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SUPREME COURT OF VIRGINIA
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RICHMOND, VIRGINIA

IN THE
Supreme Court of Virginia
AT RICHMOND

741039

Charles Rufus Akers

V.

Commonwealth of Virginia

Appellant's Appendix

E. Ralph Coon, Jr. and
R. O. Kellam
P. O. Box 530
Manassas, Virginia 22110
Counsel for Appellant

APPENDIX

TABLE OF CONTENTS

| <u>Documents, Parts of Record</u> | <u>Page</u> |
|--|-------------|
| Indictment | 2 |
| Judgment appealed from | 3 |
| Assignments of error | 6 |
| Parts of transcript (morning 1-58, 75-78; afternoon 1-84) | 7 |
| Exhibit #18 | 154 |
| Exhibit #20 | 155 |
| Exhibit #22 | 156 |

4/1/74

COMMONWEALTH OF VIRGINIA

INDICTMENT FOR A FELONY
(Murder)
#5319

vs.

CHARLES R. AKERS

THE GRAND JURORS of the Commonwealth of Virginia, in and for the body of the County of Prince William, and now attending the Circuit Court of said County this 1st day of April, 1974, upon their oaths present that on the 20th day of October, 1973, in the County aforesaid, one CHARLES R. AKERS did unlawfully and feloniously kill, murder, and slay one MARGARET FISK by stabbing her with a knife, against the peace and dignity of the Commonwealth in violation of Section 18.1-21 of the 1950 Code of Virginia, as amended.

A TRUE BILL
NOT A TRUE BILL
(Strike out one)

FOREMAN

WITNESSES summonsed by the Commonwealth, sworn and sent to testify before the Grand Jury:

INV. C. T. DEANE

Presented By:

PAUL B. EBERT
Attorney for the Commonwealth
County of Prince William

VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF PRINCE WILLIAM

COMMONWEALTH OF VIRGINIA

#5319

VS.

FELONY - FIRST DEGREE MURDER

CHARLES R. AKERS

The 19th day of July, 1974, came the Attorney for the Commonwealth and CHARLES R. AKERS, who stands convicted of a felony, to-wit: First Degree Murder, appeared before the bar of the Court in the custody of the deputy sheriff. And came also E. Ralph Coon, Jr., and R. O. Kellam, attorneys at law, retained by the accused to represent him.

Pursuant to Section 17-30.1 of the 1950 Code of Virginia, as amended, it is hereby ORDERED that the evidence and incidents of trial in this case shall be recorded verbatim by a Court Reporter. Thereupon, the Court Reporter was sworn.

And the Probation Officer of this Court, to whom this case has been previously referred for investigation, appeared in open court with a written report, which report he presented to the Court in open court in the presence of the defendant who was fully advised of the contents of the report and a copy of said report was also delivered to counsel for accused.

Thereupon, the defendant and his counsel were given the right to cross-examine the Probation Officer as to any matter contained in

the said report and to present any additional facts bearing upon the matter as they desired to present. The report of the Probation Officer is hereby filed as a part of the record.

Whereupon, the Court taking into consideration all of the evidence in the case, the report of the Probation Officer, the matters brought out on cross-examination of the Probation Officer and such additional facts as were presented by the defendant, and it being demanded of the defendant if anything for himself he had or knew to say why judgment should not be pronounced against him according to law, and nothing being offered or alleged in delay of judgment, it is accordingly the judgment of this Court that the defendant be and he is hereby sentenced to life imprisonment in the penitentiary of the Commonwealth. It is also ordered that the Commonwealth of Virginia do recover against the said defendant its costs by it about its prosecution in this behalf expended.

And it is further ordered that as soon as possible after the entry of this order the defendant be removed and safely conveyed according to law from the jail of this Court to the said penitentiary, therein to be kept, confined and treated in the manner provided by law.

The Court orders that the prisoner be allowed credit for the time spent in jail awaiting trial.

The Court proceeded to advise the defendant of his right to appeal from the sentence heretofore imposed, including the right to have an attorney appointed for him and to have the attorney's fees, costs and expenses in connection with an appeal paid for him in the

event he is financially unable to pay the same. And the Court doth appoint Mr. Coon and Mr. Kellam to represent the defendant should he prove indigent and desire to seek a writ of error.

And the prisoner is remanded to jail to await transfer to the penitentiary.

/s/ Barnard F. Jennings

JUDGE

A COPY - TEST: (SEAL)

C. E. GNADT, CLERK

By: /s/ Deborah C. Lyon
Deputy Clerk

ASSIGNMENTS OF ERROR

1. THE COURT ERRED IN ADMITTING INTO EVIDENCE DEFENDANT'S WRITTEN STATEMENT, PROSECUTION'S EXHIBIT #18.
2. THE COURT ERRED IN ADMITTING THE TRANSCRIPT OF THE DEFENDANT'S TAPED STATEMENT, PROSECUTION'S EXHIBITS #21 AND 22.
3. THE COURT ERRED IN DENYING THE MOTION TO STRIKE THE EVIDENCE AT THE CLOSE OF THE COMMONWEALTH'S CASE.
4. THE COURT ERRED TO THE DEFENDANT'S PREJUDICE IN PERMITTING THE COMMONWEALTH'S ATTORNEY TO EXCEED THE SCOPE OF DIRECT EXAMINATION WHILE HE WAS CROSS-EXAMINING THE DEFENDANT WHO HAD TAKEN THE STAND TO TESTIFY SOLELY ON THE MATTER OF VOLUNTARINESS OF PROFFERED ADMISSIONS (PROSECUTION'S EXHIBITS #18, 21 AND 22).
5. THE COURT ERRED TO DEFENDANT'S PREJUDICE IN REFUSING TO REQUIRE THE COMMONWEALTH TO ELECT UPON WHAT THEORY THE COMMONWEALTH RELIED IN SUPPORT OF ITS ASSERTION THAT THE DEFENDANT COMMITTED MURDER IN THE FIRST DEGREE.
6. THE EVIDENCE IS INSUFFICIENT TO SUPPORT THE FINDING OF GUILTY OF MURDER IN THE FIRST DEGREE.

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VIRGINIA:

IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY

----- -X
 :
 COMMONWEALTH OF VIRGINIA, :
 :
 Plaintiff :
 :
 -vs- : Criminal Docket No. 5319
 :
 CHARLES RUFUS AKERS, :
 :
 Defendant :
 :
 ----- -X

Circuit Courtroom No. 2
Prince William Courthouse
Manassas, Virginia

Thursday, June 6, 1974

The above-entitled matter came on for trial, before
THE HONORABLE BARNARD F. JENNINGS, Judge, in and for the
Circuit Court of Prince William County, Virginia, at
10:30 o'clock a.m.

APPEARANCES:

On behalf of the Commonwealth:

PAUL EBERT, Esq.

On behalf of the Defendant:

E. RALPH COON, JR., Esq.

R. O. KELLAM, Esq.

P R O C E E D I N G S

1
2 (The Court Reporter, Marlene Dodds, was sworn by the
3 Clerk.)

4 THE COURT: All right. Mr. Akers, stand and be
5 arraigned, please.

6 ARRaignMENT OF DEFENDANT

7 THE CLERK: Mr. Akers, in case No. 5319, "The
8 Grand Jurors of the Commonwealth of Virginia, in and for
9 the body of the County of Prince William and now attending
0 the Circuit Court of said County this 1st day of April
1 1974, upon their oaths present that on the 20th day of
2 October 1973 in the County aforesaid, one Charles R.
3 Akers did unlawfully and feloniously kill, murder and
4 slay one Margaret Fisk by stabbing her with a knife
5 against the peace and dignity of the Commonwealth in
6 violation of Section 18.1-21 of the 1950 Code of Virginia,
7 as amended."

8 How do you plead, sir?

9 THE DEFENDANT: Not guilty.

0 THE COURT: I understand the Jury waiver has been
1 executed?

2 MR. COON: Yes, sir. I gave it to Mrs. Irwin, your
3 Honor.

THE COURT: All right. Have a seat, then, Mr. Akers.

All the witnesses who are going to testify in this case, stand where you are, please, and be sworn; everyone that is going to testify.

Do you want Mr. Akers to be sworn?

MR. COON: Yes, your Honor.

THE CLERK: Stand then, Mr. Akers.

(Those witnesses then in Court were sworn by the Clerk.)

THE COURT: Is there a request for a rule?

MR. KELLAM: Your Honor, I would request a rule.

THE COURT: All right, then. If the Witnesses would come this way, then, with the Sheriff, he will show you where to wait until you are called back to testify. I would like to ask each of you not to discuss the case with each other at this point until a decision has been reached.

MR. EBERT: Your Honor, with regard to Dr. Beyer, I understand he is on call and we will not need him, I am sure, until later in the proceeding.

MR. COON: Your Honor, I think, I assume they are going to put in his report and I would like to have him here at that time. I don't know how long it is going to take the Commonwealth to do that.

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THE COURT: All right.

Mr. Ebert, do you have a preliminary statement?

OPENING STATEMENT ON BEHALF OF THE COMMONWEALTH

MR. EBERT: Yes, your Honor. I think the evidence will show that on the day in question, the victim, the 14-year old girl had come with her parents to attend a wedding in the neighborhood of where this occurred.

The evidence will further show that at sometime prior to the reception that the girl planned on attending, she told her parents that she was leaving, and that she did, in fact, leave, never to return. I think the evidence will further show that the police department got a call from the Defendant indicating that he had killed someone; that the police did respond to the Iron Gate area and did see the Defendant and found the girl's body.

I think the evidence will further disclose that a number of knife wounds were present on the body. A doctor will testify that being the cause of death. The evidence will further disclose, I think, that the Defendant did make a statement to the officers, indicating his guilt in connection with the crime.

THE COURT: Mr. Coon?

OPENING STATEMENT ON BEHALF OF THE DEFENDANT

MR. KELLAM: At this time, of course, the Defense does

1 not completely know what the evidence will be disclosed by the
2 Commonwealth. With respect to the statement that has been allu-
3 ded to by the Commonwealth, we would ask the Court's indulgence
4 in not arriving at the conclusion that there was a statement
5 voluntarily given because this seems to be one of the bones of
6 contention which we will have to litigate in this Courtroom as
7 to whether or not there was a statement given by the Defendant
8 voluntarily.

9 That is all we have at this time.

0 MR. EBERT: Commonwealth's position, if it please the
1 Court, would be at this time that any motion to suppress under
2 the rules of Court should have been filed in writing seven days
3 prior to any trial, and on that basis I would object to any
4 motion at this point to suppress any testimony.

5 THE COURT: He did not say it was his motion, as I
6 understood it. I assume he is talking about the confession and
7 I assume he will make objection to it, if he feels it would be
8 proper.

9 MR. EBERT: All right, sir.

10 THE COURT: Who is the first Witness?

11 MR. EBERT: Your Honor, I would call as my first
12 Witness, Dr. Beyer.

13 Do I understand, your Honor, that Defense will

1 stipulate that the body in question was that of Margaret Fisk,
2 the alleged victim in the Indictment, and that it would not be
3 necessary for her parents to have to identify her photograph?

4 MR. COON: We would stipulate to that.

5 EVIDENCE ON BEHALF OF THE COMMONWEALTH

6 Whereupon,

7 JAMES C. BEYER

8 called as a Witness by Counsel for the Commonwealth, having
9 been previously sworn by the Clerk, was examined and testified
0 as follows:

1 DIRECT EXAMINATION

2 BY MR. EBERT:

3 Q State your full name and give your place of employment.

4 A Dr. James C. Beyer, Deputy Chief Medical Examiner in
5 charge of the Northern Virginia Division of the Office of the
6 Chief Medical Examiner.

7 Q What is your occupation?

8 A Forensic pathologist.

9 Q And you are a physician?

0 A Yes.

1 Q And have you received special education and training
2 in that field?

3 A Yes.

1 Q Would you briefly tell the Court what your qualifica-
2 tions are?

3 MR. COON: I will stipulate his qualifications as a
4 medical examiner and pathologist.

5 THE COURT: Thank you.

6 BY MR. EBERT: (Resuming)

7 Q In your capacity as a medical examiner, on the 20th day
8 of October, 1973, did you have occasion to be present in Prince
9 William County?

0 A Yes, I did.

1 Q And approximately what time was it that you came to
2 Prince William County and where did you go?

3 A Following notification from the Prince William Police,
4 I arrived at 7968 Community Drive at approximately 5:15 on that
5 date; 5:15 p.m.

6 Q And upon arriving, what did you do?

7 A I was met by Investigator Deane and other members of
8 the police department, then proceeded to an upstairs bedroom
9 where they asked me to examine the body which was present in a
0 closet.

1 Q Now I show you two photos and ask you if this accurate-
2 ly portrayed the body as you saw it upon your arrival?

3 A Yes. The larger photograph illustrates the body which

1 A The body was clothed in a long-sleeved green sweater
2 with air-rescue patches on each shoulder, an underlying brassiere
3 which was intact and in place, and plaid slacks and underpants
4 and red socks; no shoes were present on the feet. The plaid
5 slacks had been pulled down to the mid-buttock level and the
6 underpants had been pulled down to expose the pubic hair.

7 Q All right. Now I show you a photograph and ask if
8 this accurately portrays the condition with regard to the lower
9 portion of the body as you described it?

0 A Yes. These photographs reveal the clothes in places
1 I noted them on the lower extremities.

2 Q And did you, in fact, raise the clothing on the upper
3 portion of the body?

4 A At the time these photographs were taken, I elevated
5 the brassiere and the sweater in order to expose the breast
6 areas.

7 Q What did that reveal by the raising of the sweater and
8 the brassiere?

9 A It revealed multiple stab wounds over the thorax and
0 abdomen.

1 MR. EBERT: I offer these into evidence.

2 MR. COON: No objection, your Honor.

3 THE COURT: They will be received as Commonwealth's

1 Exhibits Nos. 3 and 4.

2 (The documents referred to were marked
3 as Commonwealth's Exhibits Nos. 3 and
4 4 for identification and received in
5 evidence.)

6 BY MR. EBERT: (Resuming)

7 Q Did there come a time that you performed an autopsy
8 on the body which you have just testified as observing at 7968
9 Community Drive?

0 A Yes. I arranged to have the remains transferred to
1 my morgue facilities at Fairfax Hospital and on the following
2 day, October 21, 1973, at 10 p.m., I performed an autopsy.

3 Q And what did your autopsy reveal?

4 A The autopsy revealed the following: Gross injury,
5 over the bridge of the nose there was a 1/2-inch bluish bruise
6 or contusion, a small bruise was present on the left upper lip
7 and there were small, rather ill-defined contusions or bruises
8 over the interior aspect of the neck, most marked on the left
9 side.

10 Examination of the chest or thorax and abdomen revealed
11 seven stab wounds. Six of these wounds were present over the
12 chest area; one was present over the abdomen. On the palm or
13 surface of the left hand there were three superficial incised

1 wounds.

2 Therefore, this gave a total of eight stab wounds.

3 Q In your opinion, what was the cause of death?

4 A Of the wounds which had entered in the front of the
5 chest, three were relatively superficial and would not be sig-
6 nificant in the causation of death.

7 Three of the wounds were definitely of a lethal charac-
8 ter; one involved a complete perforation of the heart. Another
9 involved deep penetration into the lower lobe of the left lung
0 which resulted in hemorrhage and the abdominal wound involved
1 severance of a major vein, the inferior vena cava which brings
2 blood back from the lower portion of the body.

3 Another wound, a fourth wound involved penetration into
4 the left chest space with relatively little major organ damage,
5 but if this had been permitted to go unattended, it might have
6 had serious consequences.

7 Therefore, the individual died of wounds involving the
8 heart, lung and the inferior vena cava and resulting blood loss.

9 Q Do you have an opinion as to what caused these wounds?

10 A The character of the wounds would be consistent with
11 some type of knife or similar sharp-pointed or edged object.

12 Q Do you have a copy of your official report?

13 A Yes.

1 Q I note you have marked on your report a number of
2 wounds and have numbered them.

3 Would you tell the Court, speaking from your diagram
4 that you have attached to your report, which ones you consider
5 to be definite?

6 A Wound labelled No. 2 involved the heart, wound labelled
7 No. 5 penetrated into the left-chest cavity, wound No. 6 pene-
8 trated into the lower lobe of the left lung, wound No. 7 in-
9 volved transsection or cutting of the inferior vena cava.

10 MR. EBERT: I would offer this document.

11 MR. COON: I guess we have no objection.

12 THE COURT: All right. It will be received as Exhibit
13 No. 5, then.

14 (The document referred to was marked
15 Commonwealth's Exhibit No. 5 for
16 identification and received.)

17 MR. EBERT: I have no further questions.

18 CROSS EXAMINATION

19 BY MR. KELLAM:

20 Q Doctor, you stated that there were certain wounds on
21 the hand of the body.

22 Would you describe how serious these were?

23 A These were of a relatively insignificant nature since

1 since they were superficial. These would be what we normally
2 might term, defense marks.

3 Q I see. And on the next-to-the-last page, just before
4 you start numbering the wounds, if you would look at the para-
5 graph just before you start numbering the wounds, in that para-
6 graph there is a statement that the plaid slacks had been pulled
7 down to the mid-buttock level and the underpants had been pulled
8 exposing the upper portion of the pubic hair.

9 Do you see that portion?

10 A Yes.

11 Q Now, would you tell the Court whether or not or whe-
12 ther how you know these pants came to be pulled down?

13 A The condition of the clothes were in the stated condi-
14 tion at the time I removed the bedclothes covering it and exposed
15 the remains.

16 Q Well, you don't know and you don't represent to the
17 Court who, if anybody, caused the pants to be pulled down in that
18 condition, do you?

19 A I have no knowledge as to who pulled them down. The
20 only knowledge I have is the condition of the body at the time I
21 examined it and prior to the time it had been removed from the
22 closet.

23 Q Actually, you don't know whether they were pulled down.

1 They could have come down from dragging into the
2 closet, could they not?

3 MR. EBERT: Your Honor, I would stipulate the doctor
4 does not know how the body got in that condition or the condi-
5 tion of the clothing.

6 MR. KELLAM: All right.

7 BY MR. KELLAM: (Resuming)

8 Q Now, did you find any evidence of choking?

9 A As indicated previously, there were contusions over
10 the neck area which would be consistent with force applied to
11 the neck.

12 Q What was the nature of these contusions?

13 How many were there; does your report reveal?

14 A As indicated in my previous testimony, they are rather
15 ill-defined. They range from 1/4-inch to 1/2-inch. Their total
16 number is not indicated.

17 Q Did your examination disclose any evidence of rape?

18 A Smears taken from the oral, vaginal and anal canals
19 were negative for the presence of sperm.

20 MR. KELLAM: I have nothing further, your Honor.

21 REDIRECT EXAMINATION

22 BY MR. EBERT:

23 Q Doctor, you were asked about certain wounds on the

1 hand. I show you a photograph and ask you if this accurately
2 portrays the wounds as you saw them on the hand?

3 A Yes. These are on the palm of the left hand.

4 Q I show you another photograph and ask you if that
5 accurately portrays the wounds which you have testified are
6 relative to the upper torso?

7 A These are the wounds which I described on the chest
8 and abdomen.

9 MR. COON: No objection.

10 THE COURT: They will be received as Commonwealth's
11 Exhibits Nos. 6 and 7.

12 (The documents referred to were marked
13 as Commonwealth's Exhibits Nos. 6
14 and 7 for identification and re-
15 ceived in evidence.)

16 MR. EBERT: I have nothing further.

17 THE COURT: May the doctor be excused?

18 MR. EBERT: Yes, sir.

19 THE COURT: All right. You are free to go.

20 (The Witness was excused.)

21 THE COURT: Call your next Witness.

22 MR. EBERT: All right.

23 I call Mr. Fisk.

1 Whereupon,

2 MILES BYRON FISK

3 called as a Witness by Counsel for the Commonwealth, having been
4 previously sworn by the Clerk, was examined and testified as
5 follows:

6 DIRECT EXAMINATION

7 BY MR. EBERT:

8 Q State your name and give your present address?

9 A Miles Byron Fisk, Herndon, Virginia.

10 Q And where did you live prior to living in Herndon,
11 Virginia?

12 A 9809 Encico Street, in Westgate, Manassas.

13 Q And when did you move from Prince William County?

14 A A year ago, June. Just a year ago, June 1st.

15 Q Did there come a time, more specially on October 20,
16 1973, when you had occasion to return to Prince William County?

17 A Yes.

18 Q And what was your occasion for returning here?

19 A The wedding of a friend of my daughter's, my oldest
20 daughter, Debby and my youngest daughter, Patty were in the wedd-
21 ing party at the Church of the Latter Day Saints off of
22 Irongate.

23 Q And did you have other children?

1 How many children do you have?

2 A Including the deceased, we had five. We have four
3 living.

4 Q And was Margaret one of your children?

5 A Yes.

6 Q And did she accompany you to the wedding?

7 A She went to the church with us, yes.

8 Q And approximately what time was it that you arrived at
9 the church?

10 A Approximately 2 o'clock. We dropped my wife and
11 younger daughter off and we went to get a car for the bridal
12 party and came back about 2:15.

13 Q You say we. Who is that?

14 A My two daughters, Eileen and Margaret.

15 Q And after you returned, what did you do?

16 A After we returned, we stood around till about 2:30
17 and then I was asked to take the keys to the car over to the
18 bride's parents over in West Gate.

19 Q And was Margaret there at the time?

20 A No, she had just left previous to this, just previous
21 to my leaving.

22 Q Did she make any statement to you relative to where
23 she was going?

1 DIRECT EXAMINATION

2 BY MR. EBERT:

3 Q State your full name and place of employment.

4 A Richard E. Frederick. I am employed by the Prince
5 William County Police Department.

6 Q In what capacity?

7 A Dispatcher.

8 Q Were you a dispatcher on the 20th day of October,
9 1973?

.0 A Yes, sir.

