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1 (THE FOLLOWING PROCEEDINGS HAD IN OPEN COURT
2 IN THE PRESENCE OF THE JURY:)

3 THE COURT: GOOD MORNING, LADIES AND GENTLEMEN.
4 APOLOGIZE AGAIN FOR THE LATE START, BUT THE COURT WAS
5 GETTING SOME INFORMATION ON MRS. DYER. SHE HAS BEEN
6 HOSPITALIZED. HER OUTLOOK TO RETURN IS -- FOR THE
7 IMMEDIATE FUTURE IS NOT GOOD, SO AGAIN, SHE HAS BEEN
8 HOSPITALIZED AT UCI FOR A BOWEL PROBLEM. WILL BE UNABLE
9 TO CONTINUE FOR SOME PERIOD OF TIME.

10 IN VIEW OF THAT, THE COURT FELT WE WOULD
11 PROCEED AND SELECT AN ALTERNATE, SO WE SELECTED AN
12 ALTERNATE TO REPLACE JUROR NUMBER THREE, MRS. DYER. THAT
13 WAS DONE BY ROPE BY THE CLERK, AND MRS. MARCATEL, YOU
14 WERE THE ONE THAT WAS SELECTED TO REPLACE MRS. DYER IN THE
15 JURY SELECTION. SO IF YOU'D TAKE SEAT NUMBER THREE, IF
16 YOU WOULD, PLEASE.

17 SO MR. DAILIFF, WE CAN REMOVE ONE CHAIR
18 SOMETIME TODAY, GET THAT OUT OF THE WAY.

19 GENTLEMEN, IF NOTHING FURTHER, WE WILL PUT
20 THE DOCTOR BACK ON THE STAND, AND I BELIEVE MR. MC DONALD,
21 YOU WERE IN THE MIDST OF YOUR CROSS EXAMINATION, SIR, AND
22 IF YOU WOULD PLEASE, YOU MAY CONTINUE.

23 JUDY MYERS SUCHY, *

24 CALLED AS A WITNESS BY THE PEOPLE, HAVING
25 BEEN PREVIOUSLY DULY SWORN, WAS EXAMINED AND TESTIFIED AS
26 FOLLOWS:

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CROSS EXAMINATION(CONTINUED)

*

1 BY MR. MC DONALD: Q. YOU INDICATED TO US
2 YESTERDAY THAT -- STRIKE THAT.

3 WHAT INFORMATION DID YOU HAVE WITH REGARD TO
4 THE BUILD OF MR. CROTWELL?

5 A. AT THE TIME OF MY EXAMINATION?

6 Q. YES.

7 A. AT THE TIME OF MY INITIAL EXAMINATION, I HAD
8 NO INFORMATION AS TO ANY POSSIBLE DECEDENT. I DID THE
9 FIRST ANALYSIS TOTALLY BLIND TO ANY PARTICULAR
10 INFORMATION. THAT WOULD BE THE 1975 REPORT.

11 Q. OKAY. ALL RIGHT. AND THE NEXT -- YOU
12 RECEIVED INFORMATION WITH -- OR DID YOU RECEIVE ULTIMATELY
13 INFORMATION WITH REGARD TO MR. CROTWELL'S BUILD?

14 A. YES, I DID.

15 Q. WHAT DATE WAS THAT?

16 A. PROBABLY I RECEIVED THIS INFORMATION IN
17 1983, AND I ASKED AGAIN IN THE PAST WEEK.

18 Q. OKAY. LIKE TO SHOW YOU A PICTURE OF THE
19 SKELETON'S HANDS THAT HAVE BEEN PHOTOCOPIED FROM A BOOK BY
20 MR. KROGHAN, K-R-O-G-H-A-N; YOU FAMILIAR WITH THAT NAME?

21 A. YES, I AM. UH-HUH.

22 Q. NOW, ON THAT PARTICULAR XEROX COPY, DOES
23 THAT INDICATE THE STYLOID PROCESS ON THE WRIST OF THAT
24 DEPICTED --

25 A. YES, IT DOES.

1 Q. -- DIAGRAM?

2 AND IN FACT IT'S IDENTIFIED ON THERE?

3 A. YES. THE TERM IS, HOWEVER, IT DOES NOT
4 POINT TO THE EXACT STYLOID PROCESS.

5 Q. OKAY.

6 A. BUT THE TERM IS THERE IN THE GENERAL REGION.

7 Q. ALL RIGHT. NOW, YOU INDICATED THAT ONE OF
8 THE STYLOID PROCESSES, I THINK YOU SAID ON THE LEFT WRIST,
9 HAD BEEN REMOVED BY CUTTING.

10 A. YES.

11 Q. OKAY. DO WE HAVE A RULER?

12 THE COURT: HOW BIG OR HOW SMALL?

13 MR. MC DONALD: JUST A SMALL ONE IS FINE.

14 BY MR. MC DONALD: Q. USING A RULER AND THAT PEN,
15 CAN YOU DRAW THE PLANE WITH WHICH THAT STYLOID PROCESS WAS
16 REMOVED, PLEASE?

17 THE COURT: THE WHAT, MR. MC DONALD?

18 BY MR. MC DONALD: Q. PLANE. DO YOU UNDERSTAND
19 WHAT I AM SAYING?

20 A. NO, I DO NOT.

21 Q. IT WAS REMOVED BY A SHARP INSTRUMENT
22 APPARENTLY, YOU SAID ON DIRECT EXAMINATION, AND I AM
23 TRYING TO UNDERSTAND THE ANGLE WITH WHICH IT WAS REMOVED.

24 A. OKAY. THIS PARTICULAR DIAGRAM SHOWS THE
25 BONE IN SUCH AN ORIENTATION THAT I REALLY CANNOT
26 ACCURATELY DRAW THE AREA WHICH WAS CRUCIAL TO MY

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1 PARTICULAR DIAGNOSIS. I LOOKED AT THE BONE STRAIGHT ON.

2 Q. OKAY.

3 A. I DO HAVE A SKETCH OR DIAGRAM IN MY REPORT
4 OF AUGUST 30TH, 1983, A SKETCH, SHOWING WHAT I WAS TALKING
5 ABOUT.

6 Q. WE ARE NOT LOOKING FOR -- IN MY QUESTION I
7 AM NOT LOOKING FOR PRECISION RIGHT NOW. WHAT I AM LOOKING
8 FOR IS TO UNDERSTAND WHAT ANGLE THE STYLOID PROCESS WAS
9 CUT.

10 A. OKAY. WELL, I WOULD NOT BE ABLE TO DRAW IN
11 SUCH A WAY TO ACCURATELY DEPICT AN ANGLE. IN FACT, IF WE
12 WERE INTERESTED IN THE ANGLE, WE WOULD HAVE TO GO BACK TO
13 THE ORIGINAL SPECIMEN, AND I WOULD HAVE TO TAKE ADDITIONAL
14 OBSERVATIONS.

15 WHAT I MERELY OBSERVED THAT THE STYLOID
16 PROCESS WAS GONE, AND AT THAT PLACE YOU COULD SEE THIS
17 SHARP, INCISIVE LINE, AND A TEXTURE WHICH WAS PITTED AND
18 ROUGH WHICH WAS QUITE DISTINCT FROM THE OPPOSITE SIDE.

19 SO I CERTAINLY WOULD BE HAPPY IF I COULD
20 FOLLOW YOUR REQUEST AT THIS PARTICULAR TIME, BUT I WOULD
21 NOT BE WILLING TO DO IT, BECAUSE I DID NOT EVER STUDY THE
22 ANGLE OF THE STYLOID PROCESS.

23 Q. YOU DIDN'T?

24 A. NO, I DID NOT. I DID NOT INCLUDE THAT IN MY
25 REPORT.

26 Q. OKAY.

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1 A. I THINK IT COULD BE DONE; AND IF I WAS
2 INSTRUCTED TO DO SO, I WOULD GO BACK TO THE ORIGINAL
3 SPECIMEN AND PUT IT IN SUCH AN ORIENTATION THAT I COULD
4 MAKE THAT PARTICULAR STUDY.

