene analysts only examine areas where there is no chance of contamination (eg Officer Leo examined the scene and the truck. There would have been separate officer to carry out this task in the UK)
- 6.2. I am not an expert in the use and identification of firearms but I have dealt with several murders both in the UK, Turks and Caicos Islands and USA involving the use of firearms.
- 6.3. I regard myself as an expert on interview and interrogation techniques and I present my own course to several Criminal Justice Academies in Northern Virginia. I devised the course whilst a police instructor in the UK. I have given lectures on the subject in England, Jamaica and USA.
- 6.4. I have experience with the American police procedures. I have been involved in the investigation of in excess of 30 murders for the defense. These included examining the investigation in the Washington D.C. Sniper Investigation, The Cuong Le Vietnamese Gang murder (x3) investigation.
- 6.5. During the course of this investigation, Preston Gates and Ellis, LLP has given me open access to court transcripts, the court record and exhibits. reports of investigation by the defense, police reports, interview records, and forensic reports.
  - 6.5.1. Defense Counsel's Investigation. The private investigator in this case is known to me as one used by the defense in the Janet Orndorff case. He is from San Francisco and is very experienced. I have had the opportunity to examine his investigation report. I found it difficult to comprehend why he never made any report on the collection and integrity of the exhibits in the case. There were at least 8 emergency team personnel present in the house immediately following the murder. Four police officers and four emergency team members present to try and save the life of Dana Thrall.
  - 6.5.2. In examining reports and transcripts of the trial I found that questions relating to fingerprints were answered "maybe the children's" It is common practice in homicide investigations to obtain elimination prints to establish whether there are latent prints belonging to potential suspects or family members or other persons having lawful access to the house. I did not see any evidence of that in this case. I would have expected the private investigator to have examined this aspect of the investigation or at least for there to have been such investigation. I have also read notes which indicate that the blood sample linking Elliott to the scene was recovered later than the 2nd January the time and date that Officer Leo testified to during the two trials. Sargent Zinn confirmed this fact.
  - 6.5.3. I did not have opportunity of examining the police log at the scene to establish when the outer perimeter was left unguarded but my experience is that there is pressure to release uniform personnel as soon as possible and it is rare for officers to be there longer than daylight on the day following. This needed to be examined by the investigator. I did not find any evidence of any officer being interviewed. They should have been even if it was to find out that they declined to speak to the



investigators. The lack of photographs of the scene gave me cause for concern and should have been spotted at an early stage in the investigation. Sargent Zinn explains the procedures for examining the scene of a crime in the USA which is almost identical to that in the UK. The only difference is that in the UK we tended to use stepping plates to avoid contaminating the scene. However the need for isolation and protection is stressed. A video is taken on the initial walkthrough and then photograph taken as and when items are gathered. The only difference between here and the UK is that a photographer usual acts in team with a scenes of crime analyst. The detective has overall responsibility and works with the crime scene analyst to gather potential exhibits at the scene. I found it inconceivable that no photographs were taken of the only exhibit to link Elliott to the scene of this murder. It was a mistake which will be readily admitted by the police and the prosecution. To date no-one has examined the negatives which are in police possession.

6.5.4. In addition to the photograph, the inventory of exhibits collected (handwritten) should also be examined to show exactly when the blood was found and recovered. If it was recovered after the police had stopped guarding the scene then there is a break in the chain of custody which should have been found by the defense investigator. According to Sargent Hoffman the blood on the gate was found by Detective Watson, who never gave evidence in the case.

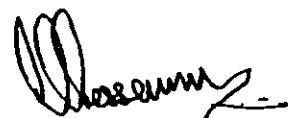
6.5.5. Another aspect of the investigation needing mention is the interview of Rebecca Gragg. She terminated the interview after a short while. Yet she willingly spoke with the Washington Post reporter, detectives, and prosecutors. She was reluctant to speak with this investigator initially, but eventually answered questions in a 3 hour session. If she had been interviewed then the potential for further investigation of the missing hand written statement could have been investigated further. It was not. The information gleaned by me has been found within a 2 month window.

6.5.6. The investigator reports shows interviews with some family members but not Cameron or William Thrall who are against the death penalty. The defense should have been able to know this at the time of the trial. They were never interviewed. Both readily co-operated with this investigator although it is conceded that Cameron Thrall was protective of the Thrall children in the case. I know that the investigator operated out of San Francisco and with the best will in the world it is difficult to manage an investigation from 3000 miles away. The lawyers at Preston Gates and Ellis quickly realized this and engaged me for local inquiries to be made. None of the work conducted by me is unique and could easily have been conducted by the defense investigator. He spent just over 100 hours on an investigation which amounts to just 2 and a half weeks work. This investigation warranted much more time than that. There were two trials and I understand they were financial constraints upon the defense lawyers but they could have applied for a local investigator to assist them in their investigation.

7. The Police Investigation. It is easy to become a nine o'clock quarterback, but there are matters in this investigation that require mention. First there seemed to be a focus upon Elliott has the one and only suspect in this investigation. Keeping an open mind has always been the hallmark of a good detective another is an attention to detail. There appears to be a lack of management of this investigation. I found that the investigating officer was running off interviewing witnesses and suspects and leaving an essential aspect of the investigation to someone else. The gathering of evidence at the scene of a homicide is paramount. This case proves that adage. There was sufficient manpower for the detective to manage the investigation without micro managing every interview.



- 7.1. There are very good and professional detectives in Prince William County capable of finding and interviewing Rebecca Gragg and Elliott for that matter. It is easy to put blinkers on and go for the obvious. That is not always the truth of the matter. In this case Finch is a police informer, he had financial problems of buying a \$300,000 to \$350,000 when up to his neck in debt. The relationship between Dana Thrall and Robert Finch was not all harmony and she had considered leaving him on more than one occasion. The person with the main motive Rebecca Gragg seems to have slipped through the prosecution net. It is difficult to understand why the police and prosecution were prepared to use her as a witness when she was an admitted accessory after the fact and may have had other criminal responsibility. Also, members of her husband, Jamie Gragg's family who had beaten up Robert Finch in West Virginia. When one tried to compare the motive for Elliott as against Gragg there is no comparison.
- 7.2. The police should be criticized for not taking the blood sample off the gate on the 2nd January. At that time there was no established entry and egress from the scene and so all routes have to be covered. I would have expected a thorough search of the immediate vicinity particularly the potential routes back to the suspect pick-up truck. I find it hard to believe that there is just one microscopic drop of blood on the back gate and none at the scene itself. I have no access to the scene management report if it exists but I would expect the investigating officer to designate what should be regarded as the scene. I believe that was done in this case. It is custom and practice to photograph all exhibits before they are collected. That is why it is important to see the negatives which would show the order of photographs. The blood on the gate in the typed written exhibit list shown to the court is shown as No. 7. I can't see that being the number allocated by the scene of crime analyst particularly as if reported he didn't collect till a day or even two later. One story suggested to me that at first they thought it was the dog's blood. One thing you never do as scene of crime officer is to speculate. You collect, analyze and in conjunction with the officer investigating, decide on which items needs forensic examination. The method to collect blood by using distilled water, is one that I am familiar with. However, I have always adopted the view that because there are no second chances, it is best to also take a physical exhibit. The gate should have been taken the same day, January 2<sup>nd</sup>, and not months later as it was in this case. Collecting the gate months after the murders, having no photographs of the most important exhibit, and not collecting that on the day the scene was examined is sloppy police work.
- 7.3. There was also a focus on Elliott that meant other potential suspects never emerged or were overlooked. The Thrall family highlighted that the investigators did not want to pursue the possible drug dealing angle despite the fact that Robert Finch had been convicted of drug offences, and there was speculation that he was about to come into a large sum of money. That would not have been from the business he ran and his financial situation was not good. The detective told the Thrall's "We don't want to go there and give the defense ammunition." My recollection of investigation that is exactly what you do and eliminate as far as possible that being a possible motive.
- 7.4. The child custody issues remain the most likely reason for the demise of Robert Finch and Dana Thrall. Rebecca Gragg by her own testimony is an accessory after the fact. She was deceptive during her polygraph interview (I have examined the polygraph charts and concur with that assessment) and she then makes a written statement which she says has been suppressed. It begs the question, why? My experience is that such statements are exhibits and rarely lost. So where is it, who has had sight of it, who produced the computerized statement in typed form. Where is it now? I found the explanation of Sargent Hoffman, "I didn't write it and no police officer wrote it." misleading if the statement was handwritten by Gragg that is what he should have told the court. Gragg believed that statement was in possession of Mr Willett and Mr. Ebert when they questioned her two or three days after she had made it. She has tried to get a



copy. She has never been successful. Statements made by witnesses and potential suspects such as Gragg should never go missing their integrity is paramount.

- 7.5. One only has to compare the number of exhibits retrieved from Bill Elliott's truck and compare it to the number taken from the actual scene of the murder to realize the focus of the police investigation. I am surprised that the DNA of no other suspects has been collected or examined only that of Elliott Finch and Thrall. There is outstanding DNA at the scene which has never been identified or compared to anyone.
  - 7.6. Cameron Thrall told me that he would give me the fact that the children had mentioned black people running from the scene. He said that fact wasn't new. It was new to me. I had found no evidence of any black man running from the scene. I believe that the police were in receipt of this information because Cameron Thrall was the link between the family and the police. He is a man of the utmost integrity, a captain in the Marines and he would have told the police of these facts. It is conceivable that the police officers attending the scene and who babysat the Thrall children afterwards had been told this. This needs further examination. If the police were aware then so should the prosecution and defense. Finch had black friends whom he smoked drugs with. That should have at least been eliminated as a possible reasons for the murders.
  - 7.7. I found a conspiracy of silence with police officers reluctant to speak about the case. The reasons for this could simply be culture. As a former police officer I would not take part in an outside investigation unless I had to. However my suspicions were aroused after Leo had agreed to meet with me, made an appointment and then reneged on it after the interview with Ex Sargent Zinn. The latter did not know that I was unaware that the blood sample was not recovered from the back gate until day or days afterwards. He assumed I did. That tells me that a lot of other people know that blood sample was not taken at the time Officer Leo informed the court. I have examined the transcript of his testimony and he clearly states that it was collected on the 2<sup>nd</sup> January 2001. The packaging also is dated the 2<sup>nd</sup> January 2001. It begs the question Why? I do not want to believe that the blood was transferred there by a police officer after the scene was initially examined but it cannot be ruled out. It could also have been transferred there by another suspect to throw suspicion away from his or herself.
8. There are 4 matters that need clarifying:
1. The blood on the gate. How did it get there? When was it found? When was it collected? and is the date of packaging correct? Was the jury misled on this vital exhibit?
  2. What happened to the photographs? Where are the negatives? What sequence do they show in comparison to the log of inventory of the exhibits and the eventual typed list produced to the court. There needs to be an audited chain of custody.
  3. What happened to the Gragg statement—both the handwritten and the typed copy. Was it just a case of confusion? Who was present when it was made? and what do they say? Who had sight of it afterwards? Were decisions made not to prosecute based upon the contents of that statement? If it exists why wasn't it produced to the jury?
  4. Why was it not known until the Habeas petition that there were reports of a black man running from the scene by an eye witness who had no reason to lie. Who knew of those reports? And why weren't they provided to the defense?

This case requires further judicial scrutiny to determine the truth of the matter. The life of Bill Elliott is on the line, as is the integrity of the Prince William County Police Force. If the jury was

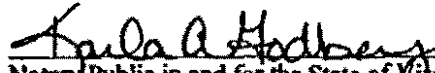


presented the facts that I have uncovered during my investigation of this case, I wonder if they would have reached the same conclusion they did.

SIGNED AND SWORN UNDER PENALTY OF PERJURY. FURTHER THE AFFIANT SAITH NOT.

  
ROBERT CONWAY LESSEMUN

Subscribed and sworn to before me this 8<sup>th</sup> day of March, 2005, at Prince William Virginia.

  
Notary Public in and for the State of Virginia  
My commission expires: August 31, 2009



## RESUME OF ROBERT CONWAY LESSEMUN

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Married to Patricia Hammond, Attorney at Law, Licensed Private Investigator 11-2994, career detective, compliance agent, polygrapher and law enforcement training instructor.

### RELATED EXPERIENCE

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SINCE APRIL 1999 SELF EMPLOYED AS A PRIVATE INVESTIGATOR QUALIFIED AS A PRIVATE INVESTIGATOR, COMPLIANCE AGENT, PRIVATE SECURITY SERVICES INSTRUCTOR, AND FROM 1<sup>ST</sup> NOVEMBER 1999 BEGAN OWN PRIVATE INVESTIGATIONS BUSINESS TRADING AS

BOB LESSEMUN INVESTIGATIONS INC  
THE HERITAGE CENTER  
4893 PRINCE WILLIAM PARKWAY SUITE 201  
WOODBIDGE VA 22192

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GRADUATED FROM MARYLAND INSTITUTE OF CRIMINAL JUSTICE AS A POLYGRAPHER AND AN ASSOCIATE MEMBER OF AMERICAN POLYGRAPH ASSOCIATION.

BUSINESS LICENCE 11-2994 FULLY LICENSED BY VIRGINIA CRIMINAL JUSTICE SERVICES AND INSURED

#### 2004 UPDATE

RECENTLY WORKED ON SEVERAL HIGH PROFILE MURDERS IN AND AROUND NORTHERN VIRGINIA INCLUDING THE WASHINGTON SNIPER CASE, THE CUONG LE FEDERAL CAPITAL CASE (3 GANGLAND KILLINGS) AND OTHER HIGH PROFILE MURDERS.

A QUOTE FROM CRAIG COOLEY THE DEFENSE LAWYER IN THE LEE MALVO CASE "YOUR WORK WAS INSTRUMENTAL IN BUILDING HIS DEFENSE. YOUR PROFESSIONALISM IS UNSURPASSED. I APPRECIATE ALL YOU DID FOR US. WE ARE VERY VERY GRATEFUL." OTHER US REFERENCES PROVIDED IF REQUIRED.

THIRTY-TWO YEARS EXPERIENCE AS AN OPERATIONAL DETECTIVE 1967 TO 1999  
*Used all the tools and techniques available and continuously upgraded skills. Since 1984, trained detectives at all levels, up to the rank of Detective Chief Inspector. Qualified as a private investigator in the State of Virginia and employed since April 1999 by Patricia Hammond attorney at Law as in house investigator.*

QUALIFIED POLICE INSTRUCTOR. Continuously since 1984  
*Pioneer in the United Kingdom in training detectives in interview techniques. Set up the Interview Development School at the Police Training School in Birmingham, now a permanent fixture. Developed and instituted the first interview training course for police officers in the United Kingdom. Wrote the training manual that is the basis for the manual currently in use in the Interview Development School. Trained the initial trainers in interview development. The Interview Development Course is now accepted as one of the leading police interview training courses in the world.*

*Additionally, in the C.I.D. School, trained detectives up to the rank of detective chief inspector, in investigative skills, law and procedures.*

*Taught courses and lectured to both police and citizen groups in audiences up to 1,500 strong, in many different venues, including the National Police College, Bramshill.*

*Taught at Regional Drug Training Center at REDTRAC, Jamaica (Intelligence*

gathering, and cultivation of informants) and at Prince William Criminal Justice Academy (Interview techniques), Rappahannock CJA (Undercover police operations) and Northern Virginia Criminal Justice Academy (Interview techniques) during 1999. I have also presented courses at Northern Virginia and Fairfax Police Academies.

**CONSULTANT FOR CARIBBEAN REGIONAL DRUG INTERDICTION TRAINING POLICIES.**

In 1997, was selected by the British Government, along with consulting firm KPMG, to recommend Caribbean regional policy for training local police forces in drug investigative skills and interdiction. The report was adopted by the European Union and the United Nations as the basis for the current Caribbean regional training program.

**REDTRAC (REGIONAL DRUGS TRAINING CENTER)** 1997 AND 1998  
Kingston, Jamaica. Lecturer in interview techniques, intelligence gathering, and cultivating informants.

**ROYAL BAHAMIAN POLICE TRAINING CENTER** 1997  
Nassau, Bahamas. Lecturer in investigation of major crime.

**EMPLOYMENT**

SINCE APRIL 1999 EMPLOYED AS AN INVESTIGATOR FOR MY WIFE, PATRICIA HAMMOND ATTORNEY AT LAW. OPERATING FROM 9204 CHURCH STREET, MANASSAS. QUALIFIED AS A PRIVATE INVESTIGATOR, COMPLIANCE AGENT, PRIVATE SECURITY SERVICES INSTRUCTOR, AND FROM 1<sup>ST</sup> NOVEMBER 1999 BEGAN OWN PRIVATE INVESTIGATIONS BUSINESS TRADING AS BOB LESSEMUN INVESTIGATIONS, 9204 CHURCH STREET, MANASSAS, VIRGINIA 20110 (TELE 703-393-2448).

IN ADDITION PRESENTED MY OWN INTERVIEW DEVELOPMENT COURSE TO THE FOLLOWING POLICE ACADEMIES

1. NORTHERN VIRGINIA CRIMINAL JUSTICE ACADEMY
2. RAPPAHANNOCK, CJA
3. FAIRFAX CJA
4. PRINCE WILLIAM COUNTY CJA

**DETECTIVE SUPERINTENDENT** APRIL, 1997 TO MARCH 1999  
ROYAL TURKS AND CAICOS ISLANDS POLICE FORCE  
SECONDED FROM WEST MIDLANDS POLICE DEPARTMENT  
BIRMINGHAM, ENGLAND

Responsibilities: Head of CID (Criminal Investigation Department); head of Special Branch (state security); officer in charge of drug interdiction; responsible for staff career development and training; international liaison (representative of the Turks and Caicos Islands to United Nations Conference on Drug Interdiction and Cooperation); senior investigating officer managing major investigations; national coordinator for criminal intelligence; manage the national informant system; officer in charge of international fraud investigations. Two year contract completed in March, 1999.

**DETECTIVE CHIEF INSPECTOR** NOVEMBER 1, 1967 TO APRIL 1, 1999  
WEST MIDLANDS POLICE DEPARTMENT  
BIRMINGHAM, ENGLAND

**ACCOMPLISHMENTS AND EXPERIENCE:**

**HOME OFFICE NEGOTIATOR** 1990 TO 1997

Trained by Antiterrorist Section of Scotland Yard at the London Metropolitan Police College at Hendon. Participated in over one hundred successful negotiations involving potential suicide victims, mentally deranged persons, armed bank robbers and terrorists. No loss of life in any negotiation. Twenty-four hour on-call status while engaged in other duties as described.

**SANDWELL CRIMINAL INVESTIGATION DEPARTMENT** 1994 TO 1997  
Detective Chief Inspector and Crime Manager Responsible for investigating 35,000 crimes per year in a metropolitan borough of 250,000 people. Senior investigating officer on all homicides and major investigations. Police representative on the Area Child Protection Committee, with particular emphasis on the video recording of interviews with child victims.

**WEST MIDLANDS POLICE FORCE DRUG SQUAD** 1991 TO 1994  
Promoted to Detective Chief Inspector. Head of second largest drug investigation team in the United Kingdom. Managed all undercover and sting operations, drug raids and drug buys. Conducted negotiations with foreign police forces; liaised with foreign drug enforcement agencies. Investigated national and international drug trafficking. Started and managed a financial investigation team to determine and seize assets of main drug distributors and dealers.

**LADYWOOD** 1990 TO 1991  
Head of Ladywood C.I.D., an inner city high crime department. Responsible for the management of all crime.

**WEST BROMWICH** 1987 TO 1990  
Officer in charge of all operational detectives in the Criminal Investigation Department in an area of 100,000 population.

**DETECTIVE TRAINING SCHOOL, BIRMINGHAM** 1984 TO 1987  
Promoted to Detective Inspector. Qualified Police Instructor in charge of training detectives at junior, intermediate and advanced levels, up to the rank of Detective Chief Inspector. Developed and instituted the first interview training for police officers in the United Kingdom. The Interview Development course is now accepted as one of the leading training courses in the world. Trained detectives of all ranks in investigative skills, law and procedures.

**DUDLEY** 1982 TO 1984  
Promoted to Uniformed Inspector. Managerial position controlling a shift.

**MIDLANDS REGIONAL CRIME SQUAD AT BILSTON** 1975 TO 1982  
Promoted to Detective Sergeant. Conducted several high profile major crime enquiries including murder, drug trafficking, organized crime, terrorism and international fraud. Seven years' experience as an operational detective. Trained in surveillance techniques.

**DUDLEY** 1974 TO 1975  
Uniform Sergeant. First sergeant to retain rank on transfer. Investigated the Black Panther Enquiry (Leslie Whittle kidnaping).

**WEST MERCIA POLICE** 1967 TO 1974  
Probationer of the Year. Foot patrol officer, resident beat officer and detective constable before being promoted to uniform sergeant in December, 1973.

EDUCATION

1994 Carousel Serious and Series Crime Course  
National Police College, Bramshill

1993 Carousel Responding to Drug Abuse  
National Police College, Bramshill

1993 Media Techniques, Radio and Television  
National Police College, Bramshill

1991 Leadership Development Course  
National Police College, Bramshill

1991 Management Development Course, Phase 2  
Management Center, Solihull

1990 Managing Crime Reduction  
National Police College, Bramshill

1990 The Management of Child Abuse  
National Police College, Bramshill

1990 Management Development Course, Phase 1  
Police Training School, Tally Ho, Birmingham

1990 Senior Officers Firearms Awareness Course  
Police Training School, Tally Ho, Birmingham

1990 Negotiators Course  
Metropolitan Police College, Hendon, London

1989 Major Investigation Computer Management  
Police Training School, Tally Ho, Birmingham

1987 Indecency Course  
Police Training School, Tally Ho, Birmingham

1986 Instructors Facilitators Course  
Police Training School, Tally Ho, Birmingham

1984 Police Instructors Course  
Pannal Ash, Harrogate

1978 Advanced CID Course  
Detective Training School, Bristol

And many additional courses.

#### COMMENDATIONS

Twenty commendations, including two judge's commendations, awarded for bravery, meritorious conduct, good police work, negotiating skills and good detective work. Full details available on request.

#### REFERENCES

Supplied upon by request. Contracted to work for at least 20 lawyers in Northern Virginia. Authorised by Prince William Circuit Court to conduct homicide investigations.

Mr. Ted Radnor  
24 Springfield Road  
Halesowen, England  
Telephone: 01144-121-422-0698

Mr. Roger Smith, QC  
(Judge)  
No. 3 Chambers  
Fountain Court, Steelhouse Lane  
Birmingham, England

Mr. T. Bryan Davies  
Deputy Chief Constable  
Gwent Constabulary  
Police Headquarters,  
Pencadlys Yr Heddlu  
Croesyceiloig  
Cwmbran NP44 2XJ  
Gwent, England

Mrs. Cynthia Astwood  
(Deputy Governor of the Islands and first  
local resident to hold that position)  
Chief Secretary  
Grand Turk  
Turks & Caicos Islands  
1-649-946-2909

Mr. Ted Radnor  
24 Springfield Road  
Halesowen, England  
Telephone: 01144-121-422-0698

Mr Mike Williams  
160 Broadway Avenue  
Halesowen Birmingham, England  
01144-121-550-5926  
(Former Det Supt and Head of CID  
Operations West Midlands Police)

Mr. Roger Smith, QC  
(Judge)  
No. 3 Chambers  
Fountain Court, Steelhouse Lane  
Birmingham, England

Mr Paul Harvey, Commissioner of Police  
Royal Turks and Caicos Islands Police.  
Pond Street,  
Grand Turk  
Turks and Caicos Islands  
649-946-2371

American references:

Supplied upon request

# **APPENDIX 9**

**AFFIDAVIT OF ROBERT CONWAY LESSEMUN**

STATE OF VIRGINIA                    )  
  ) ss.  
COUNTY OF PRINCE WILLIAM    )

I, ROBERT CONWAY LESSEMUN, do depose and state as follows:

1. My name is Robert Conway Lessemun. I am a licensed private investigator trading as Bob Lessemun Investigations Inc. in the State of Virginia. My business license is 11-2994. I have been retained by the law firm of K&L Gates LLP on behalf of Larry Bill Elliott to investigate and conduct fact-finding on his state habeas petition and now on his Federal habeas petition. I am over the age of eighteen and capable of making this affidavit. I have personal knowledge of the following facts, and believe the same to be correct.

2 I have previously submitted an affidavit, dated March 8, 2005 (APP5499-5517) (hereinafter, my "First Affidavit") in Mr. Elliott's state habeas proceeding. The resume that I attached to that affidavit is still accurate.

3. Since I submitted my First Affidavit, I have, on a number of occasions, attempted to get Rebecca Gragg to sign an affidavit regarding the issues that she and I discussed about the case and that are reflected in Paragraph 4.15 of my First Affidavit. Although I have contacted her on several occasions and although she has expressed some willingness to sign the affidavit, for one reason or another, she had not yet done so. I believe that it is necessary for her to be subpoenaed to a hearing in order for her testimony to be obtained.

4. In my First Affidavit at Paragraph 4.3, I provided information about my interview with Robert Kovach and what he told me. Since I submitted

the First Affidavit, I have also contacted Mr. Kovach. He is still willing to provide details about his conversations with the children only if he is authorized to do so by the Commonwealth of Virginia.

5. I understand that the Commonwealth has destroyed (in the case of certain swabs and samples) and released (in the case of Elliott's pick-up truck) certain human biological evidence that was collected by the Prince William County Police in the course of its investigation of the deaths of Dana Thrall and Robert Finch and the prosecution of Mr. Elliott. In my opinion, this destruction/release of these items of human biological evidence violated both Virginia law regarding the preservation of such items, particularly in death penalty cases, and the basic principles of police investigation.

6. Because of the destruction/release of that evidence, Elliott cannot conduct the scientific tests, as part of his habeas corpus proceedings, that could exonerate him and it is harder for him to challenge the remaining evidence, such as the blood spot purportedly found on a back gate outside the residence. The destruction/release will also make it impossible, at any retrial of the case, for his new trial counsel to conduct such scientific tests and to challenge the remaining evidence.

7. In my First Affidavit at Paragraph 4.11, I provided information about my interview with Shelton Creamer. Since I submitted my First Affidavit, I have been in contact with Mr. Creamer, who is now residing in North Carolina. He agreed to sign an affidavit. I sent him one, explaining that he should review it; that if he wanted to make any changes, we could quickly and easily send him a revised affidavit; and that if he was satisfied with the proposed affidavit (or any revised one if he so requested), he should sign it, have it notarized and Federal



Express it to me. Because of the filing deadline for the Federal petition, I gave him a deadline of June 30<sup>th</sup> to sign and return the affidavit. To date, I have not received his affidavit. Based on our conversations, I believe that, if he was called to testify, he would testify to the contents of that affidavit, which are as follows:

I, SHELTON R. CREAMER, do depose and state as follows:

1. I currently reside in Charlotte, North Carolina. I am over the age of eighteen, have personal knowledge of the matters discussed herein, and am fully competent to testify to the following:

2. On January 2, 2001, I was employed by the Prince William County Police Department. At that time, I had been an officer for approximately 11 years.

3. On that date, I responded to a call regarding a shooting at 3406 Joustlers Way, Woodbridge, VA. I was one of the first officers to enter into the residence.

4. I went into the kitchen area, where I saw a woman, who was later identified as Dana Thrall. She was on the floor and had been shot. She was still alive when I arrived. She was not conscious.

5. While I was still in the kitchen, I observed other officers taking the two children, who had been upstairs, out of the residence. The officers had wrapped the children in blankets, so that the children could not see either Ms. Thrall or Mr. Finch, the other person who had been shot and who was on the floor in the front of the residence. Because the children were

wrapped in blankets, they could not see me. I had no contact with the children.

6. I remained in the kitchen area until the medics arrived. Ms. Thrall was put on a gurney, wheeled out of the residence, and put in an ambulance.

7. The only time I left the residence was when I walked, along with the gurney, to the ambulance. This was after the children had been removed from the residence. I did not run out of the residence.

8. I rode in the ambulance with Ms. Thrall to a parking lot, where a helicopter landed. She was then put in the helicopter, to be taken to a hospital.

SIGNED AND SWORN UNDER PENALTY OF PERJURY OF  
THE LAWS OF THE UNITED STATES OF AMERICA.  
FURTHER THE AFFIANT SAYETH NOT.


\_\_\_\_\_  
SHELTON R. CREAMER

Subscribed and sworn to before me this \_\_\_ day of June, 2008, at  
Charlotte, North Carolina.

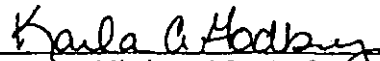
\_\_\_\_\_  
Notary Public in and for the  
State of North Carolina

My commission expires:  
\_\_\_\_\_

SIGNED AND SWORN UNDER PENALTY OF PERJURY OF THE LAWS OF THE UNITED STATES OF AMERICA. FURTHER THE AFFIANT SAYETH NOT.

  
\_\_\_\_\_  
ROBERT CONWAY LESSEMUN

VERIFICATION AND AFFIDAVIT OF FACTS  
SUBSCRIBED and SWORN TO before me this 30<sup>th</sup>  
day of June, 2008 at Punta Williams, Virginia.

  
\_\_\_\_\_  
Notary Public in and for the State of Virginia.  
My commission expires: August 31, 2009



AFFIDAVIT OF SHELTON R. CREAMER

STATE OF NORTH CAROLINA )

COUNTY OF *Mecklenburg* )

I, SHELTON R. CREAMER, do depose and state as follows:

1. I currently reside in Charlotte, North Carolina. I am over the age of eighteen, have personal knowledge of the matters discussed herein, and am fully competent to testify to the following:

2. On January 2, 2001, I was employed by the Prince William County Police Department. At that time, I had been an officer for approximately 11 years.

3. On that date, I responded to a call regarding a shooting at 3406 Jousters Way, Woodbridge, VA. I was one of the first officers to enter into the residence.

4. I went into the kitchen area, where I saw a woman, who was later identified as Dana Thrall. She was on the floor and had been shot. She was still alive when I arrived. She was not conscious.

5. While I was still in the kitchen, I observed other officers taking the two children, who had been upstairs, out of the residence. The officers had wrapped the children in blankets, so that the children could not see either Ms. Thrall or Mr. Finch, the other person who had been shot and who was on the floor in the front of the residence. Because the children were wrapped in blankets, they could not see me. I had no contact with the children.

6. I remained in the kitchen area until the medics arrived. Ms. Thrall was put on a gurney, wheeled out of the residence, and put in an ambulance.

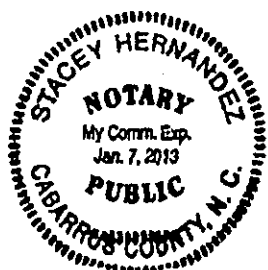
7. The only time I left the residence was when I walked, along with the gurney, to the ambulance. This was after the children had been removed from the residence. I did not run out of the residence.

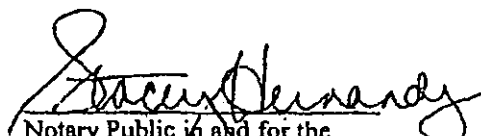
8. I rode in the ambulance with Ms. Thrall to a parking lot, where a helicopter landed. She was then put in the helicopter, to be taken to a hospital.

SIGNED AND SWORN UNDER PENALTY OF PERJURY OF THE LAWS OF THE UNITED STATES OF AMERICA. FURTHER THE AFFIANT SAYETH NOT.

  
SHELTON R. CREAMER

Subscribed and sworn to before me this 30 day of June, 2008, at Charlotte, North Carolina.



  
Notary Public in and for the State of North Carolina

My commission expires:  
Jan. 7, 2013

# **APPENDIX 10**

**AFFIDAVIT OF ROBERT CONWAY LESSEMUN**

STATE OF VIRGINIA     )  
  ) ss.  
CITY OF WOODBRIDGE )

I, ROBERT CONWAY LESSEMUN, do depose and state as follows:

1. My name is Robert Conway Lessemun. I am a licensed private Investigator trading as Bob Lessemun Investigations Inc. in the State of Virginia. My business license is 11-2994. My business address is 4893 Prince William parkway Suite 201, Woodbridge, VA 22192. I am over the age of 21 and capable of making this affidavit. Unless indicated otherwise herein, I have personal knowledge of the following facts and believe the same to be correct.

2. I was hired by the law firm of Preston Gates and Ellis LLP (now known as K&L Gates LLP) on behalf of Larry Bill Elliott to investigate and conduct fact-finding in regard to his state and Federal habeas petitions, and have now been requested to do so in regard to his clemency petition. This is the third affidavit I have prepared in this case. In my first affidavit in the Elliott case, which I made on March 8, 2005, I attached my resume. My second affidavit is dated June 30, 2008. I understand that my first and second affidavits in the Elliott case are being provided as appendices to Elliott's clemency petition

3. I have 42 years experience with investigation, both as a homicide detective in England and as a private investigator in the United States. For the last 10 years, I have been appointed by both the Federal courts and the Virginia

Circuit Courts to assist the defense on capital and non-capital murder investigations.

My Investigation regarding the Cell Tower Locations

4. Tom Kelly, one of the attorneys at K&L Gates with whom I have worked, requested that I make further inquiries in respect of the Elliott matter. I was asked to try and determine what cell towers would have been used if Mr. Elliott had made a cell phone call from either the parking lot at his office at Fort Meade, Maryland, or at Kaufmann's Restaurant, 329 Gambrills Road, Gambrills, Maryland.

5. The reason for the interest in determining what cell tower had transmitted Mr. Elliott's cell phone call is as follows.

(a) It is undisputed, and well documented, that Mr. Elliott made a cell phone call to Ms. Gragg at 5:23am. Ms. Gragg's cell phone records show that she received the call at 5:23:46 AM and Mr. Elliott's cell phone records show that he made the call at 5:24:05am; in my view, the 19 second difference is not material, but reflects some difference between the clocks used in the locations where the call was made and where it was received; hence I will refer to the time of the call as the time when Ms. Gragg received it, that is, as the "5:23am" call.

(b) What is disputed is where Mr. Elliott was when he made the call. Mr. Elliott states that he made the 5:23am call from a parking lot outside his office at Fort Meade. The prosecution's position is that Ms. Gragg was correct when she stated that he made the 5:23am from Kauffman's Restaurant in



Gambrills. She said that he told her in the call that he was behind the Restaurant, putting a bloody trash bag into a garbage container.

(c) The Prince William County detectives investigating the case told Mr. Elliott, when they interviewed him on January 3, 2001, that they would obtain records of the cell tower locations where he had made his cell calls on January 2, 2001, so that they could determine where he was when he made the calls. The cell tower locations do not appear on a person's regular cell phone bill but the police can obtain them when they request them from the phone company. It would have been standard police investigation procedure in January 2001 for any police agency investigating a murder to obtain the records regarding the location of the cell towers used in any cell calls made by any suspects.

(d) In this case, a June 12, 2002 letter from Detective Kowalski of the Prince William County Police to Mr. Elliott's trial counsel shows that the police had obtained the cell tower location records. I am attaching the letter and its attachments to this affidavit. I conclude that the police had obtained the cell tower location records for two reasons. First, in one of the charts regarding cell phone calls by Mr. Elliott and Ms. Gragg, there is a column entitled "Call Site" but the information in that column has been blacked out. Second, in a second chart regarding Mr. Elliott's cell phone calls, there is a column entitled "Call Tower Location," but all of the entries in that column have been left blank.

(e) I understand that Mr. Kelly's law firm has requested the prosecution and the police to provide the cell phone tower location records but that they have refused to do so.

(f) Because of the results of my investigation, described below, about the cell tower used for an AT&T call from Mr. Elliott's office at Fort Meade and the cell tower used for an AT&T call from Kaufmann's Restaurant, the cell tower location information that the Prince William County Police obtained would be very helpful in determining where Mr. Elliott was when he made the 5:23am call.

6. In order to do this assignment, I drove to two locations on Monday, 18<sup>th</sup> August 2009, going first to Fort Meade and then to Kaufmann's Restaurant. I made a cell phone call at each location, using an AT&T mobile telephone number 804-450-8808. I used an AT&T cell phone because I have been advised that Mr. Elliott had and used AT&T cell phone on the date of the murders, January 2, 2001.

7. On August 18<sup>th</sup>, I went inside Fort Meade and, with the assistance of David Dykes, a former colleague and co-worker of Mr. Elliott, I found a spot in the parking lot outside the Counterintelligence offices where Mr. Elliott worked within the grounds of Fort Meade. I then made a call on the AT&T cell phone. After making the call, I immediately called 611 (customer service) and spoke with a young lady named Ms. Douglas. I asked her to convey to me what cell tower had picked up the telephone call. She told me that it was the AT&T cell phone tower in Hanover, Maryland. Hanover, Maryland is generally west and north of Fort Meade.

8. I then drove to Kauffman's Restaurant at 329 Gambrills Road, Gambrills Maryland. It took me 10 minutes to do so. The Restaurant is about 6 miles south and east of Fort Meade. I made a call from the Restaurant's car park

with the same cell phone. I again contacted AT&T customer services, calling 611 on the cell phone. The employee had difficulty identifying the cell tower but eventually identified it as a competitor's cell tower, number 12404492370, explaining that AT&T sometimes uses other towers to generate and transmit calls from. I asked him for the closest AT&T tower and he said it was within three miles at Gambrills. I asked if the numbered cell tower could be in Hanover and he said *definitely not*. Given the fact that the AT&T cell phone call went to the competitor's cell phone tower, rather than to AT&T's cell tower in Gambrills, I believe it is reasonable to conclude that the competitor's cell tower is less than 3 miles from the Restaurant. I reported these facts back to Mr. Tom Kelly.

My Investigation of the Time for Mr. Elliott's Journey from Belfry Lane

9. Mr. Kelly then asked me to reconstruct two possible journeys, one from Woodbridge to Mr. Elliott's office in Fort Meade and one from Woodbridge to Kauffman's Restaurant in Gambrills. Mr. Kelly told me to start my journey at 4.30am and take the most direct route.

10. I was advised that the prosecution's theory was that Mr. Elliott had parked his pick-up truck at a parking spot in front of 3530 Belfry Lane, Woodbridge. This was the address that, at Mr. Elliott's trial, a police officer testified was the location of the truck given to him by Mary Bracewell, who had called the police about a possible prowler who had been at that truck. This is the testimony of Officer Marshall T. Daniel on July 17, 2002: "Yes, it was backed into a visitor's parking space in front of 3530." I have attached a copy of the page of Officer Daniel's testimony regarding the address.

11. I understand that the defense acknowledges that Mr. Elliott parked his pick-up truck on Belfry Lane, but says that his truck was parked in a different location than where the truck that Officer Daniel and Mary Bracewell saw was parked. I was advised by Mr. Kelly that Mr. Elliott said that he parked his pick-up at the intersection of Belfry Lane and Getty Lane. I have now been provided with, and read, the August 26, 2009 Affidavit of Mr. Elliott, in which he states, at paragraph 12: "I parked my truck in a visitor's parking spot which was next to the intersection of Belfry Lane and Gerry Lane." Mr. Elliott also states, in paragraph 13, that where he parked his truck was "some distance" from 3530 Belfry Lane and that 3530 Belfry Lane was "closer to the Thrall/Finch townhouse" than where he parked his truck.

12. In the course of this investigation, I have gone to Belfry Lane. Getty Lane intersects Belfry Lane at a location further south and east of 3530 Belfry Lane. I have also been provided with a copy of Appendix 33 to Mr. Elliott's Clemency Petition. This appendix contains two MapQuest maps, one of the townhouse at 3406 Joustlers Way, Woodbridge, and the other of 3530 Belfry Lane, Woodbridge. Based upon my having gone to both locations, I can say that the maps are accurate.

13. On Wednesday 19<sup>th</sup> August 2009, I drove from Belfry Lane, Woodbridge to Fort Meade. I left at precisely 4.30am. I used 4:30am based on the following facts: It is clear from the 911 tapes that the police first arrived at the townhouse at 4:26am. The next door neighbor had called 911 at 4:23am and she heard additional gunshots after she made the call. When the police arrived

at 4:26am, there was no perpetrator inside the townhouse, nor did the police see anyone fleeing. The reasonable conclusion from these facts is that the perpetrator or perpetrators had left the townhouse shortly before the police arrived, say at 4:25am. Given the distance from the townhouse to Belfry Lane, it is reasonable that the perpetrator(s) would have arrived on foot at Belfry Lane within 5 minutes of leaving the townhouse. Hence, the use of 4:30am for the start of my journey.

14. In using the 4:30am time, I am not adopting the prosecution's theory that Mr. Elliott was the murderer and that the vehicle that Ms. Bracewell and Officer Daniels saw was Mr. Elliott's pick-up truck. Rather, I am assuming -- only for the purpose of having a departure time that is consistent with, and most favorable to, the prosecution's theory -- that Mr. Elliott left at 4:30am. I understand that Mr. Elliott's position is that he left Belfry Lane at about 4:00 AM or so and arrived at his office at Fort Meade at about 5:10 or 5:15am.

15. When I started my journey on August 19<sup>th</sup> at 430am, I started from the general location of 3530 Belfry Lane. Again, I did so only to have a reconstruction journey that is most favorable to the prosecution's theory. If I had left from the location where Mr. Elliott says he parked his truck (near the intersection of Belfry Lane and Getty Lane), the journey would have been about a minute shorter.

16. In driving from Belfry Lane, Woodbridge, to Fort Meade, I took the route provided by the navigator program in my vehicle. I checked my watch when arrived at the gates of Fort Meade. The time was 5.34am, which was 1

hour and four minutes after I started. However, that does not include the time it would have taken to have reached Mr. Elliott's counterintelligence office from the front gate. I did not attempt to enter the gates at that time because of the heavy security on the gates. However, I had been to Mr. Elliott's office on a previous day and I would estimate a further 2-3 minutes to reach the car park outside Bill Elliott's office.

17. Let me digress here to note that there are now video cameras to the entrance at Fort Meade. I do not know if they would have been operative in 2001. Also, I am fairly sure that the front gate of Fort Meade is secured by contracted security guards. I raise these points because, if there were security cameras at Fort Meade in January 2001, I would have expected the detectives investigating the murders to have requested the videotapes from those cameras for the time period from 4:00 to 7:00am or so for the day of the murders (January 2, 2001). I would also have expected the detectives to have interviewed the security guards as to whether and when they had seen Mr. Elliott on January 2, 2001. These would be normal police investigation procedures. To the best of my knowledge, Mr. Elliott's defense and habeas attorneys have never been provided with any such videotapes or any police report indicating that the videotapes were requested or that the guards were interviewed and the results of that request and those interviews.

18. During the course of my journey from Belfry Lane to Fort Meade, I drove to the full speed limit and sometimes a little above moving with the general flow of traffic which was light. Hardly any vehicles overtook me during the course

of my drive there. My navigator program estimated the journey at 1 hour and 3 minutes.

19. There are two conclusions relevant to this case that can be drawn from the fact that it would take Mr. Elliott 1 hour and 6 minutes to drive -- in the early morning hours -- from Belfry Lane to his office at Fort Meade. First, if he had left, as he says, at about 4:00am, he would have been able to reach his office at the time he says he reached it -- between 5:10 and 5:15am. This is also consistent with the time period that Todd Prach, Mr. Elliott's co-worker saw him there. In his affidavit, Mr. Prach's states that he saw Mr. Elliott in the office washroom between 5:00 and 5:30am. Second, if Mr. Elliott had left Belfry Lane at the time that the prosecution's theory requires, at 4:30 am, he would not have been able to arrive there until well after 5:30am, which is the latest time that Todd Prach, Mr. Elliott's co-worker, saw him there.