.1 Q Directing your attention to approximately 3:08, did
.2 you have occasion to receive a call at that time in your official
.3 capacity?

.4 A Yes, sir, I did.

.5 Q What did that call say?

.6 A I answered the phone. The subject stated he had just
.7 killed someone. I then asked him who he was and he stated Akers.
.8 Then I asked him what the address was which he gave to me, 7968
.9 Community Drive.

20 Q As a result of that, what did you do?

21 A I immediately dispatched a field unit to the scene and
22 notified my Watch Commander, Lt. Sullivan.

23 MR. EBERT: Your Witness.

1 MR. COON: No questions.

2 THE COURT: May he be excused?

3 MR. EBERT: Yes, sir.

4 (The Witness was excused.)

5 MR. EBERT: My next Witness is Officer Barton.

6 Whereupon,

7 ROGER D. BARTON

8 called as a Witness by Counsel for the Commonwealth, was duly
9 sworn by the Clerk of the Court, was examined and testified as
0 follows:

1 DIRECT EXAMINATION

2 BY MR. EBERT:

3 Q State your full name and give your place of
4 employment.

5 A Roger D. Barton, Officer, Prince William County Police.

6 Q Directing your attention to the 20th day of October,
7 1973, were you so employed?

8 A Yes, sir, I was.

9 Q On that date, did you have occasion to go to 7968
0 Community Drive, Manassas, Virginia?

1 A I did, sir.

2 Q Located within Prince William County?

3 A That is correct, sir.

1 Q What was your occasion for going there?

2 A On October 20 of 1973 at 3:08 p.m., I was dispatched
3 to 7968 Community Drive, Manassas, Virginia, in reference to a
4 possible murder.

5 Q And upon arriving there, what did you observe?

6 A Once I arrived on the scene I was approached by a white
7 male subject who I did not know at the time.

8 Q Do you see that person in the Courtroom today?

9 A Yes.

10 Q Would you identify him for the record?

11 A That is Charles Rufus Akers.

12 MR. KELLAM: Your Honor, I notice the Witness is read-
13 ing from some memorandum or some notes and it hasn't been estab-
14 lished yet that he can testify from his own memory.

15 THE COURT: All right. Suppose you not use your notes
16 or else a foundation will have to be laid for it.

17 BY MR. EBERT: (Resuming)

18 Q Do you feel you need your notes in order to recall?

19 A I might, I should be alright, though.

20 Q Is the person who approached you at that time, present
21 in the Courtroom?

22 A Yes, he is.

23 Q Would you point him out for the record?

1 A Right here (Indicating).

2 Q Which gentleman is it?

3 A Charles Rufus Akers, the one on the right.

4 Q Of the three men at counsel's table, where is he
5 located?

6 A He is on the extreme right.

7 MR. EBERT: Let the record reflect he is identifying
8 the Defendant.

9 BY MR. EBERT: (Resuming)

10 Q What occurred then?

11 A I approached the subject. He immediately stated to me,
12 I killed her. She's upstairs.

13 Q Then what did you do?

14 A I then frisked the subject. At this time, Officer
15 Purdum was with me at this time. I went upstairs where he stated
16 the victim was located in the bedroom. At this time, I proceeded
17 back downstairs and further asked the Defendant where she was
18 specifically.

19 He then stated to me she was in the closet. At this
20 time, he was advised prior to this, though, of his rights.

21 Q Who did advise him of his rights?

22 A Officer Purdum did.

23 I proceeded back upstairs and opened the closet door.

1 At this time I observed the blankets were stacked quite high. I
2 pulled back the blankets and I observed a white female.

3 She was dressed in a jacket and slacks. I noted at
4 this time that her slacks were pulled down to her knees. I
5 could observe no signs of life. I proceeded back downstairs and
6 placed the subject under arrest for murder.

7 At this time the scene was protected and Officer or
8 Investigator Deane responded to the scene.

9 Q I show you what has been marked as Commonwealth's
0 Exhibit No. 1 and 2 and introduced and I ask you if this accu-
1 rately portrays the person which you have described?

2 A Yes, sir.

3 MR. EBERT: Your Witness.

4 CROSS EXAMINATION

5 BY MR. KELLAM:

6 Q Now Officer Barton, you said some other officer warned
7 the Defendant of his rights?

8 A That is correct, in my presence.

9 Q In your presence. And who was that officer?

10 A Officer Purdum, Prince William County Police.

11 Q And in relation to the time that you asked him where
12 the body was, when was this warning?

13 A Prior to going upstairs.

1 Q Prior to going upstairs?

2 A Yes. As soon as he admitted, he said I killed her,
3 she is upstairs.

4 Q When did he first say that, I killed her?

5 A As soon as I arrived on the scene and stepped out of
6 the van, he stepped up to me. I was in a police van at the time
7 and he stated I killed her, she is upstairs.

8 Q Was anybody with him at the time?

9 A There was no one with him that I could see.

10 Q And then after he said this to you, you went upstairs?

11 A After he said this to me, he was advised of his rights
12 by Officer Purdum and then I did proceed upstairs to locate the
13 victim.

14 Q With respect to the advising of rights, do you recall
15 what he was told?

16 A Not word for word, but he was advised of his rights by
17 a card that we have.

18 Q Do you have a card?

19 A I do have a card with me. That was not the card.

20 Officer Purdum's card was used.

21 Q Did you notice anything unusual about the subject?

22 A At the time he was shaking. He seemed quite nervous.

23 I noticed he was trembling, but he, like I stated before, that is

1 the first thing. The first words out of his mouth were, I killed
2 her, she is upstairs.

3 Q And do you recall him, the Defendant, making any res-
4 ponse when Officer Purdum read this card to him?

5 A He made no response.

6 Q Made no response.

7 And what period of time was it, when was it in relation
8 to your going upstairs that you told the Defendant he was under
9 arrest?

10 A Well, just prior -- well, I went upstairs right after
11 he was advised of his rights. I proceeded upstairs. As I stated
12 before, I located the body. It was apparent that she was dead.
13 I proceeded back downstairs and then placed him under arrest for
murder and told Officer Purdum to watch him while I protected the
scene until an investigator arrived.

6 Q I see. And when you placed him under arrest, did you
7 put him under restraint of any kind?

8 A He was handcuffed.

9 Q He was handcuffed when you placed him under arrest or
10 after?

11 A Well, at first -- let me back up.

12 He was frisked when I first arrived. He stated I killed
13 her. I first just frisked him, you know, for weapons. That is

1 all that I was mainly interested in; my protection at the time.
2 I proceeded upstairs and then back.

3 Q I take it your frisk was not productive for any
4 weapons?

5 A It was not, no weapons.

6 MR. KELLAM: Nothing further.

7 THE COURT: Anything further?

8 MR. EBERT: No.

9 THE COURT: May he be excused?

10 MR. EBERT: He is free to go.

11 THE COURT: You are free to go.

12 (The Witness was excused.)

13 MR. EBERT: Officer Purdum.

14 Whereupon,

15 JOHN WILLIAM PURDUM

16 called as a Witness by Counsel for the Commonwealth, was duly
17 sworn by the Clerk of the Court, examined and testified as
18 follows:

19 DIRECT EXAMINATION

20 BY MR. EBERT:

21 Q State your full name and give your place of employment.

22 A John William Purdum, Officer, Prince William County
23 Police Department.

1 Q On the 20th day of October, 1973, were you so employed?

2 A Yes, sir.

3 Q On that date, did you have occasion to go to an address
4 known as 7968 Community Drive, Manassas, Virginia?

5 A Yes, sir.

6 Q On that date, did you have occasion to see the
7 Defendant?

8 A Yes, sir.

9 Q And did you advise him of anything at that time?

10 A Yes, sir. I advised him of his rights.

11 Q What did you advise him?

12 A I advised him that he had the right to remain silent
13 and was not required to answer or say anything to us at anytime
14 or answer any questions; anything you say can be used against
15 you in Court. You have the right to talk to a lawyer for advice
16 before we question you and to have him with you during the ques-
17 tioning.

18 If you cannot afford a lawyer and want one, a lawyer
19 will be provided for you. If you want to answer questions now
20 without a lawyer present, you will still have the right to stop
21 answering at anytime. You also have the right to stop answering
22 at anytime until you talk to a lawyer. Do you understand your
23 rights?

1 Q What was his reply?

2 A At this point he stated yes, I think I do.

3 Q And did you threaten him in any way or promise him
4 anything?

5 A No, sir.

6 Q And did he appear to understand and comprehend every-
7 thing you told him?

8 A Yes, sir.

9 Q Did you notice anything unusual about his condition at
10 that time?

11 A He seemed a little nervous.

12 MR. EBERT: That is all I have of this Witness.

13 CROSS EXAMINATION

14 BY MR. KELLAM:

15 Q Now Officer Purdum, do you have before you the same
16 card that you had when you read the subject his rights?

17 A This was taken from my card. I have it with me.

18 Q I see. And could you tell the Court when you read this
19 card to the Defendant, did you read it about the same speed that
20 you read it to the Court?

21 A A little bit slower.

22 Q A little bit slower?

23 A (Affirmative response.)

1 Q Did you pause at anytime in asking if he understood
2 part of it?

3 A No, sir.

4 Q You read the whole thing to him and then said, do you
5 understand?

6 A Yes, sir. Then later on I went back and read them to
7 him again.

8 Q How much time had elapsed before you read them again?

9 A Probably five minutes, maybe ten.

0 Q Had his condition changed in that five or ten minutes?

1 A No, sir.

2 Q It is your testimony that he seemed nervous?

3 A He seemed a slight bit nervous.

4 Q Was he shaking a little bit?

5 A I didn't notice that he was.

6 Q How about his manner of speech; was he quick to answer
7 or slow?

8 A He was slow to answer.

9 Q Was he loud, soft?

0 A Softspoken.

1 Q Who was present when you read this card?

2 A The first time, just myself.

3 Q Then the next time, who was present?

1 A Officer Barton.

2 Q May I see the card that you have?

3 A Yes, sir.

4 Q This was the card that you read from or one similar to
5 it?

6 A That was the card.

7 Q This was the card?

8 A Yes.

9 MR. KELLAM: If your Honor please, I would like to in-
10 troduce this as a Defendant's Exhibit, if I could, at this time,
11 Exhibit A.

12 THE COURT: Do you have any objection?

13 MR. EBERT: I have no objection, but I would like for
14 the Officer to be able to take it with him because he will need
15 it in the future.

16 THE COURT: I expect he can get another one.

17 MR. EBERT: All right.

18 THE COURT: It will be received as Defendant's Exhibit
19 A.

20 (The item referred to was marked as
21 Defendant's Exhibit A for identifi-
22 cation and received in evidence.)

23 THE COURT: Any other questions?

1 MR. KELLAM: No, your Honor.

2 THE COURT: May he be excused?

3 MR. EBERT: Let me ask him one more.

4 REDIRECT EXAMINATION

5 BY MR. EBERT:

6 Q When you advised him of his rights the second time,
7 did you threaten him in any way or promise him anything?

8 A No, sir, I did not.

9 Q Did he also appear to comprehend and understand every-
10 thing you told him at that time?

11 A He said he understood.

12 Q Did you advise him on the second occasion of exactly
13 the same thing that you advised him on the first occasion?

14 A Yes, sir.

15 MR. EBERT: That is all.

16 THE COURT: All right. You may be excused, then.

17 (The Witness was excused.)

18 MR. EBERT: Investigator Deane.

19 Whereupon,

20 CHARLES DEANE

21 called as a Witness by Counsel for the Commonwealth, was duly
22 sworn by the Clerk of the Court, examined and testified as
23 follows:

1 DIRECT EXAMINATION

2 BY MR. EBERT:

3 Q State your full name and give your place of employment.

4 A Charles Deane, Investigator, Prince William County
5 Police Department.6 Q Did there come a time when you had occasion to go to
7 an address known as 7968 Community Drive, Manassas, Virginia?

8 A Yes, sir.

9 Q And approximately what time was it that you arrived
10 there?

11 A After three in the afternoon, around 3:15.

12 Q What did you observe upon arriving there?

13 A Mr. Akers, the Defendant, was standing in front of the
14 house near the front door with Officer Purdum. Officer Barton
15 came out the front door, told me something about the situation.
16 I went upstairs to the bedroom on the right as you go up the
17 steps in that townhouse at that address, and observed a female
18 body in the closet, saw the head of the body, went back down the
19 steps, and talked with Mr. Akers.

20 Q What was contained in the bedroom?

21 A One bed, no bedclothes on the bed, no sheets or
22 spread on the bed.

23 Q Where was the closet in which the body was located with

1 relation to the bed?

2 A It was at the foot of the bed, about three or four feet
3 from the bed.

4 Q Did you have occasion later to fly over the area in
5 question?

6 A I did.

7 Q And did you take a photograph of the subdivision?

8 A It was taken at my direction, yes, sir.

9 Q And does the photograph before you accurately portray
10 the subdivision in question?

11 A Yes, sir.

12 Q Now if you would, would you mark with an x the house
13 which is in question, the house that you visited on the day in
14 question?

15 A The x is at the rear of that house (Indicating).

16 Q All right, and is there a Mannerport Shopping Center
17 near the area portrayed?

18 A Yes, sir.

19 Q Where is that?

20 A The arrow would be in that direction (Indicating).

21 Q And I notice what appears to be a church.

22 Do you know the name of that church?

23 A The Church of the Latter Day Saints, I believe.

1 Q Would you put a C. or write the word church there at
2 that point?

3 A (Affirmative response.)

4 MR. EBERT: I would offer that photograph into
5 evidence.

6 MR. COON: I guess we have no objection, Judge.

7 THE COURT: All right. It will be received as Exhibit
8 No. 8.

9 (The document referred to was marked
10 as Commonwealth's Exhibit No. 8 for
11 identification and received.)

12 BY MR. EBERT: (Resuming)

13 Q I show you a knife and ask if you can identify that?

14 A Yes, sir.

15 Q And where did you first see that knife?

16 A It was in this case in a box, a cardboard box which
17 was in the closet in that bedroom. The box was on a shelf above
18 the body of the victim.

19 Q Did it appear to have any substance on it?

20 A Yes, sir.

21 Q What type of substance did it have on it?

22 A It appeared to be blood.

23 Q You have a photograph with you showing the box in

1 which that was located?

2 A I do.

3 Q See if you can find that.

4 (The Witness left the Witness stand.)

(The Witness resumed the Witness stand.)

5 BY MR. EBERT: (Resuming)

6 Q Does the photograph portray the box in which the knife
7 was located?

8 A Yes, sir.

9 Q That is how it appeared on the day that you arrived?

10 A Yes, sir.

11 MR. EBERT: I offer that.

12 MR. COON: We do not object.

13 THE COURT: It will be received as Exhibit No. 9.

14 (The item referred to was marked as
15 Commonwealth's Exhibit No. 9 for
16 identification and received in
17 evidence.)

18 BY MR. EBERT: (Resuming)

19 Q Did you take possession of the knife at that time?

20 A I did.

21 Q Did you put identifying marks on it?

22 A I did.

23 MR. EBERT: I would offer the knife into evidence.

1 MR. KELLAM: Your Honor, I don't think that there has
2 been any connection with this knife and the homicide. It is
3 just a knife that was found in the room. I would offer objec-
4 tion on the grounds of relevance at this time.

5 MR. EBERT: I would offer it subject to being
6 connected. I think it is circumstantial in any event at this
7 point that there was a knife above the body.

8 THE COURT: With that understanding, it will be
9 received as Exhibit No. 10.

10 (The item referred to was marked as
11 Commonwealth's Exhibit No. 10 for id-
12 entification and received in evidence

13 BY MR. EBERT: (Resuming)

14 Q What did you do with Exhibit No. 10 after you took it
15 into custody?

16 A I delivered it to the Northern Virginia Laboratory
17 to Charles Killion.

18 Q What position does he occupy?

19 A He is the Director of the Northern Virginia Laboratory.

20 Q Did you have an occasion to make an examination of the
21 room?

22 A I did.

23 Q And did you notice anything in the room and on the wall?

1 A On the wall I found, as you walk into the room, to
2 the right of the head of the bed on the east wall, I found what
3 appeared to be a blood spot, droplets of blood, and also on the
4 south wall.

5 Q Did you observe the floor?

6 A The floor in the right corner of the room near the
7 head of the bed had what appeared to be blood spots on the wall-
8 to-wall carpet.

9 Q Did you take possession of the carpet in question as
10 well as the portion of the wall in the area which had a substance
11 which appeared to be blood?

12 A Yes, sir.

13 Q Do you have those with you here today?

14 A Yes, sir.

15 (The Witness left the Witness stand.)

16 (The Witness resumed the Witness stand.)

17 BY MR. EBERT: (Resuming)

18 Q What do these envelopes contain, Officer Deane?

19 A Parts of plaster board, this one (Indicating) from
20 the south wall, this one (Indicating) from the wall with the win-
21 dow which would be the east wall.

22 Q And after taking these portions of the plaster board
23 into custody, what did you do with those?

1 A I delivered them to Mr. Killion at the Northern Virgin-
2 ia Laboratory.

3 Q And the rug which you mentioned, do you have that here
4 also?

5 A This is a portion of the rug.

5 Q What did you do with that after you took possession?

7 A The same thing.

8 Q You mean you delivered that also to Mr. Killion?

9 A Yes, sir.

10 Q And how about the towel?

11 A This towel was also found on the closet shelf. It was
12 wet at the time I found it and it was also delivered to Mr.
13 Killion.

14 Q And I show you what appears to be another knife and
15 ask you if you had occasion to find that at the time also?

16 A Yes, sir. This was on the shelf in the closet.

17 Q What did you do with that after you took it into
18 possession?

19 A Delivered it to Mr. Killion.

20 Q And from the time you received it until the time you
21 gave it to him, was it in your sole and exclusive possession?

22 A Yes, sir.

23 Q And did there come a time when you had occasion to

1 receive the items again?

2 A Yes, sir, from Mr. Killion. I received the items on
3 February 7th.

4 MR. EBERT: I would offer these at this time.

5 MR. KELLAM: Your Honor, we have the same objection to
6 these at this point. They are not relevant.

7 MR. EBERT: Well, I would offer them subject to being
8 connected up.

9 THE COURT: I think there has been a complete change
0 at this point.

1 MR. EBERT: I understand that, but I don't think that
2 is his objection.

3 THE COURT: I understood that was his objection.

4 MR. KELLAM: No. Your Honor, I believe we have agreed
5 to stipulate about chain of custody of items that were other-
6 wise shown to be relevant.

7 My objection is this at this stage; that these articles
8 were taken and believed to have blood spots on them and we don't
9 have any indication of the Defendant's blood, the deceased's
0 blood or even human blood as far as that is concerned, just a
1 substance that looked like blood.

2 THE COURT: Well, I think the argument will go to the
3 weight to be given to establish admissibility, so I would receive

1 them in evidence, subject to their being tied in.

2 If they are not, of course, I would entertain a motion
3 to exclude them.

4 MR. KELLAM: Thank you, your Honor.

5 THE COURT: We will make the larger item that is a
6 portion of the rug, Exhibit No. 11, the envelopes as Exhibit
7 Nos. 12, 13 and 14 and the knife as Exhibit No. 15.

8 (The items referred to were marked as
9 Commonwealth's Exhibits Nos. 11, 12,
0 13, 14 and 15 for identification and
1 received in evidence.)

2 BY MR. EBERT: (Resuming)

3 Q Did you have occasion to observe the door, the entrance
4 to the bedroom?

5 A Yes, sir.

6 Q Did you notice anything unusual about that?

7 A The portion of the door when closed, that would be fa-
8 cing the inside of the room in which the bed was and the body
9 was found; the inside of the door had knife marks on it, what
0 appeared to be knife marks.

1 Q And did you have occasion to notice whether or not
2 there was anything, any other substance on the door?

3 A It had a piece of scotch tape.

Q And does this photograph portray the marks that you have testified about?

A Yes, sir. This (Indicating) is with the door closed taken from inside the room. This, I believe, (Indicating) is a piece of tape attached to it.

MR. KELLAM: We don't have any objection, your Honor.

THE COURT: It will be received as Exhibit No. 16.

(The document referred to was marked as Commonwealth's Exhibit No. 16 for identification and received in evidence.)

BY MR. EBERT: (Resuming)

Q Did you also have an occasion to take into custody at that time any posters?

A I did.

Q Do you have those with you?

A In the brown envelope, the big, large brown envelope. Yes, sir. These (Indicating) are the same posters.

Q Where were these posters located?

A They were in the closet on the shelf, folded. I think each was folded three times.

Q And did they appear to have any marks upon them?

A They had tape on them, some scotch tape on them and

1 some places where the tape had been torn off. They had cuts
2 which are still present in the pubic area of ---

3 MR. KELLAM: Your Honor, I object to showing the Court
4 until we find out whether or not they are admissible.

5 THE COURT: I would agree.

6 BY MR. EBERT: (Resuming)

7 Q And these items do have certain cuts upon them, is
8 that correct?

9 A Yes, sir.

0 MR. EBERT: I would ask these be marked for identifica-
1 tion purposes.

2 THE COURT: They will be marked as a group as Exhibit
3 No. 17.

4 (The documents referred to were marked
5 as Commonwealth's Exhibit No. 17 for
6 identification.)

7 MR. KELLAM: Do we understand this is for identification
8 purposes only?

9 THE COURT: That is right.

0 BY MR. EBERT: (Resuming)

1 Q Now with regard to the posters and the other exhibits,
2 all of these were delivered to Mr. Killion, is that correct?