5 Q. WELL, WHAT ARE THE VARIOUS OPTIONS IN WHICH
6 IT COULD HAVE BEEN ANGLED USING THIS DIAGRAM? COULD IT BE
7 STRAIGHT CROSS, FOR INSTANCE?

8 A. YES, IT WAS STRAIGHT ACROSS.

9 Q. OKAY. MAYBE I AM USING INCORRECT TERMS. IT
10 WAS STRAIGHT ACROSS. IT WASN'T HIGHER ON ONE END OF THE
11 BONE THAN THE OTHER?

12 A. NO, I COULD NOT BE PRECISE ABOUT IF IT WAS
13 OR NOT.

14 Q. BUT THE BEST RECOLLECTION IT WAS STRAIGHT
15 ACROSS?

16 A. I WAS INTERESTED NOT AT THE ANGLE, BUT
17 SIMPLY AT THE NATURE OF THAT LINE, SO I -- UNTIL THIS
18 POINT IN TIME WHEN YOU HAVE ASKED ME THAT QUESTION, I DID
19 NOT CONSIDER THIS PARTICULAR FEATURE IN THAT WAY.

20 Q. OKAY. ON THIS DIAGRAM, WOULD YOU DRAW ON IT
21 AND INDICATE BY ARROW WHERE THE STYLOID PROCESS ACTUALLY
22 IS?

23 (WITNESS COMPLIES.)

24 BY MR. MC DONALD: Q. OKAY. YOU HAVE PUT AN ARROW
25 ON THIS DIAGRAM, AND RIGHT ABOVE THE ARROW IS THE TERM
26 "STYLOID PROCESS OF ULNA"?

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1 A. CORRECT.

2 Q. CORRECT?

3 A. UM-HUM.

4 Q. BUT AT THIS TIME YOU DON'T REMEMBER WHAT
5 ANGLE IT WAS CUT AT?

6 A. NO. COULD I COMMENT ON MY MARKING ON THAT
7 PARTICULAR DIAGRAM?

8 I THINK WHAT WE ARE LOOKING AT HERE IS THE
9 RIGHT HAND, SO I DO NOT WANT TO MISLEAD THE COURT INTO
10 THINKING THAT I AM IN FACT INDICATING A FEATURE FROM THE
11 LEFT SIDE ON THE RIGHT SIDE.

12 Q. THAT'S FINE.

13 A. IF YOU FOLLOW ME.

14 Q. YES, I UNDERSTAND. BUT WE ARE TALKING ABOUT
15 THE STYLOID PROCESS. BOTH ARMS HAVE IT?

16 A. RIGHT. BUT ON THE RIGHT SIDE, I MADE THE
17 POINT IN MY FORMER TESTIMONY THAT WE HAD THE GLOSSING
18 OVER. SO IN TERMS OF TRYING TO DEPICT SOMETHING FROM THE
19 LEFT SIDE ON A FEATURE OF THE RIGHT HAND, I WOULD NOT WANT
20 THE COURT TO MISINTERPRET THIS PROBLEM.

21 Q. OKAY. THANK YOU.

22 NOW, MY QUESTION WAS AT THIS TIME, YOU DON'T
23 REMEMBER WHAT ANGLE IT WAS CUT?

24 A. CORRECT.

25 MR. MC DONALD: OKAY. I'D LIKE THIS MARKED AS AN
26 EXHIBIT, PLEASE.

1 THE CLERK: D-44.

2 THE COURT: D-44, PLEASE, MR. MC DONALD.

3 (DEFENDANT'S D-44 = MARKED FOR I.D.)

4 BY MR. MC DONALD: Q. WAS THE ENTIRE STYLOID
5 PROCESS REMOVED, OR WAS THERE A PORTION OF IT STILL ON THE
6 ULNA?

7 A. NO, IT HAD BEEN ENTIRELY REMOVED.

8 Q. SO LOOKING AT THIS DIAGRAM -- AND I
9 RECOGNIZE WHAT WE ARE DEALING WITH HERE IS THE RIGHT HAND
10 AS OPPOSED TO THE LEFT HAND. IF YOU SAY THE ENTIRE AMOUNT
11 OF THE STYLOID PROCESS HAD BEEN REMOVED, DOES THAT MEAN
12 THAT THE REMOVAL WOULD MAKE IT LEVEL WITH THE ULNA ITSELF?

13 A. I COULD SAY APPROXIMATELY. AND ALTHOUGH I
14 DID NOT PUT THIS DETAIL IN MY REPORT, IN MY PHOTOGRAPHY
15 WITH MY SLIDES, I HAVE REPRESENTED THIS PARTICULAR AREA,
16 AND I HAVE BLOWN IT UP TO SUCH AN EXTENT AND WITH AN
17 ENLARGEMENT LENS THAT IF SOMEONE WERE INTERESTED IN THIS
18 FEATURE, WHAT THEY SHOULD DO IS GO BACK TO THAT PARTICULAR
19 SLIDE.

20 Q. THANK YOU. BUT RIGHT NOW WE ARE TALKING
21 ABOUT YOU. WE DON'T HAVE THE SLIDES RIGHT NOW.

22 MY QUESTION WAS IS THE STYLOID PROCESS
23 APPROXIMATELY EVEN WITH THE BASE OF THE ULNA?

24 A. IN ORDER TO ANSWER THAT QUESTION, I WOULD
25 HAVE TO REFER TO MY PHOTOGRAPHIC RECORD.

26 Q. OKAY. SO REFER.

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1 A. CAN I ASK A QUESTION?

2 THE COURT: NO, WAIT.

3 BY MR. MC DONALD: Q. MY QUESTION -- IF YOU DIDN'T
4 UNDERSTAND, I WILL REPEAT IT. WAS THE STYLOID PROCESS
5 THAT WAS REMOVED, WAS IT REMOVED SO THAT IT WAS LEVEL WITH
6 THE BASE OF THE ULNA?

7 A. LIKE I SAID, I WOULD HAVE TO REFER TO MY
8 PHOTOGRAPHIC RECORD. AM I GOING TO BE ALLOWED TO PUT THE
9 SLIDES IN A SLIDE VIEWER?

10 Q. YOU CAN'T TELL FROM HOLDING UP TO THE LIGHT
11 OR --

12 A. OH, NO.

13 Q. OKAY. WHAT ABOUT YOUR NOTES? WOULD THAT
14 REFLECT IT?

15 A. NO.

16 Q. WHAT ABOUT THAT REPORT OF AUGUST '83 THAT
17 YOU -- WOULD THAT --

18 A. IN NO WAY DID I DEAL WITH THIS QUESTION
19 PRIOR TO THIS POINT IN TIME. IT IS A PROPER QUESTION AND
20 IS SOMETHING THAT COULD BE PURSUED --

21 Q. THANK YOU. I AM GLAD --

22 A. -- BUT I HAVE NOT DONE IT.

23 Q. LET'S GO TO SOMETHING ELSE.

24 NOW, ONE OF YOUR CRITERIA THAT YOU SAID
25 ALLOWED YOU TO MAKE A CERTAIN OPINION WITH REGARD TO THE
26 IDENTITY OF AN INDIVIDUAL WAS THE COLOR OF THE HAIR; IS

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1 THAT CORRECT?

2 A. THIS WAS ONE OF MY FEATURES, YES.

3 Q. DID YOU EXAMINE THE HEAD? DID YOU EXAMINE
4 THE HAIR YOURSELF?

5 A. I -- THE HAIR ON THE HEAD?

6 Q. LET'S TALK ABOUT THAT. DID YOU EXAMINE ANY
7 HEAD HAIR?

8 A. NO, NOT TO MY KNOWLEDGE.

9 Q. IN FACT, WHEN YOU ARE TALKING ABOUT HAIR
10 THAT WAS EXAMINED, IT WAS BODY HAIR, WASN'T IT?

11 A. CORRECT.

12 Q. SO HOW VALUABLE IS THAT, THE COLOR OF THE
13 HAIR, AS FAR AS A CRITERIA THAT ALLOWS YOU TO ARRIVE AT
14 THIS OPINION?

15 A. WELL, I SENT IN HAIR TO WALTER BERGDY
16 (PHONETIC) FOR ANALYSIS.

17 Q. EXCUSE ME, MA'AM. HOW VALUABLE IS THE COLOR
18 OF THE HAIR AS A CRITERIA, GIVEN THE FACT THAT THESE WERE
19 BODY HAIRS AS OPPOSED TO HEAD HAIRS?

