

19104

1 A. NO.

2 Q. SO IT DIDN'T APPEAR, AT LEAST, THERE WAS NO  
3 EVIDENCE SOMEONE HAD HIS HANDS IN MR. HALL'S MOUTH TRYING  
4 TO PACK SOMETHING DOWN WHILE HE WAS TRYING TO BITE ON IT?

5 A. I DON'T REMEMBER ANYTHING BUT DIRT.

6 MR. MERWIN: THANK YOU.

7 THE COURT: THANK YOU, MR. MERWIN. MR. BROWN.

8 MR. BROWN: NOTHING FURTHER, SIR.

9 THE COURT: THANK YOU, SIR.

10 NEXT WITNESS, PLEASE.

11 MR. BROWN: CAN THE WITNESS BE EXCUSED?

12 WE'D CALL MR. HOLMER.

13 THE CLERK: RAISE YOUR RIGHT HAND.

14 PHILIP LEE HOLMER, \*

15 CALLED AS A WITNESS ON BEHALF OF THE PEOPLE,  
16 HAVING BEEN FIRST DULY SWORN, WAS EXAMINED AND TESTIFIED  
17 AS FOLLOWS:

18 THE CLERK: STATE YOUR FULL NAME FOR THE COURT AND  
19 SPELL YOUR LAST NAME.

20 THE WITNESS: PHILIP LEE HOLMER, H-O-L-M-E-R.

21 THE CLERK: THANK YOU. YOU MAY BE SEATED IN THE  
22 WITNESS STAND.

23 DIRECT EXAMINATION \*

24 BY MR. BROWN: Q. MR. HOLMER, WHAT IS YOUR  
25 OCCUPATION, SIR?

26 A. LOCKSMITH.

19105

1 Q. DID YOU KNOW A -- ANOTHER MAN NAMED MARK  
2 HALL?

3 A. YES, I DID.

4 Q. AND DIRECTING YOUR ATTENTION TO BACK  
5 APPROXIMATELY DECEMBER 31ST, 1975, CAN YOU JUST GIVE US A  
6 LITTLE BACKGROUND OF WHAT YOUR RELATIONSHIP WAS WITH MARK?

7 A. HE WAS A GOOD FRIEND. WE WORKED TOGETHER,  
8 COMPANIONS. PARTIED TOGETHER.

9 Q. LET ME ASK YOU ABOUT -- HOW LONG HAD YOU  
10 KNOWN MARK ON DECEMBER 31ST, 1975?

11 A. ABOUT A YEAR OR TWO.

12 Q. LET ME ASK YOU WITH RESPECT TO THAT, SOME  
13 PHYSICAL CHARACTERISTICS THAT YOU MAY HAVE NOTICED ON  
14 MARK.

15 MARK WAS MALE AND WHITE; IS THAT CORRECT?

16 A. YES, IT IS.

17 Q. WAS HE 22 YEARS OF AGE, APPROXIMATELY?

18 A. APPROXIMATELY.

19 Q. AND HOW TALL WAS MARK?

20 A. ABOUT FIVE-EIGHT, NINE. HE WAS A LITTLE  
21 SHORTER THAN I AM.

22 Q. APPROXIMATELY HOW MUCH DID HE WEIGH?

23 A. ABOUT 160 TO 170 POUNDS.

24 MR. BROWN: I HAVE A PHOTOGRAPH THAT I'D LIKE  
25 MARKED PEOPLE'S NEXT IN ORDER.

26 THE COURT: 135, SO ORDERED.

1 (PEOPLE'S 135 = MARKED FOR I.D.)

2 MR. MERWIN: NO OBJECTION TO ITS INTRODUCTION.

3 BY MR. BROWN: Q. LET ME SHOW YOU 135 AND ASK YOU  
4 IF THIS PHOTOGRAPH ACCURATELY REPRESENTS MARK.

5 A. YES, IT DOES.

6 MR. BROWN: WE'D ASK THAT THAT BE RECEIVED.

7 THE COURT: ALL RIGHT.

8 (PEOPLE'S 135 = RECEIVED IN EVIDENCE.)