3 A Yes, sir.

1 Q And all of them were also returned back to you?

2 A Yes.

3 Q Were they in your sole and exclusive possession until
4 this date?

5 A Yes, sir.

6 Q Now, did there come a time, Investigator Deane, when
7 you had occasion to talk with the Defendant?

8 A Yes, sir.

9 Q When was that?

0 A On October the 20th, about ten minutes, five or ten
1 minutes after I arrived.

2 Q And did you advise him of anything?

3 A I did.

4 Q What did you advise him?

5 A Officer Purdum and I had him have a seat in the car
6 with me and I read him this rights card: "You are under arrest.
7 Before we ask you any questions, you must understand what your
8 rights are. You have a right to remain silent. You are not re-
9 quired to say anything to us at anytime or answer any questions.
0 Anything you say can be used against you in Court. You have a
1 right to talk to a lawyer for advice before we question you and
2 have him with you during questioning. If you cannot afford a
3 lawyer and want one, a lawyer will be provided for you."

1 "If you want to answer questions now without a lawyer
2 present, you will still have the right to stop answering at any-
3 time. You also have a right to stop answering at anytime until
4 you talk to a lawyer."

5 Q Did he reply to your advising those rights?

6 A He stated that he understood the rights, and I asked
7 him if he was willing to talk to Mr. Turner on this and he said
8 that he was.

9 Q Did he appear to understand and comprehend everything
0 you said?

1 A Yes, sir.

2 Q Did you threaten him in any way or promise him anything?

3 A No, sir.

4 Q Did he, in fact, make any statement to you?

5 A He did.

6 Q What did he say?

7 A He stated that ---

8 MR. KELLAM: Your Honor, we do have objection at this
9 time and perhaps this would be the best time -- it is a two-prong
0 objection -- to state it.

1 The primary one is that we feel that the Defendant was
2 not -- and we can produce evidence -- to show that the Defendant
3 wasn't capable of understanding the warning which this Witness said

1 he did understand.

2 Secondly, having seen some of the contents of the
3 statement and having examined it with Officer Deane, the state-
4 ment contains information with respect to commission of a crime
5 corpus delicti of which has not been established in this Court.

6 Now with respect to the second objection, of course
7 we do have a dead body. The evidence is before the Court of
8 that much; someone whose life was snuffed out violently.

9 As you know, the Statute with respect to first-degree
10 murder not only covers a killing of premeditation, that is
11 18.1-21, this is something which is yet to be resolved in this
12 Court as to whether there was some premeditation, but it also
13 covers a killing that occurred during the commission of a felony
14 that we refer to commonly as a felony murder, and of course if
15 one is killed during the commission, one kills another during
16 commission of a felony, we would never reach the point of pre-
17 meditation.

18 We have before this Court, yes, evidence of a dead
19 body. We have, however, no evidence of a corpus delicti in any
20 event listed in the Statute which would trigger the felony murder
21 doctrine, namely no evidence of rape, no evidence of arson, no
22 evidence of abduction with intent to defile, and no evidence of
23 robbery and therefore any portions of the statement obtained by

1 Investigator Deane with respect to these basic felonies which
2 would trigger the felony-murder doctrine, we would ask to be
3 excluded. But our first objection, of course, is to his under-
4 standing of his rights.

5 THE COURT: Well, so far as his understanding of his
6 rights are concerned, I think the evidence at this point is that
7 he understands that he has rights. So far as your second objec-
8 tion is concerned, I do feel that there has been sufficient evi-
9 dence and sufficient foundation laid to admit it at this point,
0 the alleged statement, so I would deny your motion.

1 MR. KELLAM: Would his Honor consider letting us put on
2 evidence with respect to this voluntariness before you hear the
3 statement?

4 THE COURT: Of course, when it is time for you to put
5 on your defense, why, certainly, I would consider that; if the
6 statement itself should not be considered. We will wait and see.

7 MR. KELLAM: We would like to note an exception to that.

8 THE COURT: All right.

9 (Exception noted.)

10 BY MR. EBERT: (Resuming)

11 Q What did he tell you?

12 A He said that about 1:30 that afternoon on October 20,
13 he went to ---. I will read from his statement that he signed.

1 MR. KELLAM: Your Honor, it hasn't been admitted into
2 evidence yet.

3 MR. EBERT: I haven't offered it into evidence. I am
4 asking the officer to relate it.

5 MR. KELLAM: Then I would ask that he relate if he
6 remembers, and if not, to have it introduced or that some founda-
7 tion be laid for a past recollection.

8 THE COURT: I think he can read it at this point.

9 Officer, do you know what the statement was?

0 THE WITNESS: Without the notes?

1 THE COURT: That was his question.

2 BY MR. EBERT: (Resuming)

3 Q Do you need the statement itself to testify from, sir?

4 A No, sir.

5 Q Tell the Court what he said.

6 A He stated that he was at the 7-11 store that afternoon,
7 he had gone to the 7-11 store that afternoon, that he had
8 met this girl, that she had wanted to see his apartment and he
9 agreed to take her to his apartment, that when they got in the
0 townhouse she said she wanted to see his bedroom. She went up to
1 his bedroom with him. She at that time started screaming and made
2 the statement, what do you think I am, a whore?

3 He put his hand over her mouth and grabbed a knife from

1 the top of the bed and stabbed her at that point. He said he
2 then put her in the closet. She was making sounds, so he put
3 some blankets over top of her. He said he thought about running
4 and then decided to call the police.

5 He said at that time that the knife was in the closet
6 that he used, and briefly that is what he said.

7 Q And did you have him write out a statement for you?

8 A I took a statement concerning what he told me. I
9 wrote this in my handwriting and read it to him and he signed it.

0 Q And this is the signature?

1 A Yes, sir, on both pages.

2 MR. KELLAM: We would have the same objection as before,
3 your Honor.

4 THE COURT: My ruling would be the same.

5 You are offering it in evidence, Mr. Ebert?

6 MR. EBERT: Yes.

7 THE COURT: It will be received in evidence as Exhibit
8 No. 18.

9 (The document referred to was marked as
0 Commonwealth's Exhibit No. 18 for
1 identification and received in evidence.)

2 BY MR. EBERT: (Resuming)

3 Q Now I show you a map and ask you if you had occasion

1 to locate that within the Defendant's home?

2 A I saw this the evening that I was there, yes, sir.

3 Q Did you take that into possession?

4 A The following day it was brought to me.

5 Q Who brought that to you?

6 A Officer Lillicott.

7 MR. EBERT: And I ask that to be marked for identifi-
8 cation purposes.

9 (The document referred to was marked as
10 Commonwealth's Exhibit No. 19 for
11 identification.)

12 BY MR. EBERT: (Resuming)

13 Q Do you know whether or not when you first saw it, it
14 had a route or any markings upon it?

15 A I noticed that it did.

16 There was a line drawn from the Manassas area ---

17 MR. KELLAM: Your Honor, we object to the contents of it
18 until it has been established as relevant and admitted into
19 evidence.

20 MR. EBERT: If it please the Court, I think here is a
21 man who said in his statement that he considered leaving the area
22 and I think we have a map found at the house showing an area or
23 route leaving the Manassas area, and I think the statement would

1 certainly make it relevant.

2 MR. KELLAM: We have many routes leaving from the
3 Manassas area for many reasons, your Honor.

4 THE COURT: I would sustain the objection at this
5 point.

6 MR. EBERT: Will the Court note my exception and mark
7 this for identification purposes at this time.

(Exception noted.)

8 BY MR. EBERT: (Resuming)

9 Q Did there come a time when you again, later had to talk
10 or had occasion to talk with the Defendant?

11 A Yes, sir.

12 Q Who was present at that time?

13 A Investigator Harold Morgan.

14 Q And where was this?

15 A At police headquarters, county police headquarters
16 in Manassas.

17 Q When was that?

18 A Shortly after 8 p.m. that date, the 20th of October.

19 Q Was he advised of anything prior to that statement?

20 A He was.

21 Q What was he advised?

22 A I read him this rights form.

23 Q What did you read him?

1 A "On October 20, 1973 at 8:05 p.m. at the Prince William
2 County Police Department, I was advised by Investigator C. T.
3 Deane and H. Morgan of the Prince William Police Department that
4 he was investigating the alleged commission of a crime of murder
5 and that I have a right to remain silent. I am not required to
6 say anything to anyone at anytime or to answer any questions.
7 Anything I do or say can and will be used against me in a Court
8 of law."

9 "I have a right to talk to a lawyer before being ques-
10 tioned. I also have a right to have a lawyer with me while
11 being questioned. If I cannot afford a lawyer and want one, one
12 will be provided for me. If I want to answer questions now
13 without a lawyer present, I will still have the right to stop
14 answering questions at anytime."

15 "I also have a right to stop answering questions at
16 anytime if I want to talk to a lawyer. I know what my rights are.
17 I am willing to make a statement and answer questions. I do not
18 want a lawyer at this time. I understand and know what I am
19 doing. No promises or threats have been made to me by anyone.

20 Q Did he sign that at that time?

21 A He did.

22 Q Did he read it?

23 A He did.

1 Q Did you ascertain what education he had?

2 A He stated that he had been to the 12th grade in high
3 school, that he could read and write. I made that note on here.
4 After reading each of the numbered items 1 through 5, of the
5 rights, I asked him if he understood them and he said yes after
6 each one, and I wrote the word yes after each one.

7 MR. EBERT: I would offer this Warning and Consent Form.

8 THE COURT: Without objection, it will be received as
9 Exhibit No. 20.

10 (The document referred to was marked as
11 Commonwealth's Exhibit No. 20 for
12 identification and received in
13 evidence.)

14 MR. EBERT: Your Honor, the statement is rather lengthy
15 The statement contains questions by both Investigator Deane and
16 Investigator Morgan, and I could at this point have Investigator
17 Morgan here to testify as to what he asked. I would do it anyway
18 the Defense would like it.

19 I don't know whether they want Investigator Deane to
20 indicate whether Morgan asked him at the same time or not.

21 BY MR. EBERT: (Resuming)

22 Q You are able to recall without referring to the
23 transcript?

1 A Yes, sir.

2 Q You will need the transcript, will you not, in order
3 to testify as to what was said?

4 A Yes, sir, essentially.

5 MR. KELLAM: I thought he answered the question he could
6 do it without the transcript.

7 THE WITNESS: I know essentially what was said, but
8 verbatim, I would have to have the transcript.

9 BY MR. EBERT: (Resuming)

10 Q This transcript was made from a tape recording which
11 was taken at the time of the questioning?

12 A Yes, sir.

13 MR. EBERT: I ask that he be allowed to use the trans-
14 cript, your Honor.

15 THE COURT: If there is no objection, go ahead.

16 MR. KELLAM: Your Honor, I would like to log an objec-
17 tion. They haven't shown anything with respect to a tape recor-
18 der, who the operator was.

19 THE COURT: If you object to it, I would sustain the
20 objection.

21 MR. EBERT: Excuse me, your Honor?

22 THE COURT: The objection to it; I sustained his
23 objection, that is to his reading the transcript of the tape

1 recording.

2 BY MR. EBERT: (Resuming)

3 Q Do you have the tape with you?

4 A Yes, sir.

5 MR. EBERT: I would ask the Court to be allowed to
6 play the tape in evidence.

7 THE COURT: Is there any objection to that?

8 MR. KELLAM: I would have objection of establishing
9 the reliability of the tape and who the operator was.

10 THE COURT: I sustain the objection at this point.

11 BY MR. EBERT: (Resuming)

12 Q Did you tape it?

13 A Yes.

14 Q Do you have the machine?

15 A Yes.

16 Q Are you familiar with the operation of a tape recording
17 machine?

18 A Yes, sir.

19 Q Do you customarily use one in your investigative work?

20 A Yes, sir.

21 Q Have you reviewed the tape?

22 A I have.

23 Q And does the tape indicate exactly what was said by

1 you and Investigator Morgan as well as the Defendant?

2 A It does.

3 Q Are there any additions or deletions to the tape?

4 A No, sir.

5 MR. EBERT: I offer the tape.

6 MR. KELLAM: Your Honor, may I question him on this?

7 THE COURT: Sure.

8 VOIR DIRE

9 BY MR. KELLAM:

10 Q Now, there are no deletions or additions.

11 I take it that you mean by that there were no erasures
12 on the tape like we have been reading about in the newspapers?

13 A No, sir.

14 Q During the taking of the statement with you and
15 Officer Morgan, did you have the tape on continuously or were
16 there periods of time that you turned the machine off and you
17 talked to Charles Akers and didn't put it on record?

18 A It was run continuously from the time I cut it on
19 until the first side of the tape ran out. At that point no
20 questions were asked and nothing was said until I turned the tape
21 back on.

22 We merely pulled the cassette out and turned it over
23 and started playing it again.

1 Q Could you then truthfully and accurately tell the
2 Court that this tape records the entire question and answer
3 conversations, including any promises or threats or the whole
4 business?

5 A Yes, sir.

6 MR. KELLAM: I will withdraw my objection.

7 THE COURT: All right. The tape will be received.

8 (The Witness left the Witness stand.)

9 (The Witness resumed the Witness stand.)

10 MR. KELLAM: I still have an objection with respect to
11 content. I trust your ruling is the same?

12 THE COURT: It will be the same.

13 (The item referred to was marked as
14 Commonwealth's Exhibit No. 21 for
15 identification and received in
16 evidence.)

17 THE COURT: Have you had occasion to compare this
18 transcript to the recording itself?

19 MR. COON: He hasn't heard it. I have heard the
20 recording; he hasn't.

21 THE COURT: I gather that you all would prefer the
22 transcript of the tape be played rather than the transcript.

23 MR. KELLAM: Well, we really don't have preference, I

1 don't think, do we, as I believe Mr. Deane has testified that
2 the transcript truly and accurately reflects what is on the
3 tape and that the tape has no omissions or additions.

4 That being the case, I believe he has testified that
5 it truly and accurately reflects what the tape said, that he
6 was the operator, so I don't believe we have any objection to
7 the transcript itself.

8 THE COURT: All right. I think it would be more expe-
9 ditious, then, if we just read the transcript. The cassette
0 itself has been received in evidence as Exhibit No. 21, but
1 you go ahead and read the transcript.

2 MR. KELLAM: Is it your Honor's ruling that both the
3 cassette and the transcript will be admitted?

4 THE COURT: Well, he has not offered the transcript as
5 such. I assume that he will offer it in evidence.

6 I assume your position is the same with the transcript?

7 MR. KELLAM: Yes, sir.

8 THE COURT: All right. It will be received, then.

9 Do you want to offer that, Mr. Ebert?

10 MR. EBERT: Yes, your Honor, I will.

11 THE COURT: All right.

12 That will be received as Commonwealth's Exhibit No.

13 22.

1 (The document referred to was marked
2 as Commonwealth's Exhibit 22 for iden-
3 tification and received in evidence.)

4 MR. COON: Let me ask, your Honor, what was Exhibit
5 No. 20? I think it was marked for identification.

6 THE COURT: The Warning and Consent Form.

7 DIRECT EXAMINATION (Resumed)

8 BY MR. EBERT:

9 Q All right. Read us the transcript indicating who is
0 asking the question and who is answering.

1 A "Morgan: You understand that we are police officers,
2 is that correct? Akers: Yes. Morgan: What is your full name?
3 Akers: Charles Rufus Akers. Deane: Charles, you read the
4 rights form and you signed this form? Akers: Yes."

5 "Deane: Do you want to start at the beginning and tell
6 us what you recall about what happened today, Charles? We would
7 like to get the circumstances straightened out. Answer: Start
8 from the whole first? Deane: Yes, from where you picked her up.
9 Akers: I went to the 7-11 to get some cigarettes. I was out of
10 cigarettes and I was walking down the sidewalk. On the way back
11 I met this girl; I met her three days ago. About every day I
12 would go up there. I would meet this girl walking down the side-
13 walk. Morgan: Do you remember her name now? Akers: No." [TM 58]

X X X X X

X X X X X

1 see any useful purpose being served. [TM 75]

2 MR. KELLAM: Well, I quite agree, but we would like to
3 have an opportunity to look at the transcript, though, that has
4 been admitted so we would have an opportunity intelligently to
5 cross examine him about it. But I quite agree with your Honor;
6 I see no useful purpose of this long reading of it.

7 THE COURT: What is your position, Mr. Ebert?

8 MR. EBERT: Your Honor, whatever the Court wants to
9 do. Of course, the Court is going to have to read it one way or
10 the other and make a finding and if they are going to cross exa-
11 mine Investigator Deane, they are going to have to read it so
12 it might be quicker to continue reading it.

13 THE COURT: I doubt that, the way it is going now
14 because he has been reading for about 25 minutes, I think.

15 MR. EBERT: It is probably about an hour interview.

16 MR. COON: Maybe we could dispose of this, with
17 respect to whether he should the rest of it or not, and this is
18 by way of a renewed and repeated objection.

19 He stated at the outset, your Honor, that he had recor-
20 ded the entire conversation on this tape with no omissions or
21 deletions. There is no warning that was given, no warning was
22 read from this transcript, no warning whatsoever of his rights
23 not to say anything, and about midway through as Mr. Deane and

1 Mr. Morgan kept pressing him to give more evidence with respect
2 to this bizarre inquiry about his sex life, he said do I have
3 to tell it now?

4 THE COURT: Well, I didn't mean to open the door for
5 argument. I will hear your arguments later on, of course, as to
6 any aspect of it that you want to make.

7 MR. COON: Yes.

8 THE COURT: But again, rather than to have the officer
9 read this entire matter, I think I could probably read it in a
0 matter of 10 minutes or so probably, and possibly we can do that
1 and then I can turn it over to you all during the lunch hour and
2 then you all can go through it.

3 Would that be agreeable?

4 MR. COON: That would be agreeable, your Honor.

5 THE COURT: Would that be agreeable with you?

6 MR. EBERT: Yes.

7 THE COURT: All right. Suppose you continue with any
8 other questions that you have, then, and Investigator Deane,
9 you stopped on page 16, you said?

0 THE WITNESS: Yes, sir. The last answer would be
1 "right", and that would end at page 16.

2 THE COURT: Do you have any further questions?

3 MR. EBERT: Yes.

1 BY MR. EBERT: (Resuming)

2 Q Did you ascertain who owned and occupied the residence?

3 A It was rented and leased by Eugene Robinson.

4 Q Do you know how many persons resided in that residence?

5 A It is my understanding, three.

6 MR. EBERT: That is all I have of this Witness.

7 I would offer at this time the pin-ups and the statement
8 to be connected with what was happening in his state of mind the
9 night prior, unless the Court would want to read the entire
0 statement before making a ruling on that.

1 THE COURT: Yes, I would do that.

2 Suppose we recess at this point for lunch and Mr.
3 Coon, Mr. Kellam, if you wouldn't mind, you can wait for just a
4 few minutes while I read the remainder of this transcript before
5 we go to lunch.

6 Court will reconvene as close to 2 o'clock as we can.

7 Court is in recess.

8 (Whereupon, at 12:55 o'clock p.m., the trial in the
9 above-entitled matter was recessed, to reconvene at 2:00 o'clock
0 the same day.)

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V I R G I N I A:

IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY

-----)
)
COMMONWEALTH OF VIRGINIA)
)
v.)
)
CHARLES RUFFUS AKERS)
)
-----)

Criminal No. 5319

Manassas, Virginia

Thursday, June 6, 1974

The above-entitled hearing resumed before
THE HONORABLE BARNARD F. JENNINGS, Judge of the Circuit Court
of Prince William County, at 2:00 P. M. on Thursday, the 6th
day of June, 1974.

APPEARANCES:

On behalf of the Commonwealth:

PAUL B. EBERT, Esq.
Commonwealth's Attorney

On behalf of the defendant:

RAYMOND O. KELLAM, Esq.

and

E. RALPH COON, Esq.

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P R O C E E D I N G S

(Whereupon, the Court Reporter was duly sworn.)

1
2
3 THE COURT: Mr. Ebert, you had your direct examination
4 and you made a motion to introduce one of the exhibits. I
5 believe it had been marked for identification?

6 MR. EBERT: Yes, sir. At this time I would move to
7 introduce -- I don't know the number -- of the posters since
8 I think it ties in with the statement and the conduct of the
9 defendant prior to the alleged murder and I would also move
10 to enter the maps since the statement indicates the defendant's
11 previous plan to go to Tennessee and I think the map was
12 mentioned in his statement.

13 THE COURT: Mr. Kellam, your position on that?

14 MR. KELLAM: Your Honor, my position on that is that
15 the statement, of course, if it is admissable with respect
16 to the posters, the ones that have been admitted for identifi-
17 cation only, only reveal that an angry man on the previous
18 night had in some way defaced posters which I submit would have
19 no relevance to the matter at hand. Also a map of Prince
20 William County and a plan to go some place, to Tennessee, again
21 seemed not to connect in any way with the charges. It seems
22 to me it would be irrelevant. That's my position.

23 THE COURT: Anything else you want to say?

1 MR. EBERT: Could I ask one other question?

2 THE COURT: All right.

3 DIRECT EXAMINATION (Resumed)

4 BY MR. EBERT:

5 Q Officer Dean, did you have occasion to return to the
6 scene with the defendant after him making a statement?

7 A I did.

8 Q And did you ascertain where he met the victim?

9 A Yes, sir.

10 Q I show you Exhibit No. 8 and ask you if you would
11 place on that --

12 MR. KELLAM: With respect to placing something on an
13 exhibit, again I say this is a custodial interrogation sort of
14 thing. He took the accused out, and there has been no foundation
15 laid to show that the accused willingly and voluntarily made --
16 showed the scene where someone was picked up.

17 BY MR. EBERT: (Resuming)

18 Q When was it you accompanied the defendant to the
19 area?

20 A October 22, in the morning.

21 Q Approximately what time?

22 A Around eight o'clock in the morning.

23 Q And who was with you at that time?

1 A Investigator Clifford Sowards.

2 Q Did you advise him of anything prior to taking him
3 to the area?

4 A I did.

5 Q And again what did you advise him?

6 A I read him the rights waiver card, "You're under
7 arrest. Before I ask you any question you must understand what
8 your rights are. You have a right to remain silent. You're
9 not required to say anything to us at any time or to answer
10 any questions. Anything you say can be used against you in
11 court. You have a right to talk to a lawyer for advice before
12 we question you and have him with you during questioning. If
13 you cannot afford a lawyer and want one, a lawyer will be
14 provided for you. If you want to answer questions now without
15 a lawyer present, you will still have the right to stop
16 answering at any time. You also have the right to stop
17 answering at any time until you talk to a lawyer."