20 A. IT IS OF SUFFICIENT VALUE TO INCLUDE IN THE
21 REPORT AND IN THE ANALYSIS.

22 Q. DID YOU KNOW WHETHER OR NOT MR. CROYNELL HAD
23 BROWN BODY HAIR?

24 A. NO, I DON'T.

25 Q. NOW, APPARENTLY THE SIZE OF THE BONES
26 ALLOWED YOU TO IN YOUR MIND MAKE A SEX DETERMINATION OF

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1 THE REMAINS?

2 A. CORRECT.

3 Q. THEY WERE BIG BONES, SO IN YOUR OPINION
4 THEY -- WAS MALE BONES, CORRECT?

5 A. THAT WAS NOT THE CRITERIA THAT I UTILIZED.
6 I SPECIFICALLY UTILIZED THE MAXIMUM DIAMETER OF THE HEAD
7 OF THE FEMUR BEING 51 MILLIMETERS.

8 Q. ARE THERE ANY STUDIES THAT SAY A LARGE
9 FEMALE COULDN'T HAVE A FEMUR THE SIZE OF 51 MILLIMETERS?

10 A. IN MY STUDIES OF SEXUAL DIMORPHISM OF LONG
11 BONES, I HAVE YET TO SEE A FEMALE THAT APPROACHES THAT.

12 Q. OKAY. HOW ABOUT ANYBODY ELSE? ARE THERE
13 ANY OTHER PEOPLE THAT LOOK AT BONES AND MEASURE BONES AND
14 LOOK AT THE MEASUREMENTS OF FEMURS?

15 A. YES.

16 Q. ARE THERE ANY STUDIES SPECIFICALLY THAT
17 EXCLUDES A 51 MILLIMETER FEMUR FROM THE FEMALE POPULATION?

18 A. I HAVE REVIEWED THE LITERATURE ON THIS FOR A
19 PERIOD OF 10 YEARS, BECAUSE IT IS INCLUDED IN ONE OF MY
20 RESEARCH AREAS AND THEREFORE BEEN MANY PEOPLE WHO HAVE
21 STUDIED THIS PARTICULAR CRITERIA. IN FACT, IT IS MOST
22 RELIABLE SECOND ONLY TO THE PUBIC SYMPHYSIS FOR THE
23 DETERMINATION OF AGE.

24 Q. OF WHAT? OF AGE?

25 A. PARDON ME, FOR SEX. AND THIS IS WHY I
26 SELECTED IT. AND YES, I DO HAVE A REVIEW OF THE

1 LITERATURE WHICH I COULD DISCUSS.

2 IN MY OWN PRACTICE, I HAVE ANALYZED CASES
3 FOR 20 YEARS WHICH CONSIST OF SOME 900 INDIVIDUALS, AND I
4 CAN SAY THAT FEMALES DO NOT APPROACH 51 MILLIMETERS. IT
5 IS VERY LARGE EVEN FOR A MALE.

6 Q. OKAY. SURE IT'S LARGE.

7 SO YOU HAVE EXAMINED 51 -- 90 -- 9-- 900
8 FEMUR BONES, AND NONE OF THOSE FEMUR BONES COME WITHIN THE
9 POSSIBILITY OF BEING FEMALES; IS THAT WHAT YOU ARE SAYING?

10 A. I HAVE HAD APPROXIMATELY THAT MANY FORENSIC
11 CASES. BUT I WOULD SAY I HAVE ONLY PROBABLY ANALYZED
12 MAYBE 300 FEMUR HEADS IN MODERN DAY SAMPLES, AND PROBABLY
13 ABOUT 600 IN PREHISTORIC SAMPLES WITH A SEX DETERMINATION
14 BASED ON THE OS PUBIS. SO --

15 Q. THE OS PUBIS BEING WHAT?

16 A. THE PUBIC BONE.

17 Q. YOU DIDN'T HAVE THAT, DID YOU? IN THIS
18 GIVEN CASE DID YOU HAVE THAT?

19 A. NO, THE REASON I BROUGHT THE PUBIC BONE INTO
20 THIS DISCUSSION WAS WITH REFERENCE TO THE PREHISTORIC
21 SAMPLE OF FEMUR THAT I HAD ANALYZED, NOTING THAT IF YOU
22 LOOK AT PREHISTORIC INDIVIDUALS, YOU DO NOT HAVE THE KNOWN
23 SEX, YOU ARE GOING TO HAVE TO DO IT BY THE PELVIS. I
24 WOULD SAY I HAVE PROBABLY LOOKED AT SAY 300, 400, MODERN
25 FEMURA. THIS IS A MEASUREMENT THAT I INCLUDE IN ALL MY
26 FORENSIC CASES.

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1 Q. OKAY. SEX GENERALLY IS DETERMINED BY THIS
2 PUBIS BONE THAT YOU ARE TALKING ABOUT, CORRECT?

3 A. THAT'S THE WAY I GENERALLY DO IT. THAT IS
4 MY FIRST --

5 Q. THAT'S THE WAY ANYBODY IN THE FIELD TRIES TO
6 DETERMINE WHETHER AN INDIVIDUAL -- THE SPECIMENS THAT THEY
7 RECEIVE IS MALE OR FEMALE?

8 A. NO.

9 Q. IF THEY HAVE IT?

10 A. NO. YOU ASKED SPECIFICALLY ABOUT THE PUBIC
11 BONE. THERE ARE SOME PEOPLE WHO USE FEATURES OTHER THAN
12 THE PUBIC BONE ON THE PELVIS.

13 Q. OKAY. WHAT ARE THOSE FEATURES?

14 A. YOU CAN USE SCIATIC NOTCH; YOU CAN USE THE
15 SIZE OF THE ACETABULUM. YOU CAN -- WHICH IS THE SIZE OF
16 THE FEMUR SOCKET.

17 Q. DID YOU HAVE THAT, EITHER OF THOSE THINGS
18 AVAILABLE TO YOU?

19 A. THERE WERE NO HIP BONES WITH THIS CASE.

20 Q. SO I WANT TO MAKE SURE I UNDERSTAND. YOU
21 MEASURED THE FEMUR, THE SIZE OF THE FEMUR, AND IT'S 51
22 MILLIMETERS. AND BASED ON THE SIZE OF THE FEMUR, YOU
23 CONCLUDED THAT THAT INDIVIDUAL WAS MALE?

24 A. I DID, AND I WOULD SAY THAT THAT ASSESSMENT
25 WAS APPROXIMATELY 99 PERCENT RELIABLE.

26 Q. THANK YOU FOR THAT, BUT PLEASE JUST ANSWER

1 THE QUESTION.

2 AND I DON'T MEAN TO BE RUDE, BUT YOU WILL
3 GET ALL KINDS OF OPPORTUNITIES WHEN MR. BROWN ASKS YOU
4 QUESTIONS TO VOLUNTEER INFORMATION.

5 SO RIGHT NOW THE QUESTION WAS YOU MEASURED
6 THE BONE, YOU FOUND IT 51 MILLIMETERS, AND YOU DETERMINED
7 THAT IT WAS A MALE?

8 A. CORRECT.

9 Q. NOW, WITH REGARD TO RACE OF THOSE SPECIMENS,
10 HOW WERE YOU ABLE TO DETERMINE THE RACE?

11 A. I DID NOT DO SO, TO MY KNOWLEDGE.

12 Q. ARE THERE MEANS BY WHICH YOU CAN DETERMINE
13 THE RACE OF A SKELETON REMAINS?

14 A. YES, THERE ARE.

15 Q. HOW IS THAT DETERMINED?

16 A. THERE ARE VARIOUS WAYS. THE SKULL IS THE
17 FEATURE THAT ONE WOULD USUALLY CONCENTRATE ON, BUT THERE
18 ARE ADDITIONAL FEATURES ON THE SKELETON WHICH CAN ALSO BE
19 UTILIZED. FOR EXAMPLE --

20 Q. GO AHEAD.

21 A. -- DO YOU WANT ME TO ELABORATE?

22 Q. YES.

23 A. THE LENGTH OF THE HEEL BONE OR THE
24 CALCANEUS, THE RATIO OF THE LONG BONES, HAIR WHEN IT
25 ACCOMPANIES THE REMAINS IS OFTEN USED FOR RACIAL
26 DIAGNOSIS. THE PELVIS OR HIP BONES ARE ALSO OF UTILITY,

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1 SO ALL THESE FEATURES COULD BE USED. THE MOST RELIABLE
2 FEATURES, HOWEVER, ARE ON THE SKULL ITSELF.