20. I had been asked by Mr. Kelly to determine if there was anyone at Kaufmann's Restaurant at around 5:30am in the morning, so after arriving at Fort Meade on August 19<sup>th</sup>, I then drove directly from the front gate of Fort Meade to Kauffman's restaurant which was a distance of 5.3 miles and this time it took me 12 minutes to complete. Traffic at this time was light. I arrived at Kauffman's at 5.47am. Upon my arrival, there was no one at the restaurant. Around the back a catering truck was parked but there were no other vehicles. I did not see any security cameras.

21. I was also asked to make a second journey. That is, I had been asked to re-enact the journey that the prosecution's theory requires: Ms. Gragg's

statement was that Mr. Elliott was calling at 5:23am from the lot behind Kaufmann's Restaurant, so I was re-enacting the route from Belfry Lane to Kauffman's Restaurant in Gambrills.

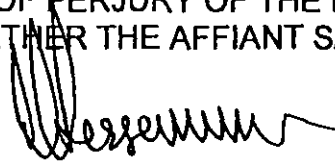
22. On Thursday 20<sup>th</sup> August 2009 at 4:30am, I drove from Belfry Lane Woodbridge, to 329 Gambrills Road, Gambrills, which is the address of Kauffman's restaurant. The journey took me 1 hour 6 minutes, and I arrived at 5:36am. I drove at the full speed limit and arrived in exactly the same time as predicted by my GPS. I drove straight there without deviation or hindrance. Traffic was light and speed limits were maintained.

23. Based on the fact that it would have taken Mr. Elliott 1 hour and six minutes to drive from Belfry Lane to Kaufmann's Restaurant, I conclude that this time requirement makes what Ms. Gragg testified to -- that Mr. Elliott was calling her from the Restaurant at 5:23am -- not physically possible. Mr. Elliott could not have left Belfry Lane at 4:30am and been at Gambrills Restaurant at 5.23am. Even if one were to assume that he had driven directly from Belfry Lane to the Restaurant, he would still have been on the highway at that time when the call was made. I also conclude that Ms. Gragg's testimony is contradicted by the fact that Mr. Prach testified in his affidavit that he saw Mr. Elliott between 5:00 and 5:30 am. But if Mr. Elliott had made the 5:23am call from the Restaurant, it would have taken him at least 10 to 12 minutes (including travel time from the Restaurant to the Fort Meade gate and then the addition time to get from the gate to Mr. Elliott's office) to get from the Restaurant to his office. But that time



requirement would put his arrival at his office long after Mr. Prach testified in his affidavit that he saw Mr. Elliott (between 5:00 and 5:30am).

SIGNED AND SWORN UNDER PENALTY OF PERJURY OF THE LAWS OF THE UNITED STATES OF AMERICA. FURTHER THE AFFIANT SAYETH NOT.



ROBERT CONWAY LESSEMUN

SUBSCRIBED and SWORN TO before me this 28<sup>th</sup> day of August, 2009, at Woodbridge, Virginia.



Notary Public in and for the State of Virginia.

My commission expires: June 30, 2011

Notary ID # 7083129





## COUNTY OF PRINCE WILLIAM

15948 Donald Curtis Drive, Woodbridge, VA 22191  
(703) 792-7200 Metro 631-1703

POLICE  
DEPARTMENT

Charlie T. Deane  
Chief of Police

June 12, 2002

Henry W. Asbill  
Asbill, Junkin, & Boss, Attorneys At Law  
1615 New Hampshire Avenue, N.W.  
Washington, D.C. 20009-2520

Dear Mr. Asbill,

Per Mr. Willett's instruction please find enclosed telephone records which we received.

I used these records in order to generate a chart showing certain incoming and outgoing calls from the phone number 443-562-5663. Not all the phone numbers which are in the records were placed into the chart. I only entered certain telephone numbers. In addition this chart is a compilation of two separate printouts. I have enclosed both. The short printout deals with just the incoming calls to the above telephone number.

In reviewing the chart that I generated for the Office of the Commonwealth's Attorney I find that I have a typographical error in the upper left corner of the chart. The last digit of the telephone number was wrong. I have struck through the error, made the correction, and initialed that correction.

If you have any questions, please give Mr. Willett a call.

Sincerely,

L.P. Kowalski, Master Detective  
Criminal Investigation Division

A NATIONALLY ACCREDITED LAW ENFORCEMENT AGENCY

An Equal Opportunity Employer

 Printed On Recycled Paper



## CALLS TO DESTINATION NUMBER

From: 12/20/2000 12:00 AM To: 01/05/2001 11:59 PM  
 Number Called: 4435625663  
 Subscriber Type : ALL  
 Authentication Type: ALL

	MobileId	Call Date	Call Time HR:MN:SC	Call Duration HR:MN:SC	Call Site
1	703-338-4819	01/05/2001	01:11:08 AM	00:01:15	
2	703-338-4819	01/05/2001	12:28:58 AM	00:02:35	
3	443-562-5663	01/04/2001	09:07:43 PM	00:00:20	
4	443-562-5663	01/04/2001	01:44:49 PM	00:00:33	
5	443-562-5663	01/04/2001	11:36:30 AM	00:00:34	
6	443-562-5663	01/04/2001	11:03:21 AM	00:00:39	
7	443-562-5663	01/04/2001	05:48:12 AM	00:00:42	
8	443-562-5663	01/03/2001	03:17:52 PM	00:00:39	
9	703-338-4819	01/03/2001	09:47:08 AM	00:13:19	
10	703-338-4819	01/02/2001	11:50:31 AM	00:03:15	
11	703-338-4819	01/02/2001	08:42:13 AM	00:06:10	
12	703-338-4819	01/02/2001	07:23:35 AM	00:02:22	
13	703-338-4819	01/02/2001	01:35:24 AM	00:01:13	
14	703-338-4819	01/02/2001	01:31:21 AM	00:03:08	
15	443-562-5663	01/01/2001	11:23:37 PM	00:00:19	
16	703-338-4819	01/01/2001	10:45:57 PM	00:01:30	
17	443-562-5663	01/01/2001	07:57:20 PM	00:00:37	
18	703-338-4819	01/01/2001	07:15:49 PM	00:00:07	
19	703-338-4819	01/01/2001	07:07:32 PM	00:06:08	
20	443-562-5663	01/01/2001	05:07:36 PM	00:00:40	
21	703-338-4819	01/01/2001	05:26:39 AM	00:17:33	
22	703-338-4819	01/01/2001	03:18:05 AM	00:00:44	
23	703-338-4819	12/31/2000	02:03:18 PM	00:00:21	
24	443-562-5663	12/31/2000	02:02:13 PM	00:00:30	
25	703-338-4819	12/31/2000	09:58:05 AM	00:31:03	
26	703-338-4819	12/31/2000	09:09:06 AM	00:05:19	
27	703-338-4819	12/30/2000	11:53:47 PM	00:06:39	
28	703-338-4819	12/30/2000	10:00:23 PM	00:00:33	
29	443-562-5663	12/30/2000	09:59:14 PM	00:00:45	
30	443-562-5663	12/30/2000	07:53:30 PM	00:01:03	
31	703-338-4819	12/29/2000	06:25:26 PM	00:06:22	
32	443-562-5663	12/29/2000	05:47:42 PM	00:00:38	
33	703-338-4819	12/29/2000	05:29:46 PM	00:00:29	
34	703-338-4819	12/29/2000	05:29:19 PM	00:00:07	
35	703-338-4819	12/29/2000	04:36:05 PM	00:00:04	
36	703-338-4819	12/29/2000	02:52:07 PM	00:18:11	
37	443-562-5663	12/29/2000	11:21:44 AM	00:05:53	
38	703-338-4819	12/28/2000	11:41:51 PM	00:03:37	
39	443-562-5663	12/28/2000	08:40:51 PM	00:00:29	
40	443-562-5663	12/28/2000	07:58:23 PM	00:04:36	
41	703-338-4819	12/28/2000	07:24:51 PM	00:00:25	
42	703-338-4819	12/28/2000	07:16:06 PM	00:00:02	
43	703-338-4819	12/28/2000	06:04:31 PM	00:00:40	
44	703-338-4819	12/28/2000	06:04:06 PM	00:00:01	
45	703-338-4819	12/28/2000	01:01:29 PM	00:02:03	
46	443-562-5663	12/28/2000	11:14:10 AM	00:00:11	
47	703-338-4819	12/28/2000	01:21:43 AM	00:07:01	
48	703-338-4819	12/27/2000	10:22:11 PM	00:00:21	
49	703-338-4819	12/27/2000	10:21:16 PM	00:00:20	
50	703-338-4819	12/27/2000	09:49:27 PM	00:03:23	
51	443-562-5663	12/27/2000	07:01:29 PM	00:01:19	

52	443-562-5663	12/27/2000	04:00:56 PM	00:04:27
53	703-338-4819	12/27/2000	03:31:52 PM	00:07:23
54	443-562-5663	12/26/2000	08:41:00 AM	00:00:12
55	443-562-5663	12/25/2000	06:10:00 PM	00:00:44
56	703-338-4819	12/25/2000	05:35:26 PM	00:00:39
57	443-562-5663	12/25/2000	09:56:46 AM	00:00:42
58	703-338-4819	12/25/2000	01:43:21 AM	00:00:26
59	443-562-5663	12/24/2000	10:30:59 PM	00:00:37
60	703-338-4819	12/24/2000	10:22:58 PM	00:00:33
61	443-562-5663	12/24/2000	04:21:11 PM	00:01:07
62	443-562-5663	12/23/2000	09:45:32 PM	00:01:23
63	443-562-5663	12/23/2000	09:16:37 AM	00:00:16
64	703-338-4819	12/22/2000	10:09:59 PM	00:03:40
65	703-338-4819	12/22/2000	03:01:47 PM	00:00:16
66	703-338-4819	12/22/2000	02:17:15 PM	00:01:14
67	703-338-4819	12/22/2000	02:16:21 PM	00:00:08
68	703-338-4819	12/22/2000	01:50:35 PM	00:00:52
69	703-338-4819	12/22/2000	01:50:12 PM	00:00:02
70	703-338-4819	12/22/2000	11:49:35 AM	00:04:23
71	703-338-4819	12/21/2000	10:00:21 PM	00:03:53
72	703-338-4819	12/21/2000	09:50:40 PM	00:00:36
73	703-338-4819	12/21/2000	12:33:30 PM	00:01:37
74	443-562-5663	12/21/2000	10:47:07 AM	00:00:33
75	443-562-5663	12/20/2000	10:09:08 PM	00:00:46
76	703-338-4819	12/20/2000	10:06:05 PM	00:02:57
77	703-338-4819	12/20/2000	09:55:55 PM	00:00:29
78	703-338-4819	12/20/2000	06:17:42 PM	00:02:07
79	703-338-4819	12/20/2000	12:13:52 AM	00:00:39

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TOTAL USAGE: 03:29:28

*PK*

Date	Time	End Time (Approx.)	Incoming / Outgoing	Number Called	Calling Number	Length of Call Hr:Min:Sec	Cell Tower Location
12/30/2000	10:00:23 PM	10:00:56 PM	Incoming		703-338-4819	0:00:33	
12/30/2000	11:30:28 PM	11:32:28 PM	Outgoing	703-338-4819		0:02:00	
12/30/2000	11:53:47 PM	12:00:26 AM	Incoming		703-338-4819	0:06:39	
12/31/2000	8:55:43 AM	8:56:43 AM	Outgoing	703-338-4819		0:01:00	
12/31/2000	9:06:32 AM	9:08:32 AM	Outgoing	703-338-4819		0:02:00	
12/31/2000	9:09:06 AM	9:14:25 AM	Incoming		703-338-4819	0:05:19	
12/31/2000	9:58:05 AM	10:29:08 AM	Incoming		703-338-4819	0:31:03	
12/31/2000	11:55:40 AM	11:58:40 AM	Outgoing	703-338-4819		0:03:00	
12/31/2000	2:05:18 PM	2:05:39 PM	Incoming		703-338-4819	0:00:21	
01/01/2001	12:31:31 AM	12:36:31 AM	Outgoing	703-338-4819		0:05:00	
01/01/2001	12:51:02 PM	12:54:02 PM	Outgoing	703-338-4819		0:03:00	
01/01/2001	12:58:41 AM	1:00:41 AM	Outgoing	703-338-4819		0:02:00	
01/01/2001	1:29:46 AM	1:33:46 AM	Outgoing	703-338-4819		0:04:00	
01/01/2001	2:29:45 AM	2:32:45 AM	Outgoing	703-338-4819		0:03:00	
01/01/2001	3:13:42 AM	3:14:42 AM	Outgoing	703-338-4819		0:01:00	
01/01/2001	3:18:05 AM	3:18:49 AM	Incoming		703-338-4819	0:00:44	
01/01/2001	5:26:39 AM	5:44:12 AM	Incoming		703-338-4819	0:17:33	
01/01/2001	11:44:42 AM	11:46:42 AM	Outgoing	703-338-4819		0:02:00	
01/01/2001	12:11:16 PM	12:14:16 PM	Outgoing	703-338-4819		0:03:00	
01/01/2001	12:38:34 PM	12:46:34 PM	Outgoing	703-338-4819		0:08:00	
01/01/2001	12:58:39 PM	1:00:39 PM	Outgoing	703-338-4819		0:02:00	
01/01/2001	2:16:38 PM	2:18:38 PM	Outgoing	703-338-4819		0:02:00	
01/01/2001	2:41:18 PM	2:43:18 PM	Outgoing	703-338-4819		0:02:00	
01/01/2001	3:00:52 PM	3:03:52 PM	Outgoing	703-338-4819		0:03:00	
01/01/2001	5:06:08 PM	5:07:08 PM	Outgoing	703-338-4819		0:01:00	
01/01/2001	6:46:47 PM	6:48:47 PM	Outgoing	703-338-4819		0:02:00	
01/01/2001	7:02:05 PM	7:07:05 PM	Outgoing	703-338-4819		0:05:00	
01/01/2001	7:07:32 PM	7:13:40 PM	Incoming		703-338-4819	0:06:08	

Homicide Case #01-546  
victim - Finch, Robert  
Thall, Dana

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01/01/2001	7:15:49 PM	7:15:56 PM	Incoming		703-338-4819	0:00:07	
01/01/2001	8:17:18 PM	8:19:18 PM	Outgoing	703-338-4819		0:02:00	
01/01/2001	8:24:02 PM	8:44:02 PM	Outgoing	703-338-4819		0:20:00	
01/01/2001	10:14:47 PM	10:16:47 PM	Outgoing	703-338-4819		0:02:00	
01/01/2001	10:28:06 PM	10:44:06 PM	Outgoing	703-338-4819		0:16:00	
01/01/2001	10:45:57 PM	10:47:27 PM	Incoming		703-338-4819	0:01:30	
01/01/2001	11:12:34 PM	11:14:34 PM	Outgoing	703-338-4819		0:02:00	
01/01/2001	11:24:13 PM	11:26:13 PM	Outgoing	703-338-4819		0:02:00	
01/01/2001	11:31:45 PM	11:34:45 PM	Outgoing	703-338-4819		0:03:00	
01/02/2001	12:12:47 AM	12:30:47 AM	Outgoing	703-338-4819		0:18:00	
01/02/2001	12:48:05 AM	1:12:05 AM	Outgoing	703-338-4819		0:24:00	
01/02/2001	1:12:32 AM	1:29:32 AM	Outgoing	703-338-4819		0:17:00	
01/02/2001	1:31:21 AM	1:34:29 AM	Incoming		703-338-4819	0:03:08	
01/02/2001	1:35:24 AM	1:36:37 AM	Incoming		703-338-4819	0:01:13	
01/02/2001	2:01:38 AM	2:21:38 AM	Outgoing	703-338-4819		0:20:00	
01/02/2000	5:24:05 AM	5:29:05 AM	Outgoing	703-338-4819		0:05:00	
01/02/2001	7:23:35 AM	7:25:57 AM	Incoming		703-338-4819	0:02:22	
01/02/2001	7:35:08 AM	7:37:08 AM	Outgoing	703-338-4819		0:02:00	
01/02/2001	8:07:48 AM	8:22:48 AM	Outgoing	703-338-4819		0:15:00	
01/02/2001	8:41:37 AM	8:43:37 AM	Outgoing	703-338-4819		0:02:00	
01/02/2001	8:42:13 AM	8:48:23 AM	Incoming		703-338-4819	0:06:10	
01/02/2001	10:34:13 AM	10:44:13 AM	Outgoing	703-338-4819		0:10:00	
01/02/2001	11:50:31 AM	11:53:46 AM	Incoming		703-338-4819	0:03:15	
01/02/2001	12:47:28 PM	12:48:28 PM	Outgoing	703-338-4819		0:01:00	
01/02/2001	2:21:59 PM	2:23:59 PM	Outgoing	703-338-4819		0:02:00	
01/02/2001	6:16:32 PM	6:23:32 PM	Outgoing	703-338-4819		0:07:00	
01/02/2001	10:29:42 PM	10:31:42 PM	Outgoing	703-338-4819		0:02:00	
01/03/2001	9:32:50 AM	9:33:50 AM	Outgoing	703-338-4819		0:01:00	
01/03/2001	9:47:08 AM	10:00:27 AM	Incoming		703-338-4819	0:13:19	

Homicide Case #01-546  
victim - Finck, Robert  
Thrall, Dana

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# Subpoena: 130021



Print Job: 1/11/2001 3:33:57 PM

PNE	663046811	443/562-5663						
12/31/2000	9:58:17 AM		32.0	0.00	0.00	0.00		INCOMING
12/31/2000	11:55:40 AM	703/338-4819	3.0	0.00	0.00	0.00		MOBILE
12/31/2000	2:02:06 PM	MSG RETRIEVE	1.0	0.00	0.00	0.00		INCOMING
01/01/2001	12:31:31 AM	703/338-4819	5.0	0.00	0.00	0.00		MOBILE
01/01/2001	12:51:02 AM	703/338-4819	3.0	0.00	0.00	0.00		MOBILE
01/01/2001	12:58:41 AM	703/338-4819	2.0	0.00	0.00	0.00		MOBILE
01/01/2001	1:29:46 AM	703/338-4819	4.0	0.00	0.00	0.00		MOBILE
01/01/2001	2:29:45 AM	703/338-4819	3.0	0.00	0.00	0.00		MOBILE
01/01/2001	3:13:42 AM	703/338-4819	1.0	0.00	0.00	0.00		ARLINGTON VA
01/01/2001	3:14:49 AM		1.0	0.00	0.00	0.00		INCOMING
01/01/2001	5:23:17 AM		18.0	0.00	0.00	0.00		INCOMING
01/01/2001	11:44:42 AM	703/338-4819	2.0	0.00	0.00	0.00		ARLINGTON VA
01/01/2001	12:11:16 PM	703/338-4819	3.0	0.00	0.00	0.00		ARLINGTON VA
01/01/2001	12:38:34 PM	703/338-4819	8.0	0.00	0.00	0.00		ARLINGTON VA
01/01/2001	12:58:39 PM	703/338-4819	2.0	0.00	0.00	0.00		ARLINGTON VA
01/01/2001	2:16:38 PM	703/338-4819	2.0	0.00	0.00	0.00		MOBILE
01/01/2001	2:41:18 PM	703/338-4819	2.0	0.00	0.00	0.00		MOBILE
01/01/2001	2:47:50 PM	304/259-4271	1.0	0.00	0.00	0.00		DAVIS WV
01/01/2001	3:00:52 PM	703/338-4819	3.0	0.00	0.00	0.00		MOBILE
01/01/2001	3:20:00 PM	304/259-4221	6.0	0.00	0.00	0.00		DAVIS WV
01/01/2001	5:04:23 PM	304/259-4271	2.0	0.00	0.00	0.00		DAVIS WV
01/01/2001	5:06:08 PM	703/338-4819	1.0	0.00	0.00	0.00		MOBILE
01/01/2001	5:07:29 PM	MSG RETRIEVE	1.0	0.00	0.00	0.00		MOBILE
01/01/2001	5:08:35 PM	304/259-4221	21.0	0.00	0.00	0.00		DAVIS WV
01/01/2001	6:46:47 PM	703/338-4819	2.0	0.00	0.00	0.00		MOBILE
01/01/2001	7:02:05 PM	703/338-4819	5.0	0.00	0.00	0.00		MOBILE
01/01/2001	7:08:03 PM		7.0	0.00	0.00	0.00		INCOMING
01/01/2001	7:57:14 PM	MSG RETRIEVE	1.0	0.00	0.00	0.00		MOBILE
01/01/2001	8:05:44 PM	304/259-4271	12.0	0.00	0.00	0.00		DAVIS WV
01/01/2001	8:17:18 PM	703/338-4819	2.0	0.00	0.00	0.00		MOBILE
01/01/2001	8:24:02 PM	703/338-4819	20.0	0.00	0.00	0.00		MOBILE
01/01/2001	10:14:47 PM	703/338-4819	2.0	0.00	0.00	0.00		MOBILE
01/01/2001	10:28:06 PM	703/338-4819	16.0	0.00	0.00	0.00		MOBILE
01/01/2001	10:46:55 PM		2.0	0.00	0.00	0.00		INCOMING
01/01/2001	11:12:34 PM	703/338-4819	2.0	0.00	0.00	0.00		MOBILE
01/01/2001	11:23:30 PM	MSG RETRIEVE	1.0	0.00	0.00	0.00		MOBILE
01/01/2001	11:24:13 PM	703/338-4819	2.0	0.00	0.00	0.00		MOBILE
01/01/2001	11:31:45 PM	703/338-4819	3.0	0.00	0.00	0.00		MOBILE
01/02/2001	12:12:47 AM	703/338-4819	18.0	0.00	0.00	0.00		MOBILE
01/02/2001	12:48:05 AM	703/338-4819	24.0	0.00	0.00	0.00		MOBILE
01/02/2001	1:12:32 AM	703/338-4819	17.0	0.00	0.00	0.00		MOBILE
01/02/2001	1:31:45 AM		4.0	0.00	0.00	0.00		INCOMING
01/02/2001	1:35:48 AM		2.0	0.00	0.00	0.00		INCOMING
01/02/2001	2:01:39 AM	703/338-4819	20.0	0.00	0.00	0.00		MOBILE
01/02/2001	5:24:05 AM	703/338-4819	5.0	0.00	0.00	0.00		MOBILE
01/02/2001	7:24:17 AM		3.0	0.00	0.00	0.00		INCOMING

# Subpoena: 130021

Print Job: 1/11/2001 3:33:57 PM



PNE	663046811	443/562-5663						
01/02/2001	7:35:08 AM	703/338-4819	2.0	0.00	0.00	0.00	MOBILE	
01/02/2001	8:07:48 AM	703/338-4819	15.0	0.00	0.00	0.00	MOBILE	
01/02/2001	8:41:37 AM	703/338-4819	2.0	0.00	0.00	0.00	MOBILE	
01/02/2001	8:42:55 AM		7.0	0.00	0.00	0.00	INCOMING	
01/02/2001	10:34:13 AM	703/338-4819	10.0	0.00	0.00	0.00	MOBILE	
01/02/2001	11:53:59 AM		4.0	0.00	0.00	0.00	INCOMING	
01/02/2001	12:47:28 PM	703/338-4819	1.0	0.00	0.00	0.00	MOBILE	
01/02/2001	2:21:59 PM	703/338-4819	2.0	0.00	0.00	0.00	MOBILE	
01/02/2001	6:16:32 PM	703/338-4819	7.0	0.00	0.00	0.00	MOBILE	
01/02/2001	8:21:58 PM	304/259-4271	16.0	0.00	0.00	0.00	DAVIS WV	
01/02/2001	9:29:10 PM	410/491-0938	3.0	0.00	0.00	0.00	CATONSVL MD	
01/02/2001	9:43:20 PM	410/491-0938	4.0	0.00	0.00	0.00	CATONSVL MD	
01/02/2001	10:29:42 PM	703/338-4819	2.0	0.00	0.00	0.00	MOBILE	
01/03/2001	9:32:50 AM	703/338-4819	1.0	0.00	0.00	0.00	MOBILE	
01/03/2001	9:46:53 AM		14.0	0.00	0.00	0.00	INCOMING	
01/03/2001	3:17:46 PM	MSG RETRIEVE	1.0	0.00	0.00	0.00	MOBILE	
01/03/2001	6:08:18 PM		3.0	0.00	0.00	0.00	INCOMING	
01/04/2001	5:48:06 AM	MSG RETRIEVE	1.0	0.00	0.00	0.00	MOBILE	
01/04/2001	10:09:43 AM		1.0	0.00	0.00	0.00	INCOMING	
01/04/2001	11:03:14 AM	MSG RETRIEVE	1.0	0.00	0.00	0.00	MOBILE	
01/04/2001	11:07:36 AM		2.0	0.00	0.00	0.00	INCOMING	
01/04/2001	11:36:24 AM	MSG RETRIEVE	1.0	0.00	0.00	0.00	MOBILE	
01/04/2001	11:51:30 AM		15.0	2.75	0.00	2.75	INCOMING	
01/04/2001	1:44:42 PM	MSG RETRIEVE	1.0	0.25	0.00	0.25	MOBILE	
01/04/2001	2:06:40 PM		24.0	6.00	0.00	6.00	INCOMING	
01/04/2001	4:47:26 PM		3.0	0.75	0.00	0.75	INCOMING	



1 can hear you.

2 THE WITNESS: Yes, sir.

3 The vehicle was backed into a visitor's space  
4 on Belfry Lane. I would need to look at my notes to  
5 verify the address. I believe it was 3530.

6 BY MR. WILLET:

7 Q Why don't you do that?

8 A (The witness complied with the request.)

9 Yes, it was backed into a visitor's parking  
10 space in front of 3530.

11 Q Right where it's handwritten in here 3530  
12 (indicating)?

13 A Yes, sir.

14 Q Thank you. Have a seat.

15 A (The witness complied with the request and  
16 resumed his seat in the witness stand.)

17 Q And who showed you where the truck was?

18 A The newspaper delivery lady. The last name  
19 was Bracewell.

20 Q Was that the lady who just came out of the  
21 courtroom?

22 A I didn't see a lady come out of the courtroom.

23 Q Were you in the witness room?

# **APPENDIX 11**

STATE OF WASHINGTON                    )  
  )  
COUNTY OF THURSTON                 )        ss.

**AFFIDAVIT OF VERNON G. PARKS**

I, VERNON G. PARKS, depose and state as follows:

1. I am over the age of 18 and I am capable of making this affidavit. I have personal knowledge of the facts set forth in this affidavit and I believe that those facts are true and correct.
2. I reside at 4448 -- 64<sup>th</sup> Avenue SE, Olympia, Washington, 98513.
3. I have been retained by Preston Gates & Ellis LLP ("Preston"), to assist it in investigating a matter involving the trial of Larry Bill Elliott ("Elliott") in Commonwealth of Virginia v. Larry Bill Elliott, Circuit Court of Prince William County, Virginia, Criminal Nos. 51115-51118.
4. I have over 40 years of work experience and training in investigations. My training and professional work experience relevant to the professional services I have rendered to Preston in this matter are detailed in my resume, attached hereto as **Attachment A** and incorporated herein by reference.
5. In February 2005, I went to the Prince William County Courthouse and examined the exhibits that were available there that had been admitted into evidence in the trials of Elliott. One of the exhibits was Exhibit 22. This was a manila envelope that purported to contain a blood drop purportedly taken from the outdoor back gate at the town house where the murders occurred, 3406 Joustlers Way, Woodbridge, Virginia (the "House").
6. Attached hereto as **Attachment B** and incorporated herein by reference are true and correct copies of the front and back of Exhibit 22 that I took when I visited the Courthouse on that day. As can be seen on the photograph, the exhibit is dated "1-2-01."
7. As part of my investigation, I visited Northern Virginia and Maryland. I personally went to the locations described below. I also reviewed the information regarding distances between relevant locations that were calculated both by Mapquest and by Joell Parks (See Affidavit of Joell Parks, APP 5621).

As a result, I found the following:

- a) The Prosecution asserted that Elliott made a phone call to Rebecca Gragg ("Gragg") from a 7-11 convenience store (the "7-11") located at 4919 Kirkdale Drive, Woodbridge, Virginia prior to the murders.

- b) I have examined the 7-11 videotape, which I understand was in the materials received from Elliott's prior counsel. I have personally met Elliott. I recognized him in the videotape. The tape shows him entering the store at 3:21 a.m. and leaving at 3:24 a.m. on January 2, 2001.
- c) I am aware that Mary Bracewell reported that the man she reported seeing near a truck on Belfry Lane was wearing a "white jacket." The videotape makes it clear that Elliott was wearing a dark lightweight jacket when he was in the 7-11. Attached hereto as **Attachments C and D** are true and correct copies of two photographs of Elliott that were taken from the 7-11 videotape by the police. Each of these photographs confirms that the clothing worn by Elliott does not match Ms. Bracewell's description.
- d) The phone records from the 7-11 indicate that the call that Elliott made to Gragg was made at 3:20 a.m. Attached hereto as **Attachment E** is a true and correct copy of the relevant 7-11 phone records.
- e) Gragg's phone records indicate that she received the call at 3:27 a.m. Attached hereto as **Attachment F** is a true and correct copy of the relevant portion of Gragg's phone records. Her records show that the call lasted 13 minutes, meaning that it was completed by 3:40 a.m., using the time from her records.
- f) Based on these records, I concluded that Elliott left the 7-11 at 3:40 a.m. on January 2, 2001.
- g) According to Mapquest, the distance from the 7-11 to Belfry Lane is approximately 4.2 miles, with a drive time of 9 minutes. Attached hereto as **Attachment G** is a true and correct copy of the Mapquest printout. This is consistent with the travel time recorded by Joell Parks (9 minutes). See Affidavit of Joell Parks.
- h) Based on that travel time, I concluded that Elliott arrived at Belfry Lane at approximately 3:49 a.m. on January 2, 2001.
- i) I understand, from reading the police reports of the officers' conversations with Elliott and the officers' testimony at trial that Elliott parked his truck on Belfry Lane, went down to a nearby ravine and paused for a few minutes to urinate and smoke, then went up to the vicinity of the House.
- j) I reenacted the route reflected in the police reports/trial testimony. I walked the distance from where Elliott's truck was supposedly parked on Belfry Lane to the vicinity of the House, pausing a few minutes to allow time for Elliott to urinate and to smoke, as he told the police. I have also reviewed the time calculated for this walk by Joell Parks, which is

consistent with my own timing. As recorded by Ms. Parks, the walk, including the pause, took approximately 20 minutes. I then walked back from the vicinity of the House to where the police indicated that Elliott had told them he parked his truck. As recorded by Ms. Parks, the return walk, taking the route explained by Elliott to the police, took approximately 5 minutes, resulting in a total of approximately 25 minutes roundtrip.

- k) Based upon the police reports/trial testimony, the times recorded by Ms. Parks, and my own walking, I concluded that Elliott could have completed the walking and pauses and arrived back at this truck at 4:14 a.m. on January 2, 2001. He would then have been able to drive this truck to Ft. Meade.
- l) The distance between the place where Elliott was supposedly parked on Belfry Lane to Fort Meade, where Elliott was employed, is approximately 57.5 miles, according to Mapquest, and takes 1 hour and 9 minutes to drive. Attached hereto as **Attachment H** is a true and correct copy of the Mapquest printout.
- m) Based upon all of the above, I conclude that Elliott could have arrived at Ft. Meade as early as 5:23 a.m. on January 2, 2001.
- n) I interviewed Todd Prach and have read his affidavit, in which he says that on January 2, 2001, he "saw Larry Bill Elliott at approximately 0500 – 0530 hours" in the men's restroom at Fort Meade. APP 5496. This is entirely consistent with what I concluded above.
- o) Rebecca Gragg told police that Elliott told her he drove to Kaufmann's Restaurant ( the "Restaurant") to dump the "bloody bags." APP 1586. The Restaurant is located at 329 Gambrills Road, Gambrills, Maryland, approximately 6.6 miles and 19 minutes from Fort Meade. Attached hereto as **Attachment I** is a true and correct copy of the Mapquest printout. The Restaurant is approximately 57.5 miles and 68 minutes from Belfry Lane. Attached hereto as **Attachment J** is a true and correct copy of the Mapquest printout.
- p) According to Mapquest, the distance between Fort Meade and Elliott's home is approximately 2.8 miles and 9 minutes. Attached hereto as **Attachment K** is a true and correct copy of the Mapquest printout. Because of traffic at Ft. Meade, which starts early in the morning, the time can vary, but it would certainly be possible for Elliott to leave his office at Ft. Meade shortly after 5:30 a.m. and arrive at his home by 6:00 a.m.

8. Based on my experience, and the events detailed in Paragraph 7 above, I have come to the following conclusions:

- a) As indicated above, from the description of Elliott's activities that he gave the police, from the cell phone records (indicating how long the phone conversations were), and from my driving and walking, I conclude that Elliott could have left the 7-11, gone to Belfry Lane and parked, walked as he described to the police, returned to his vehicle and left Belfry Lane by 4:14 a.m., before the murders occurred. This would have put him at Ft. Meade at approximately 5:23 a.m., which is consistent with the time Todd Prach estimated having seen him there.
  - b) The 911 reports indicate that the murders took place at approximately 4:23 a.m. on January 2, 2001. Even if one assumes that Elliott was present in the vicinity of the House and did not leave Belfry Lane until after the murders had occurred:
    - (1) Hypothetical 1 – if Elliott had left the vicinity of the House after the murders occurred (approximately 4:23 a.m.), there would not have been sufficient time for him to arrive at his office (57.5 miles, 69 minutes plus 5 minutes to return to his vehicle) at Ft. Meade by 5:00 AM (the earliest time that Prach said that he might have encountered Elliott).
    - (2) Hypothetical 2 – if one assumes that Elliott disposed of bloody materials at the Restaurant (as Gragg testified), there would not have been sufficient time for him to have driven to the Restaurant (57.5 miles, 68 minutes plus 5 minutes to return to his vehicle), disposed of the materials (an unknown timeframe) and then driven to Ft. Meade (6.6 miles, 19 minutes) by 5:30, the latest time at which Prach saw him.
    - (3) Hypothetical 3 – even if one assumes that he did not dispose of the bags, but went directly to Ft. Meade and the disposal was made later, there would not have been sufficient time for him to get to Ft. Meade by 5:30, the latest time that Prach saw him. In fact, had he left the vicinity of the House at 4:23 a.m., he would not have arrived until approximately 5:37 a.m. (5 minutes to get from the House to Belfry Lane, 69 minutes to drive). This timeline also presumes that Elliott did not clean his truck or take any additional time to make sure that neither his truck nor his person showed any signs of his having recently murdered two persons.
9. I have reviewed the crime scene videotape submitted into evidence. The running time for the tape is 14 minutes and 12 seconds.
  10. In November 2004, Elliott gave me a letter he had received from Detective Hoffman in June 2004. Attached hereto as **Attachment L** is a true and correct

copy of the June 2, 2004 letter from Hoffman, in which he indicates that he continues to pursue information that supports the role of others in this crime.

11. I have read the affidavit of Robert Conway Lessemun submitted in this case and I agree with his observations regarding police procedures in Paragraphs 7.0-7.7.
12. I have studied and analyzed the trial transcripts, forensic and ballistics reports, the police reports, crime scene photographs, autopsy photographs, and crime scene videotape in this case. Based on my experience and my independent analysis of this material, my opinion is as follows:

a) Finch Murder.

In his Opening, Mr. Willett, the Prosecutor, asserted that there was only one intruder and that the intruder fired three shots up the stairs and then fired three shots into Finch, whose "body then crashed down the stairwell and landed at the foot of the steps." APP 1114.

Although the Prosecution asserted that Robert Finch was shot as he was coming down the stairs, there is no basis in the evidence to support that conclusion. There is no blood from Finch on the stair carpet or on the stairway wall or on the banister. There was no evidence of damage to the basket at the foot of the stairs (visible in one of the attached photographs), which would have been expected from his fall (or his "crash" as Mr. Willett put it), given the fact that Finch was a large man, 6' 2" and 257 pounds.

There is also no basis in the evidence for the Prosecution's assertion that the assailant(s) fired three shots up the stairs at Finch. Rather, the crime scene photos, the location of the bullet wounds, the evidence that he failed to brace himself as he fell and the powder burns on his clothing (indicating that the assailant was close to Finch, not shooting at him from the bottom of the stairs), all indicate that Finch was not shot on the stairway, but was shot between the front door and the bottom of the stairs where he was found when the police arrived.

The crime scene photos show the placement of Finch's body at the bottom of the stairs, with his feet in the living room. Attached hereto as **Attachments M, N, O and P** are true and correct copies of four crime scene photographs. The position of Finch's arms, combined with the injuries to his face, indicate that he did not brace himself as he fell. The photos also show that the stairway was narrow and that there were objects (a large basket and shoes) obstructing access to the stairway that were undisturbed at the foot of the stairs.

It does appear that three shots were fired up the stairs, but there is no reason to conclude that those shots were the first shots fired or that they were shots taken at Finch

The assertion by Mr. Willett that someone "fired three shots up the stairs" and then "[t]hree more shots were fired which went into the body of Robert Finch," APP 1114, is pure speculation and, as demonstrated above, contrary to the physical evidence. Mr. Willett's scenario appears to assume that Finch was facing, and looking down at, the assailant as he was shot, which makes it difficult to understand how he was shot once in the front, once in the back and once in the back of the head. Further, the shot to Finch's chest had a downward trajectory, which is wholly inconsistent with an upward shot from the bottom of the stairs.

Indeed, given the fact that Ms. Thrall's blood was found in two places on the stair carpet, it is more likely that the shots fired up the stairs were fired at her.

An additional problem with Mr. Willett's assertions about Finch's death is that two of the slugs found in Finch were Glasers and the third shot to the back of the head was a wadcutter. While it is possible that the revolver had a mixture of the two types of ammunition, it is more likely that one type of ammunition was used in a five or six cylinder revolver and then another type of ammunition was used upon reloading.

It would have been helpful for a crime scene reconstruction/blood spatter expert(s) to have done a blood spatter analysis to ascertain more information about the shootings. The blood spatter analysis ideally would have occurred immediately after the murders. It is possible that such experts may now be able to provide useful information, even from the photos and physical evidence still in existence.

b) Thrall Murder.

Mr. Willett, in his Opening, stated that Ms. Thrall's "place of execution was the back of the townhouse in the kitchen." APP 1114. He admitted that "[h]ow she got there for sure, we don't know." APP 1114. He then asserted that "she either got there at gunpoint or he dragged her. She certainly didn't go willingly." APP 1114-15.

Mr. Willett then asserted that she was beaten before she was shot four times. APP 1115.

In the Closing, Mr. Ebert had a different theory. He speculated that she was beaten and shot as she was coming down the stairs and then "had to come around to the kitchen area where she eventually died." APP 1942.



It is undisputed that Thrall's blood is on two locations on the carpet on the stairs in the House. APP 1300, 1812-13. This leads to the conclusion that she bled on the stairs as a result of being either assaulted (resulting in one or more injuries to her head) and/or shot one or more times on the stairs. Neither Mr. Willett's theory nor Mr. Ebert's theory accounts for the fact that a slug was found in a storage area under the stairs. APP 1297. Although the injuries to Thrall's head could have been inflicted by the blunt end of the gun, they could also have been inflicted by any number of types of blunt objects.

Testimony from a reconstruction or blood spatter expert could also have assisted in determining what likely happened inside the House to Ms. Thrall. For example, Thrall was obviously moved from the stairs to the kitchen, where she was found by police. Her blood was found on Finch's hand, which indicates she came into contact with Finch's body after she was injured. Some of Thrall's blood was found on the walls in the hallway between the front door and the kitchen. What is especially interesting is there is no clothing fiber or blood or skin of her assailant(s) under her fingernails that would indicate a struggle. Based on this evidence, in my opinion, it would have been very difficult for one person to (a) restrain her while moving her from the stairway to the kitchen; (b) continue to restrain her while shooting her; (c) continue to restrain her while unloading the revolver (i.e. removing the shells and putting them in a pocket); and (d) continue to restrain her while reloading the revolver.

- c) It is my opinion that a sole attacker could not have murdered the victims in the manner suggested by the Prosecution. Rather, in my opinion, it is more likely from the evidence that two or more intruders were involved. Expert testimony regarding the physical evidence, such as wound angles and blood spatters, would have raised substantial doubt as to the Prosecution's "one assailant/one triggerman" theory.

SIGNED AND SWORN UNDER PENALTY OF PERJURY. FURTHER THE AFFIANT SAYETH NAUGHT.

  
VERNON G. PARKS

Subscribed and sworn to before me on  
this 10th day of March, 2005 in  
Seattle, Washington.

  
Notary Public

My commission expires: 10-10-05



VERNON G. PARKS  
4448 – 64<sup>th</sup> Avenue SE  
Olympia, Washington 98513  
phone # 360-491-2166

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## PROFESSIONAL WORK EXPERIENCE

September 2004-  
Present:

Investigator, Preston Gates & Ellis, LLP  
Seattle, WA

- Came out of retirement to assist in investigation of double murder resulting in conviction and imposition of death penalty.

2002 – 2005

Private Investigator, Owner, Vern Parks and Associates, LLC,  
Olympia, WA

- Services provided: Actuarial audits for Native American Nations; workers compensation investigations including uncovering fraudulent claims or misappropriation of classification and experience rates; personal injury accident investigations, including substantial reconstruction and evaluation.

1969 – 2001

Private Investigator, Owner, CEO of Penser International, LTD,  
Olympia, WA

- Services provided: General investigations for Washington and non-Washington employers related to workers' compensation issues; specialized in accident investigations, with emphasis on death, suspected murder and serious injuries involving possible pensions; consultant in workers' compensation administration; criminal audits for 3M corporation in California and Illinois; murder investigations; testified before the Washington Legislature on related issues.
- Actuarial expertise: Rate and Rate Modification Matters, Classification Issues, Premium payment fraud, Workers Compensation Claims Management, Unemployment Compensation Claims Management.

1964 – 1969

Private Investigator, Owner, Olympic Investigation Agency,  
Olympia WA

- Services provided: general investigative services, accident scene reconstruction, crime scene reconstruction; personal injury investigations, creation and deployment of complex "scams" for personal injury claims and business interruption policies.
- Clients: Smith Troy, Esquire; the Law Firm of (former Governor) Al Rosellini; various law firms in Olympia,

Tacoma, and Seattle, WA; various insurance companies. Some referrals from law enforcement.