18 Q Did he appear to understand and comprehend everything
19 you said?

20 A Yes.

21 Q Did he reply to your advising him of those rights?

22 A He stated he had no objections to going with us and
23 talking to us. I told him we would like for him to point out

1 the area where he picked her up as it was still a little
2 confusing in my mind.

3 Q And did you threaten him in any way or promise him
4 anything for accompanying you and pointing the area out?

5 A No, sir.

6 MR. EBERT: I ask that he be allowed to identify the
7 area.

8 THE COURT: Go ahead with your questions.

9 THE WITNESS: He showed us an area across from
10 Community Drive from his home.

11 BY MR. EBERT: (Resuming)

12 Q If you would in that area put an "A"?

13 A He said she was walking along the sidewalk in that
14 area and that he took her in this direction.

15 Q Put a dotted line in the area he indicated the route
16 was?

17 A Through the yard, up the sidewalk behind some
18 townhouses and into the back door of the townhouse he lived in.

19 Q That's previously been marked by an "X", is that
20 correct?

21 A Yes, sir.

22 Q Do you know approximately the distance traveled?

23 A A couple hundred yards or less.

1 THE COURT: Any other questions?

2 MR. EBERT: I have no other questions.

3 THE COURT: Mr. Kellam.

4 CROSS EXAMINATION

5 BY MR. KELLAM:

6 Q Mr. Dean, you identified certain objects at the
7 outset of your testimony including a knife and something you
8 represented to be a second knife and a rug and you say they
9 had substance on them appearing to be blood. Do you know from
10 your own knowledge whether these were, in fact, blood spots?

11 A Not from my own knowledge.

12 Q Do you know of your own knowledge, if they were
13 blood spots, if they had any connection with the deceased?

14 A No, sir.

15 Q Now, you introduced the statement which is
16 Prosecution Exhibit No. 18 which I will refer to as the first
17 statement and the statement which you just read to the Court
18 partially which the Court finished reading is the second
19 statement. There were certain differences in those statements
20 were there not?

21 A Yes, sir.

22 Q Which one do you offer to the Court as the truth?

23 MR. EBERT: If it please the Court, it's up to me

1 what I offer, not up to the officer.

2 THE COURT: The Court agrees, objection sustained.

3 BY MR. KELLAM: (Resuming)

4 Q Can you tell the Court -- well, I withdraw that, it
5 would be restating the same question, Your Honor.

6 Now, this statement which was introduced, we have
7 what is called a written consent form. Is that No. 20? Now,
8 do you recall that, Mr. Dean?

9 A Yes, sir.

10 Q Now, whose words were these? Were these the words
11 of Mr. Akers or your words?

12 A I don't understand what you mean.

13 Q If I can't afford a lawyer and want one, one will be
14 provided?

15 A I read that to him.

16 Q These are not his words, are they?

17 A This is a printed form which is routinely used.

18 Q Do you interpret this to mean that he has the
19 privilege to stop talking at any time? Is that what you
20 intended to tell him?

21 A I told him these were his rights and to read along
22 with me.

23 Q If I answer questions now without a lawyer present,

1 I will still have a right to stop answering questions any time.
2 Did you intend to convey to him without a lawyer he had a right
3 to stop?

4 A Yes, sir.

5 Q Did he ask you any questions about this before he
6 signed it?

7 A No, sir.

8 Q How long did it take you to explain to him what that
9 rights form was?

10 A About five minutes.

11 Q Exhibit No. 1 is the tape transcript and the other
12 which is No. 21, and we have the exhibit which was partially
13 read to the Court. Now, is it your testimony that the latter
14 of the exhibit that was just read to the Court was a full and
15 true and accurate representation of the tape?

16 A With the exception of a part that was deleted
17 concerning another murder case which we asked him about.

18 Q Was that the only thing that was left out?

19 A With the exception of the rights form which we read
20 first.

21 Q It's your testimony now that you read the rights form
22 to him but you didn't record that?

23 A Yes, that is correct and I referred to the rights

1 form in the beginning of this statement.

2 Q So now we have two exceptions? We have the
3 exception for the rights form and the exception about the
4 questioning of another alleged offense. Are those the only
5 two?

6 A They are on the tape and they were not typed. This
7 action concerning this other murder case is on the tape but
8 not typed. The tape recorded was not turned on until after he
9 signed the rights waiver form.

10 Q What was the full extent of the conversation before
11 the tape recorder was turned on?

12 A He was read his rights and we went over the rights
13 form and I asked him after each one if he understood it and he
14 said yes. After he signed the form and said he understood his
15 rights, I asked him if he had any objection to us recording
16 the interview and then he said he did not and that was it.

17 Q Referring to Prosecution Exhibit No. 22, I would like
18 to invite your attention to certain portions beginning on page
19 two thereof. There is a question from "M" and that must be
20 Mr. Morgan?

21 A (Indicating yes.)

22 Q Then there is an answer and I see in there certain
23 deletions.

1 MR. EBERT: What are you referring to?

2 BY MR. KELLAM: (Resuming)

3 Q Certain blank spaces between the word "took" and the
4 word "and" for example and then there are other blank spaces
5 between "clothes" and "I". Would you tell the Court what these
6 blank spaces represent.

7 A Either the secretary couldn't understand it or there
8 was nothing said during that time period.

9 Q Could it be either one?

10 A Yes, sir.

11 Q Now, I invite your attention to similar matters on
12 page nine about midway through the page. You have omissions
13 or apparent omissions, could you explain those?

14 A I would say it would be the same thing.

15 Q And page fifteen. Do you note any possible omissions
16 on there because of punctuation and flow of the language?

17 A Yes, sir.

18 Q Then would you give us an explanation for that?

19 A Yes, sir.

20 Q Again, on page sixteen?

21 A Yes, sir.

22 Q Seventeen?

23 A Yes, sir.

- 1 Q Eighteen?
- 2 A Yes, sir.
- 3 Q Twenty?
- 4 A I don't see what area of the page.
- 5 Q I don't either, I'll withdraw my question.
- 6 Twenty-one?
- 7 A Yes, sir.
- 8 Q And page twenty-two?
- 9 A Yes, sir.
- 10 Q Twenty-three?
- 11 A Yes, sir.
- 12 Q Twenty-four?
- 13 A I don't see any.
- 14 Q I ask you to examine the top of the page, the first
- 15 question and answer?
- 16 A Yes, sir.
- 17 Q Twenty-five?
- 18 A Yes, sir.
- 19 Q Twenty-six?
- 20 A I don't see any blanks -- yes, down at the bottom.
- 21 Q And twenty-seven?
- 22 A Yes, sir.
- 23 Q On page twenty-seven, about one-third of the way down

1 the page I notice a question by "D" and that must have been you
2 and just "jit". Do you see a word "jit"?

3 A Yes, sir.

4 Q Do you know what that represents.

5 A I think it means hit, I think it's a typographical
6 error.

7 MR. EBERT: Where is that? I have it corrected on
8 this copy.

9 MR. KELLAM: What is the correction?

10 MR. EBERT: Hit.

11 BY MR. KELLAM: (Resuming)

12 Q And page twenty-nine?

13 A Yes, sir.

14 Q And page thirty?

15 A Yes, sir.

16 Q Have you personally compared this Prosecution
17 Exhibit No. 22 with the tape?

18 A Most of it.

19 Q Most of it?

20 A Yes.

21 Q Have you attempted at any time to reconcile these
22 possible omissions with the tape?

23 A No, sir, except where the word "hit" was.

1 Q Then you really can't tell the court if this is
2 truly an accurate representation of what the tape says?

3 A It is an accurate representation of what he told us.
4 There are some places that it was hard to understand on the
5 tape.

6 Q My question is, you really can't answer yes or no
7 that it is truly an accurate representation of the tape, can you?

8 MR. EBERT: I think he's answered the question.

9 THE WITNESS: No, sir.

10 THE COURT: I think it's proper cross-examination
11 but I think it's pretty well covered.

12 BY MR. KELLAM: (Resuming)

13 ✓ Q Now, I invite your attention to page nine, "Akers,
14 Do I have to talk about it now?" do you see that?

15 A Yes, sir.

16 Q Is that what he actually said?

17 A Yes, sir.

18 Q Now we have in evidence a warning you gave him that
19 he could stop talking at any time, do you recall that warning?

20 A Yes, sir.

21 Q Would you tell the Court how your answer is consistent
22 with that warning?

23 MR. EBERT: If it please the Court, I think that's a

1 matter for argument.

2 MR. KELLAM: It is a matter for argument and also
3 it's a matter for the witness, if he can, to straighten it out;
4 the rights form tells him he can stop at any time.

5 THE COURT: I would overrule the objection. You can
6 answer it if you can.

7 THE WITNESS: Your question was how is it consistent?

8 BY MR. KELLAM: (Resuming)

9 Q Yes, if you can tell how?

10 A Well, he understood he could stop talking from
11 previously telling us.

12 Q At this particular time he asked you if he could
13 stop talking, didn't he?

14 A Yes, sir.

15 MR. EBERT: That's not what he said. He said did he
16 have to talk about it now, not could he stop talking.

17 MR. KELLAM: I think that would be proper redirect.

18 THE COURT: Go ahead with your question.

19 BY MR. KELLAM: (Resuming)

20 Q My question was, wasn't Charles asking if he could
21 stop talking now?

22 MR. EBERT: What was the question?

23 THE COURT: Restate it.

1 I think your question is a proper one. I gather
2 Mr. Ebert didn't hear it. Why don't you repeat it.

3 MR. KELLAM: I'm a little bit confused as to what
4 the questions and answers were, if you will indulge me to
5 start over a little.

6 THE COURT: All right.

7 BY MR. KELLAM: (Resuming)

8 Q Inviting your attention to the statement where
9 Charles said, "Do I have to talk about it now?" and then you
10 gave him a certain answer after that and I want you to tell the
11 Court if you can how your answer is consistent with your
12 warning that he could stop at any time, stop talking?

13 A I told him we would like to get it straightened out
14 now.

15 Q ✓ You were urging him to keep on talking, were you not?

16 A Initially, I told him we wanted to get the facts
17 straightened out.

18 Q But at this time were you not urging him to keep on
19 talking?

20 A Yes, sir.

21 Q And wasn't Morgan doing the same?

22 A Yes, sir.

23 Q Now, Mr. Dean, you told the Commonwealth's Attorney

1 that you made no promises, isn't that correct?

2 A Yes, sir.

3 Q Now, let me search your memory and ask you if you can
4 recall any time telling Mr. Akers that if he would talk to you
5 things would go easier for him?

6 A No, sir.

7 Q Did you ever tell him if he would talk to you, you
8 would try to help him out?

9 A No, sir, I told him he would feel better about it and
10 that's it.

11 Q That was it?

12 A I told him he would feel better about it and I told
13 him I wanted to find out for the victim's parents what the
14 circumstances were.

15 Q Who were you investigating this form, Mr. Dean, the
16 Commonwealth or for the parents?

17 A I felt an obligation to the parents and the
18 Commonwealth.

19 Q With respect to this obligation to the parents you
20 mentioned, and we all feel sorry for the parents, I ask you
21 when you took Akers out on the morning to the site which you
22 marked with a mark on the map, didn't you tell him that you
23 just wanted him to go out and show where he found the girl

1 so you could tell the parents?

2 A After advising him of his rights, yes, sir.

3 MR. KELLAM: That's all.

4 THE COURT: Any further questions?

5 MR. EBERT: One other question.

6 REDIRECT EXAMINATION

7 BY MR. EBERT:

8 Q Officer, had the defendant wanted to stop answering
9 questions was he free to do so at any time?

10 A Yes, sir, absolutely.

11 MR. EBERT: That's all.

12 THE COURT: You may step down. May he be excused,
13 Mr. Ebert?

14 MR. EBERT: Yes.

15 THE COURT: Do you need him any longer?

16 MR. KELLAM: No, sir.

17 THE COURT: You're free to go if you would like.

18 (Witness excused.)

19 THE COURT: Next witness.

20 Thereupon,

21 MARY JANE BURTON,

22 called as a witness by counsel for the Commonwealth, and having

23 been first duly sworn by the Clerk of the Court, was examined

1 and testified as follows:

2 DIRECT EXAMINATION

3 BY MR. EBERT:

4 Q State your full name and give your place of
5 employment?

6 A Mary Jane Burton. I'm employed by the State of
7 Virginia, Bureau of Forensic Science.

8 Q In what capacity are you employed there?

9 A I'm a forensic scientist.

10 Q And in your capacity as a forensic scientist what
11 are your duties?

12 A I'm head of the serology unit for the four forensic
13 science labs throughout the state and I routinely examine items
14 of evidence submitted for blood and trace materials.

15 Q And have you received special education and training
16 in that field of serology?

17 MR. KELLAM: We'll stipulate her qualifications,
18 Your Honor.

19 THE COURT: All right, thank you, Mr. Kellam.

20 BY MR. EBERT: (Resuming)

21 Q Now, in your course of employment did you have
22 occasion to receive what has been introduced into evidence
23 as Commonwealth's Exhibits No. 1, 14, 13, 12 and 10?

1 A Yes, sir.

2 Q Did you make any test upon those items?

3 A Yes, sir, I did.

4 Q What did your test and analysis reveal?

5 A Well, State's Exhibit No. 10, the blade of the knife
6 had a smear of blood over the entire length. It was determined
7 to be human blood.

8 Q What type?

9 A Type A in the ABO System; CDce in the RH System.

10 Q And did you have occasion to compare that with the
11 blood of the victim?

12 A Yes, sir, I did.

13 Q What was the comparison, if any?

14 A It was the same type in the systems I typed it.

15 Q You did not have an opportunity to have a sample of
16 the blood from the defendant, is that correct?

17 A No, sir, I did not.

18 Q Now, with regard to Item No. 11, did you have
19 occasion to examine that exhibit?

20 A Yes, sir, this is a rug.

21 Q And what did your analysis reveal on that exhibit?

22 A There were large stains of human blood, also Type A
23 in the ABO System; CDce in the RH System.

1 Q And with respect to Exhibits 12 and 13 what did your
2 analysis reveal?

3 A Each of these were a little piece of wallboard and
4 each had a small stain on it which was human blood, Type A.
5 Because of the size of the sample I was not able to type it out
6 any further.

7 Q And regarding Exhibit 14?

8 A This had residue of blood. By that I mean it was
9 diluted blood, it was not whole blood. Either it had been
10 washed out or diluted in some manner and it was also human blood,
11 Type A.

12 MR. EBERT: That's all I have of this witness.

13 CROSS EXAMINATION

14 BY MR. KELLAM:

15 Q Mrs. Burton, do you know of your own personal know-
16 ledge the type of blood the decedent had, your own personal
17 knowledge?

18 A I had a sample that was submitted to me that was
19 reportedly from the victim.

20 Q Oh, I thought you said you didn't have a sample from
21 the victim?

22 A Not from the defendant, sir.

23 Q You did have a sample from the victim?

1 A The victim, yes, sir.

2 Q And the blood you found on these items --

3 A Was the same type as the victim's blood.

4 Q And approximately how many people have they type? Is
5 that a rare --

6 A About five percent of the population would have that
7 type.

8 Q So it's rather small?

9 A Yes.

10 MR. KELLAM: Thank you.

11 THE COURT: May she be excused?

12 MR. EBERT: Yes, sir.

13 THE COURT: You're free to go. Thank you for
14 coming.

15 (Witness excused.)

16 MR. EBERT: That's the Commonwealth's evidence.

17 THE COURT: Mr. Kellam.

18 MR. KELLAM: We would have a motion to strike at this
19 time for the following, rather apparent, reasons.

20 The evidence of the Commonwealth shows, of course,
21 that there was a young lady who met death in a manner of being
22 stabbed. The evidence of the Commonwealth also shows that the
23 person who identified himself as Akers called and said, "I killed

1 her." From that evidence we have a first degree murder
2 indictment which the Commonwealth has undertaken to prove from
3 the mouth of this defendant.

4 The objection which I have made to all of his
5 statements was, and still is of course, that they were not taken
6 in a voluntary manner and that he did not voluntarily and
7 knowingly waive his rights and, secondly, my objection as
8 previously stated was that with respect to any type of felony
9 murder theory that the Commonwealth may rely on, we have absolutely
10 no evidence of the corpus delicti of any offense. We have
11 evidence of the corpus delicti of a manslaughter or murder. We
12 have no corpus delicti of a robbery, no evidence of the young
13 lady's purse being disturbed, no evidence of rape, no evidence
14 of abduction. We do, from the lips of the accused, have evidence
15 which would indicate a possible attempt at some of these
16 offenses. It is a fundamental of the law, however, that one
17 cannot be convicted on his own statement without it being
18 corroborated by evidence which we call corpus delicti.

19 Now, the first statement of Mr. Akers was a rather
20 short one. He said he made arrangements with this young lady
21 to go with him and she started to scream and she was killed.
22 There, of course, is no premeditation from that statement even
23 if it was taken all to be true. But concerning both that

1 statement and the second statement, I submit to you that the
2 evidence of the Commonwealth through Officer Dean with respect
3 to whether or not this individual voluntarily surrendered his
4 rights to testify doth speak with a forked tongue. They tell
5 him on the one hand, warn him at length that you do not have to
6 speak and you may stop at any time you wish and you may go get
7 a lawyer if you wish, either at our expense or your own. This
8 is the warning which was read off in a very rapid manner and
9 the officer said it was read off in the same manner before the
10 accused but when it comes down to the nitty-gritty, when the
11 accused comes to the point of saying, "I'm tired of talking,
12 I don't want to talk." then the agents for the Commonwealth
13 throw this warning in the ash can. This young man, if this
14 transcript is correct, says, "Do I have to talk about it now?"
15 By any intelligent translation of what he wanted, he wanted to
16 quit. The answer he got from Dean was, "Well, we would just
17 like to get it straightened out." and then they tell him,
18 "You'll sleep better at nights, son; we know you're upset, get
19 it off your conscience." and he said, "I can sleep anyway."
20 But they still kept questioning him.

21 They tell him one thing but when it comes down to a
22 person attempting to exercise his rights to stop talking then
23 he is talked out of it and he is pressed on and on.

1 I submit with respect to the second statement, we
2 not consider it at all. I renew my objection to it also.
3 Mr. Dean testified that only portions of it did he compare with
4 the tape and he named one portion and jit for hit, he corrected
5 that. His original testimony was that he could testify
6 truthfully it was a true and accurate representation of the
7 full conversation. Then we found out there was some conversation
8 that was completely deleted and then we found out there were
9 approximately twelve to fifteen of what we read in the news-
10 paper as inaudibles, no expletives deleted, and then we come to
11 the point in here where the accused wants to stop talking and
12 he's not permitted to.

13 I would say, Your Honor, this statement must not be
14 taken as a true and accurate reflection of what was said during
15 that meeting. It has been confessed by Mr. Dean that it has
16 not been. On the basis of this I would ask the Court to strike
17 the Commonwealth's evidence with respect to either the first or
18 second degree murder. All we have is possible manslaughter.

19 THE COURT: Mr. Kellam, I don't mean to be dismissing
20 your argument lightly but I think the Commonwealth has proved
21 a case at this point. I would deny your motion. Who is your
22 first witness?

23 MR. KELLAM: I'd like to call the defendant for the

1 limited purpose of giving facts surrounding the giving of the
2 statement.

3 Thereupon,

4 CHARLES RUFFUS AKERS,

5 called as a witness by counsel for the defendant, and having
6 been first duly sworn by the Clerk of the Court, was examined
7 and testified as follows:

8 DIRECT EXAMINATION

9 BY MR. COON:

10 Q Would you state your name, please?

11 A Charles Ruffus Akers.

12 Q You're the defendant in this case?

13 A Yes, sir.

14 Q Now, you've heard testimony that around eight minutes
15 after three on October 20, 1974 a police car arrived and an
16 Officer Purdy gave you a warning, read something to you?

17 A Yes, sir.

18 Q What was your condition at that time, Charles?

19 A I didn't even listen to him. I didn't understand.

20 Q You didn't understand?

21 A No.

22 Q Were you nervous?

23 A Yeah.

1 Q Were you upset?

2 MR. EBERT: He's leading the witness.

3 THE COURT: Objection sustained.

4 BY MR. COON: (Resuming)

5 Q Would you tell His Honor what you recall that police
6 officer told you, or do you know?

7 A I don't recall much.

8 Q Then did there come a point in time that Investigator
9 Dean arrived at that same area?

10 A Yeah.

11 Q And what warning, if any, did he give you?

12 A When he first arrived he didn't give me none until
13 he got me in the car.

14 Q He got you in the car?

15 A (Indicating yes.)

16 Q What, if anything, did he say to you?

17 A He read a card like the first officer did.

18 Q What was on that card?

19 A I wasn't even listening.

20 Q Did they ask you whether or not you understood this?

21 MR. EBERT: He's leading the witness.

22 MR. COON: Excuse me. I don't mean to lead.

23 BY MR. COON: (Resuming)

1 Q What did they ask you after they read the card?

2 A Asked me what happened.

3 Q What was your understanding as to what they had told
4 you of what they had read off the card? At that time do you
5 know?

6 A I didn't understand it.

7 Q Do you understand it now?

8 A Now, yeah.

9 Q When did you find out about it?

10 A After I had been in jail, Sunday. It was on Sunday
11 a prisoner told me about rights and stuff.

12 Q Let me ask you this, did they made any comments as to
13 what might happen if you did or did not make a statement?

14 MR. EBERT: He's leading this witness again. I object
15 to him trying to put words in his mouth.

16 THE COURT: Rephrase your question so as not to
17 suggest an answer.

18 BY MR. COON: (Resuming)

19 Q Was anything said as to what effect this statement
20 would or would not have?

21 A All Dean said was he wanted to help me.

22 Q When did he tell you that?

23 A I ain't for sure -- during the statement when I

1 started talking.