3 Q. OKAY. BUT YOU WERE LOOKING AT THE SKELETON
4 REMAINS AND YOU DIDN'T EXAMINE ANY OF THE SKELETON REMAINS
5 TO SEE IF YOU COULD DETERMINE THE RACE OF THE INDIVIDUAL;
6 IS THAT CORRECT?

7 A. ON THE REMAINS THAT WERE PRESENTED TO ME, I
8 DID NOT ATTEMPT TO MAKE AN ASSESSMENT --

9 Q. OKAY.

10 A. -- ON THE SKELETON ALONE.

11 Q. I WONDER IN -- YOU MEASURED THE BONES IN
12 1975 AND YOU MEASURED THE BONE AGAIN IN 1983, AND THERE
13 WAS SOME DIFFERENCE AS FAR AS THE MEASUREMENTS YOU
14 ACHIEVED. THE -- COULD YOU, USING THE MEASUREMENTS YOU
15 ACHIEVED IN 1983, TELL US WHAT HEIGHT RANGE THE INDIVIDUAL
16 WAS THAT THOSE REMAINS INDICATED. WAS THERE A DIFFERENCE,
17 FOR INSTANCE?

18 A. I DID NOT FIND THEM SUFFICIENT TO -- TO
19 REPORT THIS IN THE '83 REPORT. RIGHT NOW DO NOT RECALL
20 EXACTLY HOW MANY MILLIMETERS DIFFERENT THE LONG BONES
21 WERE, BUT THEY WERE VERY MINOR. I COULD TAKE OUT MY
22 REPORT AND DO THIS. BUT I DID NOT DO IT.

23 Q. BUT IT'S FAIR TO SAY, THOUGH, THAT GIVEN THE
24 DIFFERENCE IN SIZE, GIVEN THE FACT THAT THE 1983
25 MEASUREMENT WAS LESS THAN THE 1975 MEASUREMENT, YOUR
26 OPINION WITH REGARD TO THE HEIGHT OR THE RANGE WITHIN

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1 WHICH THAT INDIVIDUAL WAS WOULD BE LESS THAN THE REPORT?

2 A. AT THIS TIME I DO NOT KNOW THAT MY 1983
3 REPORT DID INDICATE A SHORTER MEASUREMENT. I DID NOT
4 CONCENTRATE ON REVIEWING THIS DATA BEFORE COMING TO COURT,
5 AND I WOULD HAVE TO LOOK AT MY REPORT.

6 Q. DO YOU HAVE YOUR '83 REPORT WITH YOU?

7 A. YES, I DO.

8 Q. OKAY. WHY DON'T YOU TAKE A LOOK AT IT.

9 (WITNESS COMPLIES.)

10 THE WITNESS: OKAY. I HAVE REVIEWED THOSE DATA.
11 DO YOU WANT ME TO ADDRESS --

12 BY MR. MC DONALD: Q. LET ME ASK YOU A QUESTION.
13 WHAT WAS YOUR MEASUREMENT OF THE RIGHT FEMUR IN 1975?

14 A. 487. 487 MILLIMETERS.

15 Q. AND WHAT WAS YOUR MEASUREMENT OF THE RIGHT
16 FEMUR IN 1983?

17 A. 485 MILLIMETERS.

18 Q. WHAT WAS YOUR MEASUREMENT OF THE LEFT FEMUR
19 IN 1975?

20 A. I DON'T THINK THAT THIS INFORMATION IS
21 REPORTED, BECAUSE I DID NOT UTILIZE IT IN THE STATURE
22 ESTIMATE.

23 Q. AND WHAT WAS YOUR MEASUREMENT IN 1983 OF THE
24 LEFT FEMUR?

25 A. 486. 486.

26 Q. WHAT WAS YOUR MEASUREMENT IN 1975 OF THE

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1 RIGHT TIBIA?

2 A. 409 MILLIMETERS.

3 Q. AND WHAT WAS YOUR MEASUREMENT IN 1983 OF THE
4 RIGHT TIBIA?

5 A. 408.

6 Q. AND WHAT WAS YOUR MEASUREMENT IN 1975 OF THE
7 LEFT TIBIA?

8 A. I DID NOT TAKE THAT MEASUREMENT, SINCE IT
9 WAS NOT INVOLVED WITH THAT STATURE ESTIMATION.

10 Q. WHAT WAS YOUR -- BUT YOU DID TAKE IT IN
11 1983?

12 A. IN 1983 I DID A MORE COMPLETE ANALYSIS OF
13 THE REMAINS.

14 Q. OKAY. AND WHAT WAS YOUR MEASUREMENT IN 1983
15 OF THE LEFT TIBIA?

16 A. 410.

17 Q. OF THE RIGHT FIBULA IN 1975?

18 A. 398. PARDON ME. THERE ARE NO OTHER
19 MEASUREMENTS IN THE 1975 REPORT. THERE ARE ONLY THE TWO
20 THAT I UTILIZED IN THE STATURE RECONSTRUCTION.

21 Q. IN OTHER WORDS, YOU JUST MEASURED THE RIGHT
22 FEMUR AND THE RIGHT TIBIA --

23 A. CORRECT.

24 Q. -- IN 1975?

25 A. THAT IS CORRECT.

26 Q. SO YOU DIDN'T MEASURE THE LEFT FEMUR, THE

1 LEFT TIBIA, THE LEFT FIBULA, THE LEFT HUMERUS, THE LEFT
2 RADIUS, LEFT ULNA?

3 A. THAT IS CORRECT.

4 Q. OR THE RIGHT HUMERUS, THE RIGHT RADIUS, THE
5 RIGHT ULNA?

6 A. THAT IS CORRECT.

7 Q. ALL RIGHT. SO THE MEASUREMENTS YOU USED TO
8 GIVE US THE ESTIMATE OF THE HEIGHT OF THESE -- OF THIS
9 INDIVIDUAL WAS THE MEASUREMENTS OF THE RIGHT FEMUR, AND
10 THE LEFT FEMUR, CORRECT?

11 A. NO.

12 Q. WHAT ELSE?

13 A. THE RIGHT FEMUR AND THE RIGHT TIBIA.

14 THE COURT: THIS IS IN '75, MR. MC DONALD?

15 MR. MC DONALD: YES.

16 THE COURT: ALL RIGHT.

17 BY MR. MC DONALD: Q. IS THAT IN '75?

18 A. CORRECT.

19 Q. AND DID YOU HAVE A CERTAIN FORMULA THAT YOU
20 WERE WORKING WITH IN '75 WHEN YOU CAME UP WITH THIS
21 OPINION?

22 A. YES, I USED THE TROTTER AND GLAZER FORMULA
23 AS REPORTED IN KROGMAN.

24 Q. OKAY.

25 Q. SAME BOOK WE WERE JUST LOOKING AT?

26 A. CORRECT.

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1 Q. SHOWING YOU PAGE 163 OF THE BOOK WE'VE JUST
2 REFERRED TO, LOOK UP AT THE TOP ON THE RIGHT-HAND SIDE OF
3 PAGE 163 AND TELL US WHETHER OR NOT THAT'S THE FORMULA YOU
4 USED IN GIVING THE OPINION ON THE HEIGHT OF THE
5 INDIVIDUAL.

6 A. YES, THIS WOULD HAVE BEEN THE TABLES THAT I
7 UTILIZED.

8 Q. OKAY. NOW --

9 A. EXCUSE ME.

10 (PAUSE IN PROCEEDINGS.)