1958 – 1968

Claims Investigator, Department of Labor & Industries, Olympia, WA

Special Investigator, Department of Labor & Industries, Olympia, WA

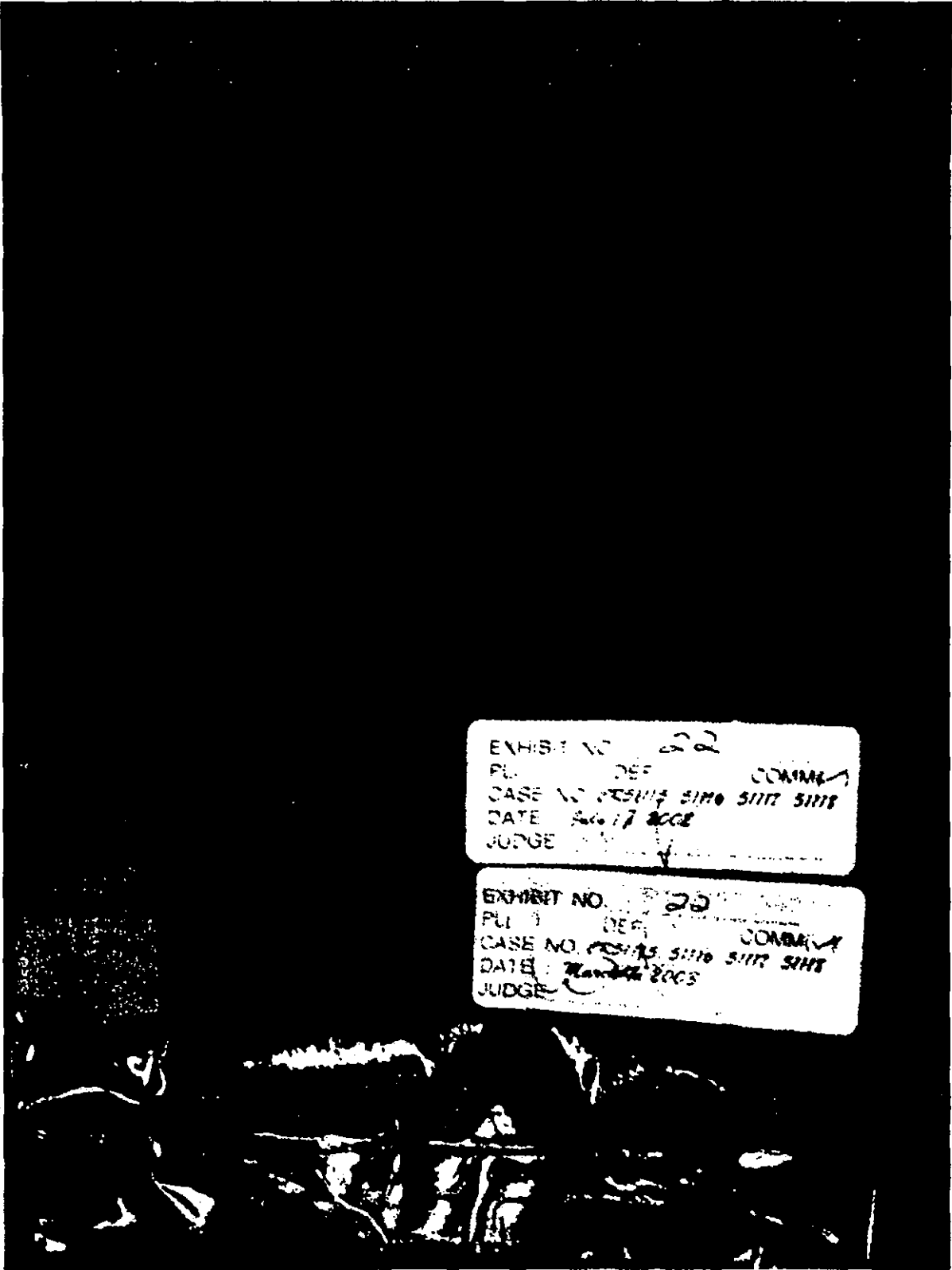
Special Investigator to the Office of Governor Rosellini

Support Investigator to County Sheriffs

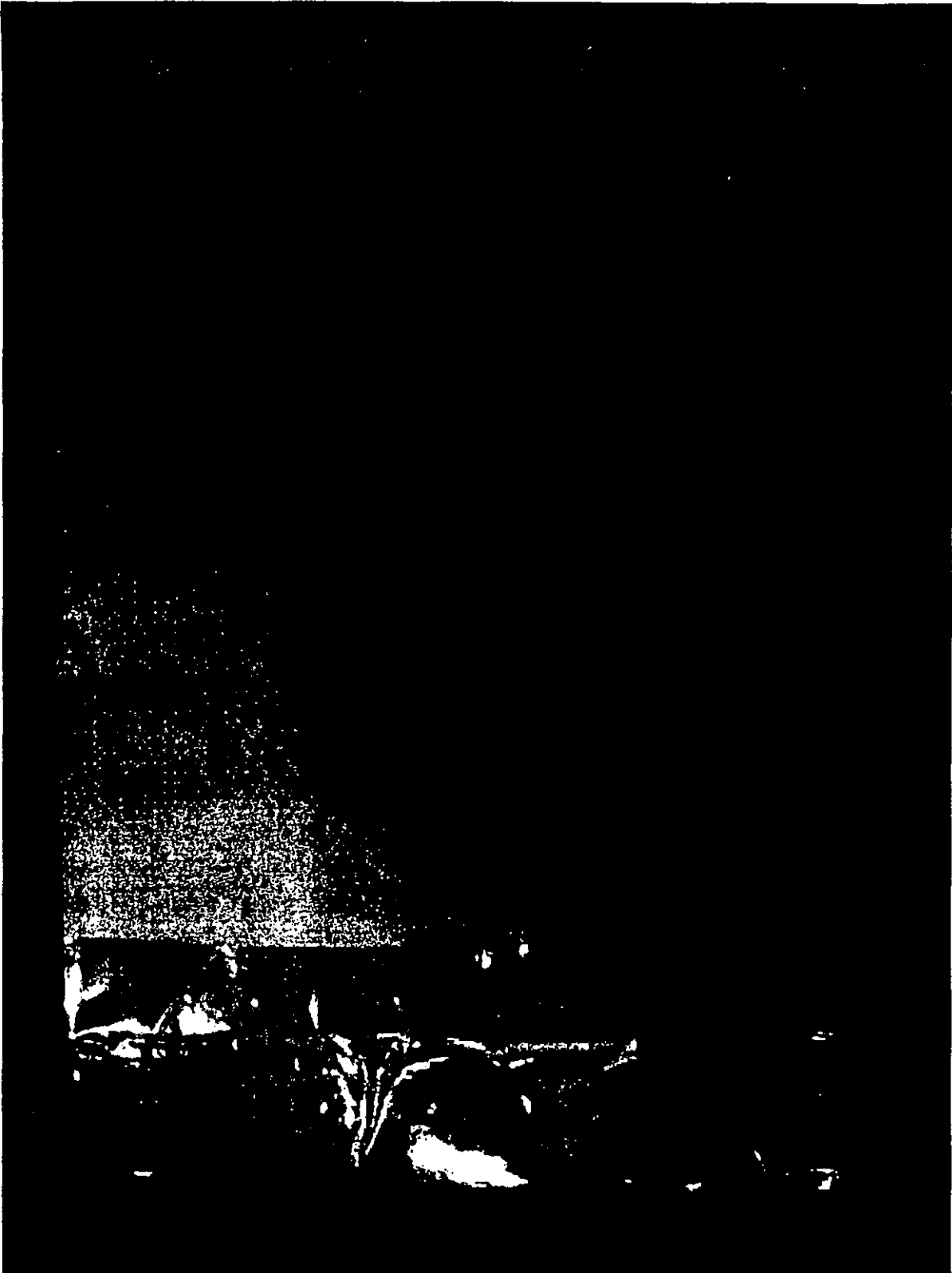
- As an employee of the Department of Labor and Industries: Investigated complex claims suspicious in nature, which involved surveillance; layperson and expert witness interviews; injury investigation and reconstruction, through measurement, photography (still and motion), development of medical history and medical information, and other means; accident scene analysis and reconstruction; cause of death determination; other causation reconstruction; auditing of financial and insurance records. The range of cases investigated include: heart attacks, suspicious death, fatalities, including suspected worksite homicides, and fraud
- As Special Investigator to the Director of the Department of Labor and Industries: Investigated suspected fraud and employee dishonesty.
- As Special Investigator to the Office of Governor's Rosellini: Conducted undercover investigations of political blackmail and other threats to the Governor.
- As Support Investigator to County Sheriffs: Assisted Sheriffs in Thurston, Mason and Lewis Counties on three homicide cases. In two of the homicide cases, assisted with crime scene analysis and reconstruction.

#### **SPECIAL CERTIFICATIONS & ACHIEVEMENTS:**

- Washington State Superior Court: Recognized as an expert in workers' compensation rates and classifications.
- Washington Board of Industrial Insurance Appeals: Qualified as an expert in OSHA/WISHA investigations, Workers' Compensation in General, and Workers' Compensation Classification.
- Recognized as one of the leading consultants in workers' compensation administration.
- Expert Rifleman, Marine Corps.



ELLIOTT EVIDENCE #7 - 22



ELLIOTT EVIDENCE #7 - 22





5792

Attachment D






Subpoena: 137883



Print Job: 3/20/2001 2:38:32 PM

PNE	663046811	703/338-4819							
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01/02/2001	3:44:19 AM	703/583-6131	1.0	0.25	0.00	0.25	1.0	DALE CITY VA	
01/02/2001	5:23:46 AM		5.0	1.25	0.00	1.25	5.0	INCOMING	
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01/02/2001	7:23:19 AM	443/562-5663	3.0	0.75	0.00	0.75	3.0	BALTIMORE MD	
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01/02/2001	7:36:13 AM	703/282-5224	1.0	0.00	0.00	0.00	1.0	HERNDON VA	
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01/02/2001	8:04:14 AM	804/411-	2.0	0.50	0.07	0.57	2.0	DIR. ASST. VA	
01/02/2001	8:07:10 AM		14.0	3.50	0.00	3.50	14.0	INCOMING	
01/02/2001	8:07:50 AM	910/527-7706	0.0	0.00	0.00	0.00	0.00	FAYETTEVL NC	
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01/02/2001	8:32:16 AM	703/583-6131	2.0	0.50	0.00	0.50	2.0	DALE CITY VA	
02/02/2001	8:33:44 AM	800/321-6808	8.0	2.00	0.00	2.00	8.0	INCOMING	
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01/02/2001	8:42:12 AM	MSG STORED	0.0	0.00	0.00	0.00	0.00	INCOMING	
02/02/2001	8:48:29 AM	MSG RETRIEVE	1.0	0.25	0.00	0.25	1.0	INCOMING	
01/02/2001	9:22:38 AM		2.0	0.50	0.00	0.50	2.0	INCOMING	
01/02/2001	9:38:44 AM	304/456-4051	3.0	0.00	0.00	0.00	3.0	ARBOVALE NV	
01/02/2001	9:41:34 AM	703/675-5600	1.0	0.00	0.00	0.00	1.0	WASHINGTON VA	Robert M... 1
02/02/2001	9:45:07 AM	703/675-5600	1.0	0.00	0.00	0.00	1.0	WASHINGTON VA	
01/02/2001	9:51:36 AM	703/730-8848	1.0	0.25	0.00	0.25	1.0	DALE CITY VA	Robert M...
01/02/2001	10:01:32 AM	703/922-1113	2.0	0.00	0.00	0.00	2.0	ARLINGTON VA	
01/02/2001	10:04:47 AM	MSG RETRIEVE	1.0	0.25	0.00	0.25	1.0	INCOMING	
01/02/2001	10:05:33 AM	703/583-6131	1.0	0.00	0.00	0.00	1.0	DALE CITY VA	
01/02/2001	10:05:39 AM	304/456-4051	2.0	0.50	0.00	0.50	2.0	ARBOVALE NV	
01/02/2001	10:08:46 AM	703/730-8848	2.0	0.50	0.00	0.50	2.0	DALE CITY VA	

# MAPQUEST.









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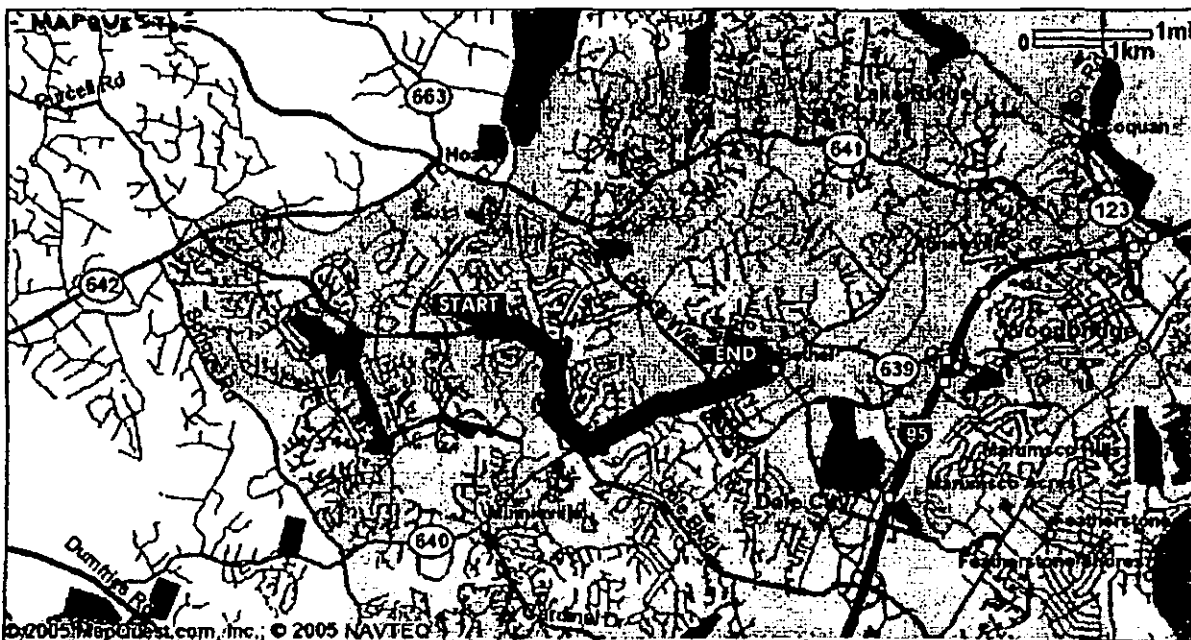
**Start:** 4919 Kirkdale Dr  
Woodbridge, VA  
22193-4841 US

**End:** [3500-3549] Belfry Ln  
Woodbridge, VA  
22192 US

**Distance:** 4.20 miles

**Total Estimated Time:** 9 minutes

Directions	Distance
 1. Start out going NORTHEAST on KIRKDALE DR toward OLD DELANEY RD.	0.1 miles
 2. Turn RIGHT onto DELANEY RD.	0.2 miles
 3. Turn LEFT onto DALE BLVD.	1.5 miles
 4. Turn LEFT onto VA-640 E/MINNIEVILLE RD.	1.7 miles
 5. Turn LEFT onto SMOKETOWN RD.	0.2 miles
 6. Turn LEFT onto BONNY RD.	<0.1 miles
 7. Turn RIGHT onto BELFRY LN.	0.1 miles
 8. End at [3500-3549] Belfry Ln, Woodbridge, VA 22192 US	

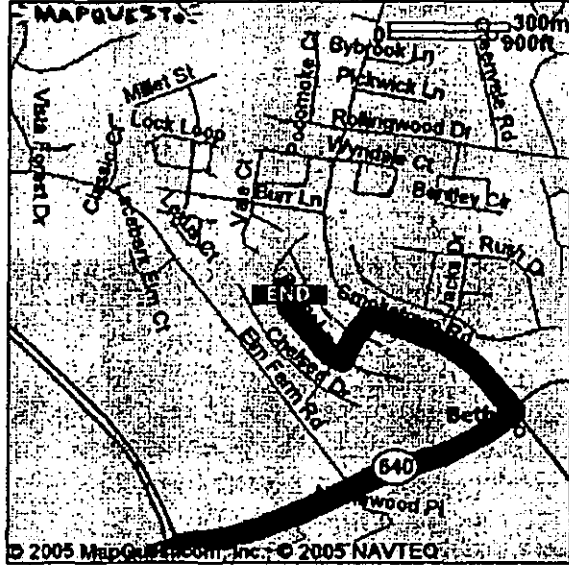
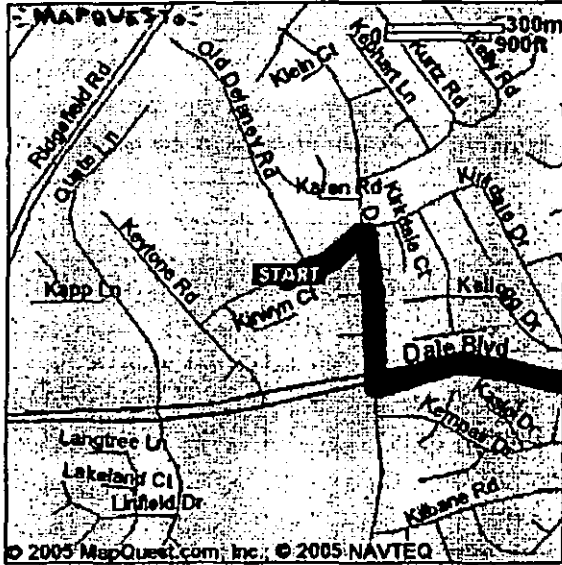


Attachment G

5795

**Start:**  
4919 Kirkdale Dr  
Woodbridge, VA  
22193-4841 US

**End:**  
[3500-3549] Belfry Ln  
Woodbridge, VA  
22192 US




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# MAPQUEST.


















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**Start:** [3500-3549] Belfry Ln  
Woodbridge, VA  
22192 US

**End:** Fort Meade, MD  
US

**Distance:** 57.50 miles

**Total Estimated Time:** 1 hour, 9 minutes

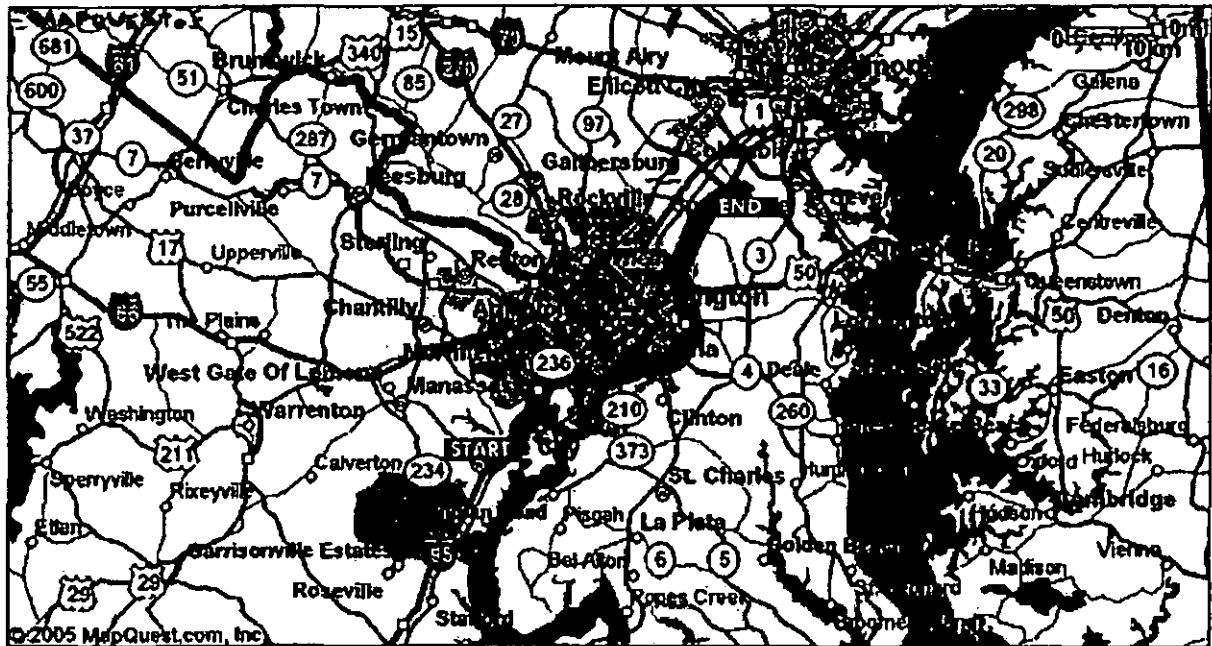
Directions	Distance
 1. Start out going SOUTHEAST on BELFRY LN toward GETTY LN.	0.1 miles
 2. Turn LEFT onto BONNY RD.	<0.1 miles
 3. Turn RIGHT onto SMOKETOWN RD.	0.6 miles
 4. Turn LEFT onto PRINCE WILLIAM PKWY/VA-3000 S.	1.4 miles
 5. Merge onto I-95 N toward WASHINGTON.	11.7 miles
 6. Merge onto I-95 N/CAPITAL BELTWAY toward BALTIMORE.	29.2 miles
 7. Take the BALT/WASH PKWY NORTH exit- EXIT 22A- toward BALTIMORE.	0.2 miles
 8. Take the MD-193 exit on the LEFT toward NASA GODDARD.	0.1 miles
 9. Merge onto MD-295 N.	9.8 miles
 10. Merge onto MD-32 E/SAVAGE RD toward FT MEADE.	1.1 miles
 11. Stay STRAIGHT to go onto ramp.	0.1 miles
 12. Keep LEFT at the fork in the ramp.	<0.1 miles
 13. Keep RIGHT at the fork in the ramp.	0.2 miles
 14. Merge onto MD-32 W/SAVAGE RD via the ramp on the LEFT.	0.5 miles
 15. Turn RIGHT onto EMORY RD.	0.2 miles
 16. Turn LEFT onto CANINE RD.	0.2 miles
 17. Turn RIGHT onto ROCKENBACH RD.	1.0 miles
18. Turn SLIGHT RIGHT onto COOPER AVE.	0.2 miles

Attachment H

5797

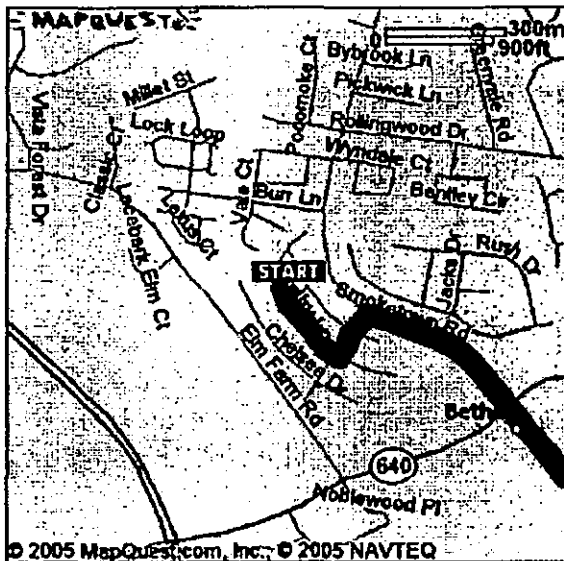


19. End at Fort Meade, MD US



Start:  
[3500-3549] Belfry Ln  
Woodbridge, VA  
22192 US

End:  
Fort Meade, MD  
US




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




**Start:** 329 Gambrills Rd  
Gambrills, MD  
21054-1125 US

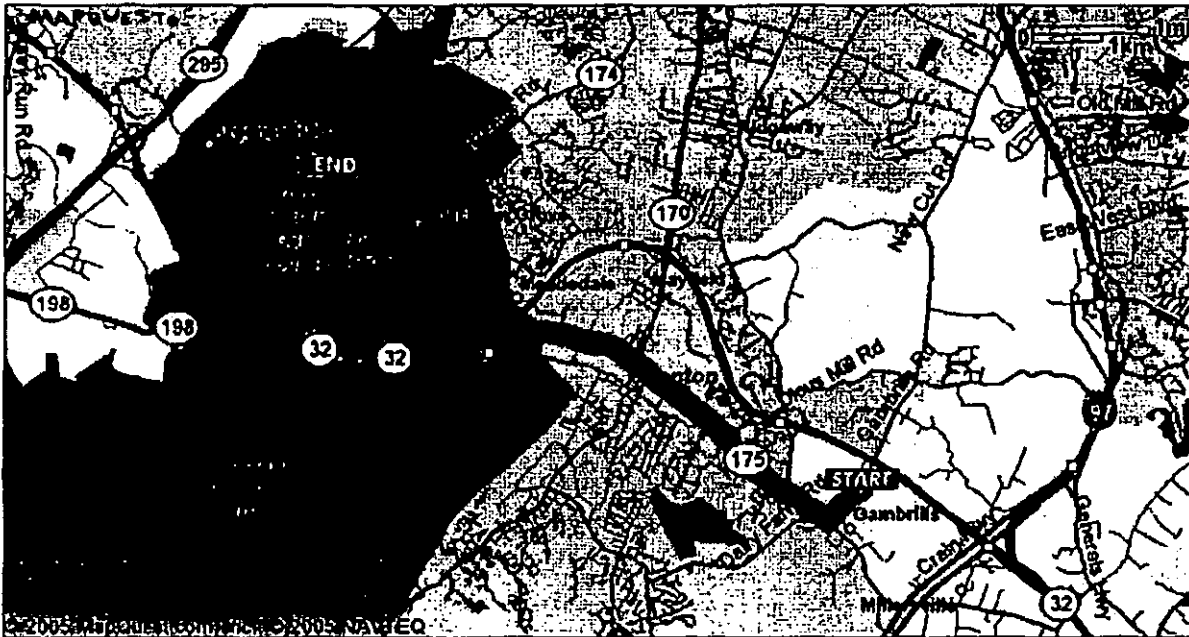
**End:** Fort Meade, MD  
US

**Distance:** 6.64 miles

**Total Estimated Time:** 19 minutes

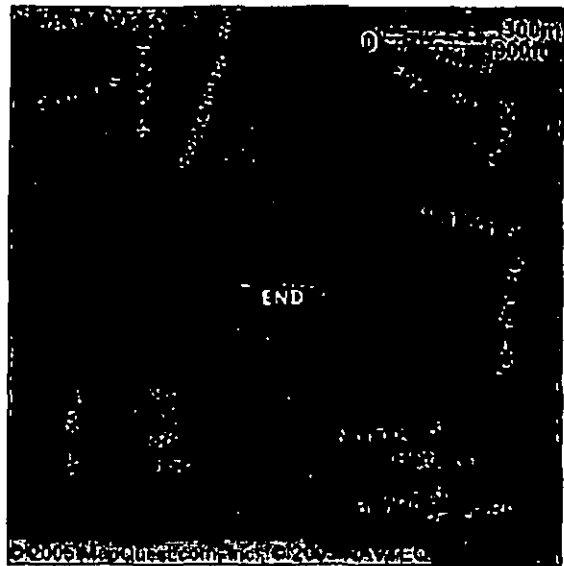
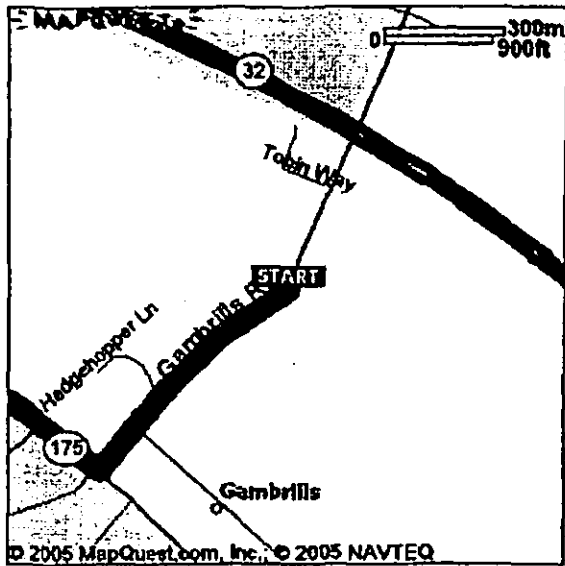
## Directions

		Distance
	1. Start out going <b>SOUTHWEST</b> on <b>GAMBRILLS RD</b> toward <b>HEDGEHOPPER LN.</b>	0.4 miles
	2. Turn <b>RIGHT</b> onto <b>MD-175 W/ANNAPOLIS RD.</b> Pass through 1 roundabout.	4.7 miles
	3. Turn <b>LEFT</b> onto <b>REECE RD.</b>	1.0 miles
	4. Turn <b>RIGHT</b> onto <b>COOPER AVE.</b>	0.3 miles
	5. End at Fort Meade, MD US	



**Start:**  
329 Gambrills Rd  
Gambrills, MD  
21054-1125 US

**End:**  
Fort Meade, MD  
US



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# MAPQUEST.














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**Start:** [3500-3549] Belfry Ln  
Woodbridge, VA  
22192 US

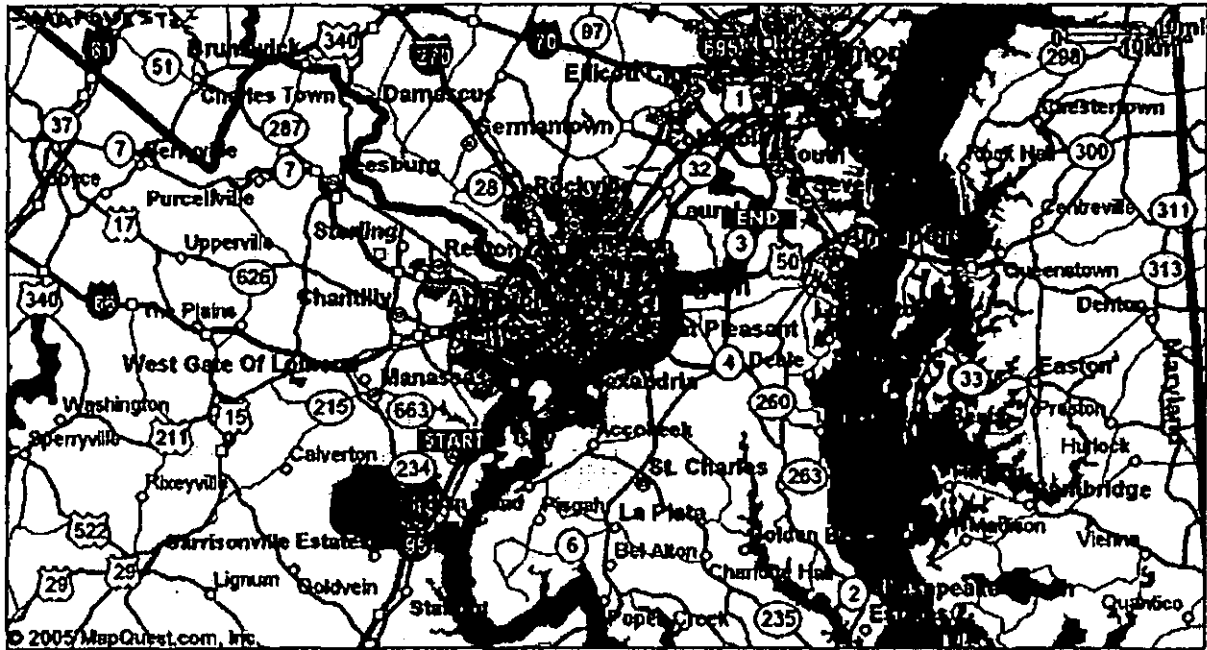
**End:** 329 Gambrills Rd  
Gambrills, MD  
21054-1125 US

**Distance:** 57.54 miles

**Total Estimated Time:** 1 hour, 8 minutes

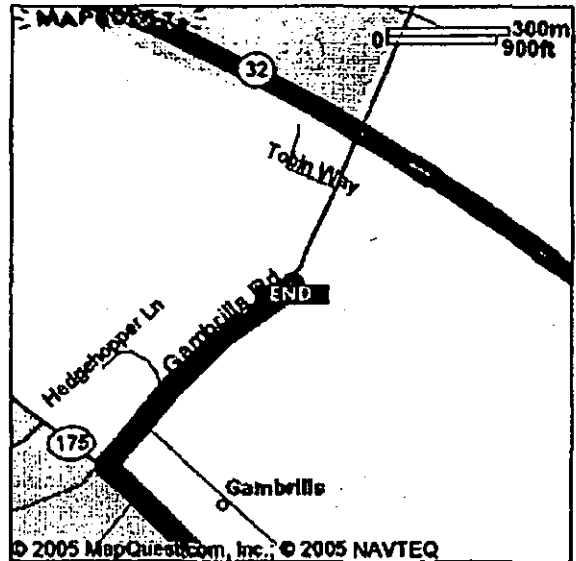
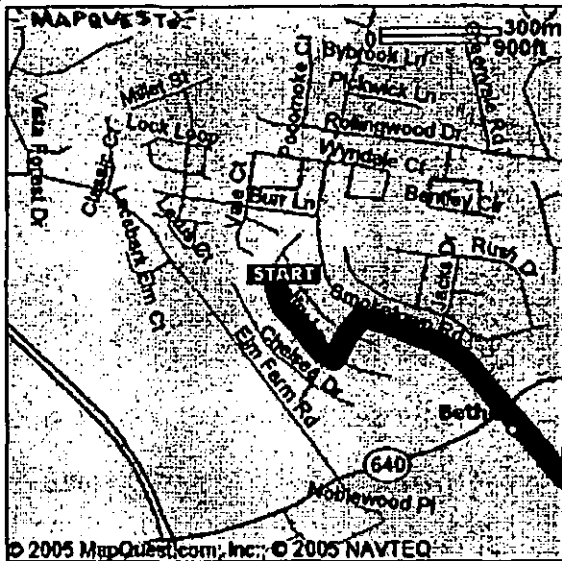
Directions	Distance
 1. Start out going SOUTHEAST on BELFRY LN toward GETTY LN.	0.1 miles
 2. Turn LEFT onto BONNY RD.	<0.1 miles
 3. Turn RIGHT onto SMOKETOWN RD.	0.6 miles
 4. Turn LEFT onto PRINCE WILLIAM PKWY/VA-3000 S.	1.4 miles
 5. Merge onto I-95 N toward WASHINGTON.	11.7 miles
 6. Merge onto I-95 N/CAPITAL BELTWAY toward BALTIMORE.	25.6 miles
 7. Merge onto US-50 E via EXIT 19A toward ANNAPOLIS.	7.2 miles
 8. Take the US-301/MD-3 exit- EXIT 13A-B-C- toward RICHMOND/BALTIMORE.	0.2 miles
 9. Take the MD-3 N exit- EXIT 13B-C- on the LEFT toward CROFTON.	0.4 miles
 10. Merge onto MD-3 N/N CRAIN HWY via EXIT 13B on the LEFT toward BALTIMORE.	8.2 miles
 11. Turn SLIGHT LEFT onto MD-175/MILLERSVILLE RD/ANNAPOLIS RD. Continue to follow MD-175/ANNAPOLIS RD.	1.1 miles
 12. Turn RIGHT onto GAMBRILLS RD.	0.4 miles
 13. End at 329 Gambrills Rd, Gambrills, MD 21054-1125 US	





Start:  
 [3500-3549] Belfry Ln  
 Woodbridge, VA  
 22192 US

End:  
 329 Gambrills Rd  
 Gambrills, MD  
 21054-1125 US




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# MAPQUEST







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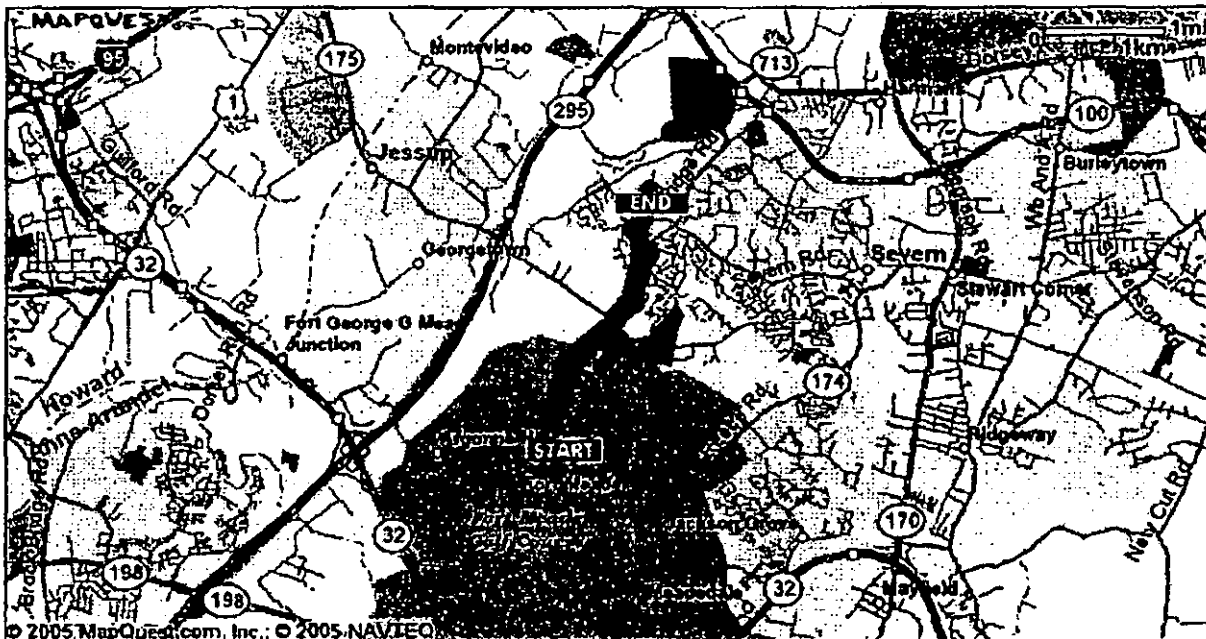
**Start:** Fort Meade, MD  
US

**End:** 1921 Portobago Ln  
Hanover, MD  
21076-1202 US

**Distance:** 2.80 miles

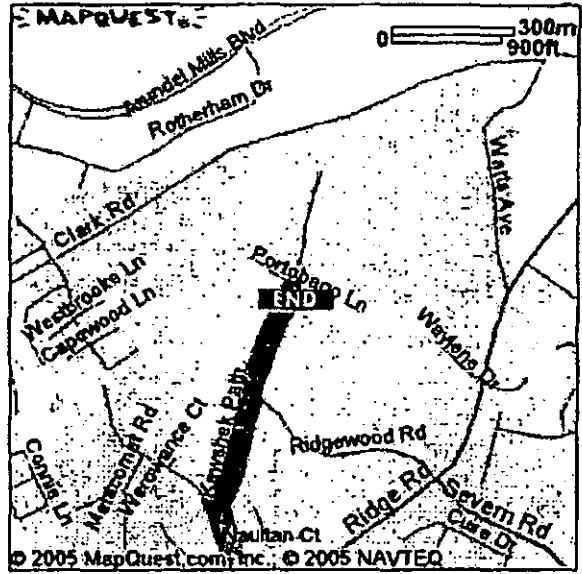
**Total Estimated Time:** 9 minutes

Directions	Distance
 1. Start out going NORTHWEST on COOPER AVE toward ROCKENBACH RD.	0.2 miles
 2. Turn RIGHT onto ROCKENBACH RD.	1.3 miles
 3. ROCKENBACH RD becomes RIDGE RD/MD-713 N.	0.7 miles
 4. Turn LEFT onto POMETACOM DR.	0.2 miles
 5. Turn RIGHT onto KAWSHEK PATH.	0.3 miles
 6. End at 1921 Portobago Ln, Hanover, MD 21076-1202 US	



**Start:**  
Fort Meade, MD  
US

**End:**  
1921 Portobago Ln  
Hanover, MD  
21076-1202 US



**Notes:**

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## COUNTY OF PRINCE WILLIAM

15948 Donald Curtis Drive, Woodbridge, Virginia 22191-4294  
(703) 792-7200 Metro 631-1703 FAX (703) 792-4589

**POLICE DEPARTMENT**  
Criminal Investigation Division

Charlie T. Deane  
Chief of Police

June 2, 2004

Larry Bill Elliott  
Inmate No. 321011  
Sussex 1 State Prison  
24414 Musselwhite Drive  
Waverly, Va. 23891

Dear Mr. Elliott:

Thank you for your letter of February 13, 2004. I have met with Ms. Kaesebier and provided her the information that she has requested.

I am still very much interested in the circumstances that preceded the deaths of Dana Thrall and Robert Finch. I still pursue information that supports the role of others in this crime.

Should you be willing to discuss this matter further, please send me a note or call collect to (703) 792-6410.