2 Q What day was this, do you know?

3 A What day?

4 Q Yes.

5 A The same day I got arrested.

6 Q How many interviews did you have with Dean that day?

7 A Two.

8 Q During which interview was it?

9 A The second one.

10 Q Was anything said during the first interview?

11 A I don't remember.

12 Q How much education have you had, or let me ask --

13 MR. EBERT: Do you want him to answer that question?

14 MR. COON: I'll withdraw it.

15 BY MR. COON: (Resuming)

16 Q Page nine, can you read?

17 A Not too good.

18 Q You see here where it says, "Now is the time for to
19 tell it all." which apparently is what Mr. Dean said, "Just
20 tell it exactly the way it happened, you'll feel better about
21 it." and then what does it say your answer is?

22 A "Do I have to talk about it now?"

23 Q What did you want to do then, Charles?

1 A I wanted to quit and go back to jail.

2 Q Is that what you were asking them to do?

3 A Yeah. Yes, sir.

4 Q What time was that, do you recall?

5 A I can't say the time. It was late, dark.

6 Q This is a document, Exhibit No. 20, that they call
7 the warning and consent form, can you read that first paragraph?

8 A "I have the right to remain silent. I am not to say
9 anything to anyone."

10 Q Speak up louder.

11 A "I am not to --" I don't know that next word.

12 Q The next word is require. What does the word require
13 mean, do you know?

14 A Not really.

15 Q Then go on, what is next?

16 A " -- to say anything to anyone at any time or to
17 answer any questions."

18 Q Then there is a "yes" written over there, did you
19 write that?

20 A No, sir.

21 Q Who wrote that?

22 A Dean

23 Q Before you made a second statement to him, this was

1 read to you, is that right?

2 A Yes, he read it.

3 Q Did you understand what he was reading?

4 A No. I just wanted to get him off my back was what I
5 wanted to do so I signed it.

6 Q Get him off your back?

7 A Yeah.

8 Q How about the second paragraph here, can you read
9 that?

10 A "Anything I do or say can and will be used against
11 me in a court of law."

12 Q Did you know what that meant at that time?

13 A Not at that time.

14 Q Does that apply to all those paragraphs at that time?

15 A Yes.

16 Q Did you ask Officer Dean --

17 MR. EBERT: It's the same question. It's a leading
18 question.

19 THE COURT: Go ahead with your question. Complete
20 the question.

21 BY MR. COON: (Resuming)

22 Q Did you ask Officer Dean to explain any of the words
23 in that warning?

1 A No, sir.

2 MR. EBERT: I object to that statement. He's leading
3 the witness.

4 THE COURT: I don't really think it makes that much
5 difference. It is a leading question.

6 BY MR. COON: (Resuming)

7 Q You said you were read something at the house by
8 Officer Dean and by another police officer, is that correct?

9 A Yes, sir.

10 Q Did they ever show you what they were reading?

11 A He just held it in his hand and read it.

12 Q In what manner did they read it?

13 A The first officer read it while one was handcuffing
14 me and he was behind me and he read it while they were handcuffing
15 me and Dean read it in the car, sitting in the car the second
16 time.

17 Q How were you sitting in the car, do you recall?

18 A With my hands cuffed behind me read tight.

19 Q Where did you sit in the automobile?

20 A On the passenger side.

21 Q Front or back seat?

22 A Front seat.

23 Q Where did Officer Dean sit?

1 A In the driver's seat.

2 Q And was there another person present?

3 A There was another officer in the back seat.

4 MR. COON: I don't have any other questions at this
5 time.

6 CROSS EXAMINATION

7 BY MR. EBERT:

8 Q Mr. Akers, you say at the time you didn't understand
9 what was being said to you?

10 A No, sir.

11 Q Now, were you drunk at the time?

12 A I don't know.

13 Q What do you mean you don't know? You know whether you
14 had anything to drink, don't you?

15 A I felt like I was drunk.

16 Q Had you had any alcohol to drink on the day in
17 question?

18 A I don't think so.

19 Q Had you taken any drugs on the day in question?

20 A No, sir.

21 Q Had you used any marijuana or LSD?

22 A No, sir.

23 Q As a matter of fact, Investigator Dean asked you these

1 questions, didn't he?

2 A He asked me about marijuana.

3 Q Now, when did you come to understand your rights, if
4 you didn't understand them on that day?

5 A When did I?

6 Q Yes, sir.

7 A After I had got in jail on a Sunday.

8 Q And one of the prisoners advised you of your rights?

9 A He told me what it meant. I didn't understand.

10 Q What did he tell you?

11 A I don't remember.

12 Q What was his name?

13 A I don't remember his last name.

14 Q What was his first name?

15 A Charlie.

16 Q What did Charlie say to you?

17 A He told me I didn't have to talk and give a statement
18 and all that.

19 Q How did Charlie know you gave a statement?

20 A He asked me.

21 Q If you gave a statement?

22 A Yes.

23 Q And then what did he say?

1 A He said I didn't have to.

2 Q You understood Charlie, is that correct?

3 A After he explained it.

4 Q Just what did he say to you, you didn't have to do it?
5 Did he say anything else?

6 A I don't remember exactly.

7 Q You don't remember what he said but whatever it was
8 you understood it better than you did at first, is that right?

9 A Yeah, the way he explained it to me.

10 Q Did he say you were a fool?

11 A No, sir.

12 Q And you shouldn't have done that? Is that what he
13 said?

14 A Something like that.

15 Q In other words, at that point you understood you
16 should not have done what you had done, is that correct?

17 A (Indicating yes.)

18 Q Because of the consequences, is that right?

19 MR. COON: I object to that, I don't think that's
20 what his testimony was. He's trying to lead him and put in
21 evidence what's not there. I think his testimony was he didn't
22 understand as to what it was rather than what the consequences
23 were.

1 THE COURT: I think it's proper cross-examination.

2 MR. COON: All right, note an exception.

3 BY MR. EBERT: (Resuming)

4 Q Is that right?

5 A Can you repeat the question.

6 Q In other words, what Charlie told you was what could
7 happen when you made a statement and that's what you understood
8 at that point, is that right?

9 A He told me I shouldn't have give one until I talked
10 to a lawyer or called a lawyer.

11 Q That was on that form you signed, isn't that right?

12 A I could understand him better.

13 Q You mean he advised you better, is that right?

14 A (No answer.)

15 Q You have gone to the twelfth grade, is that right?

16 A Eleventh.

17 Q Did Investigator Dean read this form, Exhibit 20, to
18 you?

19 A Yeah, he read it.

20 Q He read it to you and did he threaten you?

21 A No, sir.

22 Q Did he promise you anything?

23 A The only thing he said, he wanted to help me.

1 Q He wanted to help you?

2 A Yeah.

3 Q And he was rather mild with you, wasn't he?

4 A On the first one, on the first statement.

5 Q And did he talk real low and easy to you?

6 A Yeah, on the first one.

7 Q Did he read this, you have the right to remain silent?

8 Did he say that?

9 A I wasn't listening to him.

10 Q When I say you have the right to remain silent, what
11 does that mean today?

12 A Today?

13 Q Yeah.

14 A Keep quiet and don't have to talk.

15 Q You mean I'm telling you to keep quiet or you have
16 a right to keep quiet?

17 A A right to keep quiet.

18 Q I'm not required to say anything or to answer any
19 questions at any time, what does that mean to you today?

20 A That I don't have to talk to nobody.

21 Q And that was said to you at that time, is that right?

22 A Like I said, I wasn't listening.

23 Q Did he ask you if you understood that?

1 A He asked me and I said yeah.

2 Q You said yes?

3 A Yeah.

4 Q What did you think he was asking you if you understood?

5 A I was just answering. I didn't actually want to talk
6 to him.

7 Q Did you say you didn't want to talk to him?

8 A Not exactly.

9 Q When you say yes, does that mean you mean no?

10 A. (No answer.)

11 Q Does yes mean no to you?

12 MR. KELLAM: I think he's badgering the witness. I
13 can't follow yes meaning no. I think I've lost his line of
14 questioning. It seems to me like he's badgering.

15 THE COURT: I think the question can be stated in another
16 manner and still accomplish the same purpose. I think it's a
17 proper subject of inquiry.

18 BY MR. EBERT: (Resuming)

19 Q Mr. Akers, would you answer the question.

20 THE COURT: Suppose you restate the question.

21 BY MR. EBERT: (Resuming)

22 Q What does the word "yes" mean to you?

23 A Yes.

1 Q Is that the opposite from no?

2 A Yes.

3 Q And is that what yes meant to you on the 20th day of
4 October, 1973?

5 A (No answer.)

6 Q In other words, since you were a little boy yes was
7 the opposite of no, is that right?

8 A Yes.

9 Q And at no time when Investigator Dean was reading
10 these rights to you or whatever he was saying to you did you
11 ever say no?

12 A I don't know, I don't remember.

13 Q You don't remember?

14 A No, sir.

15 Q Do you remember at any time telling him you did not
16 understand?

17 A No, sir.

18 Q Do you remember what happened on the following day
19 when Investigator Dean advised you of your rights? Do you
20 remember that day? It would be the day you got in the car
21 and rode out to Irongate?

22 A He didn't do it.

23 Q He didn't advise you of your rights?

1 A No, sir.

2 Q Didn't advise you of your rights at all?

3 A Not at all.

4 Q Do you know Investigator Sowards?

5 A Yes, sir.

6 Q Was he in the car with you at that time?

7 A No, sir.

8 Q And it's your testimony at no time did Investigator
9 Dean advise you of your rights on the following day?

10 A I don't remember. They just told me that the girl's
11 parents wanted to know where she was picked up at and if I
12 would show them, so I went with them.

13 Q You mean you don't remember whether or not they told
14 you then?

15 A Yeah, I don't remember them reading no rights that
16 day, it was on Monday.

17 Q It was on Sunday night the prisoner told you what your
18 rights were, you remember that, don't you?

19 A Yeah.

20 Q So he had already explained to you what you should
21 not do, is that correct?

22 A Yes, sir.

23 Q And when Investigator Dean and Investigator Sowards

1 took you out to Irongate you had the benefit of Charlie, the
2 prisoner's counsel? At least he told you exactly what you
3 should not do, is that right?

4 A Yes, sir.

5 Q He told you it was crazy to make a statement or tell
6 them anything, is that right?

7 A Yes, sir.

8 Q Did they beat you in any way, Investigator Dean or
9 anybody else?

10 A No, sir.

11 Q Did they promise you anything or give you anything?

12 A No, sir.

13 Q As a matter of fact, when you called the police, the
14 officer, the first officer who came to the door, he didn't
15 advise you of anything, did he, the one that drove up in the van?
16 Do you remember that?

17 A Yeah.

18 Q Were you outside at that time?

19 A I was at the door.

20 Q So you saw the police van drive up?

21 A I walked up to them.

22 Q Do you remember what you told them?

23 A I don't remember. I remember he asked me what was

1 wrong.

2 Q What did you say?

3 MR. COON: Isn't this going a little bit beyond the
4 scope of direct.

5 MR. EBERT: If it please the Court, he volunteered
6 certain statements prior to being advised of his rights and he
7 says he doesn't remember whether he was advised of his rights
8 now or not and I think I ought to be able to test his memory
9 somehow of the events immediately prior to the alleged advising
10 of rights.

11 THE COURT: Objection overruled.

12 MR. COON: Note our exception.

13 BY MR. EBERT: (Resuming)

14 Q Do you recall what you said to him?

15 A No, sir.

16 Q Do you recall what he said to you?

17 A No, sir.

18 Q What is the first thing you recall on the day in
19 question after you called the police? Do you recall calling
20 the police?

21 A Yes, sir.

22 Q You do? Do you remember what you said to them then?

23 A I know I called them and give them my address and

1 hung up I think.

2 Q Mr. Akers, do you remember any less today than you
3 remembered the day after or week after?

4 A I don't understand.

5 Q In other words, is your memory as good today as it
6 was the day they questioned you?

7 A I don't know.

8 Q Do you recall in your statement saying you dialed 411
9 to get the police number? Do you remember doing that?

10 A Yes, sir.

11 Q And do you also recall you didn't remember your
12 address after you got the police number?

13 A Yes, sir.

14 Q And you remember you had to get the address so you
15 could tell the police where to come?

16 A Yes.

17 Q You remember that?

18 A Yes.

19 Q But you don't remember what you told the police, is
20 that right?

21 A Parts of it.

22 Q What part of it do you remember?

23 MR. COON: He's already answered, Your Honor. This is

1 going into statements made -- is he still trying to test his
2 mental aspect.

3 MR. EBERT: I'm trying to test his mental aspect.
4 I don't understand how somebody could --

5 THE COURT: Let's don't argue. Go ahead with your
6 questions.

7 BY MR. EBERT: (Resuming)

8 Q Tell the Court, Mr. Akers, if you would, what you
9 remember you told the police when you called?

10 A I called and I think I said --

11 Q What?

12 A I think I said I'd killed someone, to come fast, or
13 something.

14 Q Now, you do recall talking to Investigator Dean after
15 he got there, right? Do you remember that today?

16 A Yes, sir.

17 Q And you do remember what you told him after he
18 talked to you, do you not?

19 A Not all of it.

20 Q At the time you talked to Investigator Dean you
21 remembered everything you told the police, didn't you?

22 A I don't understand.

23 Q When you talked to Investigator Dean you told him

1 exactly what you told the man on the phone, everything else,
2 didn't you?

3 A I don't know.

4 Q You don't remember today what you told Investigator
5 Dean the day after, is that what you're saying?

6 A Yes, sir.

7 Q And you don't remember today whether he advised you
8 of your rights, is that what you're saying?

9 A Yes, sir.

10 Q So it would be fair to say you just don't remember
11 anything that happened on the day in question or at the time you
12 made the statement with a few exceptions?

13 A It's all mixed up to me.

14 Q When did it start becoming mixed up to you,
15 Mr. Akers?

16 A That day.

17 Q Before you made the statement or afterwards?

18 A While I was making them.

19 Q While you were making them?

20 A (Indicating yes.)

21 Q Which one?

22 A Both of them.

23 Q You mean you were mixed up from the very start then?

1 Q Would you state your name?

2 A Charles W. Akers.

3 Q Where do you live, Mr. Akers?

4 A 6619 Davis Ford Road.

5 Q Are you related to the defendant?

6 A Yes, I am, I'm his father.

7 Q Did you, on or about October 21, 1973, receive a
8 telephone call that your son had been arrested and was charged
9 with a felony and was in the Prince William County Jail?

10 A Yes, I received it from the bondsman on a Sunday
11 night.

12 Q Did you go down and talk to your son?

13 A Yes, I did, I went up and talked to him.

14 Q Would you tell us what you observed?

15 A I observed -- all I could get out of him was, he said
16 he didn't want us to know it and he was awful nervous and upset.
17 You couldn't talk with him. I couldn't get anything much out
18 of him and so I advised him of his rights, and went ahead then --

19 Q Did he understand that --

20 MR. EBERT: I object to that. I don't think he can
21 testify what this man understood.

22 THE COURT: I don't think he can testify to what his
23 appearance was.

1 BY MR. COON: (Resuming)

2 Q What was his physical appearance like, Mr. Akers?

3 A He was all nervous and his eyes was dilated and his
4 physical condition was more -- he was under a different condition
5 than I ever saw him.

6 Q How did he appear to you mentally? Can you describe
7 any facts?

8 A Well, in the condition, I really don't think he
9 understood what I was talking to him too much about and the
10 way I saw him, I don't think he understood hardly any.

11 MR. COON: That's all the questions I have, Your Honor.

12 CROSS EXAMINATION

13 BY MR. EBERT:

14 Q Mr. Akers, you say you had never seen him under such
15 a condition, is that correct?

16 A Yes, sir.

17 Q You had never seen him in jail either, had you?

18 A No, sir.

19 Q Do you think the fact he was in jail had some effect
20 on his appearance as you saw it on that occasion?

21 A I could say yes or no on that. I don't think the
22 condition I saw him in, he would act like that unless he was
23 under the influence of something, some kind of alcohol or drugs

1 or something.

2 Q In other words, he appeared to you to be under the
3 influence of some sort of drug or alcohol, is that correct?

4 A Or else sick, one of the two. I'm no doctor or
5 nothing.

6 Q I understand that but to your way of observation he
7 looked as though he was under the influence of some sort of
8 drug or alcohol from your past experience?

9 A Yes.

10 Q You have worked, have you not, as a prison guard?

11 A That's right.

12 Q How long have you worked in that capacity in the
13 past?

14 A Sixteen and a half years.

15 Q Now, you say you did advise your boy of his rights?

16 A Yes, I told him that I don't think --

17 Q What did you tell him?

18 A I told him he ought to have a lawyer to represent him
19 through the case and like that.

20 Q That's what you told him?

21 A Yes, sir.

22 Q This is on Sunday night you saw him?

23 A Yes, it was.

1 Q What time was it you advised him of his rights?

2 A Between nine-thirty and ten o'clock.

3 Q He told you he didn't want you to know about it?

4 A He told me he didn't want us to know about it or
5 something like that.

6 Q That was your testimony a minute ago. What did you
7 mean by that, that he told you he didn't want you to know about
8 it?

9 A Being locked up there.

10 Q Was that in response to anything you had asked him?

11 A Well, yes, I asked him what he was doing, what
12 happened but he didn't tell me nothing whatever about it.

13 Q That's when he said he didn't want you to know about
14 it?

15 A Yes, sir.

16 Q Was he crying at that time?

17 A No, he wasn't.

18 Q Would it be fair to say he seemed ashamed of what
19 he had done or the reason he was in jail when you came there?

20 A No.

21 Q It would be fair to say he was proud of what he had
22 done?

23 A No, I wouldn't say that. I would say he was under.

1 the influence of something or sick. He was in a nervous
2 condition.

3 Q You say he was in a nervous condition, was he
4 shaking?

5 A Yes, his hands was trembling some. I talked to him
6 through that little screen.

7 Q You were looking through a screen at him?

8 A Yes.

9 Q You could see his hands tremble?

10 A Yes, I could see them. He put his hands up on the
11 table like that. (Indicating)

12 Q He was sitting at a table?

13 A Inside the little booth you sit in at the jail and I
14 saw him when he walked through the door and come over to the
15 little office there.

16 Q When is the last time prior to that you had seen
17 your son?

18 A I saw him just the week before that.

19 Q About a week before that?

20 A Yes.

21 Q How long had he been living away from you?

22 A About two months.

23 Q A week before that did you notice anything unusual

1 about his condition?

2 A Not a whole lot unusual about him. He came down and
3 talked about going on a trip with a truck or something like
4 that.

5 Q He said he was going on a trip with a truck?

6 A Yes, and talked about going hunting in the mountains
7 and like that.

8 Q And where did he say he was going on this trip?
9 Did he say?

10 A He was going somewhere. Tell you the truth, I forget
11 where it was. He had gone on several trips, big hauling trips.

12 Q Did he ever tell you he was thinking about leaving
13 the area and going to Tennessee?

14 A Yes, he was going --

15 Q When did he first tell you?

16 A He said he was going out there to learn to drive a
17 truck.

18 Q When did he say that?

19 A I heard him say that two or three times in the last
20 three months, even when he was living at the house.

21 Q For three months?

22 A Yes, that he was going out there to learn to drive a
23 truck, a moving truck.

1 Q He already drove a truck, didn't he?

2 A I couldn't answer that because I don't know.

3 Q How was he going to take a trip in a truck if he
4 didn't know how to drive one?

5 A With another person?

6 Q Another person?

7 A Yes.

8 Q And you say one week prior to this you didn't notice
9 anything unusual about his condition?

10 A Not a whole lot. He come in and out and he was, I
11 would say, normal. I can't say a whole lot.

12 Q If I told you his statement indicated for three
13 weeks he was planning on committing an act of leaving, would
14 you still maintain your testimony that his condition was normal
15 one week prior to the offense?

16 A Yes, because I didn't know anything about it.

17 MR. EBERT: That's all.

18 MR. COON: We don't have any other questions.

19 THE COURT: Mr. Akers, you can step down. Thank you.

20 (Witness excused.)

21 MR. COON: We call Mr. Caton.

22 Thereupon,

23 ROBERT CATON,

1 called as a witness by counsel for the defendant, and having
2 been first duly sworn by the Clerk of the Court, was examined
3 and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. COON:

6 Q Would you state your name, please?

7 A Robert Caton.

8 Q And directing your attention to around October 20th
9 or the 21st, 1973, were you employed by the Prince William
10 County?

11 A Yes, sir.

12 Q And where were you employed?

13 A As a deputy sheriff, supervisor of jail shift.

14 Q And were you so employed during the period of time
15 that Charles Akers was brought in, was arrested for a charge
16 of murder and was brought in?

17 A Yes, I was.

18 Q How long have you known the Akers family, Mr. Caton?

19 A I've known Mr. Akers all my life.

20 Q You're talking about the senior?

21 A Yes, sir.

22 Q This boy's father?

23 A Yes, sir.

1 Q How long have you known this boy?

2 A I've seen him off and on possibly four or five years
3 to know him.

4 Q Did you see him when he was confined in the Prince
5 William County Jail about October 20, 1973?

6 A Yes, I did.

7 Q Would you tell His Honor what you might have noticed,
8 if anything, about Mr. Akers in regards to his physical
9 condition?

10 A Well, I transported Mr. Akers from the Prince
11 William County jail to the mental health and that's the first
12 time I had seen him after he had been incarcerated. At the time
13 we brought him out to take him out there the man was very tense.
14 I did not talk to him and he did not say anything to me. There
15 was no conversation.