11 BY MR. MC DONALD: Q. ARE THESE THE TABLES YOU
12 USED?

13 A. THEY WOULD BE EITHER TABLE 49 OR TABLE 48.

14 Q. DO YOUR NOTES REFLECT WHICH? THEY ARE
15 DIFFERENT TABLES, RIGHT?

16 A. CORRECT.

17 Q. DO YOUR NOTES REFLECT WHICH TABLE YOU USED?

18 A. MY REPORT DOES NOT. I COULD GO BACK TO MY
19 NOTES.

20 Q. DO YOU HAVE THEM WITH YOU?

21 A. YES, I DO.

22 Q. GO AHEAD.

23 (WITNESS COMPLIES.)

24 THE WITNESS: RIGHT. TABLE 49 WOULD BE THE ONES.
25 I HAVE --

26 BY MR. MC DONALD: Q. 49?

1 A. -- MY MATH WORKED OUT HERE.

2 Q. OKAY, GOOD.

3 ON TABLE 49, THERE APPEARS TO BE SEVERAL
4 FORMULAS FROM WHICH TO CHOOSE. COULD YOU EXPLAIN TO US
5 WHAT THAT IS?

6 A. WELL, ALL OF THESE FORMULAS WILL YIELD A
7 STATURE ESTIMATE. AND THE PLUS OR MINUS FIGURE GIVES YOU
8 SOME IDEA OF THE RELIABILITY OF THAT PARTICULAR STATURE
9 ESTIMATE.

10 Q. OKAY.

11 A. AND YOU CAN MAKE YOUR SELECTION IN TERMS OF
12 RELIABILITY AND ALSO THE BONES PRESENT, IN THE INDIVIDUAL,
13 THINGS OF THAT TYPE.

14 Q. OKAY. BUT EACH OF THESE TABLES ALSO BREAK
15 IT DOWN INTO DIFFERENT RACES, DON'T THEY?

16 A. OH, YES, UN-HUH.

17 Q. WOULD YOU TELL US WHAT --

18 A. THERE ARE FOUR MAJOR RACIAL GROUPS WHICH
19 WERE STUDIED IN THIS PARTICULAR STUDY. WHITE, BLACK,
20 MONGOLOID AND MEXICAN. SO WHAT YOU WANT TO DO IS IN FACT
21 USE THE STATURE WITH REFERENCE TO THE BEST RACE. THE MOST
22 APPROPRIATE RACE. IF YOU HAVE THAT INFORMATION.

23 Q. OKAY. YOU CHOSE THE WHITE RACE?

24 A. NO, I USED ALL FOUR. IN MY 1975 REPORT.
25 NOT KNOWING THE RACE OF THE INDIVIDUAL AND HAVING NO
26 INFORMATION ABOUT ANY POSSIBLE DECEDENTS --

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1 Q. OKAY.

2 A. -- I SUPPLIED ALL FOUR.

3 Q. YOU GAVE ESTIMATES ON EACH DEPENDING --

4 A. RIGHT.

5 Q. BUT TODAY IN TESTIMONY, YESTERDAY IN
6 TESTIMONY, YOU GAVE US A SIZE THAT CORRESPONDS TO THE
7 WHITE RACE, CORRECT?

8 A. YES, I BELIEVE I DID, YES.

9 Q. WHICH OF THESE FORMULAS DID YOU CHOOSE?
10 NOW, THERE'S WHAT, HOW MANY? LOOKS LIKE THERE'S 10
11 FORMULAS THERE UNDER WHITE THAT YOU COULD HAVE CHOSEN.
12 WHICH ONE DID YOU CHOOSE TO GIVE US YOUR ESTIMATE?

13 A. I USED FEMUR AND TIBIA.

14 Q. WELL, SPEAKING OF THIS BOOK NOW, POINT OUT
15 TO ME WHICH ONE YOU USED.

16 A. 1.26 TIMES THE UNIT, IN PARENTHESES, FEMUR
17 PLUS TIBIA, THAT WOULD BE MAXIMUM MORPHOLOGICAL IN
18 CENTIMETERS PLUS 67.69 PLUS OR MINUS 3.74.

19 Q. OKAY. SO WHAT'S THE RELIABILITY FACTOR ON
20 THAT FORMULA?

21 A. THE PLUS OR MINUS FACTOR GIVES YOU SOME IDEA
22 OF THE RELIABILITY, ALTHOUGH -- MAY I ADD HERE? YOU ARE
23 ASKING ME THIS QUESTION, RIGHT --

24 Q. MY QUESTION IS WHAT'S THE RELIABILITY FACTOR
25 AS INDICATED IN THIS FORMULA?

26 A. I CAN'T ANSWER THAT QUESTION.

19557

1 Q. THAT DOESN'T INDICATE THAT OVER TO THE
2 RIGHT?

3 A. THAT IS ONE INDICATOR; BUT IF I AM TO
4 DISCUSS RELIABILITY OF STATURE FORMULA, I WOULD HAVE TO
5 BRING IN ADDITIONAL INFORMATION, ESPECIALLY IN THIS
6 PARTICULAR CASE.

7 Q. OKAY. WHAT ARE THESE NUMBERS HERE OFF TO
8 THE RIGHT OF THE FORMULA, THE ONE YOU HAVE TOLD US ABOUT?

9 A. THIS IS YOUR STANDARD ERROR.

10 Q. STANDARD ERROR? IS THAT WHAT YOU SAID?

11 A. YES. AS DEFINED HERE IN THE TOP OF THE
12 TABLE ACCORDING TO STANDARD ERROR OF ESTIMATE.

13 Q. OKAY. NOW, REFERRING -- WHAT IS THE
14 STANDARD OF ERROR ON THE FORMULA THAT YOU CHOSE?

15 A. THE REASON I AM HAVING A HARD TIME ANSWERING
16 THIS QUESTION IS BECAUSE IT IS ACTUALLY A VERY IMPORTANT
17 THEORETICAL QUESTION, AND I CANNOT ANSWER IT IF I AM
18 RESTRICTED ENTIRELY TO THE QUESTION THAT YOU ARE GIVING
19 ME.

20 Q. WHY DON'T WE ANSWER THE QUESTION FIRST, THEN
21 I WILL GIVE YOU AN OPPORTUNITY TO EXPLAIN IT. WHAT IS THE
22 STANDARD OF ERROR ON THE FORMULA YOU CHOSE?

23 A. THREE -- 74.

24 Q. WHAT DOES THAT MEAN?

25 A. IT MEANS WHEN YOU CONSTRUCT YOUR RANGE, YOU
26 ARE GOING TO ADD 3.74 CENTIMETERS TO YOUR MEAN, AND YOU

19558

1 ARE GOING TO SUBTRACT 3.74 CENTIMETERS TO YOUR MEAN, AND
2 THIS WILL GIVE YOU A REASONABLE RANGE.

3 Q. OKAY. WHAT IS THAT RANGE, THEN?

4 A. WELL, THIS WOULD BE THE RANGE THAT I
5 PROVIDED. BUT MAY I ADD MY OTHER STATEMENT?

6 Q. SURE.

7 A. YOU ASKED ME SPECIFICALLY ABOUT RELIABILITY.
8 AND IN TERMS OF NATH, PEOPLE THAT ARE VERY TALL OR PEOPLE
9 THAT ARE VERY SHORT ARE GOING TO SHOW MORE VARIABILITY
10 WITH RESPECT TO THE STATURE FORMULA THAN REPORTED HERE IN
11 YOUR STANDARD ERROR OF ESTIMATE.

12 Q. WHY WON'T THEY HAVE TAKEN IT INTO ACCOUNT,
13 THIS IS THE BOOKS YOU USED --

14 A. THAT IS TRUE. THAT WAS IN 1975. AS OF
15 ABOUT THREE MONTHS AGO, THERE IS AN ARTICLE IN THE JOURNAL
16 OF FORENSIC SCIENCES BY GILES AND CLEPINGER(PHONETIC). IN
17 ADDITION TO THIS, WE HAVE ABOUT FOUR OTHER PUBLICATIONS
18 TELLING US THE SAME THING.

19 Q. SO YOU ARE LEARNING ALL THE TIME?

20 A. THIS IS CORRECT.

21 THE COURT: LET'S HOPE THE JURORS ARE LEARNING ALL
22 THE TIME.

23 BY MR. MC DONALD: Q. CAN YOU REDO YOUR
24 CALCULATIONS USING THE SAME FORMULA YOU USED IN 1975 TO
25 TELL US WHAT THE RANGE IT IS?