9 BY MR. BROWN: Q. DURING THIS YEAR TO TWO YEARS  
10 THAT YOU KNEW MARK, DID YOU EVER FORM AN OPINION AS TO  
11 WHETHER OR NOT HE HAD ANY INCLINATIONS TOWARDS  
12 HOMOSEXUALITY?

13 A. NO, HE DID NOT.

14 Q. WHAT WAS MARK'S CHARACTERISTIC FOR EITHER  
15 USING ALCOHOL OR DRUGS, THAT KIND OF THING?

16 A. WE USED ALCOHOL EVERY DAY. WE ALWAYS  
17 PARTIED TOGETHER AFTER WORK. AND I AM SURE -- WE SMOKED  
18 MARIJUANA. I BELIEVE HE MAY HAVE TAKEN SOME REDS ONCE IN  
19 AWHILE, BUT I DON'T RECALL EVER HAVING SEEN HIM DO THAT.  
20 BUT I THINK HE DID ONCE IN AWHILE.

21 Q. NOW, WITH RESPECT TO ALCOHOL, HOW OFTEN DID  
22 YOU FELLOWS USE ALCOHOL?

23 A. EVERY DAY.

24 Q. WHILE YOU WERE WORKING TOGETHER?

25 A. YES.

26 Q. WHEN WOULD YOU GENERALLY USE IT?

19107

1 A. OH, NORMALLY AT LUNCH TIME AND ALWAYS AFTER  
2 WORK. WE WORKED SWING SHIFT, SO WE ALWAYS AFTER WORK WENT  
3 TO OUR HOUSE AND DRANK.

4 Q. WAS MARK MARRIED OR SINGLE?

5 A. SINGLE.

6 Q. WHAT COLOR HAIR AND EYES DID HE HAVE?

7 A. BROWN HAIR, AND I DON'T REALLY REMEMBER WHAT  
8 COLOR HIS EYES WERE.

9 Q. NOW, TAKING YOU BACK NOW TO DECEMBER 31ST,  
10 1975, WHICH WOULD HAVE BEEN THE DAY BEFORE NEW YEARS OF  
11 1976. DID YOU HAVE OCCASION TO SEE MARK AT OR AROUND 2:00  
12 O'CLOCK THAT AFTERNOON?

13 A. YES, I DID.

14 Q. AND CAN YOU TELL US WHAT YOU DID AT THAT  
15 TIME?

16 A. WELL, HE CAME OVER TO OUR HOUSE, AND WE  
17 DROVE DOWN TO WORK TO GET OUR PAYCHECKS. THEN WE WENT TO  
18 A BAR AND CASHED THEM.

19 Q. WHEREABOUTS DID YOU FOLKS WORK AT THAT TIME?

20 A. EMERSON ELECTRIC.

21 Q. WHERE WAS THAT LOCATED?

22 A. 333 SOUTH STANDARD STREET IN SANTA ANA.

23 Q. WHAT OCCURRED AFTER YOU PICKED UP YOUR  
24 PAYCHECKS? WHERE DID YOU AND MARK GO?

25 A. DOWN THE STREET TO THE HALIDAY BAR.

26 Q. WHAT DID YOU DO THERE?

19108

1 A. PLAYED SOME POOL AND DRANK SOME BEER.

2 Q. DID YOU CASH THE CHECK THERE ALSO?

3 A. YES.

4 Q. DO YOU RECALL APPROXIMATELY HOW LONG YOU  
5 STAYED THERE AT THAT HALIDAY BAR?

6 A. IT'S BEEN A LONG TIME. WE -- I BELIEVE WE  
7 STAYED FOR SEVERAL GAMES OF POOL; I DON'T REMEMBER EXACTLY  
8 HOW LONG IT WAS.

9 Q. DO YOU KNOW HOW MUCH YOU DRANK THERE? DO  
10 YOU HAVE ANY RECOLLECTION OF HOW MUCH YOU DRANK AS OPPOSED  
11 TO ANY OTHER DAY BACK IN THOSE DAYS?

12 A. NOT PARTICULARLY. I KNOW WE DRANK A FEW  
13 BEERS. WE MAY HAVE GONE OUT IN THE PARKING LOT AND DID A  
14 LITTLE DRINKING IN THE PARKING LOT. THEY DIDN'T SERVE  
15 ALCOHOL.