16 Q Did you talk to him at all, at any time?

17 A Not at that time.

18 Q At that period of time, other than being tense,
19 did you notice anything unusual at all?

20 A No, none other than what I've just told you. When
21 I transported him to mental health I sat out in the lobby and
22 he was back in the office with the doctor.

23 Q When did you take him to mental health?

1 A I can't recall the date.

2 Q Was this after a court order had been entered?

3 A Yes, sir.

4 Q Prior to that time, I'm talking about October 20th
5 when this alleged offense is supposed to have occurred or the
6 next day, October 21st when he was first confined, did you
7 see him at all?

8 A No, sir.

9 Q You didn't see him at all?

10 A I did not. I talked to him on the 23rd or he asked
11 for me.

12 Q But you didn't talk to him before that at all?

13 A No, sir.

14 Q Then when you talked to him on the 23rd what was his
15 physical appearance at that time, Mr. Caton?

16 A I would say he was more relaxed to talk.

17 Q How about mentally, how did he appear to you?

18 A Well, he was -- I don't know that much about the boy
19 in the past. I couldn't answer that. I don't know.

20 Q Could you carry on a conversation with him?

21 A I just talked to him a couple minutes.

22 Q Did he appear rational to you?

23 A Yes, he did at that point.

1 Q Then later on when you saw him he was very tense and
2 nervous?

3 A Yes, he was when I carried him out.

4 MR. COON: I don't have anything else.

5 CROSS EXAMINATION

6 BY MR. EBERT:

7 Q Mr. Caton, how long after the 23rd was it approximately
8 before you took him to the mental health clinic?

9 A Before the 23rd.

10 Q It was after the 23rd you took him to the mental health
11 clinic, is that right?

12 A I'm sure it was, Mr. Ebert. I'm not positive, I don't
13 have the dates but it was in October.

14 Q From what I can gather from your testimony he was
15 more nervous when you were taking him to the mental health
16 clinic than he was on the 23rd, three days after the alleged
17 offense?

18 A Yes, sir.

19 Q When you talked to him you say he was relaxed?

20 A (Indicating yes.)

21 Q And he called for you?

22 A He did.

23 Q Did you say anything to him prior to him saying

1 anything to you?

2 A No, sir.

3 Q Did he appear to understand what you said?

4 A (Indicating yes.)

5 Q What did you say to him?

6 A When I walked back to the cell, he was in the main
7 right and he said he wanted to talk to me and I walked back there
8 and I said, "Charles, what do you have on your mind?" and he
9 said, "I have hid a knife and I want to tell you where it's
10 located so you can go get it."

11 Q Did he tell you where he hid that knife?

12 A He did. He left this knife on Lomond Drive by a
13 post at the bridge on Flat Branch.

14 Q Did he tell you when he hid that knife there?

15 A He told me he had put it there approximately --

16 MR. COON: I think I would object to this, Your
17 Honor, unless it goes to the offense. I don't know what the
18 relevancy is.

19 MR. EBERT: If it please the Court this is a defense
20 witness and I think apparently there's some attempt to show
21 this man did not understand what he was saying and I think we
22 can establish he was capable of giving his story and talking
23 coherently. For that reason I would ask what he said be admitted

1 THE COURT: I think for that purpose alone it would
2 be admissable.

3 BY MR. EBERT: (Resuming)

4 Q Go ahead and answer the question?

5 A He told me he had put this knife out there prior
6 to -- well, he first told me he had been drinking some wine
7 and he was walking up and down Lomond Drive and he said he put
8 the knife -- took it out of his pocket and put it behind this
9 post at the bridge. He said he didn't know what he might do with
10 it and that's all he said.

11 MR. EBERT: That's all I have.

12 MR. COON: I don't have any further questions, Your
13 Honor, he can be excused.

14 THE COURT: Mr. Caton, you can be excused. Thank
15 you.

16 (Witness excused.)

17 MR. COON: We would like to call Doctor Alp.
18 Therefore,

19 NICOTI ALP,
20 called as a witness by counsel for the defendant, and having
21 been first duly sworn by the Clerk of the Court, was examined
22 and testified as follows:

23 DIRECT EXAMINATION

1 BY MR. KELLAM:

2 Q Would you please state to the Court your name and
3 address and occupation, please?

4 A I am Nicoti M. Alp, M. D, Director of the Mental Health
5 Center.

6 Q And where is that Mental Health Center located,
7 doctor?

8 A 9590 Surveyor Court, Manassas, Virginia.

9 Q And do you have any specialty in medicine, doctor?

10 A Yes, I'm a doctor of medicine, graduate of medical
11 school and then I'm a licensed physician for the state of
12 Virginia, and also I have trained five additional years in
13 psychiatry and taken an examination and become a qualified
14 psychiatrist.

15 Q You have taken the examination?

16 A That's right, in psychiatry.

17 Q And what has been your experience in psychiatry?

18 A I've been in the psychiatric field for the last
19 fifteen years but prior to coming to Virginia I had been chief
20 of service in one of the large New York state hospitals the
21 last eight years.

22 Q And during that period of time --

23 A During that period of time I have taken care of so many

1 mentally ill and I've been in courts many times on behalf of
2 the patients or on behalf of the Commonwealth or for the state.

3 Q You've testified in many cases?

4 A That's right, I did.

5 Q Now, Doctor Alp, did there come a time where, by
6 court order, this young man here, Charles Akers, was sent to
7 you?

8 A Yes, I have seen Charles on October 31st the first
9 time. He was sent by the court order to be examined at the
10 Mental Health Center to verify his mental state.

11 Q This was on October 31st, the order sending his down?

12 A That's the date I have seen him first, October 31st.

13 Q Was that because the Court ordered you to do it or
14 asked you to do it?

15 A That's right.

16 Q Do you recall if the Court order asked you to report
17 back to the Court?

18 A Yes, I have written back to the Court and mentioned
19 at that time I found Charles --

20 Q Excuse me, Doctor, what did they ask you to look into?

21 A They asked me to find out what mental state he is in
22 and also whether or not he is capable to stand a trial.

23 Q Then in regard to the last question, what was your

1 conclusion after examining Charles whether he was capable of
2 standing trial or not?

3 A I mentioned in my report at that time that Charles --

4 MR. EBERT: Just for the record, I don't think that's
5 what the Court asked him to find out. I think the record will
6 speak for itself. Go ahead.

7 THE WITNESS: As I mentioned in my report, Charles,
8 at that time, was extremely depressed, somewhat confused and
9 was unable to comprehend and therefore, I thought he was not
10 a suitable candidate at that time to stand a trial. However,
11 I have suggested that he should be observed at least one or
12 two months or probably a little longer with a trial of certain
13 anti-depressants and tranquilizers and I mentioned I would like
14 to examine him again later on.

15 BY MR. KELLAM: Why is it from your diagnostic
16 impression that you arrived at the conclusion that he was not
17 a fit candidate to stand trial?

18 THE WITNESS: I suppose shortly after the incident
19 he was somehow in a state of shock, he was uncommunicative,
20 he couldn't give us enough information and he couldn't relate
21 well with us and it was my opinion if he was unable to relate,
22 he wouldn't be able to comprehend the entire court proceedings.

23 BY MR. KELLAM: (Resuming

1 Q Did you come to a conclusion as to whether or not
2 he could receive and follow instructions?

3 A At that time I thought he wouldn't be able to do so.

4 Q And what, sir, were your diagnostic impressions at
5 the conclusion of your examination?

6 A As a diagnosis we came to a conclusion that he had
7 a schizoid personality and also according to some of the test
8 results, as his answers were bizarre we thought he might have
9 schizophrenia, simple type. However, in order to relate this
10 diagnosis, I recommended that he should be observed.

11 Q What was your professional diagnosis?

12 A Schizophrenia, simple type.

13 Q Would you explain to the Court in the jargon of
14 psychiatry whether this is an active psychosis or personality
15 disorder?

16 A No, it's one of the psychotic disorders.

17 Q Do you have your report before you, the report of
18 November 5th?

19 A I do.

20 Q Do you recall from your own memory what the response
21 of Charles was to questions and if you feel necessary, perhaps
22 the Court would let you refer to your report; in other words,
23 in relating to him back and forth, could you tell how quick he

1 was to answer, how quick he was to understand and what your
2 impressions were?

3 A Well, during the examination I found him extremely
4 slow, was unable to understand the questions and comprehend the
5 nature of it and he was unable to answer effectively.

6 Q From your examination could you tell the Court how
7 long this condition may have existed?

8 A We established he had been suffering from a schizoid
9 personality all of his life, however, the psychotic condition
10 that I thought he might be suffering from, we didn't know how
11 long it existed. Sometimes we do see these conditions under
12 extreme stressful conditions. In other words, any person who
13 suffers from schizoid personality or has a schizoid personality
14 may break down temporarily even during a court proceeding or
15 after major events.

16 Q I trust he's still susceptible to this breakdown?

17 A Like anyone else.

18 Q Then you can't tell the Court how long before your
19 examination he was actually active, can you?

20 A No, I can not. However, I have to make one point
21 clear.

22 THE COURT: Doctor, don't volunteer anything except
23 in response to a question.

1 Q During the course of your testing do you recall whether
2 you arrived at the intelligence quotient of this young man?

3 A Yes, his intelligence testing revealed he has a
4 borderline I. Q. and was functioning at the borderline level.
5 We found him at borderline mental retardation.

6 Q Borderline mental retardation?

7 A Yes, sir.

8 Q So do you recall what figure the I. Q. was?

9 A 77.

10 MR. KELLAM: I have nothing further, Your Honor.

11 THE COURT: Any cross examination.

12 CROSS EXAMINATION

13 BY MR. EBERT:

14 Q Doctor, at the time you first saw him you recommended
15 he be observed, is that correct?

16 A That's correct.

17 Q What was your reason for recommending that he be
18 observed?

19 A The reason was we wanted to be sure whether he was
20 really suffering from schizophrenia, simple type, or not.

21 Q Would you, for the Court, give us a definition of
22 schizophrenia, simple type?

23 A Schizophrenia, simple type, is a condition that is

1 considered one of the psychotic conditions, however, is so mild
2 the person does not have any delusional ideas, does not have any
3 hallucinatory experiences, that the person has to have schizoid
4 personality and functions at the borderline.

5 Q In other words, it's a mild psychosis?

6 A It is.

7 Q Now alcoholism can put one into this category, can
8 it not?

9 A Alcoholism, no.

10 Q Are you familiar with the Diagnostic Manual of mental
11 disease?

12 A Certainly.

13 Q And you use this in your work?

14 A All the time.

15 Q Now, did you have the benefit of the findings while
16 he was being observed?

17 THE COURT: Copies of the reports?

18 MR. EBERT: Yes.

19 BY MR. EBERT: (Resuming)

20 Q You do realize he was hospitalized for observation?

21 A I do know, yes.

22 Q Did you have the benefit of the doctor's findings
23 during that period of time?

1 A I do have, yes.

2 Q Now, have you had occasion to make a final evaluation
3 on behalf of the defense as to your impressions concerning this
4 man?

5 A Later on.

6 MR. KELLAM: That does go beyond the scope of the
7 examination.

8 THE COURT: I agree it does. I think Mr. Ebert would
9 be bound by the answer.

10 BY MR. EBERT: (Resuming)

11 Q Let me ask you this, doctor, from your opinion --

12 MR. EBERT: I will be bound by the answer?

13 THE COURT: Yes.

14 MR. EBERT: That will be all right.

15 BY MR. EBERT: (Resuming)

16 Q Do you have a final evaluation as to his mental
17 condition?

18 A You mean at the present time?

19 Q Yes.

20 A Yes, I do.

21 Q What is that?

22 A When I examined him recently which was May 7th, I
23 found he's not suffering from any psychotic condition and I

1 found he's perfectly capable to comprehend the object and the
2 proceedings.

3 Q In your opinion he's capable of understanding the
4 nature of these proceedings against him, is that correct?

5 A That's correct.

6 Q And in your opinion, did he at the time of the
7 offense understand the difference between right and wrong?

8 A Well, as I mentioned --

9 MR. COON: Excuse me, before he answers, we have not
10 raised that issue.

11 THE COURT: I'm sure Mr. Ebert realizes that.

12 MR. EBERT: If that be the case, if they haven't
13 raised that issue, I would ask that the testimony of this
14 witness be stricken. I thought that was the purpose of his
15 testimony to raise an insanity defense. Perhaps I'm mistaken.

16 THE COURT: Do you all want to comment on it?

17 MR. KELLAM: Your Honor, this witness was called for
18 the limited purpose here of determining capacity of Mr. Akers
19 here to understand the warning and freely and voluntarily give
20 a confession. Now, the question asked by the Commonwealth does
21 go beyond the scope of that sort of an inquiry.

22 THE COURT: I don't think there's any question about
23 that. Mr. Ebert has made a motion to strike the testimony of

1 the witness based on the grounds that insanity is not an issue
2 in this case and if I understood what you said, you didn't call
3 this witness for that purpose but only for the purpose of
4 determining whether or not Mr. Akers was in a position to
5 understand and intelligently make a statement.

6 MR. KELLAM: Of course, insanity is an issue, Your
7 Honor. If this witness can't say, as he has said, that he was
8 actively psychotic a few days after the commission of the
9 offense, it's an issue to the extent we have raised it.

10 THE COURT: In any event I would deny the motion to
11 strike his testimony. Any other questions?

12 BY MR. EBERT: (Resuming)

13 Q Do you or do you not know his condition on, October, 20th
14 with regard to understanding the nature and consequences of his
15 acts?

16 A Well, of course, during my first examination I
17 couldn't evaluate his understanding at the time of the crime
18 committed. However, when I examined him on May 7th I was
19 able to verify that he had a perfect clear mind at the time of
20 the crime committed and in my report I reflected that he
21 wasn't suffering from any kind of mental disorders during that
22 time.

23 MR. EBERT: That's all I have.

1 THE COURT: Any other questions, Mr. Kellam?

2 MR. KELLAM: No, sir.

3 THE COURT: All right, can the doctor be excused?

4 MR. EBERT: Yes, sir.

5 THE COURT: You're free to go, thank you for coming,

6 sir.

7 (Witness excused.)

8 MR. COON: We rest, Your Honor.

9 THE COURT: Any rebuttal?

10 MR. EBERT: I have none.

11 THE COURT: Any argument?

12 MR. EBERT: If it please the Court, I think the

13 evidence is clear and convincing in this case, this young man

14 from his own statement and from the evidence before you, formed

15 a plan at one time or another to take a woman, for one reason

16 or another, to his dwelling and have some type of relations

17 with her. I think the evidence is further clear on the day in

18 question or at least the night preceding the day in question

19 he became extremely angry at his girl friend and at that point

20 did have a knife and used a knife and there was evidence of

21 knife marks in various parts of the room where the body was

22 found, that the other evidence goes to the fact that this girl

23 who had accompanied her parents to Prince William County,

1 having lived here previously, to attend a wedding and asked if
2 she could leave the company of her parents and then she was
3 taken by the defendant and eventually wound up in his bedroom.

4 Now, the defendant says in his statement she screamed
5 at one point or another and the evidence is he stabbed her a
6 number of times. The doctor testified four of those wounds
7 would probably have been fatal, three of them definitely would
8 have been fatal.

9 But I would submit to the Court, from the evidence
10 before the Court there are a number of statements which
11 indicate a change in this man's story. First he said she
12 voluntarily accompanied him and then he says he put his arms
13 around her and said she wouldn't get hurt and if you recall
14 going through the various statements in that respect, he
15 changed his statement to indicate she was being brought there
16 against her will. At one point outside the gate he said she
17 resisted, started to struggle and at one point she said, "You
18 must be crazy or something."

19 But in any event he did, in fact, stab her and in
20 any event there is no testimony to contradict that. There is
21 testimony, of course, that after he did it he put her body
22 into a closet and covered it up with blankets. Somewhere along
23 the line he must have had a change of heart because he did call

1 the police.

2 There is in evidence a map which he traced out. He
3 told the investigators for some time he had been planning on
4 bringing a woman into that apartment and then leaving and going
5 to Tennessee. Of course, that route is marked clearly on the
6 map.

7 Although I feel undoubtedly anyone that would commit
8 a crime like this has to have some type of disorder, there's
9 nothing to say that he's legally insane. He certainly is
10 acting contrary to the normal individual and for the safety
11 of anybody within this county I would submit to the Court he
12 should be kept off the streets for the rest of his natural life.

13 I would further submit to the Court there is ample
14 evidence to show that this man premeditated this crime and in
15 the alternative there is ample evidence to show that this girl
16 was taken there against her will and that she was killed in the
17 course of abduction and from his own lips merely because she
18 screamed and would not let him do his will, and for that reason
19 I would ask the Court to find him guilty of murder in the first
20 degree.

21 MR. KELLAM: Your Honor, I take it the Commonwealth
22 has not elected whether it intends to rely upon premeditation
23 of whether it intends to rely upon the felony of murder. The

1 doctrine stated in 18.1-21 as I understand since the rules of
2 1972, the indictment may be a shotgun affair where it can be
3 alleged that someone did feloniously and unlawfully kill another.
4 The indictment in this case alleges he did unlawfully and
5 feloniously kill someone by stabbing them with a knife. Now
6 the Commonwealth hasn't elected one of those. It says one or
7 the other. I would ask Your Honor if you would care to give
8 us a ruling as to whether the Commonwealth must elect so that
9 I may address myself to the Commonwealth's theory of the case.

10 THE COURT: I think you ought to go ahead and address
11 your argument to each of them. I think at this point the
12 Commonwealth should not be required to indict. As I say, I
13 think you should address your argument to each of the aspects
14 of it.

15 MR. KELLAM: I shall.

16 I had made a previous objection to the admission of
17 anything on any of the statements having any suggestion of
18 robbery, rape or abduction unless there was in evidence a
19 corpus delecti to support any of those. Is it your ruling that
20 there is evidence to support any of those?

21 THE COURT: I think there is.

22 MR. KELLAM: I shall proceed. I shall attempt to
23 cover all of the possibilities.

1 I would like to note an exception that I cannot get
2 a ruling as to whether the confession is admissable in a felony
3 murder without a corpus delecti. I would note an exception to
4 that.

5 THE COURT: I'm not sure what you mean by not getting
6 a ruling. I'm ruling that the confession, the statement, was
7 admissable.

8 MR. KELLAM: All right, let's look into these
9 admissions and confessions and what they show. Again I'll
10 describe it as a shotgun approach. Somehow or other he says
11 we should have first degree murder. Well, looking at the
12 statute, let's look for the premeditation, where is the
13 premeditation. I trust that they rely on this bizarre lengthy
14 recitation of this young man's sex life or lack thereof and his
15 planning to try to have some sexual relations with a girl as
16 some kind of premeditation, to forcefully try to have some kind
17 of sex with somebody. There certainly is no premeditation from
18 the testimony presented to my ears that he thought of killing
19 someone, that he planned to kill them, that he laid in wait as
20 the statute says, and I submit to you that the Commonwealth
21 may not rely upon a presumption that simply because someone
22 was killed there is premeditation.

23 The Virginia Law Review Article in Volume 15 --

1 THE COURT: I agree with you that surely is not the
2 law.

3 MR. KELLAM: So where is the plan. The nearest thing
4 I can find to a plan is that we have a plan to go to Tennessee.
5 This is completely consistent with the innocence of someone
6 going to Tennessee to learn to drive a truck which Mr. Akers,
7 the father, said he had been doing for some three or four
8 months before; completely consistent with an hypothesis of
9 innocence as far as premeditation is concerned.

10 Now, if we indulge in the presumption that there was
11 some corpus delicti or some evidence outside the barrier of the
12 lips of this young man here that there was some planned, there
13 abduction or some planned rape we then get into a very severe
14 tangle over what was it he was planning. If the Commonwealth
15 is relying upon his statement, his statement says, number one,
16 he asked her to go up there and she went with him and that at
17 some point in time, and that point being as I can deduce from
18 it, when he closed the door and there was either some physical
19 contact between them or perhaps she saw these pictures which
20 were admitted and she said, "What do you think I am?" and
21 started screaming. If, indeed, as a result of this Mr. Akers
22 stabbed; if, indeed, this was what triggered this young man with
23 a psychotic personality, a psychosis eleven days later, I would

1 submit to you that the triggering was of an act in the second
2 degree and had nothing to do with any rape or abduction or
3 premeditation.

4 In giving weight to these statements which were
5 introduced for some reason unbeknownst to me, the Commonwealth
6 is not satisfied with the first one and then the Commonwealth
7 went through this lengthy examination by Officers Morgan and
8 Dean. In picturing whether this statement was voluntarily
9 given, we have to picture a young man who was found a few days
10 after he was incarcerated to have sufficient reason to be sent
11 by a judge of this District Court to be sent down to a psychia-
12 trist to see whether or not he could adequately assist himself
13 in his own defense and cooperate and if he could understand the
14 nature of the proceedings against him. Pursuant to this order
15 of the Court he was sent down to Doctor Alp. Doctor Alp is the
16 closest person in time to the act to have looked at this young
17 man. He looked at him and he felt he was unable to relate and
18 found that he could not respond to questions, he could not
19 understand questions and he concluded he was not then in a
20 condition to cooperate with his lawyer in his own defense. The
21 Commonwealth is saying even though he couldn't cooperate with
22 his lawyer only a few days before, he could understand this
23 warning and cooperate with Officers Dean and Morgan and

1 voluntarily give up his rights against self-incrimination.
2 That seems to be their position and as a result of this position
3 they say he needs to be off the street for the rest of his life,
4 the rest of his natural life.

5 It was back about the eighteenth century or the
6 nineteenth century that we finally concluded that the evil
7 spirits shouldn't be purged out of a man by putting him away
8 for the rest of his life. We concluded he should be treated
9 rather than thrown in a dungeon.