Sincerely,

Sergeant Charles L. Hoffman  
Supervisor, Violent Crimes Unit  
Criminal Investigation Division

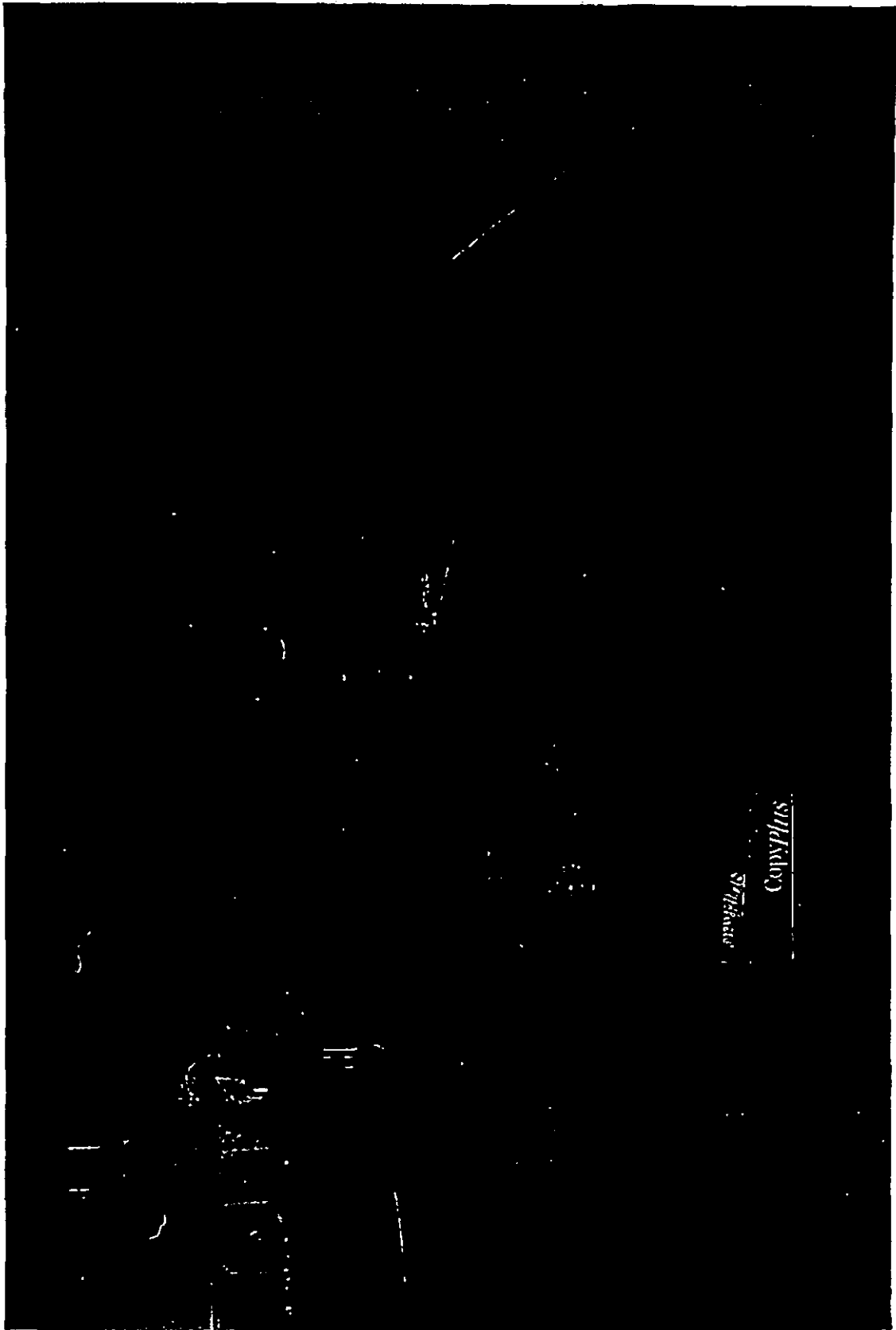
CLH/clh

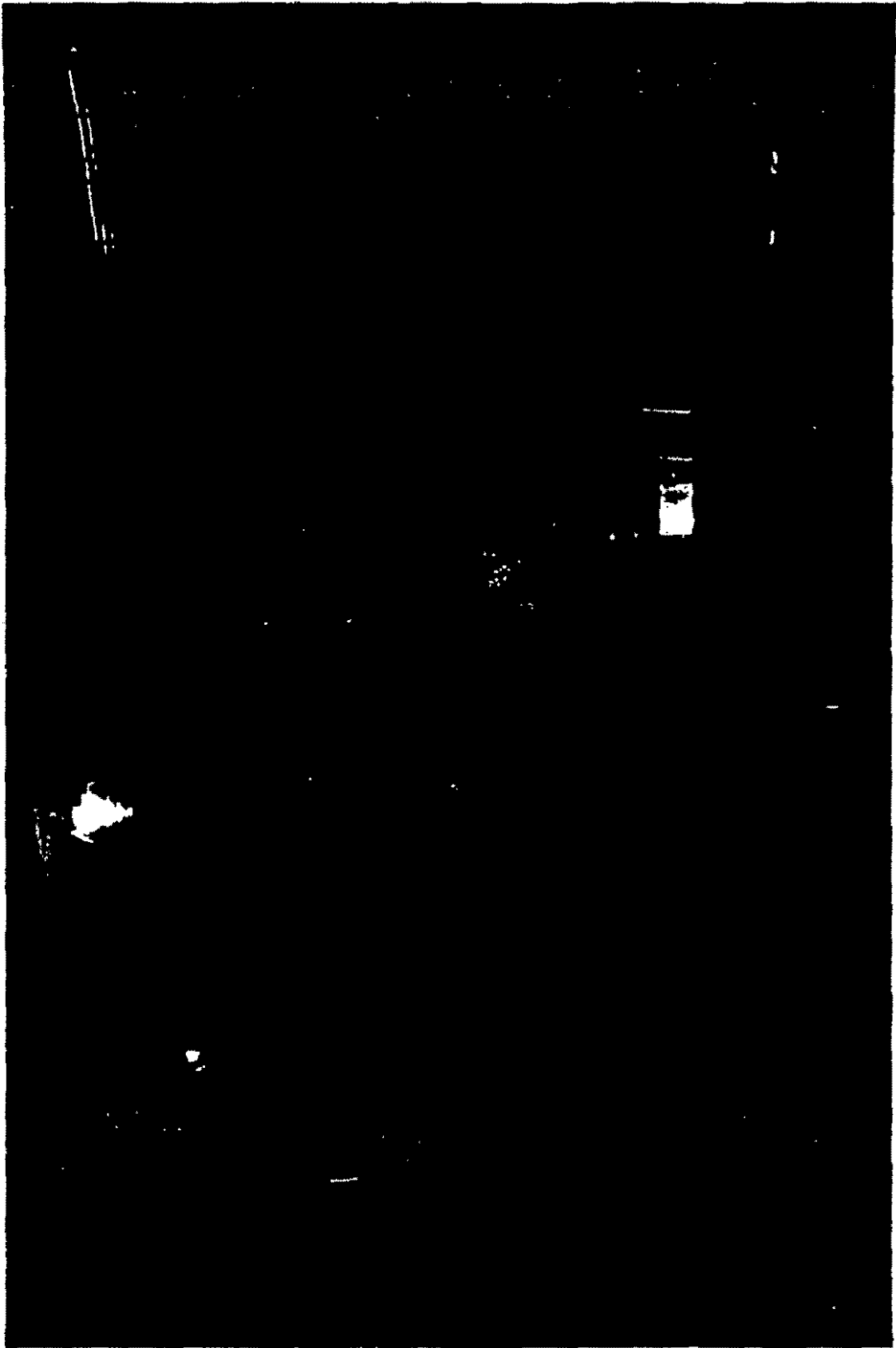
A NATIONALLY ACCREDITED LAW ENFORCEMENT AGENCY

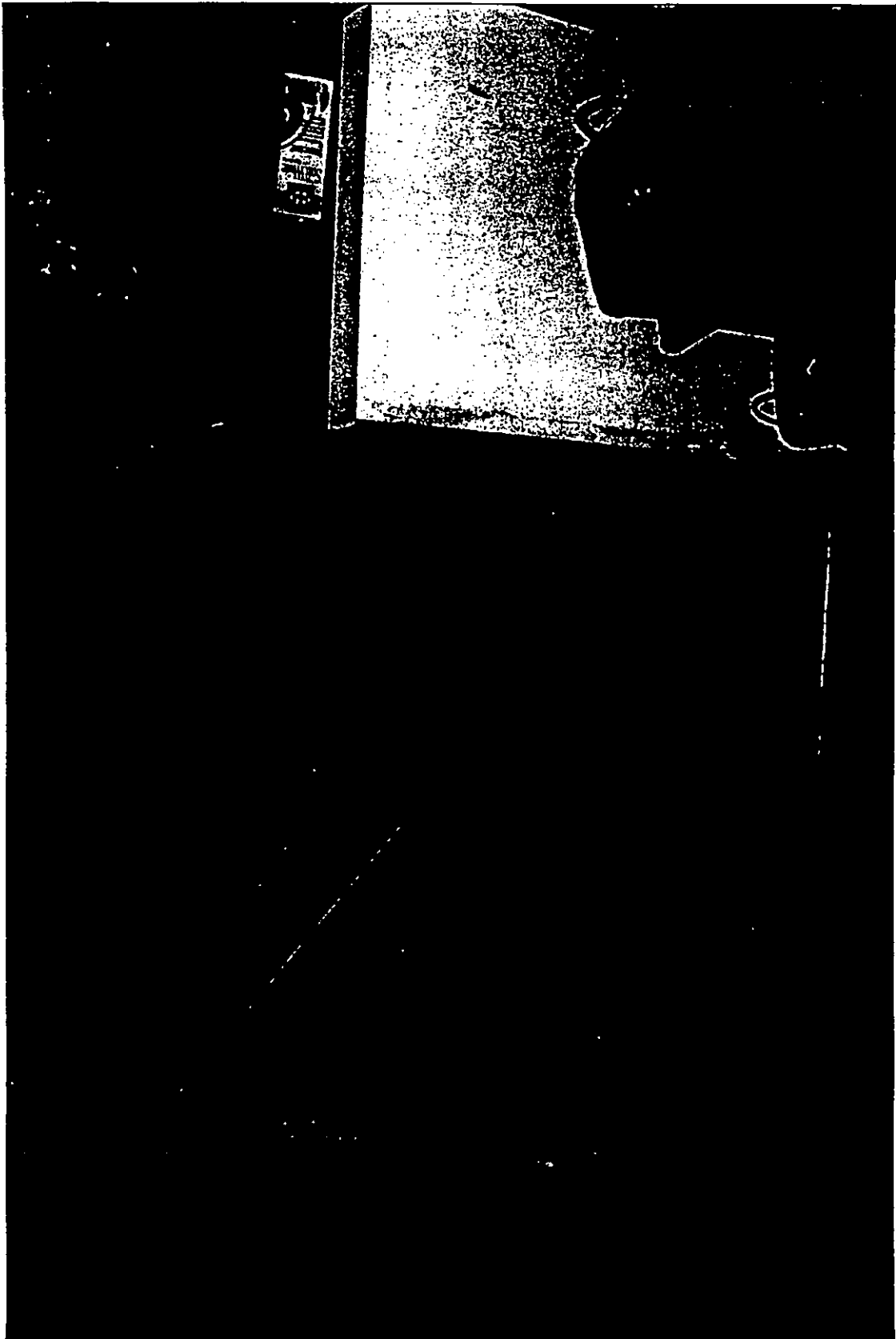


Attachment L

5805









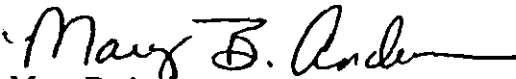


# **APPENDIX 12**

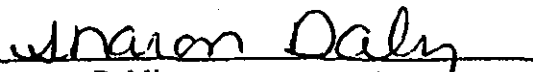



location (to the radius of the cell tower) where the call was made or received. Police agencies were making these requests in 2001.

SIGNED AND SWORN UNDER PENALTY OF PERJURY. FURTHER THE AFFIANT SAYETH NAUGHT.

  
Mary B. Anderson

Subscribed and sworn to before me on  
this 7th day of March, 2005 in  
West Palm Beach, Florida .

  
Notary Public  
My commission expires: 2/24/06

 Sharon Daly  
My Commission DD094885  
Expires February 24, 2006

# **APPENDIX 13**

WASHINGTON, )  
 ) ss.  
DISTRICT OF COLUMBIA )

**AFFIDAVIT OF HENRY W. ASBILL**

I, HENRY W. ASBILL, depose and state as follows:

1. I am over the age of 18 and I am capable of making this affidavit. I have personal knowledge of the facts set forth in this affidavit and I believe that those facts are true and correct.
2. I am admitted to practice in the District of Columbia. For the purpose of representing Larry Bill Elliott in the murder cases of Dana Thrall and Robert Finch (*Commonwealth v. Larry Bill Elliott*), I was admitted *pro hac vice* in the Commonwealth of Virginia, under the sponsorship of my partner, William B. Moffitt, who is admitted in the Commonwealth.
3. Mr. Moffitt and I tried the first trial of *Commonwealth v. Larry Bill Elliott*, in July 2002 ("First Trial"). My role in the First Trial included the following:

I gave the Opening Statement in the Guilt Phase for the Defense.

I was responsible for handling 12 of the witnesses put on by the Prosecution in the Guilt Phase: Cynthia Johnson (the mother of Dana Thrall); Raymond Whalen (neighbor of Rebecca Gragg); Mary Bracewell (newspaper delivery person); Officer Shelton Creamer (officer who entered the house and found Dana Thrall in the kitchen); Tina Miller (woman next door who called 911); Tyler Franklin Young (man walking his dog across the street from the Thrall/Finch house); Randon Jackson (recipient of the "silencer" email); Officer Thomas Leo (the crime scene analyst for the investigation who found the drop of blood on the back gate); Dr. Marie-Lydie Pierre-Louise (forensic pathologist who did the autopsy of Dana Thrall); Dr. Frances Field (forensic pathologist who did the autopsy of Robert Finch); Bryan Edmonds (forensic scientist for the Virginia state crime lab, who did the DNA blood analyses and identifications); and Gary Arnsten (forensic scientist for the Virginia state crime lab who did the firearms/bullets analyses).

I was also responsible for handling the direct examination of 7 of the witnesses put on by the Defense in the Guilt Phase: Detective Charles Hoffman (the detective in charge of the investigation); Officer Thomas Leo (the crime scene analyst); Alexander Zane (co-worker of Elliott's); Patrick Finnegan (co-worker of Elliott's); Eugene Lessman (co-worker of Elliott's); David Dyke (co-worker of Elliott's); and Deborah Sampson (friend of Elliott's).

I gave the Closing Statement in the Guilt Phase for the Defense.

I was responsible for handling all four of the witnesses put on by the Prosecution in the Penalty Phase of the First Trial: Officer Robert Kovach (officer who found Dana Thrall's children upstairs); Cindy Johnson (Dana Thrall's mother); Cameron Thrall (Dana Thrall's brother); and Rebecca Thrall (Dana Thrall's sister-in-law).

I was responsible for putting on the testimony of 4 of the 5 witnesses called by the Defense in the Penalty Phase of the First Trial: Gail McGraw (a friend of Elliott's); Byron Dean (a friend of Elliott's who had also worked with him); Terry Benson (a friend of Elliott's); and Eugene Lessman (a friend and former supervisor of Elliott's).

4. We were able to obtain a mistrial of the First Trial on September 24, 2002 after discovering that one of the jurors had spoken with someone at the courthouse while the First Trial was in progress and told that person words to the effect that the juror had been told by her lawyer husband that if a defendant did not take the stand that meant he was guilty.
5. After the mistrial, Mr. Moffitt and I made a motion, served and filed on September 30, 2002, for leave to withdraw from representing Mr. Elliott. Attached hereto as **Attachment A** and incorporated herein by reference is a true and correct copy of our Motion for Leave to Withdraw. There was a hearing on the motion on October 4, 2002. On October 11, 2002, the trial judge denied the motion.
6. On several occasions, Detective Hoffman informally indicated to me that he suspected that Ms. Gragg had criminal responsibility for the murders of Dana Thrall and Robert Finch. While Hoffman did not appear to think that she was present at the murder scene, he made it obvious that he thought that she had had a role in instigating and planning the murders. Indeed, there were many evidentiary reasons the prosecution was aware of to support that thought. My recollection is that one or both prosecutors also informally indicated she may have had criminal responsibility as the instigator and planner of the murders. They also indicated that they were willing to enter into a plea agreement with Mr. Elliott if he would agree to testify truthfully against Ms. Gragg or anyone else who may have been involved.
7. It is my understanding that, under Virginia law, a prosecutor vouches for his witness's *credibility* when he calls a witness to testify in a criminal case. This is particularly important when it is a key witness, such as Rebecca Gragg, who testified that Mr. Elliott made very incriminating statements to her just minutes and hours after the murders but who didn't tell the police about those alleged conversations until May 10<sup>th</sup>, five months after the murders. This "new evidence" of my client's supposed "confession" came long after Ms. Gragg unsuccessfully tried to "sting" Mr. Elliott into confessing while she was working with the police and long after she had twice failed polygraph tests relating, *inter alia*, to questions about her own knowledge of and/or involvement in the killings. Nonetheless, the

prosecutors permitted her to testify that she was innocent of any involvement in the crimes and argued her testimony was credible in closing.

As an example, in the First Trial, Mr. Willett specifically asked Ms. Gragg the following leading questions:

Willett: "When you came forward with the truth, was [Elliott] under arrest?"

Gragg: "He had just been arrested, yes."

Willett: "Did you participate or encourage or setup Mr. Elliott or anyone to kill Rob and Dana?"

Gragg: "No, I did not."

Willett: "That's all the questions I have."

[Transcript of July 18, 2002, pages 186-87]

8. Another example of potential prosecutorial misconduct is as follows: It appears to me that the prosecution and Detective Hoffman deliberately and improperly suggested to the jury in the Second Trial that Mr. Elliott attempted to flee in order to avoid prosecution and that this alleged flight was evidence of his knowledge of his guilt. To explain a review of portions of Detective's testimony in the First and Second Trials is necessary.

In the First Trial, I asked Detective Hoffman when Mr. Elliott had been arrested and he answered: "I believe it was May 9<sup>th</sup>, 2001." I then asked him: "Between January and May did my client ever try to flee?" He answered: "Not that I know of." [July 23, 2002 transcript, page 94]

I have now reviewed a portion of the Second Trial. In that proceeding, Mr. Moffitt asked Detective Hoffman the same question about when Elliott was arrested and Hoffman indicated it was May 9<sup>th</sup>. The following then occurred:

Moffitt: "He didn't attempt to flee or anything like that, did he?"

Hoffman: "I don't believe so."

Moffitt: "You don't believe so or you know he didn't attempt to flee?"

Hoffman: "On the date we went to arrest him, he was leaving at a high rate of speed, according to the Maryland State Police. We were concerned at that point in time that he was attempting to flee."

Moffitt: "Didn't you have information that he was coming to turn himself in?"

Hoffman: "When we stopped him, he advised that that's what he was intending to do."

Moffitt: "You had no information from the Commonwealth Attorneys' Office that Mr. Elliott was coming to turn himself in?"

Hoffman: "I don't recall whether I did or not."

[Transcript of March 31, 2003, pages 34-35]

I have also reviewed that portion of Mr. Ebert's Rebuttal Closing on April 2, 2003 in the Second Trial, in which he said, at page 100:

"And the evidence before you is that he was arrested over in Maryland leaving at a high rate of speed. Counsel would have you believe that he was voluntarily doing this, but the evidence before you is that he did not return here until August."

The prosecution had knowledge, however, that Hoffman's testimony in the Second Trial, quoted above, was *materially misleading*. Specifically, they knew Mr. Moffitt and I were retained by Mr. Elliott in January 2001. We promptly advised the prosecutors and Detective Hoffman that we were representing Mr. Elliott. We arranged for Mr. Elliott to give blood, hair and saliva samples in late January 2001. We spoke with Detective Hoffman on a number of occasions prior to May 2001, as he investigated the case and surveilled Mr. Elliott. We advised the prosecutors and Detective Hoffman that, if an arrest warrant were issued, Mr. Elliott would surrender himself in Manassas. We had made arrangements with a local lawyer in Manassas to help surrender Mr. Elliott. And Mr. Elliott had agreed to surrender.

Indeed, Mr. Elliott was arrested by Maryland State Police officers shortly after the arrest warrant had been issued in Virginia and after I had telephonically advised the prosecutor that my client was on his way to Manassas to self-surrender. To the best of my knowledge, Detective Hoffman was not personally present at the arrest, so his statement about Mr. Elliott "leaving at a high rate of speed, if that was what was relayed to him," is pure hearsay.

SIGNED AND SWORN UNDER PENALTY OF PERJURY. FURTHER THE AFFIANT SAYETH NAUGHT.



Henry W. Asbill  
HENRY W. ASBILL

Subscribed and sworn to before me on  
this 8<sup>th</sup> day of March, 2005.

\_\_\_\_\_  
Notary Public  
My Commission expires: \_\_\_\_\_

Wanda Walker  
Notary Public, District of Columbia  
My Commission Expires 9-14-2009

District of Columbia : SS  
Subscribed and Sworn to before me, in my presence,  
this 8<sup>th</sup> day of March, 2005  
Wanda Walker  
\_\_\_\_\_  
Wanda Walker, Notary Public, D.C.  
My commission expires September 14, 2009

VIRGINIA:

IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY

COMMONWEALTH OF VIRGINIA )

v. )

LARRY BILL ELLIOTT )  
Defendant )

) CRIM. NOS. 51115, 51116,  
) 51117, and 51118  
) Judge Hamblen  
) Hearing Date: 10/7/02

MOTION FOR LEAVE TO WITHDRAW

COME now Henry Asbill and William Moffitt, counsel for the accused, and move this Honorable Court for leave to withdraw in the above-captioned matter. As grounds for this request, counsel state as follows:

1. Mr. Elliott's capital murder case was mistried on September 24, 2002. Now pending before this court is the rescheduling of Mr. Elliot's trial. The new trial will last approximately three weeks. Pre-trial litigation, investigation and trial preparation will also be extensive.
2. The defendant understood when he retained counsel that if the case was mistried, a second trial would require a separate fee and allowance for expenses.
3. Mr. Elliott, at present, is indigent and cannot retain us or any other attorneys to represent him in his new trial.
4. The defendant owes undersigned counsel's firm more than \$41,000 in unreimbursed out-of-pocket expenses.
5. Our firm is very small, and we cannot afford to represent the defendant on a pro-bono or court-appointed basis without severely jeopardizing the continuing viability and existence of

SEP 30 11 17 AM '02  
CLERK OF COURT  
PRINCE WILLIAM COUNTY VA.

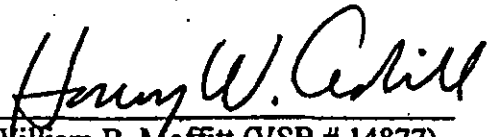
the firm as an ongoing business entity.

6. The Commonwealth does not oppose our request. Messrs. Ebert and Willett, in view of their other trial commitments including the Powell capital murder case in January 2003, will request that Mr. Elliott's new trial not commence before mid-February 2003 at the earliest. Undersigned counsel would not be available prior to February either.
7. Mr. Elliott desires to honor his contractual obligations to undersigned counsel and consents to our Motion to Withdraw. He further is willing to commence his retrial next Spring and to waive any speedy trial rights which may be occasioned by the need for new counsel to prepare his defense.
8. Counsel have spoken with Peter Greenspun, Esq. of Fairfax, Va. to ascertain his willingness to accept court appointment in this matter, if your Honor deems that appropriate. Mr. Greenspan is an excellent criminal defense attorney, both known to this Court and well-qualified to defend a case of this nature. He is willing to try the case anytime after the third week of March 2003.
9. Undersigned counsel, if permitted to withdraw, will without compensation co-operate fully with new counsel in the transition by providing all of Mr. Elliott's files as well as meeting in person with new counsel and/or Mr. Elliott to share our knowledge of, and insights into, this case to the full extent requested by our client and his new counsel.

For the foregoing and such other reasons as may appear to the Court, we ask that this request be granted.


Respectfully submitted,

By:

  
William B. Moffitt (VSB # 14877)  
Henry W. Asbill (*pro hac vice*)  
Asbill Moffitt & Boss, Chtd.  
1615 New Hampshire Avenue, N.W.  
Second Floor  
Washington, D.C. 20009  
(202) 234-9000  
Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Motion to Withdraw As Counsel was served by facsimile this 30<sup>th</sup> day of September upon James Willett, Assistant Commonwealth's Attorney, 9311 Lee Avenue, Suite 200, Manassas, Virginia 20110.

  
Henry W. Asbill

M:\client\elliott\pleadings\mo-to withdraw as counsel

# **APPENDIX 14**

STATE OF MARYLAND )  
 )  
COUNTY OF ANNE ARUNDEL ) ss.

**AFFIDAVIT OF ROBERT G. BARROW**

I, ROBERT G. BARROW, do depose and state as follows:

1. My name is Robert G. Barrow (AKA Bob Barrow). I live in Gambrills, Maryland. I am over the age of 18, and I am capable of making this affidavit. I have personal knowledge of the facts set forth in this affidavit and believe that those facts are true and correct.
2. I have never been contacted or interviewed by either the prosecution or Bill Elliott's attorneys regarding Bill and the murders of Dana Thrall and Robert Finch. Had Bill's attorneys called me, I would have testified as follows:
3. I have known Bill Elliott since 1984 or 1985, and we have been friends since then.
4. On January 1, 2001, I met up with Bill in Tennessee to attend a football game. There didn't appear to be anything out of the ordinary in his behavior or appearance. We met up with Chris McSpadden and his wife, and we all attended the game, where we had a tailgate party. Bill's pickup bed was filled with large plastic tubs and covered with ice. I think there were at least three kegs of beer. The tailgate party started before the game and continued after the game until the lights were turned off. During the tailgate party, there was quite a bit of drinking going on both inside and outside of Bills truck cab were any number of people could have spilled beer in the cab of Bill's truck.
5. I believed then, and continue to believe to this day, that Bill is not capable of flying off the handle and killing two people, nor do I believe that he would plot such a crime.
6. Some time after the murders and a short time after Bill's truck was confiscated, Bill called me for a ride to his house. On the way home, we stopped for drinks and appetizers. Bill said he was a suspect in the murders, but was emphatic that he didn't do it. He said he was in the crime scene area because he had been asked to try and catch Robert Finch doing drugs.

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///

///

7. I was interviewed by Prince William police officers and they asked me about guns Bill owned, and whether there had been any talk of guns and gun paraphernalia while Bill, Chris McSpadden and I were in the truck. I told them that I was unaware of any discussions concerning guns or gun paraphernalia. The police officers told me that Bill had spent at least \$400,000 on Rebecca Gragg, and made a very big deal out of this money.
8. I am familiar with Bill's reputation for peaceableness and nonviolence in the community. His reputation is that he is peaceable and non-violent.

SIGNED AND SWORN UNDER PENALTY OF PERJURY. FURTHER THE  
AFFLIANT SAITH NOT.

Robert G. Barrow

Robert G. Barrow

Subscribed and sworn to before me this 1 day of March, 2005, at  
\_\_\_\_\_.

Cynthia Ann Habuck

Notary Public in and for the State of Maryland

My commission expires: 8/4/2008

# **APPENDIX 15**



STATE OF WEST VIRGINIA            )  
COUNTY OF TUCKER                )  
TOWN OF DAVIS                     )        ss.

**AFFIDAVIT OF ROSALINDE BENSON**

I, ROSALINDE BENSON, do depose and state as follows:

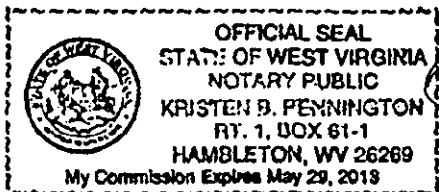
1. My name is Rosalinde ("Rose") Benson, my husband and I own the Blackwater Brewing Company, LLC, in Davis, West Virginia. I have known Bill Elliott for over thirty years. I am over the age of eighteen. I have personal knowledge of the facts set forth in this affidavit and believe that those facts are true and correct.
2. No one contacted me about Bill's case prior to either of his trials. If Bill's defense counsel had contacted me, I could have told them the following and testified to the same in court if necessary.
3. My husband and I have known Bill Elliot since the early 1970s. We met at Fort Riley in Kansas.
4. I never saw Bill become angry. He is very easy going. Bill will do anything for anybody and whatever he can do. Bill is just a nice person.
5. Bill was an alumnus at the University of West Virginia and would buy football tickets every year. He would buy so many seats and then he would invite friends to come and watch the game and he always has done this I went to a football game with Bill once, but he offered several times.
6. Bill frequently took our beer to the WVU football games to help promote it. So every game, he came here first, picked up the beer and trucked it off to Morgantown. The beer isn't pasteurized and needs to be kept cold, so Bill would place the kegs in plastic tubs and fill them with ice. Bill cut his hand trying to remove the kegs he'd brought back from a game in late December 2000. It gets very cold up here, on that specific day when Bill returned from the WVU game I was in the pub working and Debbie went out to help Bill unload and put the kegs away. Bill came into the pub. He had cut himself on the ice while trying to get the kegs free from the ice and Debbie had sent him in to wash the cut and see how bad it was.
7. I know Bill's reputation in West Virginia where he visited and where he recreated. His reputation was that he was peaceable and nonviolent.

SIGNED AND SWORN UNDER PENALTY OF PERJURY. FURTHER THE AFFIANT SAITH NOT.

*Roseline Benson*

ROSELINDE BENSON

Subscribed and sworn to before me this 1<sup>st</sup> <sup>March</sup> day of ~~February~~ 2005, at Davis, West Virginia.



*Kristen B. Pennington*  
Notary Public in and for the State of West Virginia  
My commission expires: May 29, 2013

# **APPENDIX 16**

STATE OF WEST VIRGINIA            )  
COUNTY OF TUCKER                )     ss.  
TOWN OF DAVIS                     )

**AFFIDAVIT OF TERRY L. BENSON**

I, TERRY L. BENSON, do depose and state as follows:

1. My name is Terry Benson, my wife and I own the Blackwater Brewing Company, LLC, in Davis, West Virginia. I have known Bill Elliott for over thirty years. I am over the age of eighteen. I have personal knowledge of the facts set forth in this affidavit and believe that those facts are true and correct.
2. Mr. Elliott's defense counsel asked me to testify during the penalty phase only at Bill's first trial, but not at Bill's second trial. Had Mr. Elliott's defense counsel asked me to testify during the evidence phase of either Bill's first or second trial, I would have testified to the following.
3. My wife and I have known Bill Elliot since the early 1970s. We met at Fort Riley, Kansas. Bill and I interacted on counterintelligence investigations when he was a junior counterintelligence agent with the local Military Intelligence Field Office, and I was a counterintelligence agent assigned to another Intelligence Office. As we routinely coordinated our investigative efforts and I got to know Bill both personally and professionally very well. As it was we just developed a good working relationship.
4. When Bill was promoted for the enlisted ranks to Warrant Officer, he changed fields from that of basic counterintelligence agent to Technical Support Agent, and received training in TSCM. In this specialty field, he was responsible for providing technical surveillance countermeasures, which primarily is defense against sound. Bill was an expert in identifying and determining when countries hostile to the United States were spying on the United States by eavesdropping. And subsequently determining how to defeat these efforts through highly specialized technical countermeasure. Bill essentially traveled around doing technical sweeps and things of that nature looking for bugs, and checking telephones. He was never trained in any specialized offensive physical or lethal force methods. Nor, to the best of my knowledge, was he ever involved in any such encounters or in the use of physical or lethal force. Rather, he had what I would call a "desk job" for most of his career.
5. After Bill retired from the military, he was hired by the Army in a civilian Technical Support Agent position. He subsequently transitioned from TSCM operations into purchasing and acquisition for the TSCM program. From there, he became the head of the TSCM School at Fort Meade. He later assumed the position of both, head of the TSCM school and the Army's TSCM program Manager.
6. Bill is soft spoken and generous to a fault. His generosity is well known. He gives and never expects or asks for anything in return, this has always been Bill's style.

7. During the 30 years, I have known Bill; I have never seen him stressed to a physical assault level or for that matter verbal assault level. Bill instead removes himself from a situation for a while, and then will come back a half hour or hour later, like nothing ever happened. Bill just simply withdraws. He ever got hostile. He did not get into verbal combat. He encouraged intelligent, productive, and honest discussion, but he I never heard him get into verbal combat or name-calling. Bill never did that.
8. Bill was a supervisor and he saw himself as a mentor to his subordinates and co-workers. If anybody was in need, no matter what the situation was—if he saw them starting to get themselves into difficulty and it may lead to the loss of their badge and credentials, because of some infraction, Bill would take them aside and counsel them. He had the authority, if they were civilians, to get them fired, and, if they were military, he had the authority to get them court marshaled. But Bill intervened well before it even got close to this level.
9. Bill first brought Rebecca Gragg up to the brewery in late 1999 or early 2000.
10. Rebecca told me she was having a custody battle with her ex over their two children. When I asked her the name of he ex, she said, “well, I call him ‘dickhead.’” Bill explained his name was really Robert Finch. I never, heard her refer to him by any other name than “dickhead”.
11. Rebecca told me that Robert Finch had physically and sexually abused their children. I asked her how that made her feel when she found out about the sexual abuse and what she did about the abuse. She said, “well I wanted to kill him”.
12. Rebecca Gragg also stated that she was fearful of Robert Finch because he had beaten and abused her. She felt she needed to return to West Virginia to get away from Finch. Bill confirmed her fears of Finch when he told me that Rebecca had written down three names on a napkin and told Bill if anything had happened to her, it was one of these three people. I remember that two of the names were Robert Finch and Greg Alberti. I do not remember the third.
13. Rebecca told me that her family had beaten-up Robert Finch in West Virginia. Rebecca said they were going to go kill him, but her mother talked them out of it. Instead of killing him, they just beat the living hell out of him. She also said a friend had once threatened to kill Finch and had in fact “stuck a gun in his face” after finding out about the children’s sexual abuse. She told me “the world would be a better place without him”. During this conversation, Bill mentioned that Rebecca told him once that a police officer friend of Rebecca’s had told her, when she was complaining about being scared of Finch, that he could tell her how to kill Finch and get away with it. I asked Rebecca who the police officer was and, and she told me he was just a friend and did not give me any specific detail as to how he proposed this could be done. I didn’t take her seriously and thought she was just bragging.
14. Around October of 2000, Bill became focused on a large scale the brewery proposal and less focused on Rebecca. He started to complain about her on a regular basis, about her bleeding him dry and that he had to cut her loose.
15. I saw the cut on Bill’s hand shortly after it happened, on December 29, 2000. Bill came into my office. I asked him what had happened and he told me he cut his hand while

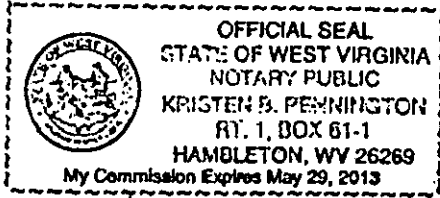
trying to free to beer kegs that had frozen solid in ice. I offered to go to my home and get him a bandage. He told me he had some first aid materials in his truck and would use it rather than have me go to my house. He next went to the washroom and cleaned the wounds, placing a hand towel or toilet paper over the cuts.

16. Bill and I had a meetings scheduled regarding the brewery proposal around New Years 2001. When I reminded him of the meetings, he told me that he may have to reschedule because Rebecca had asked him to do surveillance on Finch, to catch him smoking pot, or doing a drug deal. She figured since it was the new year period, that would be the time that he would be out on his deck. Apparently, Finch would go outside to smoke pot, even though it was cold outside. During this conversation Bill and I discussed various film light speeds he could use under low light or no light conditions
17. Bill's defense attorney requested I testify at Bill's first trial. But the defense team did not prepare me in any way to testify. I was not told what facts I was to testify to, nor was I prepared to be cross-examined by the prosecution.
18. In January 2001, detectives Hoffman and Masterson from the Prince William County Police Department, came to the brewery to interview me about Bill's case. They were drinking beer while conducting the interview.
19. Detective Hoffman told me that Bill was guilty and "was going to get a needle in the arm". When I suggested there could be others they had not looked at, Hoffman told me there was no doubt Bill had killed Finch and beat Thrall to death. I suggested their job was to gather the facts and let the courts determine who was guilty. Hoffman told me that he and Masterson were both the "the judge and the jury" and that was the way it was, and Bill was guilty. At no time did either officer attempt to identify other personality leads or confirm information concerning the cuts on Bill's hand. They in fact said they did not care to discuss anybody else, but Bill.
20. I told Detective Hoffman about Robert Finch being beaten up in West Virginia by Rebecca Gragg's family. I also told them it was probably common knowledge that Finch was a drug dealer and police informant; therefore, it could have been anybody that Finch had crossed. They told me they knew it was Bill who killed Finch.
21. I trust Bill Elliott with my life and I believe in his innocence.
22. I know Bill's reputation in West Virginia where he recreated, and the US Intelligence community where he worked to be one of peaceable and nonviolence.

SIGNED AND SWORN UNDER PENALTY OF PERJURY. FURTHER THE  
AFFLANT SAITH NOT.

  
TERRY L. BENSON

Subscribed and sworn to before me this 1st day of MARCH, 2005, at Davis,  
West Virginia.



*Kristen B. Pennington*  
Notary Public in and for the State of West Virginia  
My commission expires: MAY 29, 2013

# **APPENDIX 17**



STATE OF MARYLAND

COUNTY OF HOWARD

)  
)  
)

ss.

**AFFIDAVIT OF ROBERT MICHAEL BOOHER**

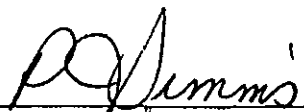
I, ROBERT MICHAEL BOOHER, do depose and state as follows:

1. My name is Robert Michael Booher and I am a resident of Columbia, Maryland. I am over the age of 18 and I have personal knowledge of the facts set forth in this affidavit and believe that those facts are true and correct.
2. No attorney or other member of Bill Elliott's defense team ever contacted me before or during either the first or second trial and I was not subpoenaed to testify during either trial. If the defense counsel had arranged for me to testify at Bill's trial, I would have testified to the following:
3. I was working with Bill at Fort Meade when the murders occurred. I had worked with him for several years before that and also spent time with Bill socially during that time. I had regular contact with Bill at Fort Meade and had an opportunity to observe his behavior and to learn of his reputation at the base.
4. In the time I have known Bill, I have never seen him lose his temper or even come close to being angry. In fact, Bill was always the person who resolved disputes between others. Bill's reputation for peaceableness and nonviolence in our work community and within our group of friends was that he was always peaceful and nonviolent.
5. I am also aware that several employees at Fort Meade had discussed the idea of creating a shooting range in the attic of one of the buildings there.

SIGNED AND SWORN UNDER PENALTY OF PERJURY. FURTHER THE AFFIANT SAITH NOT.

  
\_\_\_\_\_  
ROBERT MICHAEL BOOHER

Subscribed and sworn to before me this 28TH day of FEBRUARY, 2005, at FORT MEADE, Maryland.

  
\_\_\_\_\_  
Notary Public in and for the State of  
Maryland  
My commission expires: 11-2007

# **APPENDIX 18**

STATE OF MARYLAND )  
 )  
COUNTY OF ANNE ARUNDEL ) ss.

**AFFIDAVIT OF DAVID DYKE**


I, DAVID DYKE, do depose and state as follows:

1. My name is David Dyke. I live in Pasadena, Maryland. I am over the age of 18, and I am capable of making this affidavit. I have personal knowledge of the facts set forth in this affidavit and believe that those facts are true and correct.
2. I testified for the defense in the first murder trial of Larry Bill Elliott. Bill's defense counsel did not call me as a witness in Bill's second trial, where he was convicted for the capital murder of Dana Thrall and the murder of Robert Finch.
3. I was never questioned by Bill's attorneys as to the nature of the work we did for the military. The attorneys never asked me about Bill's or my training, weapons experience or evidence handling. They also never questioned me about discussions among Bill and his colleagues relating to the possibility of putting a shooting range on the top floor of our building.
4. Had the defense counsel called me to testify, I would have testified as follows:
5. I have known Bill since 1984. Bill and I worked together at the U.S. Army Technical Counterintelligence School on Fort Meade from approximately 1992 until 2001. As a longtime friend and colleague of Bill's, I had personal knowledge of his level of training and skills in the field of counterintelligence.
6. During Bill's trials, the prosecutors portrayed the work that Bill and I did for the military as being much like the secret agents depicted in Hollywood movies. However, this was completely inaccurate.
7. Both Bill's and my jobs with the military involved a great deal of technical investigation and technical surveillance countermeasures. We worked in the background setting up listening devices and video surveillance and developed measures to detect and locate technical devices. We were not, and have never trained to be, killer agents with knowledge to cover up any evidence of our actions. We were never trained to be undercover spies. We're considered geeks within the intelligence community and would never be confused for thugs or brutes.
8. I am aware that people at Fort Meade were discussing the possibility of putting a shooting range on the top floor of the building we work in. Although I never specifically discussed the topic with Bill, I am not surprised he inquired into the possibility of

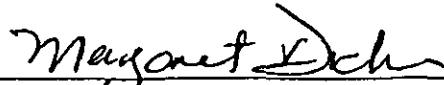
obtaining silencers for a shooting range. Bill explores every angle of every idea, even if the idea is likely a "pipe dream".

9. Detective Masterson of the Prince William County Police Department interviewed me. Detective Masterson asked me very few questions. Instead, he repeatedly related his belief to me that Bill was guilty of the murders and even stated that "we're going to be jamming a needle in his arm within 7 years." He also accused me, in an email at a later date, of withholding information when I gave him answers that he did not like.
10. I am familiar with Bill's reputation for peaceableness and nonviolence in the work community. His reputation is that he is peaceable and non-violent. I've know Bill since 1984 and have never, as in absolutely no question about it, heard him so much as even raise his voice in anger in any given situation.

SIGNED AND SWORN UNDER PENALTY OF PERJURY. FURTHER THE AFFIANT SAITH NOT.

  
\_\_\_\_\_  
David Dyke

Subscribed and sworn to before me this 28 day of Feb, 2005, at  
Hanover, Maryland.

  
\_\_\_\_\_  
Notary Public in and for the State of Maryland  
My commission expires: 8/07

# **APPENDIX 19**

STATE OF MARYLAND )

COUNTY OF PRINCE GEORGE'S )

ss.

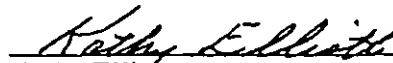
**AFFIDAVIT OF KATHY ELLIOTT**

I, KATHY ELLIOTT, do depose and state as follows:

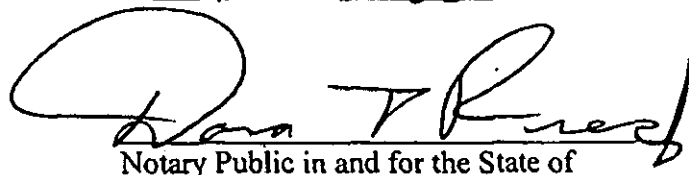
1. My name is Kathy Elliott, and I live in Hanover, Maryland. I am the wife of Larry Bill Elliott. I am over the age of 18, and I am capable of making this affidavit. I have personal knowledge of the facts set forth in this affidavit and I believe that those facts are true and correct.
2. On the morning of January 2, 2001, Bill arrived home around 6:00 a.m. after being gone for a number of days. This was not unusual, since he often worked long, sometimes odd hours. If Bill knew he would be gone for a weekend, he would return home at a time that would not wake the rest of the family.
3. Our marriage had been strained for some time, as Bill consistently kept late hours, and I reached a point where I didn't really care whether he came home or not.
4. I observed Bill entering the house and did not notice anything unusual about him nor did I notice any blood on his person or on his clothes. Bill took out his suitcase and personal gear and left it in the house. I did not observe him bringing any trash bags inside the house. I understand that someone has said there were some trash bags in Bill's truck that morning when he took our daughter to school. I believe whoever said that is mistaken. I did not observe any trash bags.
5. I did not notice anything unusual about Bill's demeanor, his clothes, his appearance, his speech or his mannerisms that morning. Bill was not acting fidgety or nervous.
6. After unloading the truck, Bill put in a load of laundry, which is not unusual since he typically did his own laundry after being away from the house for a number of days. He also took a shower before he drove our daughter to school.
7. Bill was proud of his truck and liked to keep it in pristine condition. Bill was in the habit of frequently cleaning his truck, both inside and outside, so there was nothing unusual about him cleaning his truck after this trip. Bill kept several products in the garage for cleaning both the outside and inside of his truck. I did not see Bill clean his truck on the morning of January 2, 2001.
8. On the evening of January 3, 2001, the police came to my home and asked me to verify my signature on a document. I told them I had not signed the document. They also seemed to want to know who Rebecca Elliott was.

9. The police took the small handgun from a location upstairs and left the other guns, which are still in the closet today.
10. I do recall that in the fall of 2000, Bill hit a deer with his truck and put the deer in the back of his truck. I would not be surprised if there were still some traces of the deer's blood in the back of the truck at the time it was confiscated by the Police.
11. I never believed for a minute that Bill could commit this crime because I know what kind of person he is, and I simply don't believe it's in his nature to do something like that. In the 20 plus years I have known Bill, I have never seen him get angry, lose his cool or check himself from becoming violent with anyone. To the best of my knowledge, he has never assaulted, or threatened to assault anyone.
12. I'm frustrated because we thought we were getting the best attorneys to represent Bill, but there was not a lot of investigative work done.
13. Although the Defense Attorneys interviewed me, I don't believe they stressed the importance of Bill's demeanor on the morning of the murders. I only met with Bill's attorneys on one occasion for approximately 2 hours. After the initial meeting, I spoke with them occasionally on the phone. I never felt fully prepared to testify in Bill's defense.
14. Bill and I lived in our neighborhood and house for approximately 15 years. I am familiar with Bill's reputation for peaceableness and nonviolence in our community. His reputation is that he is peaceable and non-violent.

SIGNED AND SWORN UNDER PENALTY OF PERJURY. FURTHER THE AFFIANT SAITH NOT.

  
Kathy Elliott

Subscribed and sworn to before me this 26 day of Feb, 2005, at Hanover, Maryland.



Notary Public in and for the State of  
Maryland

DONNA T. FREED

My commission expires: Notary Public, State of Maryland  
My Commission Expires August 1, 2006

# **APPENDIX 20**



V I R G I N I A :

IN THE PRINCE WILLIAM JUVENILE COURT

IN RE: ██████████ )  
 ██████████ )  
 minor children )  
 REBECCA L. FULLEM, )  
 Petitioner )  
 vs. )  
 ROBERT A. FINCH, )  
 Defendant. )

FILE NO. J 63383  
J 50665

AFFIDAVIT OF ROBERT FINCH

COMMONWEALTH OF VIRGINIA )  
 County of \_\_\_\_\_ ) ss.

ROBERT FINCH, having been first duly sworn, upon oath  
 deposes and states: I am the Defendant herein.,

On February 3, 1999 the Court ordered that I could have  
 visitation with our minor children on February 5 and that I  
 was to pick them up at noon at Bartow, West Virginia.

Because I had been unable to cash a check on Thursday  
 evening, I advised Ms. Fullem that I would appear at 1:00  
 because I had to wait for the Bank to open before leaving  
 Woodbridge. She required that I communicate same to my  
 attorney and then to her attorney through mine.

I appeared at 1:15 p.m. to pick up the children. At

MCGGER LAW OFFICE  
 P.O. BOX 3463  
 FAIRFAX, VIRGINIA  
 22031-3463  
 TELEPHONE  
 (703) 591-2100  
 FACSIMILE  
 (703) 591-2160

AFFIDAVIT - 1

2631

EXHIBIT NO. 4  
 PL( ) DEF(  ) COMM( )  
 CASE NO. CR51115, 51116, 51117, 51118  
 DATE March 31, 2003  
 JUDGE ED OWLY

that time Ms. Fullem did not have the children with her. She told me she would go and get the children and return. She appeared approximately 15 minutes later with the children. At that time, Ms. Fullem advised me that she would not let me use the childrens' carseats and she had in the past. She had never said this before and thus I appeared without having purchased additional carseats. I reminded Ms. Fullem that I had purchased the carseats that she was using when we were living together and that they belonged to me as much as they did to her. She continued to refuse to let me remove the carseats from her car so that I could return to Virginia. Further, she had apparently arranged for a police officer to be present at the meeting place so that he would be available to observe me if I tried to drive with the children in my car to the nearest location to purchase additional seats.