16 Q. WHAT DID YOU DO AFTER YOU GOT OUT OF THE  
17 ALCOHOL BAR?

18 A. WE WENT TO STEVE'S HOUSE AND WE HAD A PARTY  
19 THERE.

20 Q. WHEN YOU SAY YOU HAD A PARTY THERE, WHAT DID  
21 YOU DO?

22 A. WE DRANK HARD ALCOHOL.

23 Q. AND DO YOU RECALL JUST ROUGHLY HOW LONG YOU  
24 STAYED AT STEVE'S HOUSE?

25 A. IT WAS SEVERAL HOURS. IT'S -- IT'S BEEN A  
26 LONG TIME. I KNOW WE WERE THERE FOR QUITE A WHILE, BUT I

19109

1 DON'T KNOW EXACTLY HOW LONG.

2 Q. DO YOU RECALL WHETHER IT WAS STILL LIGHT OUT  
3 WHEN YOU LEFT STEVE'S HOUSE OR NOT?

4 A. NO, IT WAS DARK.

5 Q. WHAT DID YOU DO THEN?

6 A. THEN WE WENT TO ANOTHER FRIEND'S HOUSE DOWN  
7 IN SAN JUAN CAPISTRANO. I DON'T REMEMBER WHAT HIS NAME  
8 WAS.

9 Q. WHAT WAS THE CONDITION OF MARK, WHAT WAS HIS  
10 SOBRIETY WHEN YOU LEFT STEVE'S HOUSE TO GO DOWN TO THIS  
11 HOUSE IN SAN JUAN CAPISTRANO?

12 A. HE WAS DRUNK, INTOXICATED.

13 Q. WHAT WAS YOUR CONDITION AT THAT TIME?

14 A. I WAS PRETTY WELL DRUNK, TOO. I WASN'T AS  
15 DRUNK AS HE WAS.

16 Q. TELL US WHAT HAPPENED WHEN YOU GOT DOWN TO  
17 SAN JUAN.

18 A. WHEN WE GOT TO SAN JUAN, WE WERE GOING TO  
19 PLAY POKER, BUT MARK DIDN'T PLAY BECAUSE HE WAS A LITTLE  
20 TOO DRUNK. SO HE LAID DOWN ON THE COUCH WHILE WE PLAYED  
21 POKER.

22 Q. IS THIS AREA IN SAN JUAN CAPISTRANO, IS THAT  
23 IN THE COUNTY OF ORANGE?

24 A. YES.

25 Q. NOW, WHEN WAS THE LAST TIME THAT YOU SAW  
26 MARK AT THAT PARTY IN SAN JUAN CAPISTRANO?

19110

1 A. WHEN HE LAID DOWN ON THE COUCH.

2 Q. APPROXIMATELY WHAT TIME WAS THAT -- THIS  
3 WOULD HAVE BEEN NEW YEAR'S EVE, CORRECT?

4 A. CORRECT.

5 Q. WHAT TIME WAS IT WITH RESPECT TO MIDNIGHT?

6 A. IT WAS RIGHT AROUND THAT TIME THAT WE GOT TO  
7 THE PARTY AND HE LAID ON THE COUCH RIGHT AWAY, BECAUSE HE  
8 WAS STARTING TO FEEL HIS ALCOHOL. THE TRIP DOWN FROM  
9 STEVE'S HOUSE TO SAN JUAN CAPISTRANO HAD ALLOWED THE  
10 ALCOHOL TO REALLY HIT HIM, AND HE WAS REALLY DRUNK.

11 Q. THEN CAN YOU ESTIMATE WHAT TIME IT WAS THAT  
12 YOU LAST SAW MARK ALIVE?

13 A. SOMEWHERE AROUND MIDNIGHT.

14 Q. SO THAT WOULD HAVE BEEN MIDNIGHT DECEMBER  
15 31ST, 1975, AND THE NEXT DAY WOULD HAVE BEEN JANUARY 1ST,  
16 1976?