10 We found out from Doctor Alp that, indeed he had
11 those kind of evil spirits that we used to throw people in the
12 dungeon for, but if he did have those evil spirits which I'm
13 talking about, an active psychosis, namely schizophrenia to
14 the extent he couldn't cooperate with his lawyers on the 31st of
15 October, they still want us to say he freely and voluntarily
16 gave this lengthy statement to Officers Dean and Morgan.

17 As I suggested before, on page nine, there is a
18 clear indication that Mr. Akers said he wanted to stop. A man
19 of his intelligence, I don't know how much more clear he had
20 to be about it. "Do I have to talk about it?"

21 Now, the warnings which Mr. Dean and the officers
22 say they gave him told him time and time again he could stop
23 at any time but when he asked to stop, "Do I have to talk about

1 it now?" and he said, "Well, we would just like to get it
2 straightened out, tell us all about it, it will be good for you
3 to get it out, you'll sleep better." They pushed on and
4 obtained this lengthy statement from him which now they say is
5 a valid statement given by a man capable of making these
6 decisions even though in the medical testimony before us he
7 was a man who was not capable of cooperating with his own lawyers
8 who were supposed to be on his side.

9 So if Your Honor still feels this is an admissable
10 statement, I would certainly think any weight given it for any
11 purpose, sinister in nature, which would show that there is
12 something from this accused that made him plan some felony
13 which ended up in a first degree murder, should give it a
14 zero weight.

15 As I stated on my motion to strike, we have a girl
16 that is dead. She has been gathered to the arms of the Lord
17 and there is nothing we can do to get her back, like on a bad
18 check charge. Now we've got another life to worry about and
19 whether we're going to have Charles Akers drift in the wind on
20 this kind of testimony and slowly, tortuously have his life ebb
21 from him to purge him of these evil spirits like Mr. Ebert,
22 the Commonwealth's Attorney suggests.

23 Thank you.

1 MR. EBERT: As far as evil spirits, I don't recall
2 that anybody testified or mentioned anything about evil spirits
3 other than defense counsel. The lives and spirits I'm concerned
4 about are the people that are alive and walk the streets of
5 this community.

6 But with regard to the argument about whether there
7 was any premeditation, as the Court well knows, premeditation
8 can be formed within a very few seconds and from all other
9 testimony, even the original statement, he wasn't going to
10 stay there, if you take his best statement at it's face. He
11 was going to stab her until she screamed and then he put his
12 hand over her mouth and he took the knife out of its sheath.
13 If you remember he had the knife up over the bed and he stabbed
14 her with it after all. He stabbed her because she screamed and
15 the reason she screamed is obvious, she didn't want anything
16 to happen to her that did happen to her. He says he started
17 to unbuckle her pants on one occasion when she screamed and on
18 the next occasion he said as soon as he shut the door or
19 started to shut the door she screamed. In any event, the
20 reason that triggered him to commit this crime, from his best
21 statement, was the fact she had screamed. He says if she
22 hadn't screamed and had let him do what he wanted to do, it
23 never would have happened. He was there to commit a felony

1 and I think the evidence cries out that that girl went in there
2 crying because she was forced to do what he wanted and at the
3 point she got in there she was not going along with what he
4 wanted to do and probably unfortunately for her she fought and
5 as a result is dead.

6 Now, with regard to the statement, the doctor, the
7 defense's own witness, said he had a clear understanding of what
8 occurred on that day, that being the 20th. Investigator Dean
9 indicated he would be nervous and needless to say he would be
10 nervous. Anyone under the circumstances would be nervous but
11 he appeared to understand. He was advised of his rights several
12 times by a number of people. The defendant himself says he
13 didn't understand. The first time he understood was when
14 somebody in the jail cell told him he should not have confessed
15 and that's when he said he formulated this understanding. But I
16 would submit to the Court this statement indicates he knew
17 exactly what happened, how he called the police and for some
18 reason at this time his memory is befuddled. Other witnesses --
19 Deputy Caton said he called him on the 23rd just two days or
20 three days after the alleged offense prior to going to see the
21 doctor and he seemed to be calm and collected and told him
22 about this other knife he had hidden and at his own request.
23 There seemed to be nothing unusual about his condition at that

1 time. However when he did take him out to see the doctor he
2 seemed tense. All the doctor said when he first saw him was
3 that he thought he should be observed. He was suffering from
4 the mildest type of psychosis, as I recall, in his opinion at
5 that time and that he should be observed. He was observed at
6 that time and the doctor today says he had a clear understanding
7 of what occurred and based on that fact and those reasons I
8 think there is ample evidence for this court to find the
9 defendant guilty of premeditation or murder in the first degree
10 I should say by premeditating this crime some time prior
11 thereto. Some time thereafter when he knew the girl wasn't
12 going along with it he formed the opinion and plan to kill her,
13 which he did and in any event he was committing a felony at
14 the time he did take her life and I would ask the Court to
15 find him guilty of murder in the first degree.

16 MR. COON: Your Honor, I don't want to argue but
17 I'd like to address myself to the Court if I might just for
18 a moment. Mr. Kellam had asked Your Honor if he would make
19 a ruling and I just want to make sure the record is correct.
20 My understanding is that we has asked this Court to ask the
21 Commonwealth's Attorney to make an election as to whether the
22 murder that he was trying to establish was premeditated murder
23 or a felony type murder and I gather Your Honor says he does

1 not have to make an election as to that?

2 THE COURT: I gather from Mr. Ebert's argument he's
3 proceeding on both theories.

4 MR. COON: And you would not force him to make an
5 election as to which theory he was?

6 THE COURT: That's correct.

7 MR. COON: All right, and is it also His Honor's
8 ruling that in regards to the confessions, His Honor has ruled
9 besides somebody being killed, there is evidence independent of
10 the confession to establish another felony? His Honor has found
11 some other evidence?

12 THE COURT: I'll give you that in my ruling in just
13 a minute.

14 MR. COON: May we note an exception to your ruling
15 on either theory?

16 THE COURT: Yes.

17 Gentlemen, there's no point in my trying to comment
18 on all the evidence in this case and I think it would suffice
19 to say, to give you my conclusions, I just don't think there's
20 any question at all that the evidence is clear, it's over-
21 whelming, it's absolutely convincing that Mr. Akers is guilty
22 of murder in the first degree and I don't have any hesitation
23 at all in finding him guilty. I think the evidence indicates

1 that Mr. Akers did willfully, deliberately and with premeditation
2 commit this offense and thus find him guilty of murder in the
3 first degree.

4 So far as murder with respect to it being committed
5 in the commission of an abduction, I think the evidence is
6 sufficient to find -- to support a verdict of guilty in the
7 first degree on that basis also.

8 I expect prior to imposition of sentence I should
9 have the benefit of a presentence report and investigation.

10 MR. COON: We would so move the Court.

11 THE COURT: Mr. Akers has lived in this area most of
12 his life?

13 MR. COON: All of his life.

14 THE COURT: Suppose we make it returnable on Monday,
15 July 15? Would that be agreeable?

16 Mr. Akers, it's also my function to advise you on
17 imposition of sentence in this case that you do have a right
18 to petition the Supreme Court of Virginia for appeal. I'm
19 sure your attorneys will talk to you in more detail as to that
20 aspect.

21 (Whereupon, the hearing in the above-entitled matter
22 was concluded at 4:00 P. M.)

23

CERTIFICATE OF REPORTER

1
2 I, WILLIAM B. PETERS, a Certified Verbatim Reporter,
3 do hereby certify that the foregoing is a true and correct
4 transcript of the proceedings had in the above-entitled matter
5 to the best of my knowledge and belief.
6
7
8
9

10
11 
12 Certified Verbatim Reporter
13
14
15
16
17

18 William B. Peters
19 Stenographic Reporter
20 4055 Chain Bridge Road
21 Fairfax, Virginia
22 (703) 273-2400
23

10-20-73
3:25 P.M.

CHARLES RUFUS AKERS
7968 Community Drive

At 1:30 P.M. I went to the 7-11 store on Irongate to get cigarettes. I started back and met her. She said, "Hi". She wanted to know where I lived and wanted to see the place. We came in the back door. She went upstairs and I followed to see my room. She sat on the bed and started screaming after she started to unbuckle her pants. The knife was in the case on the headboard of the bed. I grabbed the knife when she started screaming at the window. I stabbed her in the chest at least once maybe more. She kept screaming and fell on the floor in the corner next to the bed on the window side. I tried to hold my hand over her mouth to keep her from screaming. I took her to the closet and threw a blanket over her. I threw the knife upstairs in the closet. I thought about running and later decided to call the police. It was about 40 min. to half hour before I called. I did not talk to any one. She moved some, her legs and arms after being in the closet. I think her pants may have been unzipped. She unbuckled them. I helped her. After she got upstairs and I put my hands on her buckle (she was on the edge of the bed) she said "what do you think I am a whore" and she started screaming "rape" "help" that is when I grabbed the knife and stabbed her. She grabbed my left arm after she saw the knife. I had it in the right hand.

Charles Akers

C. T. Deane
J. W. Purdum

WARNING AND CONSENT

EXHIBIT NO. 20
PLC 1 DEF 1 COM 1
CASE NO. 5319
DATE 11 1974
JUDGE: [Signature]

On (Date, Time) 10-20-73 8:05 PM at the Prince William County Police Department, ~~11th Street Station~~, I was advised by (Investigator, Officer) C.T. DEANE MIT WOODMAN of the Prince William County Police Department that he was investigating the alledged commission of the crime of MURDER, and that:

- 1. I have the right to remain silent. I am not required to say anything to anyone at anytime or to answer any questions. YES
- 2. Anything I do or say can and will be used against me in a court of law. YES
- 3. I have the right to talk to a lawyer before being questioned and I also have the right to have the lawyer with me while being questioned. YES
- 4. If I cannot afford a lawyer, and want one, one will be provided for me. YES
- 5. If I want to answer questions now without a lawyer present, I will still have the right to stop answering questions at anytime. I also have the right to stop answering questions at anytime if I want to talk to a lawyer. YES

CONSENT TO SPEAK

I know what my rights are. I am willing to make a statement and answer questions. I do not want a lawyer, at this time. I understand and know what I am doing. No promise or threats have been made to me by anyone.

[Signature: Charles R. Akers]
Signature of Person Being Interviewed

Date and Time same

Warning and Consent Statement was read to subject CHARLES R. AKERS

Signature of Officer C.T. Deane

Witness: _____

Witness: _____

10TH GRADE
CAN READ AND WRITE

A: Akers
D: Deane
M: Morgan

M: You understand that we are Police Officers. Is that correct?

A: Yes.

M: What is your full name?

A: Charles Rufus Akers.

D: Charles, you read the rights form and you signed this form?

A: Yes.

D: Do you want to start at the beginning and tell us what you recall about what happened today Charles? We want to get these circumstances straightened out.

A: Start from the whole first?

D: Yes. From where you picked her up to

A: I went to the 7-11 to get me some cigarettes. I was out of cigarettes. I was walking down the side walk
On the way back I met this girl. I met her three days ago. About every day I'd go up there I'd meet this girl walking down the sidewalk.

M: Do you remember her name now?

A: No.

M: Do you know what her name is now?

A: She just told me her name that one time and I never could remember it.

M: Okay.

A: Then she wanted to know. . .well I told her where we lived. She asked me where we lived and I told her. She wanted to go over there and look at the town house. We went in the back way through the grass down by the fence, opened the gate and went in. She wanted to go upstairs and we went in. She wanted to go upstairs and we went upstairs. She sat down on the corner of the bed; on the edge of the bed up next to the head board or somewhere. I was sitting there beside her. She started to unbuckle my pants and I

put my hand down there. Then she jumped up; well I get it all messed up, but she jumped up and started screaming and that's when I grabbed the knife that was on the head board.

M: Then what happened?

A: She grabbed my arm and I stabbed her.

M: Where did you stab her at, Charles?

A: It was in the throat and in the chest or somewhere like that. I don't even know what made me do it or what happened.

M: How many times did you stab her? Do you remember?

A: One or more.

M: Then what happened Charles?

A: Then she fell and I took _____ and put her in the closet and covered her up and changed my clothes. _____ I dialed _____ 411 and asked for the County Police number. They gave me the number and I wrote it down. Then I couldn't remember the address. I went back in the living room to find the address. I had done forgot the address. Then I called again and told whoever answered the phone that I had killed a girl. Something like that.

M: When you stabbed her the first time, what did you do with her? Or what happened?

A: She started falling in the corner.

M: Then what happened?

A: I think I stabbed her some more.

M: Then what happened?

A: Then I grabbed a blanket; Well I grabbed her then I grabbed a blanket after I put her in the closet and covered her up and I was going to run.

M: Could you hear her or anything?

A: She moaned a little bit.

D: After you put her in the closet?

A: Yes.

D: How long did you hear that and How long was. . . You told me before she was moving in the closet some.

A: Yes, she moved a little bit.

D: How long did that last?

A: Only 5 or 10 minutes.

D: Did you hold a blanket or pillow or something over her head?

A: I just threw a bunch of blankets and stuff I had down there.

D: You tried to kill the noise, is that what it was?

A: Yes, I think.

D: Did she ever say anything after you laid her in the closet?

A: No.

M: What did she say when you stabbed her? Did she say anything?

A: I don't remember.

M: Did she put her hand up or anything?

A: She just grabbed me by the arm right there.

D: What did she say when you were trying to undo her pants?

A: That's when she started hollering and screaming.

M: What did she say?

A: She hollered rape, and just started screaming for help and all that stuff and tried to get to the window.

D: Do you think the window was opened or closed?

A: I don't know. Usually when I go to bed at night I open the window up.

M: What did you say to her when she started hollering?

A: I told her not to scream; not to holler like that.

M: Then what happened?

A: I was trying to keep her from hollering; then I grabbed hold of the knife.

- M: What kind of knife did you grab hold of?
- A: Hunting knife I had laying up there.
- D: Now where was the knife to start with?
- A: To start with it was up on top laying on the bed on the wood part where the clock was.
- D: Was it in the sheath? Was it in the case?
- A: Yes, it was in the case.
- D: How did you hold her before you got it out of the case. How did you go about getting it out of the case?
- A: She just had me by the arm.
- D: Did you grab her throat any or somewhere while you were trying to hold her mouth or did you just grab her mouth?
- A: Grabbed her mouth; I think. I don't know! I might have grabbed her mouth.
- D: You tried to keep her quiet, right?
- A: Yes, I tried to keep her from screaming.
- M: Were you undressed?
- A: No
- M: Did you have your fly open?
- A: Uh-Huh.
- D: What were you talking about when you went upstairs?
- A: Just talking about the house.
- D: You went up there voluntarily?
- A: Yes.
- D: Had you drank a drink downstairs? I saw some ice in a . . .
- A: I drank some ice water. I didn't have nothing to drink.
- D: Did anybody have a pepsi upstairs? I saw a pepsi up there.

A: That was mine. That's been in there . . .

D: A long time?

A: About three nights now.

D: So you and she didn't stay downstairs very long after . . .

A: Yes.

D: How long?

A: It was only a few minutes. We walked through and the radio was on.

D: Was there a light on when you went in the bedroom upstairs?

A: I don't know. There might have been. I might have left it on this morning.

D: Now, when was that knife first put in there on the bed?

A: I had it last night.

D: Why did you have it?

A: I don't know. I was sharpening it.

D: Is that your knife?

A: No. It's Eugene's knife.

D: Where did you get it?

A: He had it laying up there.

D: In your room?

A: No. Laying in the hallway in the closet. When I first seen the knife it was laying up on the T.V. a long time ago.

D: Did you get it from the T.V.?

A: Yes.

D: You took it from the T.V.?

A: I think. I don't know. It's been a long time since I been using a knife. I go hunting.

D: How about here recently?

A: Here recently?

D: How did the knife get to the . . .

A: I carried it.

D: Today?

A: Yes.

D: When you had her in there or before that?

A: Before that.

D: How long before?

A: I don't know. About 12.

D: Before you left to go to 7-11?

A: No. I left about 1:00 or 1:30 to go 7-11. . .

D: But I say, it was before you left to go to 7-11 that you put the knife upstairs?

A: Yes.

D: And you laid it on the bed.

A: Yes. I always carry it up there and lay it on the bed.

D: Why?

A: I don't know.

D: Okay, how about that other knife that was in the top of the closet. In between a couple of books. Where did that come from?

A: Well I had that. I had that two weeks ago.

D: What did you do with that?

A: I just had it in the sliding thing.

D: Why did you have that knife?

A: I don't know.

D: Where did you get that knife?

A: From the kitchen.

D: Did you use that knife at all today?

A: No.

D: Well, why didn't you grab that knife being as it was out of the sheath?

A: I don't know.

D: How did you get that knife out of the sheath that was on the bed holding her with one hand?

A: Just pulled it.

D: Was it already ?

A: Yes. Just slid it out.

D: Where was the sheath when it was over with?

A: The thing?

D: Yes. The holster.

A: Laying on the floor. I think I picked it up and put the knife back in the case and put it up there so I wouldn't . . .

D: You put it down in a box under some clothes?

A: I might have.

D: Tell me what was on the bed at the time. Was your sheet and pillow on the bed?

A: Yes.

D: What did you do with your sheet? Is that up there somewhere?

A: That's up there.

D: One the floor?

A: Yes.

D: How about the spread? Was that the top thing? The blue thing.

A: Blue spread?

D: What was on top of her? Did you get the stuff off the bed to put on her?

- A: No, it was in the closet. It was up on top and I just drug it down.
- D: What about the pictures that you had hanging.
- A: I had had them. I buy Playboy all the time.
- D: Now wait just a minute. When you put her in there, you took a blanket off of the top shelf. Is that right? The two blankets off the top shelf?
- A: There was one blue thing.
- D: You put that over her right?
- A: Yes.
- D: Why did you take the pictures off of the wall? Were you just trying to hide everything?
- A: Yes. I don't know what happened to me.
- D: Tell me this, when did you cut those pictures?
- A: When did I cut them?
- D: Right after that?
- A: No. It was last night.
- D: Why did you do that?
- A: Well I got mad. To tell the truth I was drunk. I had been drinking for a long time.
- D: Okay, tell us this. I noticed where you cut them. You know what I mean?
- A: Uh-Huh.
- D: And I know you must have been very angry when you did it because there were so many cuts in the . You did that last night? All of it?
- A: Yes.
- D: What knife did you do it with?
- A: Hunting knife.
- D: You did it with a hunting knife? Are you sure you didn't do it

today?

A: Yes, I know I done it last night because. . .I think.

D: Were you there by yourself last night?

A: No, Roger and them come in.

D: Did you do it while you were by yourself?

A: Yes.

D: Can you tell us why you did it?

A: Why I got mad? I couldn't marry the girl over at the trailer park.

D: What was that about?

A: Well, we had been seeing each other. I wanted to be a truck driver and she didn't like truck drivers. She didn't want me going on trips.

D: You all were going to break up. Is that it?

A: Yes. She said she didn't want me.

D: Did you ever have sex with her?

A: No.

D: You never have?

A: No.

D: Well, why did you cut the crotch on these pictures?

A: I don't know.

D: You know you did that for some reason. You had somethought in your mind. Right? I want to know what the problem is. What the situation was. What you were actually thinking? Because all of us kind of think different things at different times. What were you thinking about? Were you frustrated because you couldn't go to bed with her or have you gone to bed with her or what?

A: What with that girl I had?

D: Yes.

A: No it was . . . I don't know. In the past year I've gotten mad and got drunk.

- D: Have you ever hurt a girl like that?
- A: No. I ain't never hit a girl or bothered a girl.
- D: Did you have the knife with you when you went down to the 7-11 store?
- A: When I was down to the 7-11 real early this morning I had a knife.
- D: Was it your hunting knife?
- A: Yes.
- D: Did you carry it back the second time?
- A: No.
- D: Are you sure? We just want to get these things straight. Did you have that knife when you came back in the house?
- A: When I came back? No.
- M: How did you get her to your apartment? This girl just doesn't let any boys pick her up.
- A: She just walked over there.
- M: She just ain't that type of girl to let boys pick her up. How did you get her over to your place?
- A: She just started walking with me.
- M: Yeah, but what did you say to her to get her to walk with you?
- D: Now is the time to tell it all. Just tell it exactly the way it happened. You'll feel better about it.
- A: Do I have to talk about it now?
- D: Well we would just like to get it all straightened out now.
- M: Tell it all right now. It'll do you good to get it all out.
- D: We know you're upset.
- M: Don't you think you'd sleep better at night?
- A: No. I can sleep good anyhow.
- D: feel better to tell the truth about it, Charles.

M: Tell us exactly what happened up there at the 7-11.

D: Exactly as it happened.

A:

D:

A: No. Halfway between my house and home.

D: Your house and where?

A: And 7-11.

D: Okay.

M: What happened?

D: Let's get it straightened out now.

M: Tell us the truth about it now Charles. That girl just don't walk with guys.

D: Did you tell her she better come on with you?

A: Yes.

M: Tell us what happened Charles.

D: Just tell us how the conversation . . . just go ahead.

A: I told her . . .

M: What did you tell her?

A: I told her she had better come on with me.

M: What did you tell her?

A: What did I tell her after I said that?

M: That you had a knife?

A: Yes.

M: Did you show her the knife?

A: No. I didn't show her anything.

M: Where did you have it?

- A: Right down on the side there.
- M: What did she say?
- A: She said she wasn't scared of no knife. And that she would come on.
- M: Come on Charles, tell us what she said.
- A: That's what she said.
- D: Did she say that? That she wasn't scared of a knife.
- A: I told her I had a knife. She said she wasn't scared of it. And that she would come along.
- D: Did you show it to her?
- A: I didn't show it to her, I just went like that.
- M: Then what happened?
- D: Didn't you have her by the arm? Hand or anything?
- M: Didn't you grab her?
- A: I might have by the arm.
- D: Or the waist? Which one?
- A: Probably . . . yeah the waist.
- M: What happened then?
- D: What did you say and what did she say on the way to the apartment?
- M: Did you tell her you were going to kill her if she didn't come with you?
- A: I don't know.
- D: Tell us what happened Charles.
- A: I must have.
- M: You tell me what you did say. That's what we're interested in.
- D: We don't want to say anything for, we want you to tell us what happened.
- M: I don't think you want us to say anything for you, do you?