At this point, Ms. Fullem offered to drive a distance of approximately 45 minutes away to the nearest store to purchase the carseats. She already knew and so informed me that the cost of the carseats was \$40.00 each. I gave her the money (\$100) and she left to apparently purchase the carseats.

I waited three and one-half hours with the children for Ms. Fullem to return. When she appeared, she drove up to a

AFFIDAVIT - 2

place behind my car. Within a matter of three minutes a  
pick up appeared and parked behind my car with three men in  
it. One man was Ms. Fullem's husband, ~~one was her~~ <sup>his</sup> cousin.  
"Lewis Ray" and ~~another man~~ <sup>two other men.</sup>. There was also a man whose ~~identity~~  
identity is unknown to me who was present at 1:15 and who had  
waited for the 3 1/2 hrs. while Ms. Fullem was away purchasing  
the carseats.. Lewis Ray immediately got out of his vehicle and  
began yelling at me, telling me I was to admit or deny certain  
things or else he would "stomp me." I refused to engage him,  
attempted to ignore him when he began beating me. He punched  
me numerous times, at least five times in my face with his  
fist, causing me a black eye and cutting my nose and skin such  
that I was bleeding profusely. Both my children and Ms.  
Fullem's 8 year old son by a different father saw and heard  
this incident. I did not hit Lewis back and attempted to get  
into my car so that I could drive away. While the beating was  
going on Ms. Fullem was ~~placing the new carseats in my car and~~ <sup>talking/dealing with</sup>  
~~protecting the children, in them.~~ ~~and~~

The Court should know that Bartow is an out-of-the way  
place. There is no police or fire station anywhere nearby and  
no hospital. I had to drive for at least an hour before I  
could find a hospital. I called the police as soon as I got in  
my car and pulled away from the Exxon Station, but only got a

AFFIDAVIT - 3

recording, wherein I reported the incident.

I believe that Ms. Fullem set up this entire event and that the 3 1/2 hour delay was caused because she went to assemble the group of men to return with her. I had no one with me to pick up the children.

I ask that this Court find Ms. Fullem in contempt for interfering with the visitation and for participating to whatever the extent the Court finds for the beating I received. I also ask that the Court set a different place for the visitation to occur and that Ms. Fullem be ordered to pay my attorneys fees for bringing this to the attention of the Court.

Robert A Finch  
ROBERT FINCH

SUBSCRIBED AND SWORN to before me this 10<sup>th</sup> day of February, 1999.

Francis R. Leonard  
Notary Public

My Commission expires: 1/31/2001

A COPY-TESTE:  
DAVID C. MABIE, CLERK  
BY: David C. Mabie  
Deputy Clerk

AFFIDAVIT - 4

# **APPENDIX 21**



would change, and he would become serious, but he was not a yeller or screamer. I never heard him raise his voice.

12. Bill was meticulous about his truck and home. Everything was tidy and in his place. It wasn't unusual for Bill to detail the inside and outside of his new truck, the 2000 GMC. He kept that truck spotless.
13. Bill also told me that Rebecca had asked him to do the surveillance for her child custody case, Rebecca thought that if she could catch Robert either doing or selling drugs that would be home free for her to get custody of the kids. So she asked him try and photograph Robert involved with drugs.
14. Randon Jackson ("Randy") worked for me at Fort Belvoir. He told me at one point in time that had certain feelings for me and I just kind of dismissed it away. He even had the audacity to tell me I spent way too much time talking to Bill Elliott. His feelings for me caused him to give Bill a hard time when Randy was doing procurements for him. Randy appeared jealous of Bill because of our friendship.
15. My husband and I went to see Bill's defense attorneys in January 2001. We told them about Randy Jackson's attraction to me and we were there for a couple of hours and gave them quite a bit of testimony. I talked to them about all the facts that we knew and nothing that we said relative to anything that I knew about Rebecca, any of the relationships with Randy, anything that we said to him, nothing was followed up on. We didn't hear anything from Bill's attorneys until we received subpoenas. We never even worked work with them on our testimony. In fact when I testified at Bill's first trial, I had to take a "red eye" in from California because Bill's attorneys didn't coordinate with me on when the trial was, when I was going to be testifying, or what I would testify to. I had to go straight to the courthouse from the airport. I had no idea what they were going to ask me, nothing. I think they met with me, maybe 30 minutes, before I was due to take the stand.

SIGNED AND SWORN UNDER PENALTY OF PERJURY. FURTHER THE AFFIANT SAITH NOT.

Gail McGraw  
GAIL MCGRAW;

Subscribed and sworn to before me this 3<sup>th</sup> day of March, 2005, at  
Stafford, Virginia

Collette M. Hunt  
Notary Public in and for the State of Virginia  
My commission expires: May 31, 2008

# **APPENDIX 22**





8. I did not attend the either of Bill's trials but I have come to learn that the Commonwealth's Attorneys focused on the idea that Bill was trying to obtain silencers. Bill and I had discussed using the attic of one of our buildings at Fort Meade for a shooting range. This was an idea that was discussed by a number of personnel at Fort Meade. During these discussions, the idea of using silencers was considered. I told Detective Hoffman about these discussions, but he seemed not to want to hear this information.
9. In the time I have known Bill, I have never seen him lose his temper. Bill's goal in life has always been to help those around him and make everyone happy. Bill's reputation for calm level headed discussion making while faced with tremendous pressures is undisputed. His reputation for peaceableness and nonviolence in our work community and within our group of friends was probably best demonstrated by our annual picnic. Quietly and completely funded by Bill, simply his way of saying thank you to his subordinates and their families.

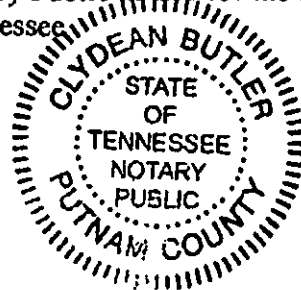
SIGNED AND SWORN UNDER PENALTY OF PERJURY. FURTHER THE AFFIANT SAITH NOT.

Chris McSpadden  
CHRIS MCSPADDEN

Subscribed and sworn to before me this 1st day of March, 2005, at Coolville, Tennessee.

Clydean Butler  
Notary Public in and for the State of  
Tennessee

My commission expires: 8-24-08



# **APPENDIX 23**

COMMONWEALTH OF VIRGINIA )  
 ) ss.  
COUNTY OF PRINCE WILLIAM )

**AFFIDAVIT OF TINA MILLER**


I, TINA MILLER, depose and state as follows:

1. I am over the age of 18 and I am capable of making this affidavit. I have personal knowledge of the facts set forth in this affidavit and I believe that those facts are true and correct. I currently reside in Stafford, Virginia. (TAM)
2. In January 2001, I was residing at 3408 Jousters Way, Woodbridge, Virginia. This is a town house which is next door to, and has a common wall with, the town house at 3406 Jousters Way, where Dana Thrall and Robert Finch lived. I reside there with my two children, my daughter, [REDACTED] who is now 19 years old, and my son, [REDACTED], who is now 10 years old. (TAM)
3. As a result of living next door, I got to know both Dana and Robert and to recognize their voices.
4. On January 2, 2001, I was awake and lying in my bed in my bedroom which is on the second floor of my townhouse, when I <sup>heard</sup> a popping noise and then a very loud thud on the common wall between my townhouse and the Thrall/Finch townhouse. My bed is about four feet away from the common wall. On the other side of the common wall is the Thrall/Finch's stairway that goes from their first floor up to their second floor.
5. The thud I heard was so strong that it shook the wall and made the framed pictures on the wall of my bedroom go crooked. It was also so loud that it woke up my children, who had been sleeping in <sup>another room</sup> on my second floor. They immediately came into my room. (TAM)
6. I have recently listened to the 911 call that I made on the morning of January 2, 2001 and have read a transcript of that call. These helped refresh my memory of what happened that morning.
7. I remember hearing a pop and then a thud. Right after hearing the thud, I started to call 911. I then heard what sounded like heavy footsteps coming down the stairs. Then, about 30 seconds after the thud, I heard the terrible scream that I testified to at the trial. I then heard 3 or 4 more pops.
8. I also heard two other things but I am not sure of where they go in the sequence of events. One thing was that I heard a firm, loud male voice yell "Go" or "Get" or "Run." I couldn't tell if the voice was Robert's or someone else's. I think that this may have happened after the thud but before the footsteps on the stairs. But it could have been later.

9. The other thing I heard was what sounded like two loud, stern voices yelling. I could not make out what was being said. I think that they were male voices. I am not sure when, in the sequence of events, I heard these voices. It may have been after I heard the terrible scream, but it could also have been before.
10. Dana's two boys were brought over to my townhouse by the police. The boys told me that their mama was very scared.
11. Later in the day, a detective came to my house and interviewed the boys. They were interviewed in my family room and I was in another room, so I do not know what the boys said.

The crimes were so long ago and since that time I have been diagnosed w/ MS. I do not recall everything nor the sequence of events. *TAM*

SIGNED AND SWORN UNDER PENALTY OF PERJURY. FURTHER THE AFFIANT SAYETH NAUGHT.

  
TINA MILLER

Subscribed and sworn to before me on  
this 8<sup>th</sup> day of April, 2005.

  
\_\_\_\_\_

Notary Public  
My commission expires: SEPTEMBER 20, 2008

# **APPENDIX 24**

STATE OF ARIZONA            )  
  )  
COUNTY OF MARICOPA        )

**AFFIDAVIT OF TODD PRACH**

I, TODD PRACH, depose and state as follows:

1. My name is Todd Prach. I am a resident of Maricopa County, Arizona. I am over 18 years of age and am otherwise competent to give this affidavit. I have personal knowledge of the facts set forth in this affidavit and I believe that those facts are true and correct.

2. I am acquainted with Larry Bill Elliott through my employment at the Fort Meade military base, where I worked as a Operations Officer/TCID. I first met Bill Elliott in the summer of 1996.

3. On January 2, 2001, I was present at Fort Meade in the early morning hours. I saw Larry Bill Elliott at approximately 0500 - 0530 that day in the men's restroom.

4. Bill Elliott usually started work at between 0800 and 0900. I remember seeing him on January 2, 2001 because it was usual for him to be there at such an early hour.

5. When I entered the men's restroom and saw Bill Elliott, we greeted each other and had a brief conversation. During this encounter, I noticed nothing unusual in any respect about Mr. Elliott's demeanor, clothing, appearance, speech, or mannerisms, including but not limited to the following:

- a) There were no signs of blood on Mr. Elliott's person or clothing;
- b) Mr. Elliott did not change his clothing in my presence, nor did he have a change of clothing with him; and
- c) When I entered the restroom, Mr. Elliott was washing his hands in an unremarkable manner. There was no indication that Mr. Elliott had washed any other part of his person or clothing.

6. I have personal knowledge of the Fort Meade building entry doors being propped open on occasion, such that an individual entering the building would not always need to use their access code and could enter without their entry being registered in the building's electronic access control system.


7. I have never known Bill Elliott to exercise or to otherwise try to become physically fit or healthy. Bill was not very athletic and was slightly overweight in January of 2001.

8. I have personal knowledge that Bill Elliott would go out of his way to help others.

9. I am familiar with Mr. Elliott's reputation for peaceableness and non-violence in the community where he worked. His reputation was that he was peaceable and non-violent.

10. No attorney or other member of Mr. Elliott's defense team ever contacted me before or during either the first or second trial and I was not subpoenaed to testify during either trial. If the defense counsel had arranged for me to testify at Elliott's trial, I would have testified to the facts stated above.

SIGNED AND SWORN UNDER PENALTY OF PERJURY. FURTHER THE AFFIANT SAYETH NAUGHT.

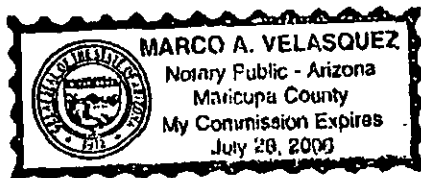
  
\_\_\_\_\_  
TODD PRACH

Subscribed and sworn to before me on this 7 day of ~~February~~, 2005.

*March*

  
\_\_\_\_\_  
Notary Public

My commission expires: 7/28/06





# **APPENDIX 25**

COMMONWEALTH OF VIRGINIA )  
 ) ss  
CITY OF MANASSAS )

**AFFIDAVIT OF DOROTHY ROBERTS**

1. I, DOROTHY ROBERTS, do depose and state as follows:
2. My name is Dorothy Roberts and I am an administrative assistant with Moses Lake Industries. In 2001 and 2002, I was a secretary at the law firm of Ashton and Walla, and worked with Mr. Ashton. I am over the age of 18 and I am capable of making this affidavit. I have personal knowledge of the facts set forth in this affidavit and I believe that those facts are true and correct.
3. Mr. Elliott's defense counsel, Mr. Moffitt, sent me a subpoena to testify at Mr. Elliott's second trial, but I was not called as a witness. Had I been called as a witness, I would have testified as follows:
4. Mr. Ashton was the Guardian ad Litem for one of Robert Finch's minor children. The mother of that child is Rebecca Gragg. Ms. Gragg is also known as Rebecca Didion and Rebecca Fullem.
5. During my employment at Ashton and Walla, I was involved with the custody dispute between Rebecca Gragg and Robert Finch. I had prepared the paperwork for the case, and had direct contact with Mr. Finch. I also had met Rebecca Gragg on several occasions.
6. Robert and Rebecca had a final custody hearing scheduled for Friday, January 5, 2002, three days after the murder. I had prepared a final order awarding physical custody of Robert and Rebecca's children to Robert Finch.
7. On the morning of January 2, 2002, I came into the office and proceeded first thing to check the voicemail messages. Of course, there were several. Rebecca had had a visitation with the kids. Among other messages that day, there were three from Robert Finch that he left on January 1, 2002.
8. The first call from Robert Finch came in at 3:20 p.m. on January 1, 2001. Rebecca was to return the kids to Robert at 2:00 p.m. He said that he just hadn't heard from the kids or from Rebecca yet and they were late. I can hear his voice. He became somewhat frustrated and said, "Yeah, well, she's late as usual."
9. The second call came in at 5:10 p.m. and Robert had still had not heard from the children or from Rebecca. He stated that he had made numerous calls to her mom, to her, to the cell phones, to the home phones, anyone he could think of, and he was getting worried.
10. At 9:41 p.m., Robert's last message came in. He said, and his voice was cracking, "the kids are not here yet." He had not heard from Rebecca. He said that's why he didn't

want her to be able to take the kids out of town – and he started crying – and he said he felt that she might have left with them and he started to cry even harder. He said, “the kids have school tomorrow; doesn’t she realize that?” And then he said, “Dorothy, I’m afraid I’m never going to see my kids again.”

11. After retrieving the phone messages, I called Robert Finch’s house to see if Rebecca had brought the children home. This was about 9:00 a.m. on the morning of January 2, 2002. I tried his home phone and his cell phone, and left messages, but I didn’t hear back from either Robert Finch or Dana Thrall. I left a message on his answering machine to call our office. Mr. Ashton called me that evening, at home, and explained that Robert Finch and Dana Thrall had been murdered.
12. Mr. Ashton requested that some information be compiled into a memo for Mr. Ebert and Mr. Willet, including the messages from Robert on January 1, 2002. Mr. Ashton later stated that he hand-delivered the memo. (This was in May 2002.). Attached hereto as Attachment A and incorporated herein by reference is a true and correct copy of the memorandum I prepared and sent to the Commonwealth Attorney.
13. When the trial began, I read the papers, trying to keep up with the proceedings. The newspaper articles contained so many discrepancies about Robert and Rebecca’s relationship that I was concerned that Mr. Ebert and Mr. Willet were being misled or just didn’t realize that all the information related to the custody case existed.
14. Some of the discrepancies concerned Robert’s knowledge about when Rebecca was bringing the children home. Mr. Willet and Mr. Ebert seemed to be under the impression that Robert was expecting that the kids on January 2, 2002, and I knew from the messages that he was expecting the kids on January 1, 2002. Another discrepancy from the trial that I remember hearing about was that Rebecca stated that she and Robert were secretly in love or having an affair and it was around the September/October timeframe, and I knew that it couldn’t be true, because they were really fighting at that time. I documented phone calls from Kerrydale Elementary School, where the kids attended. Robert had temporary custody at that time. Rebecca was going to the school and helping out in class to spend time with the kids. At the end of the pumpkin patch trip, Robert and Rebecca got into a huge fight in front of the teachers, students, and the bus driver, and whoever else was standing around, yelling at each other, “F you, get out of my life, F this, F that.” The school had called Mr. Ashton’s office trying to determine who really had custody.
15. Rebecca’s testimony that she had sex with Robert in October of 2001 was inconsistent with the conversations I had had with Robert. He said that he hated her. There was just so much that he said all the time, we had no confusion about how he felt about her at all. In fact, a week and a half before the murders, Robert came to the office and told me that he had been looking at rings, and that he had picked out a wedding ring for Dana, and that he was going to ask her to marry him after the trial was over, whether he got custody or not.

16. In July of 2002, I faxed the information previously given to Mr. Ashton, along with a note to Mr. Willet and Mr. Ebert detailing the discrepancies. Thinking that perhaps the first information had been lost or misplaced, I thought they should know that we had the messages from Robert and also several binders of information on Robert and Rebecca. I was asked to come in that day to discuss the information. Attached hereto as Attachment B and incorporated herein by reference is a copy of my July 25, 2002 memorandum.
17. I showed Mr. Ebert a copy of the phone messages. Mr. Ebert showed me a stack of phone statements and said that there was communication between Robert and Rebecca. At one point, Mr. Ebert turned to Mr. Willet and stated that Robert Finch had called Rebecca and said that if she didn't return the kids he would charge her with kidnapping. I had never heard any of these messages, but that is what Mr. Ebert told Willet while I was there in his office. I was not contacted by Mr. Ebert's office again.
18. I did not attend the trials, except for the last day of the second trial. I was surprised, though, that, to my knowledge, Mr. Willet and Mr. Ebert did not ask for records from the law office, since they knew that Mr. Ashton was directly involved with the children and had information concerning Rebecca's and Robert's history.
19. I was contacted by Mr. Elliott's attorney, Mr. Moffitt, in January of 2003. He had heard about the information I had sent to the prosecution, but he did not have a copy of it. I brought several copies and provided them to him at our meeting. I provided Mr. Moffitt a list of discrepancies that I had learned from reading the newspapers. Attached hereto as Attachment C and incorporated herein by reference is a true and correct copy of the handwritten list of discrepancies I sent to Mr. Moffitt.
20. There was an incident that Robert told me about in September or October when he had seen Rebecca parked outside his townhouse. He said he had spoken to a Prince William County police officer and told him that she was stalking him, but when he described his size and her size, the officer scoffed at him and asked him "what can she possibly do to you, given her size and yours?" So after that Robert felt there was no point in calling the police.
21. Robert, on more than one occasion, shared that he feared for his safety; that he feared what Rebecca would do considering her erratic behavior and mood swings.

SIGNED AND SWORN UNDER PENALTY OF PERJURY. FURTHER THE  
AFFIANT SAYETH NAUGHT

  
\_\_\_\_\_  
Dorothy Roberts

# **APPENDIX 26**

STATE OF OHIO

COUNTY OF WASHINGTON

)  
)  
)

ss.

**AFFIDAVIT OF SANDY ROOKS**

I, SANDY ROOKS, depose and state as follows:

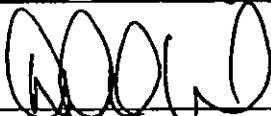
1. I am over the age of 18 and I am capable of making this affidavit. I have personal knowledge of the facts set forth in this affidavit and I believe that those facts are true and correct.
2. I reside at 902 Leonard Avenue, Belpre, Ohio, 45714.
3. Bill Elliott and I were married in 1970 and divorced in 1976. We have three wonderful children from our marriage. Bill and I have always and will always care deeply for each other, but we were not meant to be married to each other.
4. Bill has always been a workaholic. His work for the US Army came first, before his marriage and before his children. His family never came first. I basically raised our children and also worked outside of the home at the same time. With the births of our children, a lot of responsibility was forced onto both of us. Bill did not take on any responsibilities regarding raising the children – I think he was not ready to be a father when we had our first child. Bill and I had very different priorities. Our children were my number one priority. Bill did the best he could, but we both made mistakes in our marriage.
5. As a young married couple with children, we had our share of personal and financial stress. I also saw Bill go through the painful loss of his mother. No matter how difficult of a situation, I never once saw Bill get angry or lose his temper or become violent with anyone. I remember one particular time when Bill and I were supposed to go out and I had gotten the children all ready, but at the last minute Bill decided he had to clean his car first. At the time, we lived in an apartment on the third floor. Bill started to vacuum the car, which required that he plug in the vacuum in our apartment (on the third floor). I can get a temper real quick and I got very angry with Bill for deciding to clean the car at the last minute. After he went downstairs and started to vacuum the car, I unplugged the vacuum. Bill walked back upstairs and plugged the vacuum back in. After he went downstairs and started vacuuming again, I unplugged the vacuum for the second time. This happened one more time. After the third time, Bill simply got in his car and drove to a nearby carwash to clean his car there. He never yelled or raised his voice or even slammed a door during this entire incident. That story was typical of Bill. When he got upset, he simply walked away. He didn't shout or get violent in any way.

6. As long as I have known Bill, he was a fanatic about cleaning his car. To the best of my recollection, he cleaned his car every single week. When he cleaned his car, he always thoroughly cleaned both the inside and the outside of the car, including the tires. He had a whole routine for cleaning the car and he was very particular about always having a spotless car.
7. Bill Elliott is a good, decent man. In our marriage, we had good times and some difficult times. I have no regrets about our marriage. I would bet my life that Bill did not kill those two people. There is no way I will ever believe that he did. He could not have killed them because it is not in his nature to be violent.
8. While I was contacted once by someone working for the original trial attorneys, I was never contacted again. In any event, I was willing to testify and, if the attorneys had followed up, I would have told them all the information in this affidavit. And, if I had been asked to testify, I would have done so and would have testified to what is in this affidavit.

SIGNED AND SWORN UNDER PENALTY OF PERJURY. FURTHER THE AFFIANT SAYETH NAUGHT.

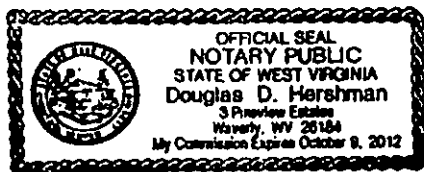
  
SANDY BOOKS

Subscribed and sworn to before me on  
this 2<sup>nd</sup> day of March, 2005 in  
Wood Co. WV



Notary Public

My commission expires: 10-9-12



# **APPENDIX 27**



STATE OF WEST VIRGINIA                    )  
COUNTY OF TUCKER                        )  
TOWN OF DAVIS                             )        ss.

**AFFIDAVIT OF DEBRA L. SAMPSON**


I, DEBRA L. SAMPSON, do depose and state as follows:

1. My name is Debra Sampson. I live in Davis, West Virginia. I am employed as a brewmaster at the Blackwater Brewing Company. I am over the age of eighteen and have personal knowledge of the facts set forth in this affidavit and believe that those facts are true and correct.
2. I testified for the defense in the first murder trial of Larry Bill Elliott. Mr. Elliott's defense counsel did not call me as a witness in Mr. Elliott's second trial, where he was convicted for the capital murder of Dana Thrall and the murder of Robert Finch. Had the defense counsel called me, I would have testified as follows:
3. On the day of December 29, 2000, Bill Elliott returned to the Blackwater Brewery beer he had taken to the West Virginia football bowl game in Nashville, Tennessee. I met Bill at the cooler in the parking lot behind the pub. The pony kegs of beer were in blue plastic tubs, which were in the back of Bill's truck.
4. The beer must be kept cold, and ice Bill had put in the tubs was frozen solid, so Bill and I pulled the blue tubs onto the tailgate of the truck so that we could pull the pony kegs out.
5. The kegs were frozen solid in the tubs. We could not pull or lift the kegs out of the tubs. Bill was not wearing gloves. He started pounding on the ice to free the kegs. He cut his right hand on the ice, and it was bleeding. We ended up putting the tubs with the kegs frozen in them into the cooler. Bill then went into the restaurant bathroom and washed off his hand. He had some minor abrasions on the back of his right hand and on the back of a few of the fingers on his right hand.
6. Attached hereto as Attachment A and incorporated herein by reference is a photo of the cut to Bill's hand, which photo is in color. I understand that a copy of this photo was introduced at trial as Exhibit 35, a copy of which exhibit is attached hereto as Attachment B and incorporated herein by reference. The abrasions on the back of his hand and on his fingers in these photos are the same as the ones that he got when Bill cut his hand on December 29, 2000. The photo does show some healing and scabbing over in appearance from the condition of the abrasions since the time that he got them on December 29<sup>th</sup>. I can also say the type of keg Bill was pounding on has sharp medal edges on the coupling ring. And that the ice, which were small cubes, was frozen tightly together, making a solid block of ice with jagged points. Attached hereto as Attachments C and D

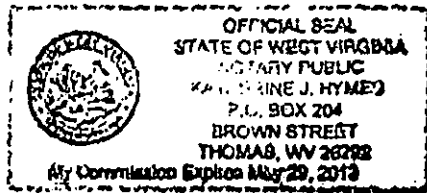
respectively, are photographs showing the coupling ring and a recreation of the keg frozen into a block of ice as it was when Bill cut his hand.

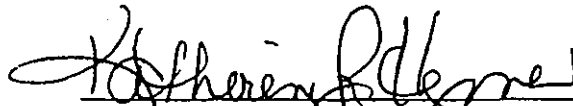
7. I had known Bill Elliott for two or three years at the time of the murders. Bill was active and excited about growing the brewery and spent considerable time in West Virginia working on it. He also loved to attend West Virginia football games and engage in recreational activities in the community. I know that his reputation for peaceableness and nonviolence in the West Virginia community where he helped at the brewery and where he recreated. His reputation was that he was peaceable and nonviolent.

SIGNED AND SWORN UNDER PENALTY OF PERJURY. FURTHER THE AFFIANT SAITH NOT.

  
DEBRA L. SAMPSON

Subscribed and sworn to before me this 24 day of February, 2005, at Davis, West Virginia.



  
Notary Public in and for the State of West Virginia  
My commission expires: May 29, 2013

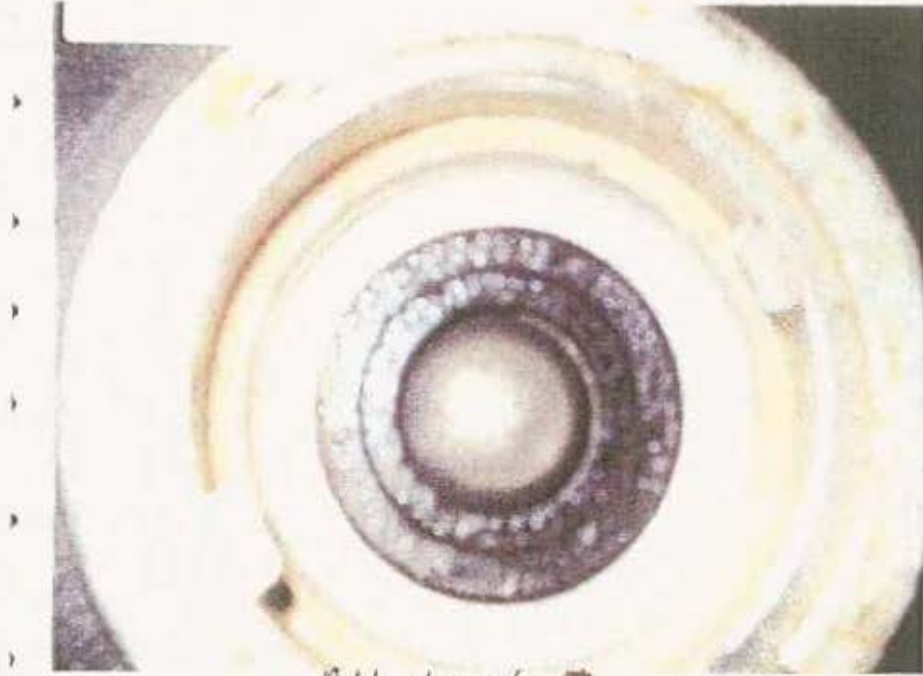




Attachment B

5465

Attachment C



Attachment B DS

Attachment D



Attachment D DS

# **APPENDIX 28**






9. Neopolitan Mastiffs are bred to defend their owners and their property. I am told that Rob kept Naughty in the back yard of his house. Based on my experience as a dog breeder and trainer, I do not believe that an attacker who Naughty did not know extremely well could have exited Rob's house through the yard where Naughty was kept without a serious injury.
10. If Naughty had bitten an attacker, it would not be a minor scrape. Neopolitan Mastiffs have a similar bone structure to pit bulls but are larger and stronger. If they perceive an attack on themselves, their owners or their property, they generally bite once, trying to do as much damage as possible and then will not let go. Someone bitten on the hand by Naughty in such a situation would be lucky to get their hand back.

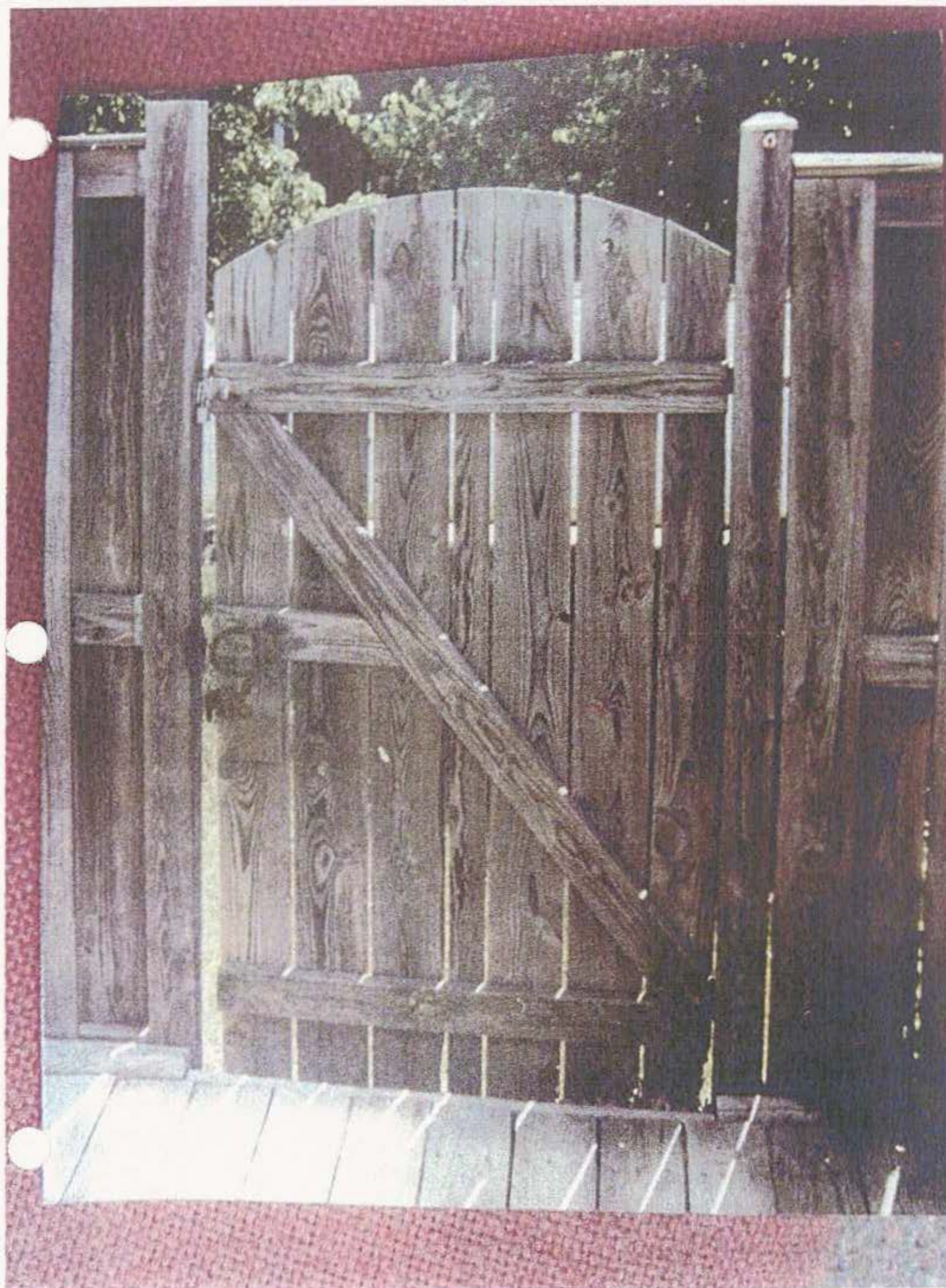
SIGNED AND SWORN UNDER PENALTY OF PERJURY. FURTHER THE AFFIANT SAITH NOT.

  
LARRY KENT SMITH

Subscribed and sworn to before me this 4th day of March, 2005, at FREDERICKSVILLE Virginia.

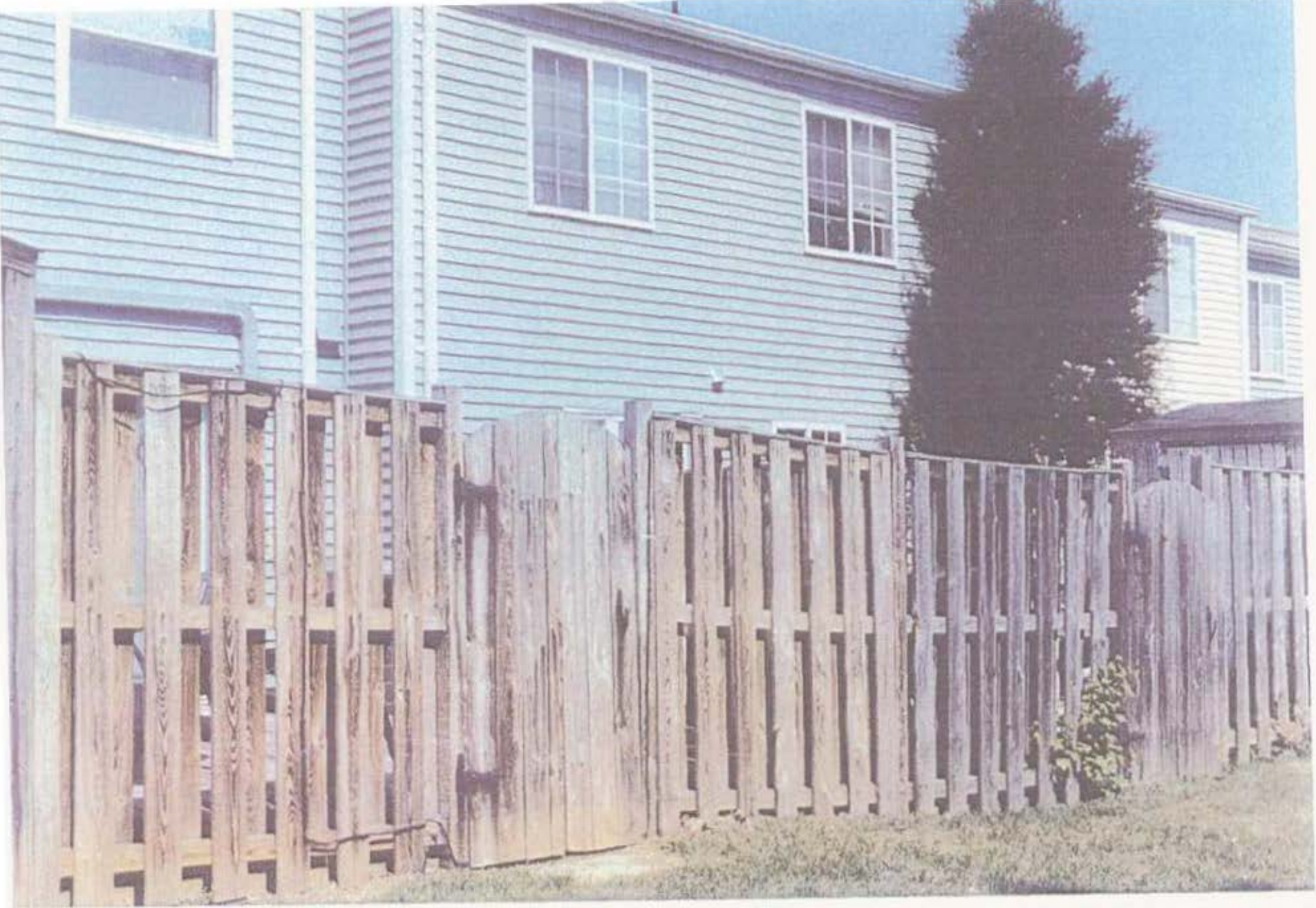
  
Notary Public in and for the State of  
Virginia  
My commission expires: 10-31-2008

# **APPENDIX 29**









# **APPENDIX 30**







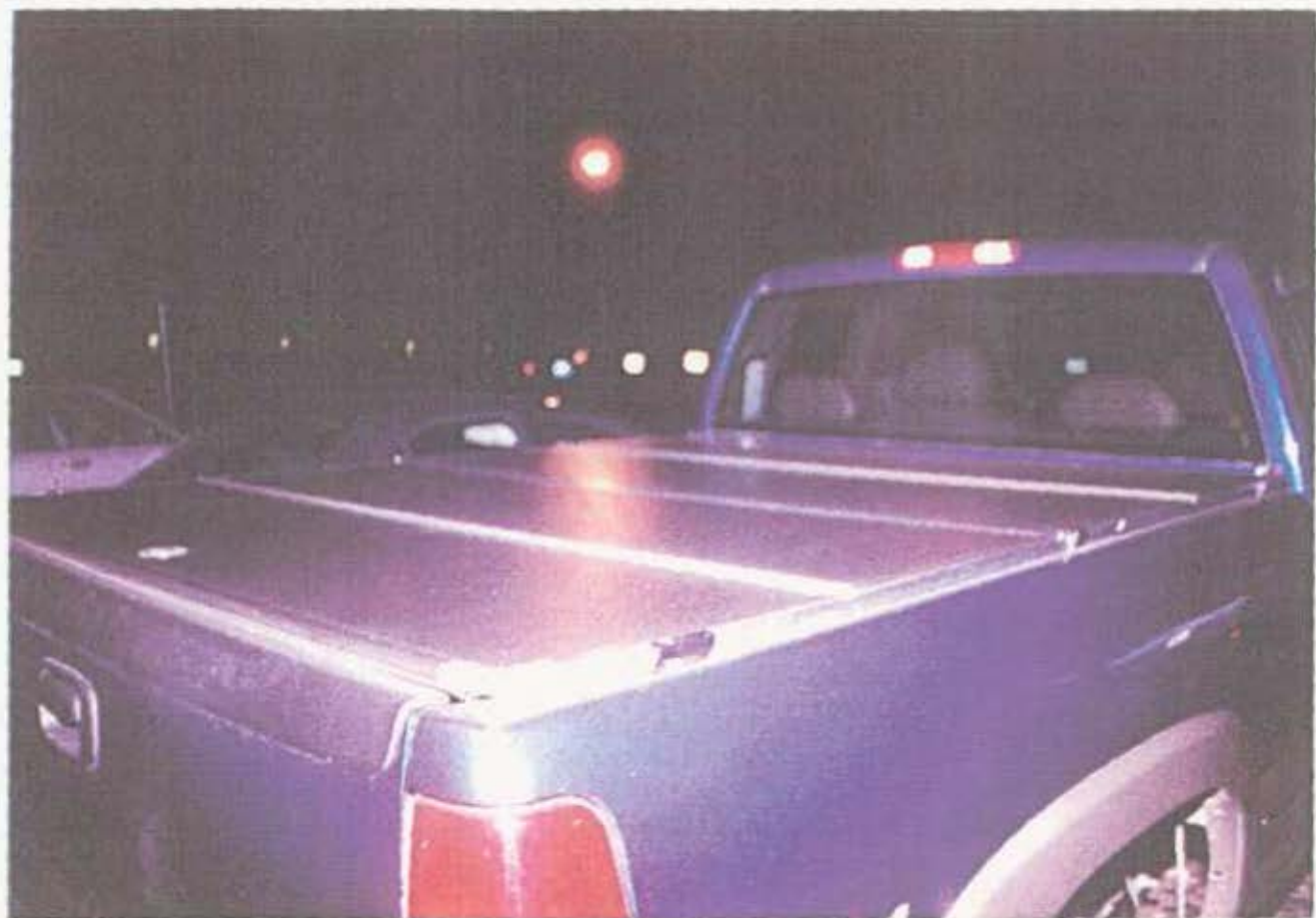
5792

Attachment D

# **APPENDIX 31**









# **APPENDIX 32**





# **APPENDIX 33**

### **APPENDIX 33**

The attached are two MapQuest Maps (prepared on August 27, 2009).

The first is a map of the townhouse where the murders took place,  
3406 Jousters Way, Woodbridge, VA

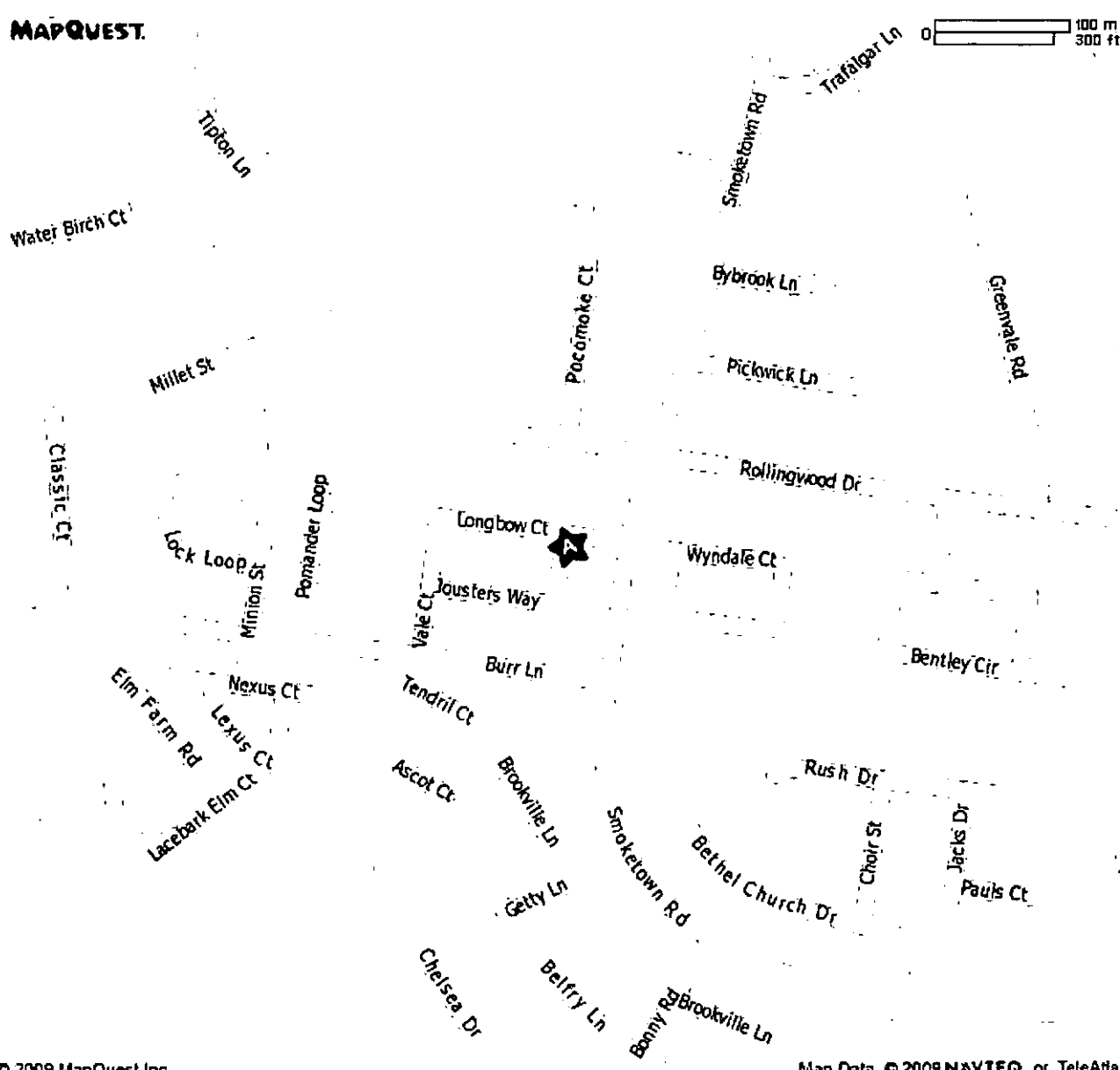
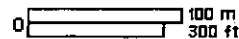
The second is a map of 3530 Belfry Lane, Woodbridge, VA.  
This is the location where Mary Bracewell said she saw a pick-up truck.