17 A. IT WAS NEW YEAR'S EVE.

18 Q. OVER YOUR RIGHT SHOULDER YOU ARE GOING TO  
19 SEE A MAP. AS SOON AS I GET IT PEELED AWAY, IF YOU COULD  
20 STEP DOWN AND LOCATE FOR US THE LOCATION OF THAT PARTY IN  
21 SAN JUAN CAPISTRANO.

22 SEE THE SANTA ANA FREEWAY THERE?

23 A. UH-HUH.

24 Q. LOCKING FOR ONE PARTICULAR ROAD?

25 A. RIGHT THERE.

26 Q. OKAY. SO YOU ARE COMING DOWN -- DID YOU

19111

1 DRIVE DOWN THE SANTA ANA FREEWAY?

2 A. RIGHT.

3 Q. AND THEN WHERE -- HOW FAR WAS THE PARTY FROM  
4 THE FREEWAY ITSELF?

5 A. ABOUT TWO BLOCKS.

6 Q. WERE THOSE LONG BLOCKS OR SHORT BLOCKS OR  
7 WHAT?

8 A. I THINK THEY WERE SHORT BLOCKS. IT WAS  
9 RIGHT AS YOU GET OFF RIGHT ABOUT THERE. JUST BELOW IT.

10 Q. SO IT WAS RIGHT HERE WHERE I HAVE GOT THIS  
11 MARK?

12 A. UH-HUH.

13 Q. I HAVE PUT A LITTLE GREEN MARK THERE WITH  
14 M.H.H. 1/1/76.

15 IS THAT ABOUT THE LOCATION WHERE YOU LAST  
16 SAW MARK HALL ALIVE?

17 A. YES.

18 THE COURT: PEOPLE'S 8, FOR THE RECORD.

19 MR. BROWN: YES, SIR.

20 THANK YOU VERY MUCH, SIR. MR. MERVIN MAY  
21 HAVE SOME QUESTIONS.

22 CROSS EXAMINATION

\*

23 BY MR. MERWIN: Q. WE HAVE BEEN TALKING ABOUT  
24 DECEMBER 31ST AND THE DRINKING THAT YOU AND MARK HALL AND  
25 YOUR OTHER FRIENDS WERE DOING. HAD YOU BEEN PARTYING  
26 SINCE THE DAY BEFORE, THE 30TH, WITH MARK?

19112

1 A. WE STARTED ON NEW YEAR'S EVE AT THE HALIDAY  
2 BAR.

3 Q. SO YOU DIDN'T ACTUALLY PARTY THE DAY BEFORE?

4 A. WE PROBABLY DID AFTER WE GOT OFF WORK. WE  
5 ALWAYS DID.

6 Q. BUT IT WASN'T ONE LONG, CONTINUOUS PARTY  
7 FROM THE DAY BEFORE THROUGH THE NEW YEAR'S EVE PARTY THAT  
8 YOU ATTENDED?

9 A. I DON'T RECALL. IT'S BEEN TOO LONG AGO.

10 Q. SO THE FIRST THING YOU ARE COMFORTABLE WITH  
11 YOUR RECALL OF IS TAKING YOUR PAYCHECKS DOWN TO CASH THEM  
12 AT THE HALIDAY BAR?

13 A. NORMALLY ON PAYDAY WE WERE BROKE, SO WE  
14 PROBABLY DIDN'T PARTY THE DAY BEFORE, BECAUSE WE PROBABLY  
15 DIDN'T HAVE ANYTHING TO PARTY WITH.