26 A. USING -- CAN I REDO THEM?

19559

1 Q. YEAH.

2 A. I HAVE THE RANGE.

3 Q. WELL -- I MEAN, THE '83 MEASUREMENTS. THE
4 MEASUREMENTS ARE DIFFERENT IN 1983?

5 A. YES, I COULD DO THEM. I DON'T KNOW IF I
6 HAVE A HAND CALCULATOR.

7 Q. DOES THAT TAKE QUITE A WHILE TO DO, OR --

8 A. IF I HAVE A HAND CALCULATOR, I COULD DO IT
9 IN ABOUT THREE OR FOUR MINUTES.

10 Q. OKAY.

11 THE COURT: WANT TO TAKE OUR MORNING BREAK?

12 MR. MC DONALD: YEAH.

13 THE COURT: YOU ARE ADMONISHED, LADIES AND
14 GENTLEMEN, IT'S YOUR DUTY NOT TO CONVERSE AMONG
15 YOURSELVES, ANYONE ELSE, THE NATURE OR SUBJECT OF THE
16 TRIAL, FORM OR EXPRESS ANY OPINION UNTIL THE MATTER IS
17 FINALLY SUBMITTED TO YOU. WE WILL SEE YOU AT 10:45,
18 PLEASE.

19 (RECESS.)

20 (THE FOLLOWING PROCEEDINGS HAD IN OPEN COURT
21 IN THE PRESENCE OF THE JURY:)

22 THE COURT: MR. MC DONALD.

23 MR. MC DONALD: THANK YOU, YOUR HONOR.

24 I'D LIKE THIS DIAGRAM MARKED NEXT IN ORDER.

25 THE CLERK: 45.

26 (DEFENDANT'S D-45 = MARKED FOR I.D.)

19560

1 BY MR. MC DONALD: Q. COULD I ASK YOU TO STEP TO
2 THIS DIAGRAM BOARD, PLEASE. AND GIVE US THE -- DURING THE
3 BREAK YOU OBVIOUSLY DID SOME CALCULATIONS WITH REGARD TO
4 WHAT YOUR MEASUREMENTS WOULD BE IN 1983 VERSUS WHAT YOUR
5 MEASUREMENTS WERE IN 1975, GIVEN THE FORMULA THAT YOU
6 USED, CORRECT?

7 A. WELL, I DID THE FORMULAS GIVEN THE
8 DIFFERENCE IN MEASUREMENT.

9 Q. OKAY. BUT -- THAT'S FINE. LET'S TALK ABOUT
10 1975. - WOULD YOU PLACE ON THE BOARD FIRST OF ALL WHAT YOUR
11 MEASUREMENTS WERE AND WHAT YOUR ESTIMATE OF HEIGHT --

12 A. IN 1975?

13 Q. YES.

14 A. FOR ALL RACIAL GROUPS -- THE MEASUREMENTS
15 FIRST?

16 Q. YES.

17 MR. BROWN: THE BOARD NEEDS TO GO EAST.

18 MR. MC DONALD: LET'S MOVE THIS OUT.

19 (INTERRUPTION IN PROCEEDINGS.)

20 BY MR. MC DONALD: Q. COULD YOU STEP DOWN HERE,
21 PLEASE?

22 A. I JUST HAVE TO GET THE MEASUREMENTS FOR
23 THIS.

24 Q. YOU CAN BRING WHATEVER DOCUMENTS YOU FEEL
25 ARE NECESSARY.

26 NOW, LET'S DEAL WITH 1975 FIRST. AND

19561

1 INDICATE WHAT BONE WE ARE TALKING ABOUT.

2 A. IS 45 THE EXHIBIT NUMBER?

3 Q. YES, IT IS.

4 (WITNESS COMPLIES.)

5 THE COURT: I DON'T WANT TO MAKE HER NERVOUS. I AM
6 GOING THROUGH HER PURSE WHILE SHE'S DOING THIS.

7 BY MR. MC DONALD: Q. OKAY. NOW, YOU REMEASURED
8 THOSE SAME BONES IN 1983. JUST PUT THEM OVER ON THE OTHER
9 SIDE, PLEASE.

10 A. OKAY.

11 (WITNESS COMPLIES.)

12 BY MR. MC DONALD: Q. USING THE MEASUREMENTS THAT
13 YOU RECEIVED IN 1975, YOU WENT TO THE TEXTBOOK AND
14 OBTAINED A FORMULA TO HELP YOU UNDERSTAND POTENTIALLY WHAT
15 WAS THE HEIGHT RANGE WITHIN WHICH THESE REMAINS MAY BE --

16 A. CORRECT.

17 Q. -- CORRECT? AND THE FORMULA IN 1975 --
18 THERE WERE SEVERAL CHOICES. THERE WERE 10 CHOICES OF
19 FORMULAS TO CHOOSE FROM, CORRECT?

20 A. EACH RACE HAD QUITE A NUMBER, BUT I DON'T
21 KNOW --

22 Q. LET'S LOOK AT IT -- I WAS LOOKING FIRST OF
23 ALL AT THE FIRST ONE.

24 A. OKAY. I THINK THEY ALL HAVE 10, EXCEPT FOR
25 MEXICAN.

26 Q. HOW MANY DOES THAT HAVE?

19562

1 A. SIX.

2 Q. SO YOU CHOSE A PARTICULAR FORMULA THERE?

3 A. UN-HUH.

4 Q. AND WOULD YOU INDICATE WHAT WAS THE STANDARD
5 OF ERROR ON THAT PARTICULAR FORMULA THAT YOU CHOSE?

6 A. 3.74.

7 Q. JUST WRITE THAT UP THERE, STANDARD OF ERROR,
8 3.74.

9 (WITNESS COMPLIES.)

10 BY MR. MC DONALD: Q. AND USING THOSE
11 MEASUREMENTS, YOU CAME UP WITH A CERTAIN HEIGHT RANGE
12 WITHIN WHICH THESE REMAINS MAY HAVE -- MAY BE?

13 A. CORRECT.

14 Q. WHAT WAS THAT? WOULD YOU WRITE THAT UP
15 THERE?

16 A. I SHOULD WRITE ALL FOUR RACES FOR THE 1975
17 REPORT.

18 Q. YES.

19 A. IN TERMS OF THE RANGE?

20 Q. YES, THANK YOU. THAT'S EXACTLY.

21 (WITNESS COMPLIES.)

22 THE COURT: SIX FOOT AND THREE-TENTHS INCHES; IS
23 THAT RIGHT?

24 THE WITNESS: YES.

25 BY MR. MC DONALD: Q. GO TO THE NEXT ONE, PLEASE.

26 (WITNESS COMPLIES.)

1 BY MR. MC DONALD: Q. WAS THERE ANOTHER CATEGORY?
2 THE COURT: THERE'S A SPECIAL CATEGORY FOR DEFENSE
3 ATTORNEYS, MR. MC DONALD, ON THERE.

4 THE WITNESS: THE MEXICAN, HOWEVER, ON BOTH TIMES
5 IS DONE WITH A DIFFERENT COMBINATION. SO DO YOU WANT ME
6 TO LEAVE IT WITH CLUSTERED WITH THESE THREE RACES?

7 BY MR. MC DONALD: Q. WHAT I'D LIKE FOR YOU TO DO
8 WHAT YOU REPORTED IN 1975.

9 A. OKAY.

10 (WITNESS COMPLIES.)

11 BY MR. MC DONALD: Q. NOW, I'D LIKE FOR YOU TO
12 DRAW A LINE RIGHT UNDER THE LAST CLASSIFICATION, PLEASE.

13 A. HERE?

14 Q. YES. AND DURING THE BREAK, I ASKED YOU TO
15 USE A DIFFERENT FORMULA, DID I NOT, TO HELP US UNDERSTAND
16 WHAT A DIFFERENT FORMULA MIGHT REFLECT AS FAR AS
17 DIFFERENCES IN POTENTIAL HEIGHTS, CORRECT?