- D: Exactly how did it go. What was said on the way to the apartment?
- A: I said something. I told her I wouldn't hurt her if she come on and didn't call or nothing.
- D: Then she did that? What else ?
- A: I just don't remember. I started walking with her and I put my arm around her.
- D: You came in the back door?
- A: Came in the back gate.
- D: When did she start struggling? Upstairs or downstairs?
- A: Upstairs. She started screaming.
- D: What did she say when you were taking her up the steps?
- A: Up the steps? I don't know.
- D: What did she say after you got inside?
- A: She said what do you think I am? A whore or something?
- D: When did she say that?
- A: When we got upstairs and into the door.
- D: Did you show her the picture on the back of the door?
- A: No. I didn't show it to her. She probably seen it or something.
- D: Did you shut the door?
- A: I might have.
- D: Did you shut the door?
- A: Not all of the way.
- D: Just pushed it around?
- A: Uh--Huh.
- D: How about the knife. You had the knife on you right? When this thing started. That's how it was so easy to get out of the sheath right?

the floor, beside the bed or in the closet?

D: Tell me now. Did you put her back up on the bed?

A: No. I put her in the closet.

D: After she was in there, is that where you did that?

D: Have you ever had sex relations with a girl?

A: No.

D: Have you had some problems?

A: I've had a lot of problems.

D: What kind of problems have you had?

A: Girls.

D: Have you ever been out with a boy sexually?

A: Huh?

D: Have you ever been out with another boy?

A: No.

D: But you have never been to bed with a girl?

A: No. I've had them in a car.

D: Have you had sex relations with them?

A: No.

D: Have you had your finger in them before?

A: Yes.

D: How old were you when you started having problems do you think?

A: 19 or 18. When I was still in school.

M: How old are you now?

A: 21.

D: Where did you live at before you lived over at Irongate?

A: With my mom and dad.

M: Where is that at?

A: Davis Ford Road.

M: Where about on Davis Ford?

A: 6619 Davis Ford Road.

SECTION DELETED CONCERNING PATTY MOORE CASE.

M: Let me ask you something Charles, after you put the girl in the closet and everything, did you cut the pictures then?

A: I cut them last night.

M: Are you sure?

A: Yes.

D: Do you masturbate? You know what I mean?
thing was over with.

After this

A: No.

D: Did you think about it?

A: No. I just took my finger

D: Did you get a hard on when you had your finger in her?

A: No.

M: Did you put more than just a finger in her? Did you put your hand up in her?

A: Just my fingers.

M: How many fingers did you put up in her?

A: I don't know.

D: Did you consider cutting her? Cutting her vagina?

END OF TAPE #1

M: Do you do long distance Charles?

A: Yes.

M: Where do you usually drive to

A:

M: Is it local or long distance?

A: Long distance.

M: Long distance ?

A: Yes.

M: East coast?

A:

M: Where were you born at?

A: Arlington.

M: What is your favorite color?

A: Red, I guess.

M: What turns you on about a girl the most?

A: Legs, I guess.

D: Tell me this. What were you thinking about when you cut those pictures?

A: I don't know.

M: You must have been thinking about something to let this happen.

M: Did you think before you went out on the street . . . were you thinking about getting any girls?

A: No. I just started walking. As a matter of fact I have been walking around all day.

M: What were you thinking about when you were walking around?

A: things. Girls.

D: When did the idea come into your mind to bring this girl into your

apartment?

A: When I met her up at the 7-11.

M: Were you thinking about doing that before you left?

A: No. I just been walking around.

D: Something bothers me here. Did you really see her three days ago or not?

A: I seen her three days ago.

D: ?

A: At . Three days ago.

D: I understand that she just came up here today for a wedding. Now could that be true?

A: I don't know. I just thought I saw her.

D: You thought it was the same girl?

A: Yes.

D: But you didn't know her, right? Did she see the knife at all outside?

A: I don't .

D: At the time you contacted her, met her and told her you had a knife on you and to go with you, it was in your mind to have relations with her. Is that right?

A: Yes.

D: And the first resistance she gave you was actually when you got up in the bedroom and put your hand on her pants. Right?

A: Yes. Then she started screaming.

D: Did she try to get away from you at all

A: I don't know.

D: Don't you remember?

A: She might have tried to get away.

D: Did you ever pull a knife ?

A: . No.

D: When did she first see the knife?

A: When she started screaming. I pulled the knife.

D: And it was on your left side or your right side?

A: It was over here.

D: On your left?

A: Right.

D: Are you left handed or right handed?

A: Left handed.

D: Show me how you do it. Did you cut your hand at all?

A: No. It's stiff.

D: Holding the knife.

A: No . I don't know what happened.

D: Did that happen this evening?

A: Some time.

D: You think maybe it is broken?

A: No.

D: Is it real sore?

A: No. It's just stiff.

D: Where did she grab you?

A: She grabbed me right around in there.

D: Are these scratches here, are they the ones . . .

A: That's where she grabbed me.

D: Just above the wrist. That's where she grabbed you and tried to hold you off, right?

- A: Yes. She grabbed me like this.
- D: What was she saying in those last minutes?
- A: I don't remember what she said or what . . .
- M: When you stabbed her Charles and she fell down, didn't you put something over her head or anything?
- A: I was still holding . . .
- D: You were holding her mouth then right?
- A: Yes, I was still holding her mouth.
- D: That's in the corner of the right side of the room as you go in the door? According to this diagram this is the bed. This is the door you go into and this is the closet that she was in. Where you were standing when she was stabbed and when she fell was over in the corner of that room, right?
- A: Right.
- D: Where those clothes were that you piled upon the floor.
- A: Yes.
- D: Tell me this, did you wash her or you with a washrag that was in on the sink?
- A: I wiped the wall and I was going to run.
- D: Was there a lot of blood on the wall?
- A: Yes.
- D: What did you wipe the wall with?
- A: I washed it off with a towel.
- D: A white towel?
- A: Yes.
- D: And that was wet with water? What did you have on there?
- A: Water. It was hanging on a towel rack in the bathroom. I just grabbed it.
- D: And you got it wet in the bathroom?

A: Yes.

D: Did you take it back in and ring it out? After you wiped the wall off?

A: No.

D: You just wiped the wall off?

A: Uh-Huh. , ran down the steps and I changed clothes and I started leaving. Well . . .

D: Go ahead.

A: The knife I took up there with the case on it: I took that up there about a week ago. I was going to kill myself.

D: That's the kitchen knife? Right?

A: Yes.

D: Why were you upset then?

A: Same reason. That girl.

D: Your girlfriend?

A: Uh-Huh.

D: What is her name?

A: Teresa.

D: Teresa what?

A: McDonald.

D: Where does she live?

A: Traylor Park in Manassas.

D: Which one?

A: The one right behind the dry cleaners.

M: Right behind McDonald's. Up there.

D: Right next to McDonald's?

A: Yes.

D: And her name is McDonald? What is her age?

A: 16.

D: Have you ever tried to have relations with her?

A: Yes, we talked about it.

D: What did she say?

A: She says that every time I go on a trip, when I come back, she'd give me some.

D: Then she doesn't?

A: Then she doesn't.

D: Do you think she is just using you?

A: Yes.

D: Have you ever had your hand on it?

A: Huh?

D: Have you ever had your fingers in her?

A: No.

D: You never bothered her at all? Have you felt her breasts?

A: Yes.

D: But she won't let you do anything else?

A: No.

D: Why does she do that?

A: I don't know. I guess she is just like a bunch of other girls.

D: Have you had problems with girls doing you that way?

A: Yes. Going out and . . .

D: Then not getting any?

A: No, it's not that. It's just they don't want to see me any more.

D: You mean they don't like you?

A: Yes. That's what they say.

M: Did you take any part of those pictures and throw them in the closet? What did you do?

A: Like the pictures I had on the wall? I put them in the closet.

M: What do you mean you threw them in the closet?

A: I just . . .

D: Put them on the shelf?

A: Up on the shelf.

D: Why did you do that?

A: I don't know.

D: Had you had anything to drink today?

A: No.

D: Besides the water today?

A: Water and a Pepsi.

D: Have you taken any pills?

A: No.

D: Any drugs or anything?

A: No.

D: Taken LSD or anything like that?

A: No.

D: Would it be true to say that you were upset about your girlfriend leaving you? Do you think that would have something to do with this stuff?

A: I ain't forced them. I've asked them and they have turned me down and I'd go ahead and .

D: Have you ever exposed yourself to this girl?

A: No.

D: Was she conscious when you ran your finger in her?

A: Yes(?)

D: How many fingers did you put in her do you think? Four of them?

A: I might have.

D: Did you run them in this way?

A: No.

D: Like this?

A: Uh-Huh.

D: Did you try to hurt her?

A: No. I just stuck it in there and and left. I was going to leave.

D: How much blood was on the wall?

A: Not too much. Just a couple of places.

D: What did you consider doing with the body? Did you consider waiting until dark or anything like that?

A:

D: What did you think about?

A: I thought about leaving.

D: You were going to leave the body in the closet?

A: . I went and got the ice water and sat there.

D: You drank the ice water after you stabbed her? Right?

A: About ten minutes after.

D: How long do you think it was after that you called the Police?

A: Maybe 40 minutes. Something like that.

D: Did she ever say anything about her mother or father or anything like that?

A: No.

D: Did she say anything about her boyfriend?

A: No. Not as I remember.

D: What did she say walking over there other than "I'm not afraid of your knife."?

A: She didn't say much.

D: Did she cry?

A: No.

D: Did she cry after you got up in the bedroom?

A: No. She just said I ain't scared of your knife or something like that. Then she started screaming and screaming.

D: The reason you stabbed her is because she kept on screaming?

A: I wasn't going to hurt her none.

D: You were just going to have relations with her and just let her go.

A: Yes.

M: Did you ever see this girl Charles?

A: I might have met her at the store or school or somewhere. I don't know her.

M: How long have you been working for ?

A: Off and on a year and half.

M: What did you do before that?

A: Pr. Wm. County School Board. County Garage.

M: You worked down at the county garage?

A: Yes.

M: About a year and a half ago or more?

A: Yes.

M: What did you do before that?

A: Drove a school bus.

M: For Pr. Wm. County?

A: Yes.

M: What did you do before that?

A: I was going to school and my daddy helped me get a truck and I cut fireplace wood on Saturday and sold it to everybody. Then I started driving a bus.

D: Did you graduate from High School?

A: No.

D: But you went to the 12th grade?

A: Yes. I went to the 12th grade and failed government and English. They wanted me to come back and I went to work for the Co. School Board.

M: This isn't the first time this has happened is it Charles?

A: What do you mean?

M: Getting upset.

A: No. I've been upset . . .

D: When did you say was the last time you got upset like this?

A: I've been getting upset like this for about a year and a half now. I've been feeling like killing myself for a year and a half and never did. I couldn't.

D: Was it centered around this sex business? Being frustrated about that or what?

A: Yes. Around girls and stuff.

M: Wasn't there one other girl, Charles that you took to a place?

A: Recently?

M: Well, not recently. But wasn't there one other girl that you made go with you?

A: Forced her to go with me?

M: Yes. Made her go with you? Don't you remember one other one? Think about it. Maybe it was when you were living over on Davis Ford Road.

A: I've never forced a girl to go anywhere. I just asked them.

M: Didn't you tell a girl that you had a knife or something?

A: No. I never carried a knife when I lived over there.

M: You ever killed another girl?

A: Never touched a girl or even hit her.

M: Why do you think you did this to this girl?

A: I don't know.

M: What were you going to do with the body Charles if you ran?

A: I was just going to leave it and run. To Tennessee. For a while and then come back. or something like that.

M: You're a nice looking guy. Don't girls find you attractive?

A: I don't know.

D: What do you think the problem is. You think of any reasons?

A: Me.

D: What about you? Do you have problems communicating with girls? Is that it?

A: I guess. I don't know.

D: Do you treat them nice to start with?

A: I try to.

D: This 16 year old girl. She had you out and you taking her out to meals and stuff like that probably. Right? Movies and all that.

A: We would go out riding around and went out and ate.

D: Do you think she was just using you? Is that about the idea when she broke off with you?

- A: Yes. I kept saying there was another guy. I had seen her with another guy all the time. I thought so. But she lied . . . she said it wasn't her. I could have sworn it was her when we drove right by and looked at her.
- M: What kind of car do you have?
- A: I don't have a car now.
- M: What kind did you have?
- A: A .
- M: Where is it?
- A: Over at the junk yard. I wrecked that a year and a half ago.
- D: You haven't had one since then?
- A: I've had a truck my daddy signed for. A Ford Pick-up.
- M: You have that now?
- A: No. I sold it. I lost my driver's license and Daddy told me to sell it.
- M: What is your dad's name?
- A: Charles W. Akers.
- M: Where does he work at?
- A: He retired from Lorton. Now he works as a security guard at the Mall.
- D: Have you ever exposed yourself? Pulled your pants and let somebody see you?
- A: No.
- D: How about on Irongate Way there?
- A: No.
- D: Did you ever follow the girl home that works over there, real nice looking girl, in the Health Spa?
- A: If I followed her, I didn't know I was following her. There's a lot of girls walking down the street.

D: You never been in a and exposed yourself over there?

A: No.

M: Have you ever molested a girl before?

A: What is that?

M: Touching a girl some place and then run.

A: Yes.

M: When did you do that?

A: Just touched her?

M: Yes.

D: We mean with somebody that didn't want you to touch her.

A: Oh. I ain't never touched nobody that didn't want me to. I wouldn't if they would have said something, I just would have got up and probably left.

D: What would you have done if this girl had not have screamed after you had relations with her? Would you have killed her then?

A: No. I would have let her go. I've been thinking about going to Tennessee. Just running away.

D: You think you would have let her go and then taken off?

A: Yes.

D: You would have just screwed her and then gone?

A: Yes. I had been planning to go to Tennessee, I had a map and I had it all planned.

D: We saw the map there. Did you have it all plotted out?

A: Most of the way.(?) I didn't have a Tennessee map.

D: Were you going to hitch hike?

A: No.

D: How were you going?

A: I hadn't figured that out.

D: Were you thinking about stealing a car?

A: Yes. Any way I could get out and go.

M: Then you were planning to do something like this. Right?

A: Yes, I was planning it. I wasn't planning to kill nobody.

D: You was just planning to get some?

A: Yes, then go to Tennessee and mess around.

M: You was thinking about raping a girl?

D: And then taking off right?

A: I guess.

D: You told me that you figured this thing out on a map and how to go to Tennessee and you figured that way you wasn't going to have to kill that girl right? You were going to let her go? And that was after you had relations with her? You were just going to take off right?

A: Yes.

D: So you had this on your mind when you went out there on the street right?

A: I had it in my mind about three weeks ago. I've been walking around in circles out there. That's where everybody leaves(?) their townhouse or apartment or whatever. I'd go out there and walk around.

D: Were you thinking about this thing all along?

A: I was thinking about leaving or going somewhere. Just getting out.

M: Were you thinking about trying to take one of them up to your place? The girls?

A: I might have thought about it a couple of times. I don't believe I done it. It's just like a or something.

M: Have you ever done this before? Have you ever raped a girl before?

A: No. I've never done nothing to them. I talked to them.

D: You said you had been planning on this thing for a while. You

know, like you had your way you were going to do and all that planned. About how long ago do you think you got the whole idea together? You were planning to leave after it was over with. You were just planning on screwing her. You weren't planning on hurting her right?

A: Yes.

D: Okay, about how long you been planning on that?

A: I've been planning it about three weeks.

D: But the thing you didn't have settled was when or who you were going to do it to right?

A: Yes.

D: You had the actual thing planned but you didn't know who it was going to be right? It just hit you when you saw the girl.

A: Yes.

D: But you had this planned in the back of your mind as to what you were going to do right? Now when was it again that you cut the crotch out of those pictures?

A: Last night. I done that last night.

D: Were you in a fit of anger?

A: I just got drunk.

D: Well when you finished cutting them, what did you do?

A: I think I must have

D: Did you masturbate last night?

A:

D: When was the last time you did?

A:

D: Before or after you cut those pictures?

A:

D: Was it after you cut your pictures?

- A: . I cut the pictures about Ten o'clock.
- D: You were drunk when you cut the pictues?
- A: Yes.
- D: Had you had anything to drink at all today?
- A: No.
- D: That pint bottle that was in the trash can downstairs, that was what you drank last night?
- A: No. I drank Jack Daniels last night. . And I had some beer.
- D: You know this is being recorded, right? And you are trying to tell us the truth about what happened right? We haven't threatened you in any way have we?
- A: No.
- D: We haven't promised you anything?
- A: No.
- D: You know this can be used against you right?
- A: Yes.
- D: But you are here just to tell us the truth, right? Now you didn't want a lawyer present at this time did you?
- A: No.
- D: We appreciate you telling us how this thing happened.
- A: Now what happens?
- D: I don't know. It's mostly up to you. (Cont. on next tape)

END OF TAPE #2

D: You are going to be charged. We don't have anything to do with that. You need to get to . . . think this thing over and get yourself back together. Make sure this doesn't happen anymore. The time now is 9:10 P.M.

D: Do you have anything else you want to tell us about this? Anything you are holding back at all?

A: I don't think I'm holding anything back at all.

D: What did you tell the police officer when you called?

A: When I called? I told him that I killed a girl and my address.

D: What did you tell the officer when he arrived out there? The same thing?

A: Yes. I walked out . . . well he pulled in and was looking around the place. I was sitting at the table . . . The paddy wagon pulled in. I walked out and he come down and met me before I walked out. I walked up to his . . . where he was sitting and I told him what I had done.

D: He advised you of your rights then right?

A: Not right then.(?) . . . We walked over to the door and another officer came in behind him . . . He went on upstairs.

D: The second officer advised you of your rights right?

A: Yes.

D: And you told him that right? What had just happened.

A: Well I started telling him what happened and he got out that thing and started reading my rights. I started telling him and he stopped me, you know.

D: And then when I got there I did the same thing again right? And you told me all about it. You didn't tell me the complete truth about the first did you?

A: I didn't tell you the truth at all.

D: You have done what I think is best. You told us the truth now right?

A: Yes. That's the truth.

- D: I think it is the best thing you could have done. Now it is one thing to make a big mistake, but you tried to make the thing right. That is the best thing you could do. Just tell the truth about it.
- A: Do they have any ?
- D: I don't know. It is possible we will check with the jail.
- D: I believe this is the end of this recording? Don't you?
- M: The only thing I can think about is that kitchen knife up there. I would like to get that straight.
- A: I took that up there about two weeks ago. I was planning to kill myself. I was drunk.
- M: Why do you like knives?
- A: I don't know. I never did like a knife until just about a year ago. I started carrying a knife.
- D: That knife that you stabbed her with wasn't your knife was it?
- A: No.
- D: Who's knife was it?
- A: Eugene's.
- D: Did you get it off the television this morning?
- A: Yes.
- ?: Did you put it on your belt?
- A: Yes.
- ?: Did you strap it on?
- A: I just slid it on the belt and put it in my back pocket. I used to not even carry a knife with me.
- D: Can you think of anything else that you haven't told us?
- M: Think about the initial contact with the girl. When you first seen the girl, first approached the girl, what did you say to her?
- A: I walked up to her and I think I said "Why don't you come on with me?" Then something like "You won't get hurt or nothing." I was

planning on leaving. I wasn't going to hurt her. I was just going to let her go on and I was going to run.

M: What did you say to her to get her to go with you? What did she say to you?

A: I told her I had a knife. I didn't show it to her. I just told her I had one.

M: What did you tell her to make her go?

A: She come on. I put my arm around her and she come on. She walked along.

M: Did she say anything to you? She just walked along?

A: Just until we got to the gate. She said I must be crazy or something.

M: And what did you tell her while you were walking along? Weren't you afraid she might run or something?

A: Yes. I was afraid she would run.

M: Well, what was you telling her?

A: I was telling her not to be scared. I wasn't going to hurt her.

M: Did you tell her what was going to happen to her if she did run?

A: I might have. I don't know.

M: Think about it?

A: I don't think I said anything about killing her whenever I was walking around with her.

D: When did you start telling her you was going to kill her?

A: The first time?

D: After you got in the house?

A: I might have said something like that at the house. When she started screaming . . .

M: What was she doing when you first approached her?

A: Walking.

- M: Walking? Was there anyone else around?
- A: There might have been. There are some townhouses across the street. Across from where I
- M: Was there anybody on Irongate Way?
- A:
- D: Did she look like she was going anywhere? Or did she say she was going anywhere?
- A: She didn't say where she was going. She wouldn't say anything.
- D: Did it look like she was walking like . . . you know, like we say a man has got to pull himself(?). Like she was walking somewhere to go somewhere or was she wandering along.
- A: Just wandering along.
- M: Did you see anybody when you was walking with her?
- A: No. I wasn't looking.
- D: Did you notice anybody see you all?
- A:
- D: Did you ever talk to any body about what you were planning to do?
- A: No. I ain't talked to nobody about nothing. I talk to myself.
- D: This is the end of the statement at 9:17 P.M., October 20th. Inv. Morgan and Deane interview with Charles Akers. Thank you Charles.

END OF TAPE #3

CERTIFICATE

In accordance with Rule 5:49 of the Rules of the Supreme Court of Virginia, I hereby certify that I have this 28th day of February, 1975 filed 25 copies of the Appellant's Appendix in the Office of the Supreme Court of Virginia, and have mailed three (3) copies of the Appellant's Appendix to James E. Kulp, Esquire, Assistant Attorney General, Richmond, Virginia.


R. O. Kellam