16 Q. DO YOU RECALL?

17 A. I DON'T RECALL, BUT THAT'S MORE THAN LIKELY.

18 Q. SO YOU TAKE YOUR CHECKS DOWN TO CASH THEM AT  
19 THE BAR, AND YOU SAY THEY DON'T SERVE ALCOHOL IN THE BAR?

20 A. THEY SERVE BEER. THEY DON'T SERVE HARD  
21 LIQUOR.

22 Q. SO YOU SHOT POOL AND DRANK BEER AT THE  
23 HALIDAY INN?

24 A. UH-HUH.

25 Q. THAT WAS YES? YOU HAVE TO SAY YES OR NO.

26 A. YES.

19113

1 Q. YOU DON'T RECALL HOW MANY GAMES OF POOL YOU  
2 PLAYED?

3 A. NO, I DON'T.

4 Q. HOW MANY HOURS YOU STAYED?

5 A. IT'S BEEN TOO LONG AGO.

6 Q. WERE EACH OF YOU DRINKING CONTINUOUSLY ONCE  
7 YOU ARRIVED AT THE BAR UNTIL YOU LEFT?

8 A. YES, WE ALWAYS DID.

9 Q. THIS WAS NO DIFFERENT?

10 A. NO.

11 Q. AND THEN YOU SAID YOU MAY HAVE GONE OUT INTO  
12 THE PARKING LOT AND THEN HAD SOME HARD LIQUOR?

13 A. YES. IT'S BEEN A LONG TIME AGO, BUT I SEEM  
14 TO RECALL GOING OUT IN THE PARKING LOT AND MAYBE SMOKING A  
15 JOINT AND DRINKING SOME HARD LIQUOR. I BELIEVE WE ALL  
16 DID.

17 Q. HOW HAD YOU GOTTEN TO THAT BAR?

18 A. WE DROVE.

19 Q. DO YOU REMEMBER WHO'S CAR?

20 A. IT WAS WAYNE'S CAR.

21 Q. WAYNE WHO?

22 A. HAILEY (PHONETIC).

23 Q. WAYNE HAILEY?

24 AND ONE OF YOU BROUGHT ALONG SOME LIQUOR AND  
25 ONE BROUGHT ALONG SOME MARIJUANA?

26 A. NO. A FRIEND OF OURS MET US AT THE BAR.

19114

1 THIS PERSON WE WENT TO THE NEXT PARTY WITH, STEVE, MET US  
2 THERE, AND HE HAD SOME POT AND INVITED US TO SMOKE IT, IS  
3 MY RECOLLECTION. IT'S BEEN A LONG TIME AGO.

4 Q. WHEN YOU LEFT FOR STEVE'S, THE NEXT STOP,  
5 WAS IT DARK OR LIGHT?

6 A. IT WAS LIGHT.

7 Q. HOW LONG DID IT TAKE TO GET TO STEVE'S  
8 HOUSE?

9 A. PROBABLY ABOUT 20 MINUTES. IT'S BEEN SO  
10 LONG AGO, I DON'T REMEMBER EXACTLY WHERE HIS HOUSE WAS. I  
11 DON'T THINK I WAS DRIVING, BUT I THINK IT WAS DOWN IN  
12 HUNTINGTON BEACH, IF I REMEMBER CORRECTLY, BUT IT'S BEEN A  
13 LONG TIME AGO, AND I DIDN'T DRIVE.

14 Q. IT DIDN'T TAKE AN HOUR?

15 A. NO.

16 Q. ROUGHLY 20 MINUTES YOUR BEST GUESS?

17 A. PROBABLY.

18 Q. AS YOU WERE MAKING THAT DRIVE, WERE PEOPLE  
19 IN THE CAR DRINKING?

20 A. IT'S POSSIBLE, BUT I DON'T REMEMBER FOR  
21 SURE.

22 Q. OKAY. WHEN YOU ARRIVED AT STEVE'S, WAS IT  
23 LIGHT OR DARK?

24 A. IT WAS LIGHT.

25 Q. ANY IDEA WHAT TIME OF THE AFTERNOON OR EARLY  
26 EVENING IT WAS?

19115

1 A. NO, IT'S BEEN TOO LONG AGO, BUT I WOULD  
2 THINK WE PROBABLY PLAYED SEVERAL GAMES OF POOL BEFORE WE  
3 EVER LEFT, SO I WOULD ASSUME IT WAS PROBABLY GETTING EARLY  
4 EVENING LIKE 5:00 O'CLOCK, SOMETHING LIKE THAT. I DON'T  
5 RECALL EXACTLY.