18 A. NOW, WHAT I DID WAS -- I USED THE SAME
19 FORMULA WITH THE NEW MEASUREMENTS. THAT WAS THE FIRST
20 EXERCISE.

21 Q. OKAY.

22 A. THEN --

23 Q. DIFFERENT --

24 A. -- DIFFERENT FORMULA WITH THE '83.

25 Q. YOU DIDN'T REMEASURE FOR '75, THEN, BASED ON
26 THE --

19564

1 A. NO, MY FIRST --

2 Q. OKAY. THAT'S OKAY.

3 A. -- I DID --

4 Q. THAT'S OKAY. LET'S GO TO '83, THEN.

5 A. OKAY. WITH THE NEW FORMULA.

6 Q. NO, WE WILL DO THE -- FIRST OF ALL, WE WILL
7 DO THE MEASUREMENTS FOR THE --

8 A. COMPARABLE TO THESE?

9 Q. CORRECT.

10 A. OKAY. SO I WILL --

11 Q. FIRST OF ALL, TELL US THIS NEW FORMULA WHAT
12 THE STANDARD OF ERROR IS.

13 THE COURT: BEFORE WE DO THIS --

14 THE WITNESS: I THOUGHT THIS IS THE SAME FORMULA
15 WITH THE NEW MEASUREMENTS.

16 THE COURT: CEASE AND DESIST, AS LONG AS I AM THE
17 DUMBEST ONE HERE. WHY DON'T WE DO THIS, IF IT'S ALL
18 RIGHT. DO 1983 WITH YOUR MEASUREMENTS USING THE SAME
19 FORMULA YOU DID WITH '75, AND PICK IT UP FROM THERE. THAT
20 BE AGREEABLE, MR. MC DONALD?

21 MR. MC DONALD: SURE.

22 THE COURT: YOU HAD SOME DIFFERENCE AND WHEN YOU
23 REMEASURED IN '83?

24 THE WITNESS: RIGHT.

25 THE COURT: DO THE SAME THING YOU DID IN '75 FOR
26 '83, THEN I WILL LET YOU, MR. MC DONALD, TAKE OVER ON HIS

19565

1 OWN.

2 THE WITNESS: OVER HERE I AM GOING TO DO THESE VERY
3 SAME FORMULAS SIMPLY WITH THE SLIGHT CHANGES IN THE
4 MEASUREMENT RIGHT OVER HERE.

5 MR. MC DONALD: CORRECT.

6 THE COURT: OKAY.

7 (WITNESS COMPLIES.)

8 BY MR. MC DONALD: Q. WOULD YOU INDICATE WHICH
9 CLASS THAT REFERS TO?

10 A. THIS IS WHITE.

11 Q. WHY DON'T WE WRITE "WHITE" UP ABOVE IT, JUST
12 LIKE WE DID ON THE OTHER.

13 (WITNESS COMPLIES.)

14 BY MR. MC DONALD: Q. NOW DRAW A LINE UNDERNEATH
15 THAT.

16 (WITNESS COMPLIES.)

17 BY MR. MC DONALD: Q. NOW, USING THE MEASUREMENTS
18 IN 1983, I'D LIKE FOR YOU TO USE -- DEPICT THE SAME THING
19 THAT'S DEPICTED ABOVE, ONLY WITH THE FORMULA THAT I ASKED
20 YOU TO USE.

21 A. OKAY.

22 Q. ALSO, BEFORE YOU BEGIN, PUT THE STANDARD OF
23 ERROR ON THE FORMULA THAT I ASKED YOU TO USE.

24 (WITNESS COMPLIES.)

25 THE WITNESS: THERE'S ONE MORE COMPLICATION HERE.
26 THE STANDARD OF ERROR DOES DIFFER FOR EACH RACIAL GROUP.

19566

1 THIS ONE IS FOR THE WHITE; BUT IF WE ARE GOING TO BE
2 TECHNICALLY CORRECT, WE WOULD HAVE TO PRODUCE A DIFFERENT
3 STANDARD OF ERROR FOR EACH ONE OF THESE MEASUREMENTS.

4 BY MR. MC DONALD: Q. DO WE KNOW WHAT THAT WOULD
5 BE?

6 A. YES, IT'S ALL RIGHT HERE. WHEN WE WERE
7 LOOKING AT IT TOGETHER, TO GO OVER THESE, WE JUST SETTLED
8 IN ON ONE, BUT ACTUALLY EACH SEPARATE STATUE FORMULA WILL
9 HAVE A DIFFERENT STANDARD OF ERROR.

10 Q. ALL RIGHT.

11 A. IF WE ARE GOING TO DO THIS, WE SHOULD PUT
12 ALL THE STANDARD OF ERRORS HERE.

13 Q. SURE. JUST PUT IT IN A LITTLE PARENTHESES.
14 WE WILL KNOW WHAT IT IS.

15 (WITNESS COMPLIES.)

16 THE WITNESS: AND THESE ARE THE SAME STANDARD OF
17 ERRORS THAT WOULD APPLY OVER HERE, TOO.

18 BY MR. MC DONALD: Q. OKAY.

19 A. NOW --

20 Q. WITH THE NEW 1983 MEASUREMENTS, USING THE
21 FORMULA THAT I REQUESTED, WOULD YOU DO THE SAME THING?

22 A. BEFORE I DO THAT, CAN I PUT MY MEASUREMENTS
23 FOR THE FIBULA WHICH I DO NOT HAVE YET UP ON THIS BOARD?

24 Q. GO AHEAD.

25 THE COURT: WE ARE USING A DIFFERENT FORMULA NOW ON
26 THE BOTTOM BECAUSE YOU HAVE ADDITIONAL DATA THAT YOU

1 DIDN'T USE IN THE '75 AND '83 UP ABOVE; IS THAT CORRECT?

2 THE WITNESS: HE JUST REQUESTED THE USE OF A
3 DIFFERENT COMBINATION OF BONES --

4 THE COURT: ALL RIGHT.

5 THE WITNESS: -- WHICH IS A REASONABLE REQUEST.

6 (WITNESS COMPLIES.)

7 THE WITNESS: THERE IS NO MEXICAN FORMULA
8 CORRESPONDING TO THIS COMBINATION, SO I DID NOT DO THAT
9 ONE.

10 BY MR. MC DONALD: Q. OKAY. THANK YOU VERY MUCH.
11 YOU CAN RETAKE YOUR SEAT, PLEASE.

12 I JUST WANT TO MAKE SURE THAT I UNDERSTAND
13 ON THIS QUADRANT RIGHT HERE, THESE ARE YOUR ACTUAL
14 MEASUREMENTS IN 1983 OF THESE PARTICULAR BONES FROM
15 THOSE -- THE SKELETON REMAINS WE HAVE BEEN TALKING ABOUT?

16 A. YES.

17 Q. OKAY.

18 DID YOU -- I KNOW I SAID YOU REVIEWED AN
19 AUTOPSY REPORT OR RECORDS FROM LOS ANGELES COUNTY. DID
20 YOU DO THE SAME THING WITH REGARD TO ORANGE COUNTY?

21 A. I REVIEWED THE AUTOPSY REPORT ORIGINATING
22 FROM LOS ANGELES COUNTY ORANGE CORONER'S OFFICE WHILE I
23 WAS IN THE ORANGE COUNTY CORONER'S OFFICE.

24 Q. OKAY. SO --

25 A. THE REPORT ORIGINATED IN LOS ANGELES.

26 Q. A PARTICULAR REPORT?

19568

1 A. YES.

2 Q. DID YOU READ A REPORT THAT WAS GENERATED
3 FROM ORANGE COUNTY OFFICIALS SUCH AS DR. YATAR?

4 A. YES, I DID SKIM THROUGH HIS REPORT SEVERAL
5 TIMES, AT LEAST ONE OF HIS REPORTS.

6 Q. OKAY. WOULD YOU JUST TAKE A LOOK AT AN
7 AUTOPSY RECORD PREPARED APPARENTLY BY DR. PETER S. YATAR
8 ON SKELETON REMAINS, THE DATE AND HOUR OF THE AUTOPSY WAS
9 OCTOBER 20TH, 1975, AND 10:00 A.M., PLACE OF THE AUTOPSY
10 WAS AT THE ORANGE COUNTY SHERIFF'S DEPARTMENT IN SANTA
11 ANA. AND WHERE IT SAYS IDENTIFICATION, IT SAYS COULD NOT
12 BE DETERMINED BECAUSE OF EXTREME DECOMPOSITION OF THE
13 BODY.