The second map also shows the intersection of Getty Lane and Belfry Lane.  
Bill parked his car where the "n" in " Belfry Ln" is on the map (nearest to  
Getty Lane).



**A: 3406 Jousters Way, Woodbridge, VA 22192-4431**

MAPQUEST.



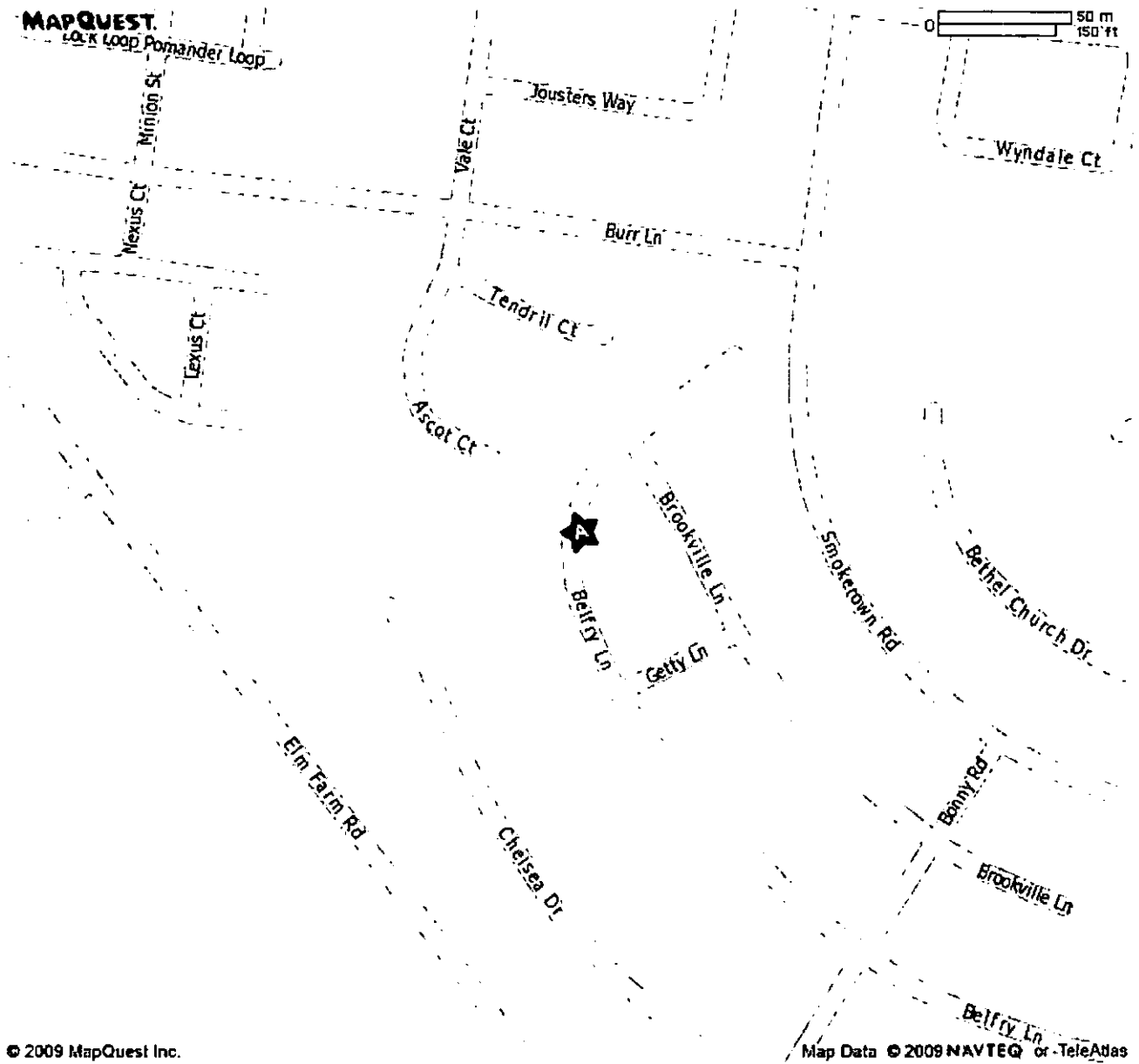
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Map Data © 2009 NAVTEQ or TeleAtlas

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**A: 3530 Belfry Ln, Woodbridge, VA 22192-4362**



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# **APPENDIX 34**

## APPENDIX 34

APPENDIX 34 is a MapQuest report (prepared on August 27, 2009) with driving directions and a map for the prosecution's theory that the pickup truck that Mary Bracewell saw parked outside 3530 Belfry Lane was Bill's pickup truck.

The MapQuest report therefore gives directions from 3530 Belfry Lane to 329 Gambrills Rd. (the address for Kaufmann's Restaurant), which was the trip that the prosecution claimed Bill had made

The distance is 57.61 miles




















The travel time is 1 hour and 13 minutes












# MAPQUEST

Total Travel Estimates: 1 hour 13 minutes / 57.61 miles

**A: 3530 Belfry Ln, Woodbridge, VA 22192-4362**

- |   |  |         |
|---|--|---------|
|    | <b>1: Start out going SOUTHEAST on BELFRY LN toward GETTY LN.</b>  | 0.2 mi  |
|    | <b>2: Turn LEFT onto BONNY RD.</b>   | 0.1 mi  |
|    | <b>3: Turn RIGHT onto SMOKETOWN RD.</b>  | 0.7 mi  |
|   | <b>4: Turn LEFT onto VA-3000 E/PRINCE WILLIAM PKWY.</b>  | 1.5 mi  |
|   | <b>5: Merge onto I-95 N toward WASHINGTON.</b>   | 17.5 mi |
|   | <b>6: Keep RIGHT at the fork to go on I-495 LOCAL E/I-95 LOCAL N/CAPITAL BELTWAY.</b>  | 1.2 mi  |
|   | <b>7: I-495 LOCAL E/I-95 LOCAL N/CAPITAL BELTWAY becomes I-495 E/I-95 N/CAPITAL BELTWAY.</b>   | 0.0 mi  |
|   | <b>8: I-495 E/I-95 N/CAPITAL BELTWAY becomes I-495 LOCAL E/I-95 LOCAL N/CAPITAL BELTWAY (Passing through DISTRICT OF COLUMBIA, then crossing into MARYLAND).</b> | 3.2 mi  |
|   | <b>9: Stay STRAIGHT to go onto I-495 N/I-95 N/CAPITAL BELTWAY.</b>   | 0.1 mi  |
|   | <b>10: I-495 N/I-95 N/CAPITAL BELTWAY becomes I-495 LOCAL N/I-95 LOCAL N/CAPITAL BELTWAY.</b>  | 0.3 mi  |
|   | <b>11: I-495 LOCAL N/I-95 LOCAL N/CAPITAL BELTWAY becomes I-495 N/I-95 N/CAPITAL BELTWAY.</b>  | 15.2 mi |

-   **12:** Merge onto **US-50 E** via **EXIT 19A** toward **ANNAPOLIS**. 7.3 mi
  
-  **13:** Take the **US-301/MD-3** exit, **EXIT 13A-B-C**, toward **RICHMOND/CROFTON**. 0.3 mi
  
-   **14:** Merge onto **MD-3 N/N CRAIN HWY** via **EXIT 13B** on the **LEFT** toward **CROFTON**. 8.6 mi
  
-   **15:** Turn **SLIGHT LEFT** onto **MD-175/ANNAPOLIS RD/MILLERSVILLE RD**. Continue to follow **MD-175/ANNAPOLIS RD**. 1.1 mi
  
-  **16:** Turn **RIGHT** onto **GAMBRILLS RD**. 0.4 mi
  
-  **17:** **329 GAMBRILLS RD**. 0.0 mi

**B: 329 Gambrills Rd, Gambrills, MD 21054-1125**

Total Travel Estimates: **1 hour 13 minutes / 57.61 miles**



# **APPENDIX 35**

## APPENDIX 35

APPENDIX 35 is a MapQuest report (prepared on August 27, 2009) with driving directions and a map for the trip that Bill actually took, from the place where he parked his vehicle (near the intersection of Getty Lane and Belfry Lane) to Ft. Meade, MD.

The MapQuest report therefore gives directions from Getty Lane to Fort Meade, MD 20755

The distance is 58.51 miles










The travel time is 1 hour and 12 minutes

# MAPQUEST

Total Travel Estimates: 1 hour 12 minutes / 58.51 miles

A: [13500-13599] Getty Ln, Woodbridge, VA 22192

- |   |   |         |
|---|---|---------|
|    | 1: Start out going <b>NORTHEAST</b> on <b>GETTY LN</b> toward <b>BROOKVILLE LN.</b>   | 0.0 mi  |
|    | 2: Turn <b>RIGHT</b> onto <b>BROOKVILLE LN.</b>   | 0.1 mi  |
|   | 3: Turn <b>LEFT</b> onto <b>BONNY RD.</b>   | 0.0 mi  |
|    | 4: Turn <b>RIGHT</b> onto <b>SMOKETOWN RD.</b>  | 0.7 mi  |
|   | 5: Turn <b>LEFT</b> onto <b>VA-3000 E/PRINCE WILLIAM PKWY.</b>  | 1.5 mi  |
|   | 6: Merge onto <b>I-95 N</b> toward <b>WASHINGTON.</b>   | 17.5 mi |
|   | 7: Keep <b>RIGHT</b> at the fork to go on <b>I-495 LOCAL E/I-95 LOCAL N/CAPITAL BELTWAY.</b>  | 1.2 mi  |
|   | 8: <b>I-495 LOCAL E/I-95 LOCAL N/CAPITAL BELTWAY</b> becomes <b>I-495 E/I-95 N/CAPITAL BELTWAY.</b>   | 0.0 mi  |
|   | 9: <b>I-495 E/I-95 N/CAPITAL BELTWAY</b> becomes <b>I-495 LOCAL E/I-95 LOCAL N/CAPITAL BELTWAY</b> (Passing through <b>DISTRICT OF COLUMBIA</b> , then crossing into <b>MARYLAND</b> ). | 3.2 mi  |
|   | 10: Stay <b>STRAIGHT</b> to go onto <b>I-495 N/I-95 N/CAPITAL BELTWAY.</b>  | 0.1 mi  |
|   | 11: <b>I-495 N/I-95 N/CAPITAL BELTWAY</b> becomes <b>I-495 LOCAL N/I-95 LOCAL N/CAPITAL BELTWAY.</b>  | 0.3 mi  |
- I-495 LOCAL N/I-95 LOCAL N/CAPITAL**

-   **BELTWAY becomes I-495 N/I-95 N/CAPITAL BELTWAY.** 18.8 mi
  
-  **13: Take the BALT/WASH PKWY NORTH exit, EXIT 22A, toward BALTIMORE.** 0.2 mi
  
-   **14: Merge onto MD-295 N via the exit on the LEFT toward BALT/WASH PKWY/BALTIMORE/BWI.** 12.5 mi
  
-  **15: Take the MD-175 exit toward ODENTON.** 0.3 mi
  
-   **16: Turn SLIGHT RIGHT onto MD-175 E/ANNAPOLIS RD.** 2.1 mi
  
-  **17: Welcome to FORT GEORGE G MEADE, MD 20755.** 0.0 mi

**B: Fort George G Meade, MD 20755**

Total Travel Estimates: 1 hour 12 minutes / 58.51 miles



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# **APPENDIX 36**

911 Call from Neighbor at 3408 Jousters Regarding a Domestic at 3406 Jousters Way:

04:23 hours January 2, 2001

Operator: Prince William County 911, what is your emergency?

Caller One: Uh yes, my next door neighbor in 3406, I think he's beating his wife or his kids or something really bad.

Operator: Okay . . .

Caller One: She's screaming. Could you send someone over here immediately?

Operator: Okay, that's 3406 Jousters Way . . .

Caller One: Yeah.

Operator: Okay, alright, we'll have units respond.

Caller One: Thank-you very much.

Operator: You're welcome . . .

Caller One: Okay . . .

Operator: Do they have a history of this?

Caller one: Uh, they yell sometimes and stuff, but, I mean, there's shit been thrown up against the wall and she's screamin' and now I don't hear anything. Please get someone over here quick.

Operator: Okay, we're dispatching.

Caller One: And there are two little kids over there at least.

Caller One: Okay, bye.

Operator: Bye-bye.

Recording of Police Dispatch:

Approx. 4:24 - 4:25 A.M.

Officer (1278 Daniel): He's G. O. A. (gone on arrival?), the truck's fine...10-17 was advised we're 10-8.

Dispatcher: ...I'm gonna need both units to copy for a domestic in progress...

Officer (1278 Daniel): 12-78. Go ahead.

Dispatcher: Respond to 3406 Jousters Way. 3406 Jousters Way off of Longfellow Court. Please be advised she can hear screaming coming from 3406 Jousters. There is no 10-17.

Officer (1220 Biggar): 12-20 I have it (?).

Officer (1278 Daniel): 12-78.

Dispatcher: 4:25. (indicating time cars were dispatched)

*30-second pause...*

Officer (1220 Biggar): 12-20, 10-23 (on scene)

Dispatcher: OK, 12-20, 4:26. (Indicating arrival time)

*95-second pause...*

Officer (1278 Daniel): 12-78 on scene.

Dispatcher: Thank you 12-78. 4:28 (indicating the time 12-78 arrives on scene)

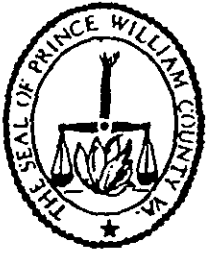
*3 minute 10-second pause...*

Officer (12-91): 12-91.

Dispatcher: 12-91.

Officer (12-91): Turn over (unintelligible)

# **APPENDIX 37**



## COUNTY OF PRINCE WILLIAM

15948 Donald Curtis Drive, Woodbridge, VA 22191  
(703) 792-7200 Metro 631-1703

POLICE  
DEPARTMENT

Charlie T. Deane  
Chief of Police

June 12, 2002

Henry W. Asbill  
Asbill, Junkin, & Boss, Attorneys At Law  
1615 New Hampshire Avenue, N.W.  
Washington, D.C. 20009-2520

Dear Mr. Asbill,

Per Mr. Willett's instruction please find enclosed telephone records which we received.

I used these records in order to generate a chart showing certain incoming and outgoing calls from the phone number 443-562-5663. Not all the phone numbers which are in the records were placed into the chart. I only entered certain telephone numbers. In addition this chart is a compilation of two separate printouts. I have enclosed both. The short printout deals with just the incoming calls to the above telephone number.

In reviewing the chart that I generated for the Office of the Commonwealth's Attorney I find that I have a typographical error in the upper left corner of the chart. The last digit of the telephone number was wrong. I have struck through the error, made the correction, and initialed that correction.

If you have any questions, please give Mr. Willett a call.

Sincerely,

L.P. Kowalski, Master Detective  
Criminal Investigation Division

A NATIONALLY ACCREDITED LAW ENFORCEMENT AGENCY

An Equal Opportunity Employer



Printed On Recycled Paper



## CALLS TO DESTINATION NUMBER

From: 12/20/2000 12:00 AM To: 01/05/2001 11:59 PM  
 Number Called: 4435625663  
 Subscriber Type : ALL  
 Authentication Type: ALL

	MobilsId	Call Date	Call Time HR:MN:SC	Call Duration HR:MN:SC	Cell Site
1	703-338-4819	01/05/2001	01:11:08 AM	00:01:15	
2	703-338-4819	01/05/2001	12:28:58 AM	00:02:35	
3	443-562-5663	01/04/2001	09:07:43 PM	00:00:20	
4	443-562-5663	01/04/2001	01:44:49 PM	00:00:33	
5	443-562-5663	01/04/2001	11:36:30 AM	00:00:34	
6	443-562-5663	01/04/2001	11:03:21 AM	00:00:39	
7	443-562-5663	01/04/2001	05:48:12 AM	00:00:42	
8	443-562-5663	01/03/2001	03:17:52 PM	00:00:39	
9	703-338-4819	01/03/2001	09:47:08 AM	00:13:19	
10	703-338-4819	01/02/2001	11:50:31 AM	00:03:15	
11	703-338-4819	01/02/2001	08:42:13 AM	00:06:10	
12	703-338-4819	01/02/2001	07:23:35 AM	00:02:22	
13	703-338-4819	01/02/2001	01:35:24 AM	00:01:13	
14	703-338-4819	01/02/2001	01:31:21 AM	00:03:08	
15	443-562-5663	01/01/2001	11:23:37 PM	00:00:19	
16	703-338-4819	01/01/2001	10:45:57 PM	00:01:30	
17	443-562-5663	01/01/2001	07:57:20 PM	00:00:37	
18	703-338-4819	01/01/2001	07:15:49 PM	00:00:07	
19	703-338-4819	01/01/2001	07:07:32 PM	00:06:08	
20	443-562-5663	01/01/2001	05:07:36 PM	00:00:40	
21	703-338-4819	01/01/2001	05:26:39 AM	00:17:33	
22	703-338-4819	01/01/2001	03:18:05 AM	00:00:44	
23	703-338-4819	12/31/2000	02:03:18 PM	00:00:21	
24	443-562-5663	12/31/2000	02:02:13 PM	00:00:30	
25	703-338-4819	12/31/2000	09:58:05 AM	00:31:03	
26	703-338-4819	12/31/2000	09:09:06 AM	00:05:19	
27	703-338-4819	12/30/2000	11:53:47 PM	00:06:39	
28	703-338-4819	12/30/2000	10:00:23 PM	00:00:33	
29	443-562-5663	12/30/2000	09:59:14 PM	00:00:45	
30	443-562-5663	12/30/2000	07:53:30 PM	00:01:03	
31	703-338-4819	12/29/2000	06:25:26 PM	00:06:22	
32	443-562-5663	12/29/2000	05:47:42 PM	00:00:38	
33	703-338-4819	12/29/2000	05:29:46 PM	00:00:29	
34	703-338-4819	12/29/2000	05:29:19 PM	00:00:07	
35	703-338-4819	12/29/2000	04:36:05 PM	00:00:04	
36	703-338-4819	12/29/2000	02:52:07 PM	00:18:11	
37	443-562-5663	12/29/2000	11:21:44 AM	00:05:53	
38	703-338-4819	12/28/2000	11:41:51 PM	00:03:37	
39	443-562-5663	12/28/2000	08:40:51 PM	00:00:29	
40	443-562-5663	12/28/2000	07:58:23 PM	00:04:36	
41	703-338-4819	12/28/2000	07:24:51 PM	00:00:25	
42	703-338-4819	12/28/2000	07:16:06 PM	00:00:02	
43	703-338-4819	12/28/2000	06:04:31 PM	00:00:40	
44	703-338-4819	12/28/2000	06:04:06 PM	00:00:01	
45	703-338-4819	12/28/2000	01:01:29 PM	00:02:03	
46	443-562-5663	12/28/2000	11:14:10 AM	00:00:11	
47	703-338-4819	12/28/2000	01:21:43 AM	00:07:01	
48	703-338-4819	12/27/2000	10:22:11 PM	00:00:21	
49	703-338-4819	12/27/2000	10:21:16 PM	00:00:20	
50	703-338-4819	12/27/2000	09:49:27 PM	00:03:23	
51	443-562-5663	12/27/2000	07:01:29 PM	00:01:19	

52	443-562-5663	12/27/2000	04:00:56 PM	00:04:27
53	703-338-4819	12/27/2000	03:31:52 PM	00:07:23
54	443-562-5663	12/26/2000	08:41:00 AM	00:00:12
55	443-562-5663	12/25/2000	06:10:00 PM	00:00:44
56	703-338-4819	12/25/2000	05:35:26 PM	00:00:39
57	443-562-5663	12/25/2000	09:56:46 AM	00:00:42
58	703-338-4819	12/25/2000	01:43:21 AM	00:00:26
59	443-562-5663	12/24/2000	10:30:59 PM	00:00:37
60	703-338-4819	12/24/2000	10:22:58 PM	00:00:33
61	443-562-5663	12/24/2000	04:21:11 PM	00:01:07
62	443-562-5663	12/23/2000	09:45:32 PM	00:01:23
63	443-562-5663	12/23/2000	09:16:37 AM	00:00:16
64	703-338-4819	12/22/2000	10:09:59 PM	00:03:40
65	703-338-4819	12/22/2000	03:01:47 PM	00:00:16
66	703-338-4819	12/22/2000	02:17:15 PM	00:01:14
67	703-338-4819	12/22/2000	02:16:21 PM	00:00:08
68	703-338-4819	12/22/2000	01:50:35 PM	00:00:52
69	703-338-4819	12/22/2000	01:50:12 PM	00:00:02
70	703-338-4819	12/22/2000	11:49:35 AM	00:04:23
71	703-338-4819	12/21/2000	10:00:21 PM	00:03:53
72	703-338-4819	12/21/2000	09:50:40 PM	00:00:36
73	703-338-4819	12/21/2000	12:33:30 PM	00:01:37
74	443-562-5663	12/21/2000	10:47:07 AM	00:00:33
75	443-562-5663	12/20/2000	10:09:08 PM	00:00:46
76	703-338-4819	12/20/2000	10:06:05 PM	00:02:57
77	703-338-4819	12/20/2000	09:55:55 PM	00:00:29
78	703-338-4819	12/20/2000	06:17:42 PM	00:02:07
79	703-338-4819	12/20/2000	12:13:52 AM	00:00:39

---

TOTAL USAGE: 03:29:28



Date	Time	End Time (Approx.)	Incoming / Outgoing	Number Called	Calling Number	Length of Call Hr:Min:Sec	Cell Tower Location
12/30/2000	10:00:23 PM	10:00:56 PM	Incoming		703-338-4819	0:00:33	
12/30/2000	11:30:28 PM	11:32:28 PM	Outgoing	703-338-4819		0:02:00	
12/30/2000	11:53:47 PM	12:00:26 AM	Incoming		703-338-4819	0:06:39	
12/31/2000	8:55:43 AM	8:56:43 AM	Outgoing	703-338-4819		0:01:00	
12/31/2000	9:06:32 AM	9:08:32 AM	Outgoing	703-338-4819		0:02:00	
12/31/2000	9:09:06 AM	9:14:25 AM	Incoming		703-338-4819	0:05:19	
12/31/2000	9:58:05 AM	10:29:08 AM	Incoming		703-338-4819	0:31:03	
12/31/2000	11:55:40 AM	11:58:40 AM	Outgoing	703-338-4819		0:03:00	
12/31/2000	2:05:18 PM	2:05:39 PM	Incoming		703-338-4819	0:00:21	
01/01/2001	12:31:31 AM	12:36:31 AM	Outgoing	703-338-4819		0:05:00	
01/01/2001	12:51:02 PM	12:54:02 PM	Outgoing	703-338-4819		0:03:00	
01/01/2001	12:58:41 AM	1:00:41 AM	Outgoing	703-338-4819		0:02:00	
01/01/2001	1:29:46 AM	1:33:46 AM	Outgoing	703-338-4819		0:04:00	
01/01/2001	2:29:45 AM	2:32:45 AM	Outgoing	703-338-4819		0:03:00	
01/01/2001	3:13:42 AM	3:14:42 AM	Outgoing	703-338-4819		0:01:00	
01/01/2001	3:18:05 AM	3:18:49 AM	Incoming		703-338-4819	0:00:44	
01/01/2001	5:26:39 AM	5:44:12 AM	Incoming		703-338-4819	0:17:33	
01/01/2001	11:44:42 AM	11:46:42 AM	Outgoing	703-338-4819		0:02:00	
01/01/2001	12:11:16 PM	12:14:16 PM	Outgoing	703-338-4819		0:03:00	
01/01/2001	12:38:34 PM	12:46:34 PM	Outgoing	703-338-4819		0:08:00	
01/01/2001	12:58:39 PM	1:00:39 PM	Outgoing	703-338-4819		0:02:00	
01/01/2001	2:16:38 PM	2:18:38 PM	Outgoing	703-338-4819		0:02:00	
01/01/2001	2:41:18 PM	2:43:18 PM	Outgoing	703-338-4819		0:02:00	
01/01/2001	3:00:52 PM	3:03:52 PM	Outgoing	703-338-4819		0:03:00	
01/01/2001	5:06:08 PM	5:07:08 PM	Outgoing	703-338-4819		0:01:00	
01/01/2001	6:46:47 PM	6:48:47 PM	Outgoing	703-338-4819		0:02:00	
01/01/2001	7:02:05 PM	7:07:05 PM	Outgoing	703-338-4819		0:05:00	
01/01/2001	7:07:32 PM	7:13:40 PM	Incoming		703-338-4819	0:06:08	

Homicide Case #01-546  
victim - Finch, Robert  
Thral, Dana

9 of 11



Phone cords  
443-562-6665 3 (22)

Larry F. Elliott  
P.O. Box 201  
Fort Meade, MD 20755

Case # 1546  
Offense: Homicide  
Det. L.P. Kowalski

01/01/2001	7:15:49 PM	7:15:56 PM	Incoming		703-338-4819	0:00:07	
01/01/2001	8:17:18 PM	8:19:18 PM	Outgoing	703-338-4819		0:02:00	
01/01/2001	8:24:02 PM	8:44:02 PM	Outgoing	703-338-4819		0:20:00	
01/01/2001	10:14:47 PM	10:16:47 PM	Outgoing	703-338-4819		0:02:00	
01/01/2001	10:28:06 PM	10:44:06 PM	Outgoing	703-338-4819		0:16:00	
01/01/2001	10:45:57 PM	10:47:27 PM	Incoming		703-338-4819	0:01:30	
01/01/2001	11:12:34 PM	11:14:34 PM	Outgoing	703-338-4819		0:02:00	
01/01/2001	11:24:13 PM	11:26:13 PM	Outgoing	703-338-4819		0:02:00	
01/01/2001	11:31:45 PM	11:34:45 PM	Outgoing	703-338-4819		0:03:00	
01/02/2001	12:12:47 AM	12:30:47 AM	Outgoing	703-338-4819		0:18:00	
01/02/2001	12:48:05 AM	1:12:05 AM	Outgoing	703-338-4819		0:24:00	
01/02/2001	1:12:32 AM	1:29:32 AM	Outgoing	703-338-4819		0:17:00	
01/02/2001	1:31:21 AM	1:34:29 AM	Incoming		703-338-4819	0:03:08	
01/02/2001	1:35:24 AM	1:36:37 AM	Incoming		703-338-4819	0:01:13	
01/02/2001	2:01:38 AM	2:21:38 AM	Outgoing	703-338-4819		0:20:00	
01/02/2000	5:24:05 AM	5:29:05 AM	Outgoing	703-338-4819		0:05:00	
01/02/2001	7:23:35 AM	7:25:57 AM	Incoming		703-338-4819	0:02:22	
01/02/2001	7:35:08 AM	7:37:08 AM	Outgoing	703-338-4819		0:02:00	
01/02/2001	8:07:48 AM	8:22:48 AM	Outgoing	703-338-4819		0:15:00	
01/02/2001	8:41:37 AM	8:43:37 AM	Outgoing	703-338-4819		0:02:00	
01/02/2001	8:42:13 AM	8:48:23 AM	Incoming		703-338-4819	0:06:10	
01/02/2001	10:34:13 AM	10:44:13 AM	Outgoing	703-338-4819		0:10:00	
01/02/2001	11:50:31 AM	11:53:46 AM	Incoming		703-338-4819	0:03:15	
01/02/2001	12:47:28 PM	12:48:28 PM	Outgoing	703-338-4819		0:01:00	
01/02/2001	2:21:59 PM	2:23:59 PM	Outgoing	703-338-4819		0:02:00	
01/02/2001	6:16:32 PM	6:23:32 PM	Outgoing	703-338-4819		0:07:00	
01/02/2001	10:29:42 PM	10:31:42 PM	Outgoing	703-338-4819		0:02:00	
01/03/2001	9:32:50 AM	9:33:50 AM	Outgoing	703-338-4819		0:01:00	
01/03/2001	9:47:08 AM	10:00:27 AM	Incoming		703-338-4819	0:13:19	

Homicide Case #01-546  
victim - Finch, Robert  
Thrall, Dana

10 of 11

# Subpoena: 130021

Print Job: 1/11/2001 3:33:57 PM



PNE	663046811	443/562-5663					
12/31/2000	9:58:17 AM		32.0	0.00	0.00	0.00	INCOMING
12/31/2000	11:55:40 AM	703/338-4819	3.0	0.00	0.00	0.00	MOBILE
12/31/2000	2:02:06 PM	MSG RETRIEVE	1.0	0.00	0.00	0.00	INCOMING
01/01/2001	12:31:31 AM	703/338-4819	5.0	0.00	0.00	0.00	MOBILE
01/01/2001	12:51:02 AM	703/338-4819	3.0	0.00	0.00	0.00	MOBILE
01/01/2001	12:58:41 AM	703/338-4819	2.0	0.00	0.00	0.00	MOBILE
01/01/2001	1:29:46 AM	703/338-4819	4.0	0.00	0.00	0.00	MOBILE
01/01/2001	2:29:45 AM	703/338-4819	3.0	0.00	0.00	0.00	MOBILE
01/01/2001	3:13:42 AM	703/338-4819	1.0	0.00	0.00	0.00	ARLINGTON VA
01/01/2001	3:14:49 AM		1.0	0.00	0.00	0.00	INCOMING
01/01/2001	5:23:17 AM		18.0	0.00	0.00	0.00	INCOMING
01/01/2001	11:44:42 AM	703/338-4819	2.0	0.00	0.00	0.00	ARLINGTON VA
01/01/2001	12:11:16 PM	703/338-4819	3.0	0.00	0.00	0.00	ARLINGTON VA
01/01/2001	12:38:34 PM	703/338-4819	8.0	0.00	0.00	0.00	ARLINGTON VA
01/01/2001	12:58:39 PM	703/338-4819	2.0	0.00	0.00	0.00	ARLINGTON VA
01/01/2001	2:16:38 PM	703/338-4819	2.0	0.00	0.00	0.00	MOBILE
01/01/2001	2:41:18 PM	703/338-4819	2.0	0.00	0.00	0.00	MOBILE
01/01/2001	2:47:50 PM	304/259-4271	1.0	0.00	0.00	0.00	DAVIS WV
01/01/2001	3:00:52 PM	703/338-4819	3.0	0.00	0.00	0.00	MOBILE
01/01/2001	3:20:00 PM	304/259-4221	6.0	0.00	0.00	0.00	DAVIS WV
01/01/2001	5:04:23 PM	304/259-4271	2.0	0.00	0.00	0.00	DAVIS WV
01/01/2001	5:06:08 PM	703/338-4819	1.0	0.00	0.00	0.00	MOBILE
01/01/2001	5:07:29 PM	MSG RETRIEVE	1.0	0.00	0.00	0.00	MOBILE
01/01/2001	5:08:35 PM	304/259-4221	21.0	0.00	0.00	0.00	DAVIS WV
01/01/2001	6:46:47 PM	703/338-4819	2.0	0.00	0.00	0.00	MOBILE
01/01/2001	7:02:05 PM	703/338-4819	5.0	0.00	0.00	0.00	MOBILE
01/01/2001	7:08:03 PM		7.0	0.00	0.00	0.00	INCOMING
01/01/2001	7:57:14 PM	MSG RETRIEVE	1.0	0.00	0.00	0.00	MOBILE
01/01/2001	8:05:44 PM	304/259-4271	12.0	0.00	0.00	0.00	DAVIS WV
01/01/2001	8:17:18 PM	703/338-4819	2.0	0.00	0.00	0.00	MOBILE
01/01/2001	8:24:02 PM	703/338-4819	20.0	0.00	0.00	0.00	MOBILE
01/01/2001	10:14:47 PM	703/338-4819	2.0	0.00	0.00	0.00	MOBILE
01/01/2001	10:28:06 PM	703/338-4819	16.0	0.00	0.00	0.00	MOBILE
01/01/2001	10:46:55 PM		2.0	0.00	0.00	0.00	INCOMING
01/01/2001	11:12:34 PM	703/338-4819	2.0	0.00	0.00	0.00	MOBILE
01/01/2001	11:23:30 PM	MSG RETRIEVE	1.0	0.00	0.00	0.00	MOBILE
01/01/2001	11:24:13 PM	703/338-4819	2.0	0.00	0.00	0.00	MOBILE
01/01/2001	11:31:45 PM	703/338-4819	3.0	0.00	0.00	0.00	MOBILE
01/02/2001	12:12:47 AM	703/338-4819	18.0	0.00	0.00	0.00	MOBILE
01/02/2001	12:48:05 AM	703/338-4819	24.0	0.00	0.00	0.00	MOBILE
01/02/2001	1:12:32 AM	703/338-4819	17.0	0.00	0.00	0.00	MOBILE
01/02/2001	1:31:45 AM		4.0	0.00	0.00	0.00	INCOMING
01/02/2001	1:35:48 AM		2.0	0.00	0.00	0.00	INCOMING
01/02/2001	2:01:39 AM	703/338-4819	20.0	0.00	0.00	0.00	MOBILE
01/02/2001	5:24:05 AM	703/338-4819	5.0	0.00	0.00	0.00	MOBILE
01/02/2001	7:24:17 AM		3.0	0.00	0.00	0.00	INCOMING

# Subpoena: 130021



Print Job: 1/11/2001 3:33:57 PM

PNE	663046811	443/562-5663						
01/02/2001	7:35:08 AM	703/338-4819	2.0	0.00	0.00	0.00	MOBILE	
01/02/2001	8:07:48 AM	703/338-4819	15.0	0.00	0.00	0.00	MOBILE	
01/02/2001	8:41:37 AM	703/338-4819	2.0	0.00	0.00	0.00	MOBILE	
01/02/2001	8:42:55 AM		7.0	0.00	0.00	0.00	INCOMING	
01/02/2001	10:34:13 AM	703/338-4819	10.0	0.00	0.00	0.00	MOBILE	
01/02/2001	11:53:59 AM		4.0	0.00	0.00	0.00	INCOMING	
01/02/2001	12:47:28 PM	703/338-4819	1.0	0.00	0.00	0.00	MOBILE	
01/02/2001	2:21:59 PM	703/338-4819	2.0	0.00	0.00	0.00	MOBILE	
01/02/2001	6:16:32 PM	703/338-4819	7.0	0.00	0.00	0.00	MOBILE	
01/02/2001	8:21:58 PM	304/259-4271	16.0	0.00	0.00	0.00	DAVIS WV	
01/02/2001	9:29:10 PM	410/491-0938	3.0	0.00	0.00	0.00	CATONSVL MD	
01/02/2001	9:43:20 PM	410/491-0938	4.0	0.00	0.00	0.00	CATONSVL MD	
01/02/2001	10:29:42 PM	703/338-4819	2.0	0.00	0.00	0.00	MOBILE	
01/03/2001	9:32:50 AM	703/338-4819	1.0	0.00	0.00	0.00	MOBILE	
01/03/2001	9:46:53 AM		14.0	0.00	0.00	0.00	INCOMING	
01/03/2001	3:17:46 PM	MSG RETRIEVE	1.0	0.00	0.00	0.00	MOBILE	
01/03/2001	6:08:18 PM		3.0	0.00	0.00	0.00	INCOMING	
01/04/2001	5:48:06 AM	MSG RETRIEVE	1.0	0.00	0.00	0.00	MOBILE	
01/04/2001	10:09:43 AM		1.0	0.00	0.00	0.00	INCOMING	
01/04/2001	11:03:14 AM	MSG RETRIEVE	1.0	0.00	0.00	0.00	MOBILE	
01/04/2001	11:07:36 AM		2.0	0.00	0.00	0.00	INCOMING	
01/04/2001	11:36:24 AM	MSG RETRIEVE	1.0	0.00	0.00	0.00	MOBILE	
01/04/2001	11:51:30 AM		15.0	2.75	0.00	2.75	INCOMING	
01/04/2001	1:44:42 PM	MSG RETRIEVE	1.0	0.25	0.00	0.25	MOBILE	
01/04/2001	2:06:40 PM		24.0	6.00	0.00	6.00	INCOMING	
01/04/2001	4:47:26 PM		3.0	0.75	0.00	0.75	INCOMING	

# **APPENDIX 38**

## **APPENDIX 38**

The attached, APP 2549, is a page from the cell phone records of Rebecca Gragg's cell phone (703-339-4819) that were subpoenaed by the Prince William County Police and introduced into evidence at the second trial as Commonwealth's Exhibit 40.

The eighth entry down is the call that she received from Bill Elliott on January 2, 2001 at 5:23:46 AM.

Subpoena: 137883



Print Job: 3/20/2001 2:38:32 PM

PNE	663045811	703/338-4819						
01/02/2001	1:31:11 AM	443/562-5663	4.0	1.00	0.00	1.00	BALTIMORE MD	
01/02/2001	1:35:15 AM	443/562-5663	2.0	0.50	0.00	0.50	BALTIMORE MD	
01/02/2001	2:01:20 AM		20.0	5.00	0.00	5.00	INCOMING	
01/02/2001	2:01:40 AM	843/446-0122	0.0	0.00	0.00	0.00	MYRTLE BCH SC	
01/02/2001	3:27:56 AM		13.0	3.25	0.00	3.25	INCOMING	
01/02/2001	3:28:17 AM	843/446-0161	0.0	0.00	0.00	0.00	MYRTLE BCH SC	
01/02/2001	3:44:19 AM	703/583-6131	1.0	0.25	0.00	0.25	DALE CITY VA	
01/02/2001	5:23:46 AM		5.0	1.25	0.00	1.25	INCOMING	
01/02/2001	5:24:05 AM	843/446-0176	0.0	0.00	0.00	0.00	MYRTLE BCH SC	
01/02/2001	7:03:15 AM	540/895-9196	2.0	0.50	0.00	0.50	BROKENBURG VA	
01/02/2001	7:04:35 AM	703/282-5224	2.0	0.50	0.00	0.50	HERNDON VA	
01/02/2001	7:06:09 AM	703/660-4347	1.0	0.25	0.00	0.25	ALEXANDRIA VA	
01/02/2001	7:13:20 AM		9.0	2.25	0.00	2.25	INCOMING	
01/02/2001	7:14:01 AM	910/527-7736	0.0	0.00	0.00	0.00	FAYETTEVL NC	
01/02/2001	7:21:54 AM	703/583-6131	1.0	0.25	0.00	0.25	DALE CITY VA	
01/02/2001	7:22:39 AM	MSG RETRIEVE	1.0	0.25	0.00	0.25	INCOMING	
01/02/2001	7:23:19 AM	443/562-5663	3.0	0.75	0.00	0.75	BALTIMORE MD	
01/02/2001	7:35:29 AM	MSG STORED	0.0	0.00	0.00	0.00	INCOMING	
01/02/2001	7:36:13 AM	703/282-5224	1.0	0.00	0.00	0.00	HERNDON VA	
01/02/2001	7:37:10 AM	941/320-0854	2.0	0.00	0.00	0.00	SARASOTA FL	
01/02/2001	7:39:02 AM	7033384819	4.0	0.00	0.00	0.00	MAIL NC	
01/02/2001	7:43:04 AM	703/922-1113	1.0	0.00	0.00	0.00	ARLINGTON VA	
01/02/2001	7:45:30 AM	202/491-8869	2.0	0.00	0.00	0.00	WASHINGTON DC	
01/02/2001	7:47:26 AM	919/915-8196	0.0	0.00	0.00	0.00	SMITHFIELD NC	
01/02/2001	7:49:52 AM		12.0	0.00	0.00	0.00	INCOMING	
01/02/2001	8:01:56 AM	703/670-8161	2.0	0.50	0.00	0.50	DALE CITY VA	
01/02/2001	8:03:31 AM	804/411-	1.0	0.25	0.07	0.32	DIR. ASST. VA	
01/02/2001	8:04:14 AM	804/411-	2.0	0.50	0.07	0.57	DIR. ASST. VA	
01/02/2001	8:07:10 AM		14.0	3.50	0.00	3.50	INCOMING	
01/02/2001	8:07:50 AM	910/527-7706	0.0	0.00	0.00	0.00	FAYETTEVL NC	
01/02/2001	8:26:34 AM	703/282-5224	5.0	1.25	0.00	1.25	HERNDON VA	
01/02/2001	8:32:16 AM	703/583-6131	2.0	0.50	0.00	0.50	DALE CITY VA	
01/02/2001	8:33:44 AM	800/321-6808	8.0	2.00	0.00	2.00		
01/02/2001	8:41:46 AM	443/562-5663	7.0	1.75	0.00	1.75	BALTIMORE MD	
01/02/2001	8:42:12 AM	MSG STORED	0.0	0.00	0.00	0.00	INCOMING	
01/02/2001	8:48:29 AM	MSG RETRIEVE	1.0	0.25	0.00	0.25	INCOMING	
01/02/2001	9:22:38 AM		2.0	0.50	0.00	0.50	INCOMING	
01/02/2001	9:36:44 AM	304/456-4051	3.0	0.00	0.00	0.00	ARBOVALE WV	
01/02/2001	9:41:34 AM	703/675-5600	1.0	0.00	0.00	0.00	WASHINGTON VA	
01/02/2001	9:45:07 AM	703/675-5600	1.0	0.00	0.00	0.00	WASHINGTON VA	
01/02/2001	9:51:46 AM	703/730-8848	1.0	0.25	0.00	0.25	DALE CITY VA	
01/02/2001	10:01:32 AM	703/922-1113	2.0	0.00	0.00	0.00	ARLINGTON VA	
01/02/2001	10:04:47 AM	MSG RETRIEVE	1.0	0.25	0.00	0.25	INCOMING	
01/02/2001	10:05:33 AM	703/583-6131	1.0	0.00	0.00	0.00	DALE CITY VA	
01/02/2001	10:05:39 AM	304/456-4051	2.0	0.50	0.00	0.50	ARBOVALE WV	
01/02/2001	10:08:46 AM	703/730-8848	2.0	0.50	0.00	0.50	DALE CITY VA	

AWS: Subpoena Tracker, Rev. 4/1999

AT&T-Proprietary  
Use pursuant to Company instruction

Natalie

# **APPENDIX 39**

COPY

November 24, 2004

VIA U.S. MAIL

Paul B. Ebert, Commonwealth's Attorney  
James A. Willett, Assistant Commonwealth's Attorney  
Prince William County  
9311 Lee Avenue, Suite 200  
Manassas, VA 20110

Katherine P. Baldwin  
Senior Assistant Attorney General  
Office of the Attorney General  
900 East Main Street  
Richmond, Virginia 23219

RE: *Commonwealth v. Larry Bill Elliott*  
Crim. Nos. 51115, 51116, 51117, 51118

Dear Mr. Ebert, Mr. Willett and Ms. Baldwin:

As you may be aware, our firm represents Larry Bill Elliot, pro bono, in state habeas corpus proceedings. As you will recall, Mr. Elliott was convicted of capital murder and sentenced to death on May 22, 2003, after a jury trial before Judge Hamblin. We are uncertain of the current location of the files pertaining to Mr. Elliott's case and, therefore, we write to you jointly to request specific materials from those files as well as any additional materials favorable to Mr. Elliott, either as to guilt or punishment, that the State has not previously disclosed. We are requesting both pre-trial discovery materials, materials from the record, and any materials that may have been uncovered since Mr. Elliott's trial. Because time is of the essence in preparing Mr. Elliott's state habeas corpus petition, we request that you make these materials available within ten days. We are willing to come to your offices to examine and arrange to photocopy/duplicate the requested materials, as well as pay the reasonable costs of such duplication.