6 Q. WHEN YOU WERE AT THE BAR, DID YOU HAVE  
7 ANYTHING TO EAT?

8 A. I DON'T KNOW.

9 Q. WHEN YOU ARRIVED AT STEVE'S, WHAT DID YOU  
10 DO?

11 A. DRANK.

12 Q. WAS MARK IN YOUR PRESENCE WHILE YOU WERE  
13 DRINKING?

14 A. YEAH.

15 Q. WERE YOU WATCHING HIM?

16 A. NO.

17 Q. DID YOU NOTICE HIM DRINK WHILE HE WAS THERE  
18 AT THE PARTY?

19 A. WE WERE ALL DRINKING. WE WERE PASSING A  
20 BOTTLE BACK AND FORTH.

21 Q. WHAT SORT OF DRINK WAS MARK DRINKING?

22 A. WE WERE ALL DRINKING HARD LIQUOR.

23 Q. WHAT KIND?

24 A. I DON'T REMEMBER.

25 Q. VODKA?

26 A. I DON'T REMEMBER.

19116

1 Q. WAS ANYONE THERE MIXING DRINKS FOR OTHER  
2 PEOPLE?

3 A. STEVE PROBABLY WAS. BUT I DON'T REMEMBER  
4 FOR SURE. HE WAS THE HOST, BUT I DON'T REMEMBER IF HE WAS  
5 MIXING THEM FOR US OR NOT.

6 Q. OKAY. COULD YOU SEE A CHANGE IN MARK'S  
7 BEHAVIOR AS A RESULT OF THE INCREASING AMOUNT OF ALCOHOL  
8 IN HIS SYSTEM?

9 A. NOT UNTIL WE GOT TO THE NEXT PARTY, AS FAR  
10 AS I RECOLLECT. I DID NOTICE HE WAS EXTREMELY DRUNK WHEN  
11 WE GOT TO THE NEXT PARTY.

12 Q. WHEN YOU LEFT STEVE'S, WAS IT LIGHT OR DARK?

13 A. DARK.

14 Q. HOW LONG IT HAD BEEN DARK?

15 A. HOURS.

16 Q. SO YOU WERE AT STEVE'S FIVE, SIX HOURS?

17 A. PROBABLY. BUT THAT'S LIKE I SAY, I DON'T  
18 REMEMBER EXACTLY WHAT TIME WE GOT THERE, HOW LONG WE SHOT  
19 POOL.

20 Q. LET'S BACK UP TO IT.

21 YOU ARRIVED DOWN IN SAN CLEMENTE?

22 A. YES.

23 Q. SAN JUAN CAPISTRANO?

24 A. YES.

25 Q. WHICH ONE WAS IT?

26 A. SAN JUAN CAPISTRANO.

19117

1 Q. SAN JUAN CAPISTRANO AT ABOUT MIDNIGHT?

2 A. YES.

3 Q. HOW LONG DID IT TAKE YOU TO DRIVE FROM  
4 STEVE'S TO SAN JUAN CAPISTRANO?

5 A. PROVIDING WE DROVE STRAIGHT THERE AND DIDN'T  
6 GET LOST, IT PROBABLY TOOK US ABOUT ANOTHER 45 MINUTES.

7 Q. DID YOU MAKE ANY STOPS FOR SAY, MORE LIQUOR  
8 ALONG THE WAY?

9 A. WOULDN'T SURPRISE ME, BUT I DON'T REMEMBER.

10 Q. SO WE ARE LOOKING AT MAYBE AN HOUR'S DRIVE  
11 ON THE OUTSIDE TO SAN JUAN CAPISTRANO FROM STEVE'S?

12 A. YES.

13 Q. AND IF YOU ARRIVED THERE AT 12:00, YOU  
14 DIDN'T LEAVE STEVE'S UNTIL ABOUT 11:00?

15 A. I SEEM TO RECALL IT BEING REAL CLOSE TO  
16 MIDNIGHT WHEN WE ARRIVED, BECAUSE IT SEEMS LIKE IF THERE  
17 WERE OTHER PEOPLE AT THE PARTY, MOST OF THEM HAD ALREADY  
18 LEFT.