14 AND THEN JUST LOOK TO YOURSELF THIS AREA ON
15 THE REPORT THAT I HAVE CIRCLED. YOU DON'T NEED TO COMMENT
16 ON IT. JUST READ IT.

17 A. 20 VERTEBRAE?

18 Q. WELL, YOU DON'T NEED TO COMMENT ON IT. I
19 WAS GOING TO ASK YOU A QUESTION.

20 A. YEAH.

21 Q. NOW, YOU HAVE LOOKED AT IT. DR. YATAR
22 APPARENTLY SAYS THERE WERE 20 VERTEBRAE PRESENT IN THE
23 SKELETON REMAINS HE EXAMINED?

24 A. THIS IS WHAT I SEE NOTED.

25 Q. OKAY. WHEN YOU RECEIVED THE REMAINS, THERE
26 WERE -- BY YOUR INVENTORY, THERE WERE 19. IS THAT WHAT

19569

1 YOU TOLD US EARLIER?

2 A. I DID MY COUNT BY REGION OF THE VERTEBRAL
3 COLUMN.

4 Q. WHEN YOU RECEIVED THE SKELETON REMAINS, DID
5 YOUR INVENTORY LEAVE LEAD YOU TO BELIEVE THERE WERE 19
6 VERTEBRAE?

7 A. IN TERMS OF THE CERVICAL, THORACIC AND
8 LUMBAR REGION.

9 Q. WELL, THAT'S WHAT WE ARE TALKING ABOUT. THE
10 VERTEBRAE. WERE THERE 19 VERTEBRAL WHEN YOU DID THE
11 INVENTORY?

12 A. THE ONLY REASON I BRING THIS UP BECAUSE
13 THERE MIGHT BE THE QUESTION WHETHER IN FACT THE SACRUM IS
14 TO BE COUNTED, BECAUSE THE SACRUM IS ALSO COMPOSED OF
15 VERTEBRAL ELEMENTS.

16 Q. WHAT DID YOU DO WHEN YOU DID YOUR --

17 A. I ALWAYS SPECIFY AS TO EACH SPECIFIC REGION,
18 THEREBY AVOIDING THIS PROBLEM OF --

19 Q. HOW MANY DID YOU REPORT?

20 A. TWO, 12, AND 5, OR 19 IN ALL.

21 Q. 19 IN ALL. THANK YOU.

22 OVER THE EVENING, DID YOU HAVE A CHANCE
23 TO -- I DIDN'T ASK YOU TO, BUT DID YOU REVIEW YOUR NOTES
24 AS TO THE EXACT DATE AND CIRCUMSTANCES UNDER WHICH YOU
25 RECEIVED THE SKELETON REMAINS?

26 A. NO, I DID NOT.

19570

1 Q. DO YOU HAVE THAT BOOK UP THERE?

2 A. IT'S RIGHT DOWN THERE.

3 Q. OBVIOUSLY, WHEN YOU WERE DOING THESE
4 MEASUREMENTS AND CONDUCTING THESE HEIGHT ESTIMATES, PART
5 OF YOUR RELIANCE WAS THIS BOOK HERE?

6 A. YES.

7 Q. THAT WAS BOTH IN 1975 AND 1983?

8 A. I DID NOT REDO THE STATURE ESTIMATES IN
9 1983.

10 Q. OKAY. UNTIL TODAY?

11 A. CORRECT.

12 MR. MC DONALD: OKAY. THAT'S IT. THANK YOU.

13 REDIRECT EXAMINATION

14 BY MR. BROWN: Q. DR. SUCHET, YOU JUST SAID YOU
15 SEE 2, 12 AND 5. CAN YOU IDENTIFY WHICH VERTEBRAE THOSE
16 ARE? TELL US WHAT YOU MEAN BY 2, 12 AND 5.

17 A. I RECEIVED 2 CERVICAL OR NECK VERTREBRA, 12
18 THORACIC OR CHEST, AND 5 LUMBAR OR LOWER BACK. PLUS THE
19 SACRUM.

20 Q. SO IF YOU WERE TO COUNT THE SACRUM AS A
21 VERTEDRAE, YOU WOULD HAVE RECEIVED 20 INSTEAD OF 19?

22 A. YEAH. I DO NOT MAKE MY COUNTS THAT WAY,
23 BUT -- CONCEIVABLY ONE COULD, SINCE IT IS COMPOSED OF
24 VERTREBRA, YEAH.

25 Q. YOU MAKE YOUR COUNTS BY THE NAMES OF THE
26 DIFFERENT VERTREBRA?

1 A. RIGHT.

2 MR. BROWN: JUDGE, I HAVE TWO PHOTOGRAPHS HERE THAT
3 I'D LIKE TO HAVE MARKED AS NEXT IN ORDER, A AND B.

4 THE CLERK: 152-A AND 152-B.

5 (PEOPLE'S 152-A AND B = MARKED FOR I.D.)

6 BY MR. BROWN: Q. LET ME SHOW YOU 152-A AND B AND
7 ASK YOU TO DESCRIBE THOSE FOR US. LET'S START WITH 152-A.

8 A. 152-A IS THE LEFT SCAPULA OR SHOULDER BLADE,
9 A CLOSEUP, NEAR THE SUPERIOR ASPECT.

10 Q. THE SUPERIOR OR --

11 A. THE TOP.

12 Q. THE TOP OF IT?

13 A. NEAR THE TOP.

14 Q. WOULD THAT BE THE FRONT PART OF IT OR THE
15 POSTERIOR PART OF IT?

16 A. POSTERIOR.

17 Q. THEN WOULD YOU DESCRIBE 152-B FOR US,
18 PLEASE?

19 A. 152-B IS THE RIGHT SCAPULA OR SHOULDER
20 BLADE, ALMOST IN ITS TOTAL SIZE, AND AGAIN FROM A
21 POSTERIOR POINT OF VIEW.

22 Q. LOOKING FROM THE BACK?

23 A. CORRECT. BOTH OF THEM ARE FROM LOOKING AT
24 THE BACK.

25 Q. THOSE ARE MR. CROTWELL; IS THAT CORRECT?

26 A. YES.

19572

1 MR. BROWN: THANK YOU, SIR -- SORRY. I JUST -- I
2 TRANSFORMED YOU INTO A MALE.

3 NOTHING FURTHER.

4 THE COURT: MR. MC DONALD?

5 MR. MC DONALD: NO QUESTIONS.

6 THE COURT: THANK YOU. YOU MAY BE EXCUSED.

7 MR. BROWN: WE WOULD CALL DR. RICHARDS.

8 THE COURT: FINE, THANK YOU.

9 (INTERRUPTION IN PROCEEDINGS.)

10 THE COURT: DR. RICHARDS, YOU ARE STILL UNDER OATH,
11 SO IF YOU WOULD TAKE THE STAND PLEASE, SIR.

12 ROBERT RICHARDS, *

13 CALLED AS A WITNESS ON BEHALF OF THE PEOPLE,
14 HAVING BEEN PREVIOUSLY DULY SWORN, WAS EXAMINED AND
15 TESTIFIED AS FOLLOWS:

16 MR. MC DONALD: COULD WE APPROACH THE BENCH?

17 THE COURT: SURELY. WITH THE REPORTER?

18 MR. MC DONALD: YES.

19 (THE FOLLOWING PROCEEDINGS HAD AT THE BENCH,
20 OUTSIDE THE HEARING OF THE JURY:)

21 THE COURT: GENTLEMEN.

22 MR. MC DONALD: YOUR HONOR, WE HAVE THE SAME
23 PROBLEM HERE THAT WE HAVE WITH REGARD TO DR. FUKUNOTO.
24 DR. YATAR, AS FAR AS I KNOW, IS ALIVE, HEALTHY AND WELL,
25 AVAILABLE TO COME IN AND TESTIFY AS TO HIS AUTOPSY, AND
26 I'D ASK THAT HE BE BROUGHT IN.