As you know, the state has a continuing Brady obligation during post conviction proceedings. In Kyles v. Whitley, 115 S.Ct. 1555 (1995), the United States Supreme Court reaffirmed the duty of the prosecutor to disclose as dictated by a consistent line of cases. See Brady v. Maryland, 373 U.S. 83 (1963), United States v. Agurs, 427 U.S. 97 (1976), and United States v. Bagley, 473 U.S. 667 (1985).

The basic Brady principles include the following: (1) There is no distinction between exculpatory and impeachment evidence for Brady purposes; (2) The duty of disclosure exists irrespective of any request by the defendant; (3) All favorable evidence relative to guilt or punishment is material, and error occurs "if there is a reasonable probability" that with disclosure to the defense the result would have been different. In Kyles, the Court explicitly stated that proof of materiality does not require proof by a preponderance of the evidence that disclosure would result in acquittal. Nor does it require the defendant



to demonstrate that the evidence would be insufficient to convict once the inculpatory evidence affected by the nondisclosure is removed from the case. In other words, materiality is not determined by a sufficiency of the evidence test. Moreover, materiality is to be judged by viewing all non-disclosed evidence collectively rather than item by item.

While reaffirming these basic principles, the Kyles Court also emphasized the obligations imposed on prosecutors to weigh the net effect of all non-disclosed evidence, to learn of favorable evidence known to government agents (including police), and to make disclosure "when the point of 'reasonable probability is reached.'" A prosecutor cannot avoid learning about evidence which may affect confidence in the outcome of the trial or the punishment. Moreover, a prosecutor has a continuing duty of disclosure. Mooney v. Holohan, 294 U.S. 103, 108 (1935); Imbler v. Pachtman, 424 U.S. 409, 427 and n. 25 (1976) (citing ABA Code of Professional Responsibility § EC 7-13; ABA Project on Standards for Criminal Justice, Prosecution and Defense Function § 3.11); Stifel, 594 F. Supp. 1525, 1539 (E.D. Ohio); Monroe v. Butler, 690 F. Supp. 521, 525 (E.D. La.), aff'd, 833 F.2d 331 (5th Cir.), cert. denied, 487 U.S. 1247 (1988); In re Wright, 282 F. Supp. 999 (W.D. Ark. 1968).

The Rules of the Supreme Court of Virginia address these same concerns. DR 8-102(4) specifically requires the prosecutor or other government lawyer to "make timely disclosure . . . of the existence of evidence . . . that tends to negate the guilt of the accused, mitigate the degree of the offense, or reduce the punishment." The Rules in EC 8-10 address the responsibilities of the prosecutor and include the following: "The prosecutor should make timely disclosure to the defense of all information required by law. Further, a prosecutor should not intentionally avoid pursuit of evidence merely because he believes it will damage the prosecution's case or aid the accused." See Lemons v. Commonwealth, 446 S.E.2d 158, 160-61 (Va. App. 1994); Stotler v. Commonwealth, 346 S.E.2d 39, 41 (Va. App. 1986).

Against this background, we request that you inspect and review all materials and evidence in the possession, custody or control of the Commonwealth or its agents and disclose all materials and evidence known to the Commonwealth or its agents, under the principles of Kyles and Brady, that are material to the issues of Mr. Elliott's guilt or sentence for capital murder. These materials may include, but are not limited to, the following:

#### Investigators/Analysts

1. The names and addresses of all law enforcement personnel, medical experts, forensic experts or other analyst, expert or agent thereof, involved in or exposed to any portion of the investigation or examination of any evidence in this matter, along with a summary of the involvement of each identified person. The list should include but is not limited to:
  - a. Any and all persons responsible for securing, maintaining and examining the crime scene;
  - b. Any and all persons who had any type of contact for any length of time with one or both of the children found at the crime scene, on and any time subsequent to the date of the crimes;
  - c. Persons providing any type of medical assistance to persons involved with the crime scene;
  - d. Persons responsible for or involved in transporting petitioner, the victims, any witnesses or evidence during the course of the case;
  - e. Persons involved in maintaining petitioner in custody from his arrest until the present;

- f. Persons involved in maintaining any witness or co-defendant in custody from his arrest until the present; and
  - g. Persons responsible for investigating and/or assigned to work on any aspect of this case, for any length of time.
2. Copies of any and all complaints and disciplinary actions filed or taken against any law enforcement personnel or agents thereof who participated in the investigation and/or testified in this matter, whether filed internally or with some other independent agency and whether filed prior or subsequent to this particular case. If a copy cannot be provided because review of the complaint/disciplinary action is ongoing, we request that the fact and general nature of each ongoing complaint/disciplinary investigation be identified for each individual. This request includes but is not limited to : Sargent Charles L Hoffman, Detective P.J. Masterson, Detective Leonard, Officer T.K. Leo, Polygraph Examiner Myers and any other persons identified in response to No. 1 above.
3. Copies of any and all complaints and disciplinary actions filed or taken against any medical examiner, forensic analyst or agents thereof who participated in the investigation and/or testified in this matter, whether filed internally or with some other independent agency and whether filed prior or subsequent to this particular case. If a copy cannot be provided because review of the complaint/disciplinary action is ongoing, we request that the fact and general nature of each ongoing complaint/disciplinary investigation be identified for each individual. This request includes but is not limited to :
  - Ann Fulerwider, M.D.; Medical Examiner, Office of the Chief Medical Examiner, Northern Region, Commonwealth of Virginia;
  - Frances P. Field, M.D.; Pathologist, Office of the Chief Medical Examiner, Northern Region, Commonwealth of Virginia;
  - Marie-Lydie Y. Pierre-Louise, M.D.; Deputy Medical Examiner, Officer of the Chief Medical Examiner, Washington, D.C.;
  - Barry Levine, Ph.D.; Director, Forensic Toxicology Laboratory, Office of the Armed Forces Medical Examiner, Washington, D.C.;
  - Carol L. O'Neal, Ph.D., Forensic Toxicologist, Commonwealth of Virginia Division of Forensic Science;
  - Charles Linch, Forensic Scientist, Commonwealth of Virginia Division of Forensic Science;
  - Gary Arntsen, Forensic Scientist, Commonwealth of Virginia Division of Forensic Science;
  - Brian Paul Edmonds, Forensic Scientist, Commonwealth of Virginia, Dept. of Criminal Justice Services, Division of Forensic Science; and
  - Any other persons identified in response to No. 1 above.
4. Copies of any and all complaints and disciplinary actions filed or taken against any prosecuting attorney or any agent thereof who participated in this matter, whether filed internally or with some other independent agency and whether filed prior or subsequent to this particular case. If a copy cannot be provided because review of the complaint/disciplinary action is ongoing, we request that the fact and general nature of each ongoing complaint/disciplinary investigation be identified for each individual.
5. A statement identifying whether any prosecuting attorney, law enforcement personnel, or agent thereof had any type of relationship, including but not limited to personal or professional, with Ms. Gragg at any time before or after the date of the crimes. Also include a statement describing the

nature and length of that relationship.

#### Medical/Forensic Records

6. Copies of all expert reports and notes, including but not limited to that of any pathologist, coroner, polygraph examiner, medical examiner or any other forensic expert or any agent thereof, including but not limited to physical or mental examinations, scientific tests, or experiments conducted in connection with the investigation of this matter, whether or not presented at either the first or second trial, and including but not limited to:
  - a. All fingerprint and palm print exemplars, fingerprint samples, comparisons and opinions of fingerprint experts, and all documents relating to those opinions;
  - b. All psychological tests or polygraph examinations performed upon any prosecution witness and all documents referring or relating to such tests;
  - c. All ballistic tests and/or examinations conducted on any weapon or ammunition or portion thereof connected to the offense;
  - d. All forensic tests and/or examinations conducted on any blood, hairs, cigarette butts, or other source of biological evidence;
  - e. Any and all other autopsy report(s);
  - f. All "Summary and Comment" reports from all Medical Examiners and/or their staff or agents;
  - g. All reports related to medical, psychiatric, physical or forensic or other examinations performed on or made of Mr. Elliott, whether or not such information was offered into evidence at either the first or second trial; and
  - h. All Certificates of Analysis related to (a) through (g) above.
7. A copy of all medical and psychiatric reports in the custody of the Commonwealth or available to it or known to the prosecutor concerning any witness the prosecution called at trial.

#### State's Witnesses

8. The names and addresses of all persons whom the prosecution and/or its agents believed had relevant knowledge and/or information with reference to this matter but were not interviewed or otherwise contacted throughout the investigation.
9. The names and addresses of all persons whom the prosecution and/or its agents believed had relevant knowledge and/or information with reference to this matter and were interviewed or otherwise contacted but were not called as witnesses at trial.
10. Any and all records and information revealing prior criminal convictions or guilty verdicts or juvenile adjudications, including but not limited to the "rap sheet" of each prosecution witness through the current date.
11. Any and all records and information revealing prior or subsequent misconduct, criminal acts, or bad acts of each prosecution witness, including but not limited to Rebecca Gragg, and including without limitation allegations of criminal conduct of which the prosecution knows or through reasonable diligence should have reason to know.

12. Any and all consideration or promises of consideration given during the course of the investigation and trial of this case by any prosecutor, police officer or any agent thereof, to or on behalf of any witness the prosecutor called at trial, or any such consideration or promises expected or hoped for by any such witness at any future time. Such consideration refers to anything which arguably could be of value or use to a witness, including, but not limited to:
  - a. Formal or informal, direct or indirect promises of leniency, favorable treatment, or recommendations or other assistance with respect to any pending or potential criminal, parole, probation, pardon, clemency, civil, administrative or other matter involving the state or federal government, any other authority or other parties;
  - b. Payments of money, rewards or fees of any type; provisions of food, clothing, transportation, legal services, or any other benefits;
  - c. Placement in a special protection program, informer status of the witness and/or letters to anyone informing the recipient of the witness' cooperation;
  - d. Recommendations concerning employment;
  - e. Any other statement or action by the – formal or informal, express or implied, oral or written – which arguably could reveal an interest, motive or bias in the witness in favor of the prosecution or against Mr. Elliott, or otherwise act as an inducement to testify or to color the witness' testimony; and
  - f. A list of any and all requests, demands, or complaints made to the prosecution by any actual or potential witness which arguably could have been developed on cross-examination to demonstrate any hope or expectation on the part of any witness for favorable State action in his behalf (regardless of whether or not the State had agreed to provide any favorable action).
13. Any and all threats, express or implied, direct or indirect or other coercion directed against any witness the prosecutor called at trial or any witness not called at trial.
14. Any evidence not otherwise requested that reflects or evidences either the motivation of the witness to cooperate with the prosecution or any bias or hostility against Mr. Finch, Ms. Thrall, Mr. Elliott and/or Ms. Gragg.
15. Any written or oral statements made by any actual or potential state's witness which in any way contradicted or was inconsistent with or different from other oral or written statements made by that same witness.
16. Any written or oral statements made by any person, whether a witness or not, which in any way contradicted, was inconsistent with or differed from any statements made by a state's witness.

Procedure/Policy

17. A statement of whether any identification procedures (line-up, show-up, photo spread) were employed in Mr. Elliott's case, the nature and date of each such procedure, the witness involved on each date and the result, and copies of all police reports of such procedures. Where a photo spread or line-up was employed, please provide the photographs where available. Please provide a copy of the photograph of Mr. Elliott and/or his vehicle used in any such procedure or during investigation of the offense.

18. Police and prosecutorial policy statements, manuals, files, logs, reports, statistical data (especially racial, ethnic, gender, socio-economic and geographic), whether formal or informal, regarding the use of and/or exercise of prosecutorial discretion as to:
  - a. Who and what reported offenses to investigate;
  - b. Whether, when and what offenses to charge;
  - c. When to negotiate and what pleas to accept;
  - d. When to invoke charging enhancement possibilities;
  - e. What sentencing alternatives to recommend;
  - f. When to seek the death penalty;
  - g. How to exercise peremptory challenges of prospective jurors;
  - h. How to select grand and petit juries;
  - i. When and how police officers and prosecutors suspected of abusive law enforcement practices are disciplined;
  - j. What information in law enforcement files is disclosed to defendants; and
  - k. Interrogation procedures.
19. A statement regarding the prosecutor's involvement, if any, in selecting the jury pool.

Evidence

20. Any and all search and arrest warrants and supporting affidavits and corresponding returns related to this matter.
21. All jail or prison records and logs regarding Mr. Elliott following his arrest, including but not limited to his location at all times, any drugs administered to him, his medical condition or treatment, any request for medical treatment and the fact and frequency of visitation by trial counsel, law enforcement officials, witnesses, family members, friends or other persons.
22. All statements made by:
  - a. The two children found at the scene (Ms. Thrall's sons), learned at any time by the police, the Prosecuting Attorney or any agent thereof, on or after the time they were located at the crime scene and as it relates to this case. *Please see attached copy of:*
    - i. Report of Investigation by Medical Examiner re: Mr. Finch dated January 2, 2001, bottom of page 2. Medical History section states that the children were "witness to injury or illness and death;" and
    - ii. Manassas Journal Messenger article dated January 3, 2001, in which Ms. Bissell reports, "The woman's sons were interviewed but police Chief Charlie T. Deane declined to comment on what information they provided investigators."
  - b. Any temporary or permanent caretaker, guardian, counselor, psychologist, psychiatrist or other person who observed the two children found at the scene for any amount of time at or after the time they were located at the crime scene as the statements relate to any information regarding this matter.
23. Any and all oral or written statements made by the Prosecuting Attorney's Office, the police department or any of their agents directing any medical, forensic, other testing or analysis performed in this case, including both directions or instructions to perform certain analysis or to refrain from certain analysis.

- See, for example, transcripts from the second trial, Vol. 4, page 150, in which ME Edmonds testified that he did not perform any DNA analysis on Mr. Finch's T-shirt at the instruction of Officer Leo.
24. Any and all cell phone records gathered during the investigation *without redaction* to any portion of those records, including but not limited to redacted cell site information on cellular phone records previously provided to defense counsel. See, for example: Cellular telephone records dated 12/20/2000 through 1/5/2001 for cellular phone number 443-562-5663, provided to Mr. Asbill on or about June 12, 2002 by Detective Kowalski at Mr. Willet's request. The cell site information for this entire record was redacted (blacked out) prior to transmittal. (Copy attached.)
  25. Copies of all police reports taken in this matter, including but not limited to all statements – whether written or oral – taken from all witnesses, including but not limited to any statement made by:
    - a. Residents or occupants of 3406 Joustlers Way;
    - b. Residents or occupants of 3408 Joustlers Way;
    - c. Any other resident, occupant or witness who communicated with law enforcement officials regarding the events at or near the time of the murders; and
    - d. Denese Jones.
  26. Copies of all police files, documents, recordings, transcripts, logs and other evidence related to requests for police assistance by any party on the night in question, arrest of any suspect, seizure and inventory of any property in this matter.
  27. Copies of witness interview notes and reports taken by the Prosecuting Attorney or any of his agents, including but not limited to law enforcement personnel.
  28. A copy of the Prosecuting Attorney's entire file in this matter, including but not limited to notes regarding all interviews; his exercise of prosecutorial discretion to charge; offers of pleas; peremptory striking of any jurors; sentence recommendation; whether or not to seek the death penalty; expert reports; correspondence with Mr. Elliott, witnesses and the victims' families.
  29. Any police and/or prosecutorial notes related to the application of #26 above as it relates to this specific investigation and as applied to either the first or second trial.
  30. Copies of any documents or information received by the prosecuting attorney, law enforcement personnel or any agent thereof, related to this matter and created by the FBI, DEA, Bureau of Tobacco, Alcohol and Firearms, Secret Service or other federal investigative files.
  31. Copies of all evidence seized in this matter, whether or not offered at either the first or second trial. This request includes but is not limited to the following specific items as viewed on:
    - a. The video tape labeled, "Physical Evidence Prince William County Property Room, January 9, 2002" (identification per police commentary included when provided):
      - i. Box 1, Item 14: Multiple GTE, CellularOne bills and AmeriCall telephone records.
      - ii. Box 1: All pages of the address book or day timer (not in a binder).
      - iii. R.F. Enterprises "backup" computer disk dated 12/31/00.

- iv. A day timer or address/telephone book in a burgundy binder.
  - v. Loose pages of an address/phone book, rubber-banded together.
  - vi. "00-546 Leo/Hoffman", seized from Mr. Finch's home: Computer hardware, Compaq Presario tower.
  - vii. Item 90, seized from the back of Mr. Elliott's truck: A Valentine's Day card from Ms. Gragg to Mr. Elliott.
  - viii. Handwritten notes on yellow legal paper, black ink, approximately 19 pages in length: Likely author is Mr. Elliott. (The officer holding the item for video taping read an excerpt as follows: "I followed my heart for the past two years...I love you more than life itself...").
  - ix. Item 35, a well-worn accordion file (video commentary indicates these items were seized from Mr. Finch's home): all documents related to the ongoing custody case between Mr. Finch and Ms. Gragg.
  - x. Item 32, (video commentary indicates this item was seized from Ms. Thrall's personal papers and property.): A diary with entries dating from 1996 through 1998.
  - xi. A 2000 day timer with handwritten notes which appear to be in Ms. Thrall's handwriting, (per video commentary, the last entry may be August 2000).
  - xii. Loose handwritten note dated 5/3/00 and written by Ms. Thrall to Mr. Finch. (Video commentary indicates the note was a request for Mr. Finch to move out of their house with hopes to maintain a cordial attitude).
  - xiii. Typed letter (appears to have been printed from a computer), several pages in length, addressed to Mr. Finch and, per video commentary, discusses Mr. Finch's "pot use" and his "lying;" and
- b. The video tape labeled, "Physical Evidence Impound Lot Prince William County Property Room, January 7, 2002" (identification per police commentary included when provided): A copy of the entire "banker's box" of financial records seized from 3406 Joustlers Way.
32. Copies of all audio, video or other recordings seized and/or made during this investigation. This request includes but is not limited to the following recordings which are in our possession but are either such poor quality that the recorded information cannot be heard/seen or are entirely blank:
- a. Rebecca Gragg Sting Tape 1, \*dated 12/10/2001 (appears to be date copied, not recorded);
  - b. Rebecca Gragg Sting Tape 2, \* dated 12/10/2001 (appears to be date copied, not recorded);
  - c. Rebecca Gragg Sting Tape 3, \*dated 12/10/2001 (appears to be date copied, not recorded);
  - d. Rebecca Gragg Sting Tape 4, \*dated 12/10/2001 (appears to be date copied, not recorded);
  - e. Surveillance Tape 1;
  - f. Rebecca Gragg/Jamie Gragg # 1, dated 1/2/2001;
  - g. Rebecca Gragg/Jamie Gragg # 2, dated 1/2/2001 (blank tape);
  - h. Phone Sting, Side A, (Rebecca Gragg/Gail McGraw), dated 1/28/2001 (appears to be incomplete);
  - i. Phone Sting, Side B, dated 1/28/2001 (blank tape);
  - j. Rebecca Gragg "prior to poly", dated 5/10/2001; and
  - k. Jamie Gragg Tape 2, dated 1/9/2001.

33. Copies of the Central Processing Unit ("CPU") or other electronic data seized from
  - a. Mr. Elliott's residence. See Warrant Search Inventory and Return dated January 8, 2001 and executed by Officer Leo (#0351); and
  - b. Any other witness, suspect or person of interest related to this case.
34. Copies of all photographs taken by the Prosecuting Attorney, law enforcement personnel, or their agents during the course of this investigation, including but not limited to any mug shots taken of Mr. Elliott at the time of his arrest. Include all photos, regardless of quality or whether presented at either Mr. Elliott's first or second trial.

In closing, we further request to be allowed, at your earliest convenience, full access to any evidence locker or storage unit for the purpose of examining any and all property seized in this matter, regardless of whether or not the evidence was offered or admitted at either the first or second trial. In addition, we request that we be allowed to make copies of any evidence viewed, at our expense. If applicable, we also request a detailed, itemized statement listing any evidence lost, damaged or otherwise unavailable for review or analysis, including a statement explaining the circumstances surrounding the loss or damage, the date of the loss or damage and the name of the responsible party.


Should any of our above requests be refused, we request a detailed, itemized statement explaining the basis of the refusal for each request. In the event we are denied a copy of or access to a requested item because the item is deemed not discoverable under Brady, we request a specific statement to that effect and identification of the individual who reviewed the requested material and made the determination that the item is not discoverable.

Finally, we explicitly request that all files, records, evidence, and any materials related to this case be preserved whether those materials are now in your possession or in the possession of your agents.

Your cooperation is appreciated. Please call me or one of my colleagues at 206-623-7580 if you have any questions or need clarification.

Very truly yours,

PRESTON GATES & ELLIS LLP

By   
Thomas E. Kelly  
David J. Lenci  
Joanne M. Hepburn  
Cabrelle M. Abel

Enclosures

JMH:s11



City/County of Death

Resident

Non-Resident

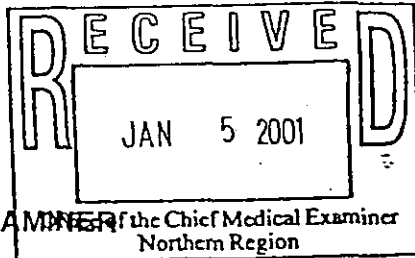
AMENDED

DATE

BY

FOR PROFESSIONAL USE ONLY  
CONTENTS NOT TO BE DUPLICATED

COMMONWEALTH OF VIRGINIA  
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, FAX (703) 764-4645



REPORT OF INVESTIGATION BY MEDICAL EXAMINER

Decedent: Robert A Finch  
First Name Middle Name Last Name Suffix Sr, Jr, III, etc

Address: 3406 Jousters Way Woodbridge, VA  
Number and Street City, State Zip

Age: 30 DOB: 7-27-70 Sex:  Male  Female  Unknown Occupation: \_\_\_\_\_

Race:  Black  White  Asian  Native American  Unknown  Other \_\_\_\_\_

Hispanic Origin:  Yes  No Marital Status: M W S SSN: \_\_\_\_\_

TYPE OF DEATH: (Initial jurisdiction, check only one)

Sudden in apparent good health  Suspected SIDS

Unattended by physician  Violent or Unnatural GSW's Scene Visit  Yes  No

Suspicious  In prison, jail or police custody Retrospective Review  Yes  No

Unusual  City/County  State  Federal

Notification by: C. Hoffman, Inv. of PW Co Police Official Title \_\_\_\_\_

Address: \_\_\_\_\_ Phone: \_\_\_\_\_

Police Notified  Yes  No Investigator C. Hoffman Phone: 792-7230

Address: \_\_\_\_\_ Jurisdiction: Prince William Co.

	Date	Time 24 hour clock	Location	City or County	Type of Premises e.g. Highway, etc.
Last Seen Alive	1/2/01	~ 0430	3406 Jousters Way	Prince William Co.	Townhouse
Injury or Illness	1/2/01	~ 0430	↓	↓	Townhouse
Death	1/2/01	1250	Potomac Hospital (00A)	↓	Morgue
View of Body	1/2/01	PM	↓	↓	Morgue

Cause of Death: Gunshot wound of Thorax

Manner of Death: check one only:  
 Natural  Accident  Suicide  Homicide  Undetermined  Pending

Autopsy:  Yes  No  
 Authorized by: ME  
 Pathologist: Dr. Field  
 Autopsy No. 002-01 1/3/01  
 Location (if not OCME) \_\_\_\_\_

I hereby declare that after receiving notice of the death described herein I took charge of the body and made inquiries regarding the cause and manner of death in accordance with § 32.1-283, Code of Virginia, and that the information contained herein regarding such death is correct to the best of my knowledge and belief:

1/2/01 Prince William Co. Ann Z. Fulerwider, MD  
Date City or County of Appointment Signature of Medical Examiner

A COPY TESTE  
FEB 26 2001  
CME 1 Rev 11/97  
Assistant Chief Medical Examiner  
Ann Fulerwider, MD  
Name of Medical Examiner (Type or Print)

NV045817

[Signature]

**MEANS OF DEATH**

- VEHICLE:** Status:  Driver  Passenger  Pedestrian  Unknown  Other  
 Type of vehicle associated with decedent:  Passenger car  Pickup Truck  Utility  Motorcycle  
 Truck-more than 2 axles  Bicycle  Farm Vehicle  ATV  Moped  Other  
 Devices:  Seat restraints  Air bag  Helmet  Child restraint  None  Unknown  
 How Injury Occurred: (e.g. auto/truck collision)
- GUN:**  Handgun-caliber/make \_\_\_\_\_  Shotgun-gauge/make \_\_\_\_\_  
 Rifle-caliber/make \_\_\_\_\_  Other \_\_\_\_\_  Unknown
- INSTRUMENT:**  Blunt  Sharp  Description: \_\_\_\_\_
- TOXIC AGENTS SUSPECTED:**  Alcohol  Others \_\_\_\_\_
- DROWNING:**  Bathtub  Lake  Ocean  Pond  Pool  River  Other \_\_\_\_\_  
 Flotation device \_\_\_\_\_  Nonswimmer  Boat Activity: \_\_\_\_\_
- FIRE:** Suspected Cause \_\_\_\_\_ Smoke Detector  Yes  No Operational  Yes  No
- FALL/JUMP:** From \_\_\_\_\_ to \_\_\_\_\_ Approximate distance \_\_\_\_\_ feet
- CIRCUMSTANCES OF VIOLENCE:**  Domestic Violence  Murder/Suicide (or attempted)  
 Child Abuse/Neglect  Feticide  Elder Abuse/Neglect  Drug-Related Scene  Sports/Recreation  
 Hunting Incident  Police Action  Gang
- OTHER:** \_\_\_\_\_

**DESCRIPTION OF PREMISES**

**INJURY OR ILLNESS:**

- Inside  outside  house  apartment  trailer  hotel/motel  nursing home  adult home  
 retail estab.  school  hospital  jail  restaurant/bar  parking lot  
 FOR PROFESSIONAL USE ONLY  wooded area  farm pasture  farm pond  city park  workplace  highway  
 CONTENTS NOT TO BE DUPLICATED  other (specify) \_\_\_\_\_

**DEATH:**

- Inside  outside  house  apartment  trailer  hotel/motel  nursing home  adult home  
 retail estab.  school  hospital  jail  restaurant/bar  parking lot  
 wooded area  farm pasture  farm pond  city park  workplace  highway  
 other (specify) \_\_\_\_\_

**MEDICAL HISTORY**

- none  alcoholism  asthma  cancer  cirrhosis  COPD  CVA  diabetes  dementia  depression  
 drug abuse \_\_\_\_\_  hepatitis  hip fracture  hypertension  ischemic heart disease  
 mental illness \_\_\_\_\_  seizure disorder  smoking  recent pregnancy  
 recent trauma \_\_\_\_\_  organ/tissue donor  unknown \_\_\_\_\_  
 other \_\_\_\_\_

If suspected SIDS: Position when laid down \_\_\_\_\_ Position when found \_\_\_\_\_

MD/Institution \_\_\_\_\_

Medications: \_\_\_\_\_

Circumstances of <del>Pro</del> Death	Name	Address	Relationship to Decedent
Dead by	Dr. Fulenwider	Potomac Hospital	
Last Seen Alive by	Children, see police report.		
Witness to injury or illness and death	Children, see police report.		

When no autopsy send toxicology:  Blood  Urine  Vitreous  Other \_\_\_\_\_

Decedent: Robert A. Fack

Description of Body:  Clothed  Unclothed  Partly Clothed \_\_\_\_\_

List Clothing: \_\_\_\_\_

Height \_\_\_\_\_ in.  estimated Weight \_\_\_\_\_ lb.  estimated

Hair color \_\_\_\_\_ Eye color \_\_\_\_\_ Pupils: R \_\_\_\_\_ L \_\_\_\_\_ Beard \_\_\_\_\_ Mustache \_\_\_\_\_

Body Heat:  Warm  Cold  Ambient  Refrigerated  Other \_\_\_\_\_

Rigor:  Jaw  Neck  Arms  Legs  Passing  Absent  Embalmed  Other \_\_\_\_\_

Livor:  Blanches  Fixed Color:  Purple  Pink/Red  Indeterminant  Other \_\_\_\_\_

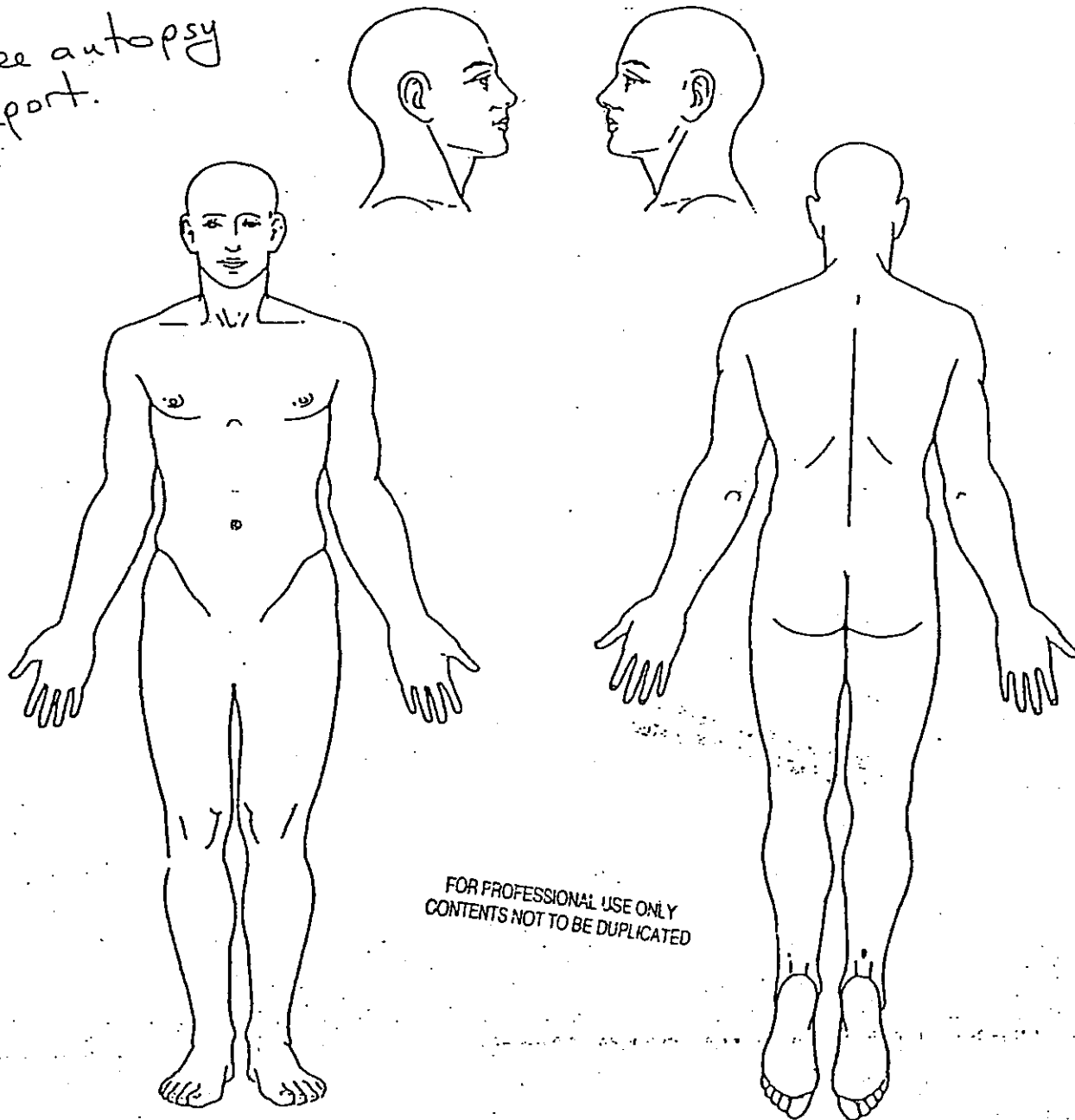
Livor Location:  Anterior  Posterior  Left  Right  Regional (specify) \_\_\_\_\_

Exam: Mark wounds and medical therapy on body diagram if autopsy not performed at OCME.

A=Abrasion, B=Burn, C=Contusion, F=Fracture, G=Gunshot, I=Incised, L=Laceration,

M=Mark of therapy specify, S=Stab, SC=Scar, T=Tattoo

See autopsy  
report.



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Decedent: Robert A. Finch

Narrative Description of Circumstances Surrounding Death:

This 30-year-old male was found face-down in the foyer of his townhouse by police after neighbors heard gunshots. There was an apparent GSW to head and <sup>one to the</sup> chest. Another occupant was also found in the kitchen with multiple gunshot wounds. This case was referred to the No VA MEO for an autopsy.

02

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Decedent: Robert A. Finch

**Couple found shot multiple times****Kate Bissell**

Writer

A 30-year-old man died and a woman was critically injured when both were shot multiple times in their Rollingwood Village town house, off Smoketown Road, early Tuesday morning.

There were no suspects in the killing by Tuesday evening, Prince William police spokesman Dennis Mangan

Robert Finch was found dead inside the doorway of his home at 3406 Jousters Way, where he lived with a woman and her two little boys.

The woman, whose name and age were not released, was found seriously injured on the first floor of the house.

She was flown by helicopter to an area hospital where she was listed in extremely critical condition Tuesday evening. Police asked that her location not be printed because her life may still be in danger.

The woman's sons, ages 4 and 6, were sleeping upstairs at the time of the attack and were not hurt. They were taken to a neighbor's home.

There are no known witnesses to the murder. A man walking his dog in the area about 4:20 a.m. heard shots and a woman screaming and called police.

Officers arrived at the house about three minutes later but did not see anyone fleeing the area, Mangan said.

Police searched the town house but found no evidence of forced entry or a robbery attempt, Mangan said. The gun used in the shooting was not found.

The woman's sons were interviewed but police Chief Charlie T. Deane declined to comment on what information they provided investigators.

Residents expressed shock that a murder took place in a neighborhood they described as quiet, while they watched police detectives file in and out of the house.

**Denese Jones, 33**, lives next door to the slain couple and heard several loud thumps and a scraping sound at the time of the murder. Jones thought the sounds were coming from the parking lot, as if someone was kicking a car door, but she looked outside and didn't see anything.

"It's so weird. Most of the people here have children so it's a quiet, family-oriented neighborhood," Jones said.

Jones said Finch and the woman moved into the house about two years ago and she often spoke to the couple in passing.

"[The woman] was really nice, we'd talk when we'd see each other outside," Jones said. She did not know what either Finch or the woman did for a living but said Finch was home during the day and went in and out of his house frequently.

A neighbor who was watching the woman's sons Tuesday afternoon described the couple as friendly but did not want to comment further in front of the children.

Generated By : lbryson

CALLS TO DESTINATION NUMBER

From: 12/20/2000 12:00 AM To: 01/05/2001 11:59 PM  
Number Called: 4435625663  
Subscriber Type : ALL  
Authentication Type: ALL

MobileId	Call Date	Call Time HR:MN:SC	Call Duration HR:MN:SC	Cell Site
1	703-338-4819	01/05/2001 01:11:08 AM	00:01:15	
2	703-338-4819	01/05/2001 12:28:58 AM	00:02:35	
3	443-562-5663	01/04/2001 09:07:43 PM	00:00:20	
4	443-562-5663	01/04/2001 01:44:49 PM	00:00:33	
5	443-562-5663	01/04/2001 11:36:30 AM	00:00:34	
6	443-562-5663	01/04/2001 11:03:21 AM	00:00:39	
7	443-562-5663	01/04/2001 05:48:12 AM	00:00:42	
8	443-562-5663	01/03/2001 03:17:52 PM	00:00:39	
9	703-338-4819	01/03/2001 09:47:08 AM	00:13:19	
10	703-338-4819	01/02/2001 11:50:31 AM	00:03:15	
11	703-338-4819	01/02/2001 08:42:13 AM	00:06:10	
12	703-338-4819	01/02/2001 07:23:35 AM	00:02:22	
13	703-338-4819	01/02/2001 01:35:24 AM	00:01:13	
14	703-338-4819	01/02/2001 01:31:21 AM	00:03:08	
15	443-562-5663	01/01/2001 11:23:37 PM	00:00:19	
16	703-338-4819	01/01/2001 10:45:57 PM	00:01:30	
17	443-562-5663	01/01/2001 07:57:20 PM	00:00:37	
18	703-338-4819	01/01/2001 07:15:49 PM	00:00:07	
19	703-338-4819	01/01/2001 07:07:32 PM	00:06:08	
20	443-562-5663	01/01/2001 05:07:36 PM	00:00:40	
21	703-338-4819	01/01/2001 05:26:39 AM	00:17:33	
22	703-338-4819	01/01/2001 03:18:05 AM	00:00:44	
23	703-338-4819	12/31/2000 02:03:18 PM	00:00:21	
24	443-562-5663	12/31/2000 02:02:13 PM	00:00:30	
25	703-338-4819	12/31/2000 09:58:05 AM	00:31:03	
26	703-338-4819	12/31/2000 09:09:06 AM	00:05:19	
27	703-338-4819	12/30/2000 11:53:47 PM	00:06:39	
28	703-338-4819	12/30/2000 10:00:23 PM	00:00:33	
29	443-562-5663	12/30/2000 09:59:14 PM	00:00:45	
30	443-562-5663	12/30/2000 07:53:30 PM	00:01:03	
31	703-338-4819	12/29/2000 06:25:26 PM	00:06:22	
32	443-562-5663	12/29/2000 05:47:42 PM	00:00:38	
33	703-338-4819	12/29/2000 05:29:46 PM	00:00:29	
34	703-338-4819	12/29/2000 05:29:19 PM	00:00:07	
35	703-338-4819	12/29/2000 04:36:05 PM	00:00:04	
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37	443-562-5663	12/29/2000 11:21:44 AM	00:05:53	
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39	443-562-5663	12/28/2000 08:40:51 PM	00:00:29	
40	443-562-5663	12/28/2000 07:58:23 PM	00:04:36	
41	703-338-4819	12/28/2000 07:24:51 PM	00:00:25	
42	703-338-4819	12/28/2000 07:16:06 PM	00:00:02	
43	703-338-4819	12/28/2000 06:04:31 PM	00:00:40	
44	703-338-4819	12/28/2000 06:04:06 PM	00:00:01	
45	703-338-4819	12/28/2000 01:01:29 PM	00:02:03	
46	443-562-5663	12/28/2000 11:14:10 AM	00:00:11	
47	703-338-4819	12/28/2000 01:21:43 AM	00:07:01	
48	703-338-4819	12/27/2000 10:22:11 PM	00:00:21	
49	703-338-4819	12/27/2000 10:21:16 PM	00:00:20	
50	703-338-4819	12/27/2000 09:49:27 PM	00:03:23	
51	443-562-5663	12/27/2000 07:01:29 PM	00:01:19	

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53	703-338-4819	12/27/2000	03:31:52 PM	00:07:23
54	443-562-5663	12/26/2000	08:41:00 AM	00:00:12
55	443-562-5663	12/25/2000	06:10:00 PM	00:00:44
56	703-338-4819	12/25/2000	05:35:26 PM	00:00:39
57	443-562-5663	12/25/2000	09:56:46 AM	00:00:42
58	703-338-4819	12/25/2000	01:43:21 AM	00:00:26
59	443-562-5663	12/24/2000	10:30:59 PM	00:00:37
60	703-338-4819	12/24/2000	10:22:58 PM	00:00:33
61	443-562-5663	12/24/2000	04:21:11 PM	00:01:07
62	443-562-5663	12/23/2000	09:45:32 PM	00:01:23
63	443-562-5663	12/23/2000	09:16:37 AM	00:00:16
64	703-338-4819	12/22/2000	10:09:59 PM	00:03:40
65	703-338-4819	12/22/2000	03:01:47 PM	00:00:16
66	703-338-4819	12/22/2000	02:17:15 PM	00:01:14
67	703-338-4819	12/22/2000	02:16:21 PM	00:00:08
68	703-338-4819	12/22/2000	01:50:35 PM	00:00:52
69	703-338-4819	12/22/2000	01:50:12 PM	00:00:02
70	703-338-4819	12/22/2000	11:49:35 AM	00:04:23
71	703-338-4819	12/21/2000	10:00:21 PM	00:03:53
72	703-338-4819	12/21/2000	09:50:40 PM	00:00:36
73	703-338-4819	12/21/2000	12:33:30 PM	00:01:37
74	443-562-5663	12/21/2000	10:47:07 AM	00:00:33
75	443-562-5663	12/20/2000	10:09:08 PM	00:00:46
76	703-338-4819	12/20/2000	10:06:05 PM	00:02:57
77	703-338-4819	12/20/2000	09:55:55 PM	00:00:29
78	703-338-4819	12/20/2000	06:17:42 PM	00:02:07
79	703-338-4819	12/20/2000	12:13:52 AM	00:00:39



TOTAL USAGE: 03:29:28

# **APPENDIX 40**





Commonwealth of Virginia  
Department of Criminal Justice Services  
DIVISION OF FORENSIC SCIENCE

**COPY**

**CERTIFICATE OF ANALYSIS**

February 12, 2002

Northern Laboratory  
9797 Braddock Road  
Suite 200  
Fairfax, VA 22032

Telephone: (703) 761-4600  
Fax: (703) 761-4633

C. HOFFMAN  
PRINCE WILLIAM COUNTY POLICE DEPARTMENT  
PROPERTY/EVIDENCE SECTION  
9319 MOSBY STREET  
MANASSAS VA 20110-5070

FS Lab #: N01-53

Your Case #: 01-546

Victim(s): THRALL, Dana L.  
FINCH, Robert A.

Suspect(s): ELLIOT, Larry Bill

Evidence Submitted By: T. K. Leo

Received: 01/09/01

- Item 3 Stained and control swabs from "back door"
- Item 4 Stained and control swabs from "front door"
- Item 7 Stained and control swabs from "back gate"
- Item 15 Piece of carpet
- Item 16 Piece of carpet
- Item 17 One T-shirt (Finch)
- Item 21 Fingernail clippings from Robert A. Finch
- Item 22 Head hair from Robert A. Finch
- Item 35 One sweater (Thrall)
- Item 36 One tank top (Thrall)
- Item 42 Stained and control swabs
- Item 44 Head hair from Dana L. Thrall
- Item 45 Fingernail clippings from Dana L. Thrall
- Item 46 Blood sample from Dana L. Thrall
- Item 50 Single hair

EXHIBIT NO. 64  
 PL( ) DEF( ) COMM(  )  
 CASE NO. CR5115, 5116, 5117, 5118  
 DATE April 2003  
 JUDGE WJ

Evidence Submitted By: T. K. Leo

Received: 01/10/01

- Item 53 Blood sample from Robert A. Finch

Evidence Submitted By: T. K. Leo

Received: 01/17/01

- Item 55 Passenger side floor mat
- Item 56 Drivers side floor mat
- Item 57 Drivers side rear floor mat
- Item 58 Passenger side rear floor mat
- Item 59 Carpet
- Item 60 Passenger side rocker panel 2588
- Item 61 Drivers side rocker panel

EXHIBIT NO. 64  
 PL( ) DEF( ) COMM(  )  
 CASE NO. CR5115, 5116, 5117, 5118  
 DATE July 23, 2002  
 JUDGE WJ



Commonwealth of Virginia  
 Department of Criminal Justice Services  
 DIVISION OF FORENSIC SCIENCE

COPY

CERTIFICATE OF ANALYSIS

Prince William County Police Department

FS Lab #: N01-53

Your Case #: 01-546

February 12, 2002

- Item 62 Passenger side door panel
- Item 63 Drivers side door panel
- Item 64 Drivers side seat back
- Item 65 Passenger side seat back
- Item 66 Drivers seat bottom cover
- Item 67 Passenger seat bottom cover
- Item 68 Trim panel
- Item 69 Trim panel
- Item 70 Drivers seat kick panel
- Item 71 Drivers side sun visor
- Item 72 Drivers side seat panel
- Item 73 Passenger side seat panel
- Item 74 Brake pedal pad
- Item 75 Parking brake pedal pad
- Item 76 Accelerator pedal
- Item 77 Shift lever
- Item 78 Directional control lever
- Item 79 Control knobs
- Item 83 Flashlight
- Item 84 Flashlight
- Item 85 Stained and control swabs
- Item 87 Steering wheel

Evidence Submitted By: T. K. Leo

Received: 01/26/01

Item 97 Blood sample from Larry B. Elliot

Evidence Submitted By: T. K. Leo

Received: 02/12/01

Item 89 Tennis shoes

Item 98 Head hairs from Larry B. Elliot

RESULTS:

Item J

Test results indicate the presence of blood on the stained swab from the "back door". No evidence of blood was detected on the control swab. Human deoxyribonucleic acid (DNA) was isolated from the stained swab. This sample was amplified and typed using the PowerPlex 1.1 system (which includes the CSF1PO, TPOX, TH01, vWA, D16S539, D7S820, D13S317 and D5S818 loci). No amplification results were obtained at the CSF1PO, TPOX, D16S539, D7S820, D13S317 and D5S818 loci. Based on the DNA typing results obtained at the TH01 and vWA loci, the DNA profile obtained from the stained swab is consistent with a mixture. Dana L. Thrall cannot be eliminated as a possible co-contributor to the genetic material obtained from this sample. No conclusions can be made in reference to Robert A. Finch being a possible co-contributor to the genetic material obtained from the stained swab. Larry B. Elliot is eliminated as a possible co-contributor to the genetic material obtained from this sample.

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Commonwealth of Virginia  
 Department of Criminal Justice Services  
 DIVISION OF FORENSIC SCIENCE

ORIGINAL  
**COPY**

**CERTIFICATE OF ANALYSIS**

Prince William County Police Department

FS Lab #: N01-53

Your Case #: 01-546

February 12, 2002

**RESULTS (continued):**

**Item 4**

Test results indicate the presence of blood on the stained swab from the "front door". No evidence of blood was detected on the control swab. Human DNA was isolated from the stained swab. This sample was amplified and typed using the PowerPlex 1.1 system. Based on the DNA typing results obtained at the PowerPlex 1.1 loci, the DNA profile obtained from the stained swab is consistent with the DNA profile of Dana L. Thrall. Therefore, Dana L. Thrall cannot be eliminated as a possible contributor to the genetic material obtained from this sample. Robert A. Finch and Larry B. Elliot are each eliminated as possible contributors to the genetic material obtained from the stained swab.

**Item 7**

Test results indicate the presence of blood on the stained swabs from the "back gate". No evidence of blood was detected on the control swabs. Human DNA was isolated from the stained swabs. This sample was amplified and typed using the PowerPlex 1.1 system. Refer to the Table for the typing results of this sample.

**Items 15 and 16**

Test results indicate the presence of blood on the pieces of carpet. Human DNA was isolated from these items. These samples were amplified and typed using the PowerPlex 1.1 system. Based on the DNA typing results obtained at the PowerPlex 1.1 loci, the DNA profile obtained from these items is consistent with the DNA profile of Dana L. Thrall. Therefore, Dana L. Thrall cannot be eliminated as a possible contributor to the genetic material obtained from the pieces of carpet. Robert A. Finch and Larry B. Elliot are each eliminated as possible contributors to the genetic material obtained from these items.

**Item 17**

No analysis was conducted on this item following instructions from Officer T. K. Leo on February 8, 2001.

**Item 21**

Test results indicate the presence of blood on the right and left hand fingernail clippings from Robert A. Finch. Human DNA was isolated from the left and right hand fingernail clippings. These samples were amplified and typed using the PowerPlex 1.1 system. Based on the DNA typing results obtained at the PowerPlex 1.1 loci, the DNA profile obtained from the left hand fingernails is consistent with a mixture. Robert A. Finch and Dana L. Thrall cannot be eliminated as possible co-contributors to the genetic material obtained from the left hand fingernails. Larry B. Elliot is eliminated as a possible co-contributor to the genetic material obtained from the left hand fingernail clippings. No types foreign to the DNA profile of Robert A. Finch were detected in his right hand fingernail clippings, therefore, no information was obtained regarding the possible presence of genetic material from another individual.

**Item 35**

Test results indicate the presence of blood in sixteen stains and stained areas located on the exterior of the sweater. Human DNA was isolated from the stains and stained areas. These samples were amplified and typed using the PowerPlex 1.1 system. Based on the DNA typing results obtained at the PowerPlex 1.1 loci, no types foreign to the DNA profile of Dana L. Thrall were detected on the above mentioned stains and stained areas. No further testing was conducted on this item.

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## CERTIFICATE OF ANALYSIS

Prince William County Police Department  
FS Lab #: N01-53  
Your Case #: 01-546  
February 12, 2002

## RESULTS (continued):

## Item 36

No analysis was conducted on this item following a conversation with Detective Hoffman on March 6, 2001.

## Item 42

Test results indicate the presence of blood on the stained swabs designated "A Frt Stoop Stain", "B Frt Stoop Stain", "C Stain Hallway", "D Stain Wall Spatter", "E Stain Hallway", "F Stain Hallway" and "G Stain Wall-Contact". Test results also indicate the presence of blood on the control swabs designated "E Cntrl Hallway" and "F Cntrl Hallway". Test results for the presence of blood were inconclusive for the control swabs designated "A Cntrl Frt Stoop" and "C Control Hallway". No evidence of blood was detected on the control swabs designated "B Control Frt Stoop", "D Cntrl Wall Spatter" and "G Control Wall-Contact". No further testing was conducted on the control swabs.

Human DNA was isolated from the stained swabs. These items were amplified and typed using the PowerPlex 1.1 system. Based on the DNA typing results obtained at the PowerPlex 1.1 loci, the DNA profile obtained from the stained swabs designated "A Frt Stoop Stain", "B Frt Stoop Stain", "D Stain Wall Spatter", "E Stain Hallway", "F Stain Hallway" and "G Stain Wall-Contact" is consistent with the DNA profile of Dana L. Thrall. Therefore, Dana L. Thrall cannot be eliminated as a possible contributor to the genetic material obtained from these stained swabs. Robert A. Finch and Larry B. Elliot are each eliminated as possible contributors to the genetic material obtained from these stained swabs. The DNA profile obtained from the stained swabs designated "C Stain Hallway" is consistent with the DNA profile of Robert A. Finch. Therefore, Robert A. Finch cannot be eliminated as a possible contributor to the genetic material obtained from these stained swabs. Dana L. Thrall and Larry B. Elliot are each eliminated as possible contributors to the genetic material obtained from the stained swabs designated "C Stain Hallway".

## Items 44, 46, 53 and 97

Human DNA was isolated from the head hair of Dana L. Thrall and from the blood samples of Dana L. Thrall, Robert A. Finch and Larry B. Elliot. These samples were amplified and typed using the PowerPlex 1.1 system. No further analysis was conducted on the head hair sample from Dana L. Thrall. Refer to the Table for the typing results of the blood samples.

## Item 45

Test results indicate the presence of blood on the fingernail clippings from Dana L. Thrall. Human DNA was isolated from the fingernail clippings. This sample was amplified and typed using the PowerPlex 1.1 system. No types foreign to the DNA profile of Dana L. Thrall were detected from her fingernail clippings. Therefore, no information was obtained regarding the possible presence of genetic material from another individual.

## Items 55, 56 and 57

Test results indicate the presence of blood in stains located on the underside of the passenger side floor mat and the drivers side floor mat. No human DNA isolation or amplification results using the PowerPlex 1.1 system were obtained from these stains. Therefore, no determination can be made as to the source of the blood indicated on these items.

Test results for the presence of blood were inconclusive in stains located on the topside of the passenger side floor mat and on the underside of the drivers side rear floor mat. No human DNA isolation or amplification results using the



## CERTIFICATE OF ANALYSIS

Prince William County Police Department  
FS Lab #: N01-53  
Your Case #: 01-546  
February 12, 2002

## RESULTS (continued):

## Items 55, 56 and 57 (continued):

PowerPlex 1.1 system were obtained from these stains. Therefore, no determination can be made as to the source of these stains.

## Item 59

Test results indicate the presence of blood in a stained area, designated A, and a stain designated D on the carpet. Test results for the presence of blood were inconclusive in several stained areas, designated B, C, F, H, I and J and several stains designated E and G on the carpet. Human DNA was isolated from stained areas A and J. These samples were amplified and typed using the PowerPlex 1.1 system. Based on the DNA typing results obtained at the PowerPlex 1.1 loci, the DNA profile obtained from stained area A is different from the DNA profiles of Dana L. Thrall, Robert A. Finch and Larry B. Elliot. Therefore Dana L. Thrall, Robert A. Finch and Larry B. Elliot are each eliminated as possible contributors to the genetic material obtained from stained area A. No amplification results using the PowerPlex 1.1 system were obtained from stained area J.

Subsequently, the DNA profile obtained from stained area A was searched against the Virginia DNA Data Bank at the PowerPlex 1.1 loci. No profiles consistent with the DNA profile obtained from stained area A was found in the Virginia DNA Data Bank at this time. Future searches will be conducted periodically. It is recommended that this be retained by your agency for possible future evaluation.

No human DNA isolation or amplification results using the PowerPlex 1.1 system were obtained from stained areas B, C, F, H and I and stains D, E and G. Therefore, no determination can be made as to the source of the blood that was indicated in stain D or to the source of stained areas B, C, F, H and I and stains E and G.

## Item 63

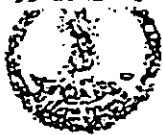
Test results for the presence of blood were inconclusive in a stained area on the drivers side door panel. Human DNA was isolated from this stained area. This sample was amplified and typed using the PowerPlex 1.1 system. Based on the DNA typing results obtained at the PowerPlex 1.1 loci, the DNA profile obtained from the stained area is consistent with the DNA profile of Larry B. Elliot. Therefore, Larry B. Elliot cannot be eliminated as a possible source of the genetic material obtained from the stained area. Dana L. Thrall and Robert A. Finch are each eliminated as possible contributors to the genetic material obtained from the stained area from the drivers side door panel.

## Item 64

Test results indicate the presence of blood in a stain located on the front lower left side of the drivers side seat back. No human DNA isolation or amplification results using the PowerPlex 1.1 system were obtained from this stain. Therefore, no determination can be made as to the source of the blood that was indicated in this stain.

## Item 65

Test results indicate the presence of blood in a stained area located on the rear middle right and lower middle bottom areas of the passenger side seat back. Human DNA was isolated from this stained area. This sample was amplified and typed using the PowerPlex 1.1 system. Based on the DNA typing results obtained at the PowerPlex 1.1 loci, the DNA profile obtained from the stained area is consistent with a mixture of the DNA profiles of Larry B. Elliot and at least one other individual other than Dana L. Thrall and Robert A. Finch. Therefore, Larry B. Elliot cannot be eliminated a



**CERTIFICATE OF ANALYSIS**

Prince William County Police Department  
 FS Lab #: N01-53  
 Your Case #: 01-546  
 February 12, 2002

**RESULTS (continued):**

*Item 65 (continued):*

possible co-contributor to the genetic material obtained from this sample. Dana L. Thrall and Robert A. Finch are each eliminated as possible co-contributors to the genetic material obtained from the stained area.

*Item 85*

Test results for the presence of blood were inconclusive on the stained swabs designated as "A Pass Door Handle Stain" and "DS Door/Latch Pull B". No evidence of blood was detected on the remaining stained swabs and controls. No human DNA isolation or amplification results using the PowerPlex 1.1 system were obtained from the stained swabs designated as "A Pass Door Handle Stain" and "DS Door/Latch Pull B". Therefore, no determination can be made regarding the source of these stained swabs.

Items 58, 60, 61, 62, 66 through 79, 83, 84, 87 and 89

No evidence of blood was detected on these items.

Items 22, 50 and 98

No analysis was conducted on these items.

**SUMMARY OF POWERPLEX 1.1 TYPING RESULTS**

Item	Description	CSFIPO	TPOX	TH01	vWA	D16S539	D7S820	D13S317	D5S818
46	Blood sample from Dana L. Thrall	11,11	8,11	6,9,3	17,17	12,12	8,12	11,12	12,12
53	Blood sample from Robert A. Finch	10,11	8,11	9,9,3	15,16	12,12	9,11	8,8	9,11
97	Blood sample from Larry B. Elliot	11,11	11,11	9,3,9,3	15,18	12,13	8,8	9,11	10,11
7	Stained swabs from "back gate"	11,11	11,11	9,3,9,3	15,18	12,13	8,8	9,11	10,11

**CONCLUSIONS:**

Based on the DNA typing results, the DNA profile obtained from the stained swabs from the "back gate" (Item 7) is consistent with the DNA profile of Larry B. Elliot. Therefore, Larry B. Elliot cannot be eliminated as a possible contributor to the genetic material obtained from the stained swabs from the "back gate" (Item 7). Dana L. Thrall and



## DIVISION OF FORENSIC SCIENCE

## CERTIFICATE OF ANALYSIS

Prince William County Police Department:

FS Lab #: N01-53

Your Case #: 01-546

February 12, 2002

CONCLUSIONS (continued):

Robert A. Finch are each eliminated as possible contributors to the genetic material obtained from the stained swabs from the "back gate" (Item 7).


The probability of randomly selecting an unrelated individual with a matching DNA profile as detected from the stained swabs from the "back gate" (Item 7) at the PowerPlex 1.1 loci is 1 in greater than 6.0 billion (which is approximately the world population) in the Caucasian, Black and Hispanic populations.

Further comparisons can be conducted following the submission of a blood sample in a lavender top tube or two buccal (cheek) swabs from additional individuals.

The evidence will be available for personal pickup at the Laboratory two weeks after the receipt of this Certificate of Analysis.

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.

  
Bryan P. Edmonds  
Forensic Scientist

BPE  
KHA

# **APPENDIX 41**





Commonwealth of Virginia  
Department of Criminal Justice Services  
DIVISION OF FORENSIC SCIENCE

**COPY**

CERTIFICATE OF ANALYSIS

April 30, 2002

Northern Laboratory  
9797 Braddock Road  
Suite 200  
Fairfax, VA 22032

Telephone: (703) 764-6000  
Fax: (703) 764-6533

TO: T. K. LEO  
C. HOFFMAN  
PRINCE WILLIAM COUNTY POLICE DEPARTMENT  
PROPERTY/EVIDENCE SECTION  
9319 MOSBY STREET  
MANASSAS VA 20110-5070

EXHIBIT NO. 65  
PL( ) DEF( ) COMM( )  
CASE NO. CR5115, 5116, 5117, 5118  
DATE April 23, 2002  
JUDGE [Signature]

FS Lab #: N01-53

Your Case #: 01-546  
Victim(s): THRALL, Dana L.  
FINCH, Robert A.  
Suspect(s): ELLIOT, Larry Bill  
Evidence Submitted By: T. K. Leo

EXHIBIT NO. 65  
PL( ) DEF( ) COMM(  )  
CASE NO. CR5115, 5116, 5117, 5118  
DATE April 23, 2003  
JUDGE [Signature]

Received: 01/16/02

Item 18 Blue jeans from Robert A. Finch

RESULTS:

Item 18

Test results indicate the presence of blood in thirteen stained areas designated A through L and N. In addition, test results for the presence of blood were inconclusive for two stained areas designated M and O. Human deoxyribonucleic acid (DNA) was isolated from stained areas A through N from the blue jeans. These samples were amplified and typed using the PowerPlex 1.1 system (which includes the CSF1PO, TPOX, TH01, vWA, D16S539, D7S820, D13S317 and D5S818 loci). No human DNA isolation or amplification results were obtained from stained area O using the PowerPlex 1.1 system.

DNA profiles consistent with either a single source contributor or a mixture of at least two contributors were obtained from stained areas A through L and N. Larry B. Elliot is eliminated as a possible contributor or co-contributor to each of these stained areas. In addition, no types foreign to the DNA profiles of Dana L. Thrall or Robert A. Finch were detected in these stained areas.

A mixture DNA profile consistent with Robert A. Finch and at least one other individual was obtained from stained area M. Larry B. Elliot is eliminated as a possible co-contributor to the foreign genetic material obtained from this sample. No conclusions can be made in reference to Dana L. Thrall being a possible co-contributor to this mixture. The DNA profile foreign to Robert A. Finch detected at the TH01, vWA, D7S820, D13S317 and D5S818 loci was not suitable for searching against the Virginia DNA Data Bank.

Further comparisons can be conducted following the submission of blood samples in lavender top tubes or two buccal (cheek) swabs from additional individuals.

The evidence will be available for personal pickup two weeks after the receipt of this Certificate Of Analysis.



Commonwealth of Virginia  
Department of Criminal Justice Services  
DIVISION OF FORENSIC SCIENCE

**COPY**

**CERTIFICATE OF ANALYSIS**

Prince William County Police Department  
FS Lab #: N01-53  
Your Case #: 01-546  
April 30, 2002

AGASC

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.

Bryan P. Edmonds  
Bryan P. Edmonds  
Forensic Scientist

BPE  
KAX

# **APPENDIX 42**



Commonwealth of Virginia  
Department of Criminal Justice Services  
**DIVISION OF FORENSIC SCIENCE**

ORIGINAL

**CERTIFICATE OF ANALYSIS**

June 18, 2002

Northern Laboratory  
9797 Braddock Road  
Suite 200  
Fairfax, VA 22032

Telephone: (703) 764-4600  
Fax: (703) 764-4633

TO: T. K. LEO  
C. HOFFMAN  
PRINCE WILLIAM COUNTY POLICE DEPARTMENT  
PROPERTY/EVIDENCE SECTION  
9319 MOSBY STREET  
MANASSAS VA 20110-5070

**AMENDED REPORT**

FS Lab #: N01-53

This report amends the Certificate of Analysis dated January 23, 2001 to correct the origins of Items 23 and 24 in the listing of the evidence submitted.

Your Case #: 01-546

Victim(s): FINCH, Robert  
THRALL, Dana L.

Suspect(s): ELLIOT, Larry Bill

Evidence Submitted By: T. K. Leo

Received: 01/09/01

Item 10 One bullet (closet)  
Item 12 One bullet (attic beam)  
Item 13 One bullet (attic insulation)  
Item 23 One bullet (Finch back)  
Item 24 One bullet (Finch head)  
Item 25 One bullet (Finch chest)  
Item 38 One Colt Model Python, 357 Magnum double action revolver, Serial Number 39767E  
Item 38A Six cartridges  
Item 47 One bullet (Thrall jaw)  
Item 48 One bullet (Thrall brain)  
Item 49 One bullet (Thrall sinus)  
Item 52 One bullet (Thrall sinus)

**RESULTS:**

Examination of Items 10, 12, 13, 23, and 25, and Items 24, 47, 48, 49, and 52 revealed them to be consistent with five Glaser 38/357 caliber jacketed bullets and five 38/357 caliber plain lead double-ended wadcutter bullets, respectively. The submitted bullets were identified as having been fired from one firearm having a barrel rifled with five lands and grooves inclined to the right. Firearms that produce rifling impressions similar to those on Items 10, 12, 13, 23, 24, 25, 47, 48, 49 and 52 are Smith & Wesson, Ruger, Taurus, INA, and Llama revolvers chambered to fire the 38 Special or 357 Magnum cartridge. These firearms should not be considered as the only ones capable of having fired the submitted bullets, but are listed as those most commonly encountered at the laboratory.



Commonwealth of Virginia  
Department of Criminal Justice Services  
**DIVISION OF FORENSIC SCIENCE**

ORIGINAL

**CERTIFICATE OF ANALYSIS**

Prince William County Police Department  
FS Lab #: N01-53  
Your Case #: 01-546  
June 18, 2002

Examination of the Item 38 revolver revealed it to be in mechanical operating condition with the safety features functioning properly. Because of differences in the general rifling class characteristics, the submitted bullets could not have been fired from the Item 38 revolver.

The Remington-Peters 357 Magnum cartridges, Item 38A, are the types designed for use with a firearm such as the Item 38 revolver.

Other requested laboratory examinations will be the subject of another report.

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.

  
\_\_\_\_\_  
Gary Arnsten  
Forensic Scientist

GA/lja

# **APPENDIX 43**

PRINCE WILLIAM COUNTY POLICE DEPARTMENT - MANASSAS, VA  
NARRATIVE INFORMATION

CASE NUMBER: 01-00546	A D M	PAGE [ ] OF [ ]
VICTIM'S NAME: FINCH, ROBERT & THRALL, DANA		
OFFENSE: MURDER		

Narrative:

THIS IS A SUPPLEMENT TO THE ABOVE OFFENSE.

THE PURPOSE OF THIS SUPPLEMENT IS TO DESCRIBE THE CONVERSATION BETWEEN MYSELF AND REBECCA GRAGG ON 05-10-01 SOMETIME JUST PRIOR TO 2120 HRS. MS. GRAGG AND MYSELF WERE IN THE MIDDLE OF AN INTERVIEW AND SHE REQUESTED TO GO OUTSIDE THE HEADQUARTERS SUBSTATION TO SMOKE A CIGARETTE. THIS CONVERSATION TOOK PLACE JUST OUTSIDE THE SIDE ENTRANCE TO THE HEADQUARTERS BUILDING. THIS ENTRANCE IS ALSO REFERRED TO AS THE CID ENTRANCE. MY RECOLLECTION OF THIS CONVERSATION IS SOMEWHAT VAGUE AND NOTES WERE NOT TAKEN AS THIS CONVERSATION WAS GOING TO BE REITERATED AND RECORDED AS SOON AS MS. GRAGG WAS DONE SMOKING A CIGARETTE. THIS CONVERSATION CONSISTED OF NOTHING MORE THAN WHAT WAS RECORDED AND TRANSCRIBED STARTING ON PAGE 74 OF THE TRANSCRIPT OF THE GRAGG INTERVIEW ON 05-10-01.

I DO REMEMBER THAT MS. GRAGG EXPLAINED TO ME THAT ON 01-02-01 AT AROUND 0300-0400 HRS SHE WAS AT THE SOUTH OF THE BORDER IN DILLON SOUTH CAROLINA. SHE ADVISED THAT SHE STOPPED THERE TO GET SOME REST AND THAT ELLIOTT WAS REPEATEDLY CALLING HER ON HER CELL PHONE. SHE ADVISED THAT SHE WAS ALSO CONCERNED THAT SHE DID NOT HAVE HER CHILDREN BACK TO THEIR FATHER, ROBERT FINCH, ON TIME. SHE ADVISED THAT SHE DID RECEIVE A CALL FROM SOMEONE SHE THOUGHT WAS ROBERT FINCH. SHE CALLED THIS PERSON ROB. THIS CALLER BECAME UPSET AND SAID SOMETHING TO THE EFFECT OF I'M TIRED OF THIS SHIT, I'M GOING TO TAKE CARE OF THAT PROBLEM. SOON AFTER THIS CALL SHE REALIZED THAT THE CALLER WAS ELLIOTT AND NOT FINCH AND TRIED TO CALL ELLIOTT ON HIS CELL PHONE. SHE COULD NOT GET IN TOUCH WITH ELLIOTT FOR A GOOD PERIOD OF TIME. SHE ADVISED THAT SHE GOT A HOLD OF ELLIOTT SOMETIME LATER, BUT STILL IN THE MORNING HOURS OF 01-02-01 AND THAT HE WAS IN MARYLAND AND THAT HE TOLD HER THAT HE HAD A 'MESS TO CLEAN UP'.

NO OTHER PARTICULARS OF THIS CONVERSATION ARE REMEMBERED BY THIS DETECTIVE.

NO FURTHER TO REPORT.

CASE STATUS REMAINS: CLEAR ARREST.

EXHIBIT NO. 5  
 PL( ) DEF(  ) COMM( )  
 CASE NO. 0251115, 51116, 51117, 51118  
 DATE March 31, 2003  
 JUDGE J D ONLY

Reporting Officer / Code DETECTIVE C. L. KOFFMAN, 0887		Date DECEMBER 20, 2001
Patrol Supervisor / Code	CID Supervisor / Code	Case Disposition ACTIVE <input type="checkbox"/> INACTIVE <input type="checkbox"/> UNFOUNDED <input type="checkbox"/> ARREST A <input type="checkbox"/> J <input type="checkbox"/> EXCEPTION A <input type="checkbox"/> J <input type="checkbox"/>
		Basis for Exception DEATH OF SUSPECT <input type="checkbox"/> PROSECUTION DECLINED <input type="checkbox"/> EXTRADITION DECLINED <input type="checkbox"/> REFUSED TO COOPERATE <input type="checkbox"/> JUVENILE, NO CUSTODY <input type="checkbox"/>

# **APPENDIX 44**



1 Hoffman: "Do you know about her arranging for ... uh ... several hillbillies from West  
2 Virginia to beat his ass when he came out there to pick up the kids?"  
3  
4 Elliott: "That's not what I heard but ...uh..."  
5  
6 Hoffman: "What did you hear?"  
7  
8 Elliott: "I heard that ... uh ... somebody beat him up..."  
9  
10 Hoffman: "Un-huh."  
11  
12 Elliott: "... and then she speculated that maybe he hired somebody to do it or  
13 something like that just so \_\_\_\_\_. I mean that was..."  
14  
15 Hoffman: "He hired somebody to beat his ass?"  
16  
17 Elliott: "So that he could use that to ... against her in court."  
18  
19 Masterson: "He was beat up pretty good. We have photographs and stuff of the injuries."  
20  
21 Elliott: "Again I just heard one side of the story."  
22  
23 Masterson: "I mean that's ... you know, it's like one of those Clint Eastwood things, you  
24 know, where you sit down in a chair and somebody beats the snot out of you  
25 and, you know, they try to claim that the police did it."  
26  
27 Elliott: "You're saying that the photographs were a lot worse than anybody would  
28 have ever...?"  
29  
30 Masterson: "Yes."  
31  
32 Elliott: "Okay. Well at this point based on whatever you told me earlier..."  
33  
34 Masterson: "Right."  
35  
36 Elliott: "... that ... uh ... you know, I'm sitting here, whenever you see me sitting  
37 here thinking about stuff..."  
38  
39 Masterson: "Right."  
40  
41 Elliott: "... I'm thinking about a lot of things and ... uh ... before I answer your  
42 questions..."  
43

# **APPENDIX 45**

1 Masterson: "I don't blame you ... blame you one bit."  
2  
3 Hoffman: "That's the way it should be."  
4  
5 Masterson: "Because it's like I told you, you know, ~~her credibility with me is zero~~. It's  
6 actually in the negative numbers. She has no credibility with me whatsoever.  
7 She cannot ... uh ... she cannot charm me, she cannot ... uh..."  
8  
9 Hoffman: "If she tells us the sky is blue, we're going to go out and check."  
10  
11 Masterson: "And take photographs and then call a couple of other witnesses to make, you  
12 know, just to make sure that she's not lying about it."  
13  
14 Hoffman: "Un-huh."  
15  
16 Masterson: "Jamie ... I don't know too much about. Uh ... I know he was involved in at  
17 least one incident in West Virginia involving this guy. Any other incidents  
18 I'm not sure about but I ... I don't know. I don't know how this whole thing  
19 went down ... uh ... but I got a feeling that you're gonna be the fall guy and  
20 she's ... this is ... this is my take on things from just speaking to her yesterday  
21 and speaking to her when she was living at the White Stone Fleet because she  
22 was ... did she ever tell you why we talked to her there?"  
23  
24 Elliott: "No."  
25  
26 Masterson: "Me and Detective Urban?"  
27  
28 Elliott: "No."  
29  
30 Masterson: "And you said she was there on your credit card, right?"  
31  
32 Elliott: "Un-huh."  
33  
34 Masterson: "Either ... I think it was ... somehow she was pawning stolen property or she  
35 was with somebody that stole ... or pawn ... it was ... she wasn't ... I don't  
36 think ... I don't think she pawned stolen property. I think she was with  
37 somebody was doing something wrong and that's why we talked to her and  
38 that's why she didn't get in trouble but ... uh ... but the ... but the hotel  
39 wanted her out of there. They ever tell you that?"  
40  
41 Elliott: "Well I'm not surprised at that."  
42  
43 Masterson: "Did you ever see that room?"

# **APPENDIX 46**

1  
2 Masterson: "I'll tell you what..."  
3  
4 Hoffman: "We're gonna handle this right."  
5  
6 Masterson: "... you know..."  
7  
8 Hoffman: "Detective Masterson is giving you a ... a decent way of handling it. I don't  
9 agree with him. He knows I don't. We've worked together too long for him  
10 to know that better. Uh ... I was willing to go with ... with the ... uh ... ne're  
11 do well girl's story and ... uh ... how she's innocent, you know, completely  
12 innocent of this stuff and ... uh ... she knows you did it and, you know, you  
13 did it to win her favor or whatever else 'cause you're sweet on her and all that  
14 other happy horse shit. And ain't that fine, you know, and it ... that'd be fine  
15 but ..."  
16  
17 Masterson: "Do you know...?"  
18  
19 Hoffman: "... it's not fair to you but we've given you ... we've been fair to you."  
20  
21 Masterson: "Do you know that she confided in Jamie?"  
22  
23 Elliott: "Excuse me?"  
24  
25 Masterson: "Did you know that she confided in Jamie?"  
26  
27 Elliott: "In which regard?"  
28  
29 Masterson: "To what happened. Do you know if you..."  
30  
31 Elliott: "I don't..."  
32  
33 Masterson: "Did ... do you know ... well, let me put it to you this way, we got a call from  
34 Jamie before we came up here..."  
35  
36 Elliott: "Okay."  
37  
38 Masterson: "... and we went and talked to her and she confided in Jamie after we left and  
39 interviewed both of 'em \_\_\_\_\_."  
40  
41 Hoffman: "We're gonna track your cell phone calls, every cell phone call you made.  
You know we're gonna do that if we haven't done it already, okay? You  
know that. You know that exists. You know we can do it and we're gonna do

1 it and put you in certain places making certain calls because we can track  
2 which cell tower your radio signal goes to, okay? Those are like repeaters or  
3 whatever else. You probably know this stuff better than I do.”  
4  
5 Elliott: “Yes.”  
6  
7 Hoffman: “I have no idea what the hell I’m talking about but I know what they look like  
8 and they’re up there on towers and ... and your ... your cell phone shoots a  
9 signal up to them and I think they, those things put them on a line and send  
10 them or something. I don’t know but I think that’s what it is. We can track  
11 every single one of those, wherever your cell phone goes to and where her cell  
12 phone goes to and stuff and that’s what we got, okay, and ... and ... and  
13 compared to your stories and everything else, that and all these other things,  
14 okay?”  
15  
16 Elliott: “That’s fine.”  
17  
18 Hoffman: “We’re giving you the opportunity here, Detective Masterson is, to make ...  
19 make this look as good as possible on yourself, giving you the chance to say  
20 it. There’s no question in any of our minds what took place here and what  
21 happened here but this is a messed up situation.”  
22  
23 Elliott: “I agree.”  
24  
25 Hoffman: “And it’s only you can make it any better.”  
26  
27 Elliott: “You know, the thing is that I ... I could’ve sat here and lied to you and said  
28 that I got out of my truck and I walked the opposite direction and I went  
29 someplace else...”  
30  
31 Hoffman: “Un-huh.”  
32  
33 Elliott: “... and I never even returned to the truck for six hours or whatever.”  
34  
35 Hoffman: “Yeah, you know...”  
36  
37 Masterson: “And we’d have you in a bold faced lie.”  
38  
39 Hoffman: “Yeah, and you know we can prove it wrong. That’s why you’re not gonna sit  
40 there and share that lie with us.”  
41  
42 Elliott: “I ... I don’t know...”  
43

# **APPENDIX 47**

1                   that happen? No, it didn't. So you ask we're looking at two people involved in  
2                   this."  
3  
4   Elliott:        "No you didn't ask but just to volunteer. I think you can call that all would of  
5                   been 36 ... 48 hours."  
6  
7   Masterson:    "I noticed it."  
8  
9   Elliott:        "The um Clark Brewer..."  
10  
11   Masterson:    "Um huh."  
12  
13   Elliott:        "...was helping me when I took the um ... you know the beer tank that I told you  
14                   about that I took down to ... I just want to picture it now so it don't come out as  
15                   an object and Debbie was there at my truck when I."  
16  
17   Masterson:    "They will be noted I mean everybody knows will be ... already noted that your  
18                   hands this far and it's scabbed over. But the thing is and I'm not worried about  
19                   the scabs on the hands."  
20  
21   Elliott:        "No I just..."  
22  
23   Masterson:    "I'm not worried I know ... I'm not worried ... worried about the Patsy, you  
24                   know, Patsy Ramsey case, the Jon Benet Ramsey, I'm not worried about that  
25                   case."  
26  
27   Elliott:        "I'm not trying to build a defense. I'm just trying to say."  
28  
29   Masterson:    "I'm not worried about you know oil, insurance of cars, I'm not worried about  
30                   you know, Colonel buying property in Williamsburg. I'm not worried about any  
31                   of that. The only thing I'm worried about is the truth of what happen that night ...  
32                   in that house that night and it's becoming more..."  
33  
34   Elliott:        "It..."  
35  
36   Masterson:    "Hold on for a second that it is becoming more and more apparent that I'm not  
37                   going be able to obtain the truth from. That's ... I mean that's ... that's bottom  
38                   line what it is coming to. I'm not going to be able to obtain a truth from you.  
39                   Because either you are incapable of telling the truth. Or you are um ... you think  
40                   that for some reason that maybe if you close your eyes later on, you know, this is  
41                   something that is going to go away. And there is nothing that's going to go back  
42                   you know that once Detective Hoffman and I go back to Virginia that's pretty  
43                   much is going to be it."



# **APPENDIX 48**

1 Gragg: "Um huh."  
2  
3 Hoffman: "I'm not one of these guy that write, you know ... know a book in the criminal  
4 complaint. I write only what's necessary."  
5  
6 Gragg: "Okay."  
7  
8 Hoffman: "And let the Commonwealth Attorney give out what additional. Um he knows  
9 he's done. His attorney knows he done. It doesn't matter what he knows ... he  
10 knows that. But his attorney is going to do what's best for him."  
11  
12 Gragg: "Okay."  
13  
14 Hoffman: "At this point, okay? And that's where our Commonwealth Attorney been today.  
15 You don't see our Commonwealth Attorneys here. They haven't been here. They  
16 been up in Maryland."  
17  
18 Gragg: "Okay."  
19  
20 Hoffman: "Alright? There's no doubt in my mind that you have more information  
21 concerning this event than what you provided to us. The polygraph ... you're  
22 concerned with one question. It's not one question."  
23  
24 Gragg: "Okay."  
25  
26 Hoffman: "It's a whole bunch of them. It's a whole bunch of control questions that are put  
27 in there for deceptive reasons to get a Judge for your deceptive nature involved in  
28 that and other things. These guys know what they're doing these polygraph  
29 operators, as a matter of fact been doing it forever and a day."  
30  
31 Gragg: "Um huh."  
32  
33 Hoffman: "Um you know there's nothing wrong with the test. The test is deceptive. You  
34 lied on the test that ... that's all there is to it. Now you have the ability to work  
35 with us on this. And so far you've not taken advantage of that opportunity. That  
36 opportunity is not going to be around much longer. The second that Bill wants to  
37 work ... he's working. And because you had that opportunity, the second Bill  
38 wants to discuss any information that you know ... what you knew, what  
39 transpired between the two of you while you were in Florida and coming back  
40 from Florida and that ... and that crap. Okay, we're going to listen."  
41  
42 Gragg: "Um."  
43

1  
2 Hoffman: "That's bullshit. His computer has been analyzed. Every single computer he has  
3 been analyzed. Everything in that computer has been taken out. That was done a  
4 long time ago. A hell of a long time ago, that was done. We had that. There's  
5 not a Jerry out there. Jerry doesn't exist."  
6  
7 Masterson: "Un huh."  
8  
9 Hoffman: "That's not neither here or there. We need to go from what you know, okay?  
10 Because you know what's going on here I mean you haven't been telling us the  
11 truth and we can't tolerate that any more. In the case against you is getting very  
12 close and you're in a very precarious position ... very precarious and you have the  
13 ability and you know this and you know this for a long time and you chosen not  
14 to take advantage of that but time is running out. Because the second Bill plays  
15 his cards and he seconds his attorney decide this is what we're going to disclose  
16 the game is over. The game is over. Okay, we're not going to be coming back to  
17 you anymore to talk to you. We're not going to want to talk to you, okay? That's  
18 not going to happen but he is going to save his ass. His attorney is going to make  
19 him if he don't want to on his own. They can't take a loss, his attorneys can't.  
20 They have to salvage something. They can't take a capital conviction and they  
21 know that's what they're going to get with the striking ... this evidence. They  
22 know it. He screwed up. Now this is your opportunity. If you want to walk out  
23 here tonight, you know when we get your truck fix, we get that back over here  
24 that could happen. But you got to do the necessary things. It's just a totality of  
25 all these things."  
26  
27 Masterson: "It's just like Bill his freedom is even though it seemed like it was long live from  
28 January until yesterday."  
29  
30 Gragg: "Um huh."  
31  
32 Masterson: "I think that's the way your freedom will be tonight. It will be short live. Just  
33 like when Detective Hoffman and I first came to your house that night and you  
34 were on the phone talking to Mark."  
35  
36 Gragg: "I was talking to Mark about other stuff."  
37  
38 Masterson: "What was the first thing that you ask ... asked us? The very first thing? Are you  
39 going to arrest me? That's the very first thing you asked us."  
40  
41 Gragg: "When?"  
42  
43 Masterson: "That night that you were on the telephone talking to Mark Henshaw."

1                   you at 2 p.m. on January 2<sup>nd</sup>, you know, no! That didn't come out, you know, that  
2                   didn't come out at all."  
3  
4   Masterson:    "And the thing is..."  
5  
6   Gragg:        "On January 2<sup>nd</sup>..."  
7  
8   Masterson:    "The thing is..."  
9  
10   Gragg:        "I couldn't remember a whole lot of things, like there was a whole bunch of  
11                 questions about everything that was going on."  
12  
13   Masterson:    "Okay, okay."  
14  
15   Hoffman:      "The reality is? I'm not going to accept any excuses for that and nobody is, okay?  
16                 What's is going to happen here is ... is ... is basically whether you ... you're ...  
17                 how you're going about this investigation."  
18  
19   Gragg:        "Um huh."  
20  
21   Hoffman:      "Okay? If you want to be another principle in this case, you can be another  
22                 principle in this case. We can do that."  
23  
24   Gragg:        "What does that mean?"  
25  
26   Masterson:    "That mean just equal ... equally guilty as Bill."  
27  
28   Hoffman:      "I give you a stack of paperwork for you the size of this and it looks exactly like  
29                 that, okay? You got kids you need to take care of. Your objective here in this  
30                 matter, you know, is totally different. Your objective in this matter was to take  
31                 care of your kids. That's what you want to do. That's what you're here to do  
32                 and that is what you're here to do. You're going to screw that up, you know, in  
33                 that situation. You are going to screw your ability to take your kids. The Finch's  
34                 are going to get those kids, although they probably want to if you're out of the  
35                 picture. The Finch's aren't, you know, I doubt if they're capable getting ...  
36                 satisfying some judges they are capable of caring for those kids. Your mother  
37                 that's a hell of a burden on her but I'm sure she had a desire to she probably  
38                 could. Um you know but I don't know. I don't know if your mother would want  
39                 that, okay. But regardless it doesn't matter. It what you want. It's what you need  
40                 to take care of. And this whole thing to me, the whole picture that I get through  
41                 investigating this thing, regardless of what you did ... the end was to take care of  
42                 your kids. You know..."  
43

# **APPENDIX 49**

CONFIDENTIAL



# Prince William County Criminal Polygraph Report

Subject: GRAGG, REBECCA LOUISE  
PF: 010501

Date: 01/12/2001

Purpose of Examination:

To determine if examinee was truthful in her denial of planning and/or having any prior knowledge of the death of Robert Finch.

Results:

Inconclusive.

Details:

During the pretest phase, examinee stated basically what was told the case detective. She stated that at the time of Finch's death, she was on her way back from Florida where she had taken her children. She advised she and Finch had separated in 1997, but that she still had contact with him by sharing custody of their children. She said she picked them up at Finch's house on Christmas day and was to return them on January the 1st. She said that on her way home, she received a couple calls indicating that something may have happened to someone, but said she did not know what the emergency was. She said she first heard of Finch's death from two detectives who came to interview her. She acknowledged knowing and being an acquaintance of the main suspect, a Mr. Larry Bill Elliot. Elliot apparently has been supporting her and paying all her bills, but examinee maintained she has never been intimate with him. She said that after the fact, she believes that Elliot may have killed Finch, but she denied having any prior knowledge that it was about to happen. She also denied that she planned or conspired with anyone to have Finch killed.

Examinee was administered three polygrams utilizing the MIR Technique. An acquaintance test was also administered. Relevant questions asked are attached.

Five separate charts were started, but due to examinee moving and distorting the tracings, only three were actually completed.

On the third chart, examinee began to sniffle constantly and it was not known until after the chart that she was actually crying.

Because of her emotional breakdown and her distorting of the charts, this test has to be rendered as Inconclusive.

Examinee's attorney, Mr. Mark D. Henshaw, was present for the forms signing and during this examination. He was briefed on the examiner's conclusion.

No further action was taken by this examiner.

# **APPENDIX 50**

CONFIDENTIAL



# Prince William County Criminal Polygraph Report

Subject: GRAGG, REBECCA LOUISE  
PE: 010506

Date: 5/14/01

Purpose of Examination:

To determine if examinee was truthful in her denial of planning and/or having prior knowledge of the death of Robert Finch.

Results:

Deception indicated

Details:

Examinee was administered a polygraph examination on 01/12/01 pertaining to this issue, however due to her movements and emotional state, the test was rendered as Inconclusive. She has agreed to additional testing, thus this examination this date.

During the pretest phase of the first examination, she stated basically what was told the detective and she denied prior knowledge and/or involvement in Finch's death. (See polygraph report dated 01/12/01). During this pretest phase, nothing new was uncovered.

Examinee was administered three polygrams utilizing the BIZONE Technique. Relevant questions asked are as follows:

Regarding the death of Robert, do you intend to answer each question truthfully?

Did you plan with anyone to have Robert killed?

Did you lie when you said you did not know Robert was going to be killed?

After careful analysis, it is the examiner's opinion that examinee practiced deception when she answered the above questions. During a post test interview, she admitted she thinks Bill Elliot killed Robert, but she continued to deny she knew beforehand that Robert was going to be killed. When continually confronted with her deception, she said she wanted to call her attorney. At that the interview was ceased.

No further action was taken by this examiner.