19 Q. THE PARTY YOU ARE REFERRING TO IS SAN JUAN  
20 CAPISTRANO?

21 A. RIGHT.

22 Q. OKAY. SO YOU LEFT STEVE'S AT ROUGHLY 11:00  
23 O'CLOCK?

24 A. YES. SOMETHING LIKE THAT.

25 Q. SO YOU HAD BEEN AT STEVE'S FROM SAY 5:00  
26 O'CLOCK TO 11:00 O'CLOCK?

19118

1 A. IT'S A PRETTY CLOSE ESTIMATE.

2 Q. DRINKING HARD LIQUOR?

3 A. YES.

4 Q. GLASS IN THE HAND ALL THE TIME?

5 A. I IMAGINE.

6 Q. DO YOU REMEMBER WHAT ELSE YOU DID WHILE YOU  
7 WERE THERE?

8 A. BELIEVE WE SMOKED SOME POT, TOO.

9 Q. TAKE ANY OTHER DRUGS?

10 A. I DIDN'T. I DON'T KNOW IF ANYBODY ELSE DID  
11 OR NOT.

12 Q. DID YOU PLAY ANY KIND OF SPORTS OR ANYTHING  
13 THERE AT STEVE'S? ANYTHING GOING ON OTHER THAN A COCKTAIL  
14 PARTY?

15 A. I BELIEVE IT WAS JUST STRICTLY DRINKING.

16 Q. THEN ABOUT 11:00 YOU HEAD TO SAN JUAN  
17 CAPISTRANO, AND IT'S AT THIS POINT YOU NOTICE THAT MARK IS  
18 NOT PERFORMING TOO WELL?

19 A. NOT TILL WE GOT OUT OF THE CAR IN SAN JUAN  
20 CAPISTRANO.

21 Q. WAS THERE ANY DRINKING GOING ON IN THE CAR  
22 ON THE WAY DOWN TO SAN JUAN CAPISTRANO?

23 A. I DON'T REMEMBER, BUT HERE AGAIN, IT  
24 WOULDN'T SURPRISE ME.

25 Q. WAS ANY MARIJUANA BEING SMOKED?

26 A. I DON'T REMEMBER THAT, EITHER.

19119

1 Q. OR ANY DRUGS BEING TAKEN?

2 A. I DON'T THINK THAT WE HAD ANY OTHER DRUGS  
3 THAT NIGHT, BUT I DIDN'T PERSONALLY. I DON'T KNOW IF THEY  
4 DID OR NOT.

5 Q. WHEN YOU ARRIVED AT SAN JUAN CAPISTRANO, IT  
6 WAS APPROXIMATELY MIDNIGHT?

7 A. UH-HUH.

8 Q. IS THAT YES?

9 A. YES.

10 Q. YOU SAID THE PARTY WAS BREAKING UP?

11 A. WELL, THERE WEREN'T VERY MANY PEOPLE THERE.  
12 THE ONLY PEOPLE THERE BESIDES US WAS THE PERSON THAT OWNED  
13 THE HOUSE AND HIS NEXT DOOR NEIGHBOR WHO ALSO WORKED WITH  
14 US, SO IT WAS A VERY SMALL PARTY.

15 Q. WHAT WAS THE OWNER'S NAME?

16 A. IT'S BEEN SO LONG AGO, I DON'T REMEMBER HIS  
17 NAME. ACTUALLY IT WAS HIS MOM AND DAD THAT OWNED THE  
18 HOUSE, BUT HE ALWAYS SAID IT WAS HIS HOUSE. I BELIEVE HIS  
19 MOM AND DAD ACTUALLY OWNED THE HOUSE, BUT THEY THEY DIDN'T  
20 LIVE THERE WITH HIM.

21 Q. I WON'T HOLD YOU TO THAT.

22 ANY EVENT, YOU HAVE THIS FRIEND THAT WORKED  
23 WITH YOU AT EMERSON ELECTRIC?

24 A. WE ALL WORKED THERE.

25 Q. WENT DOWN TO THIS PARTY, YOU GOT THERE ABOUT  
26 MIDNIGHT. YES?

19120

1 A. YES.

2 Q. AND THERE WAS A NEIGHBOR WHO ALSO WORKED  
3 WITH YOU WHO WAS THERE?

4 A. RIGHT. NEXT DOOR NEIGHBOR.

5 Q. WHAT WAS HIS NAME?

6 A. I DON'T REMEMBER HIS NAME, EITHER.

7 Q. WAS THAT GARCIA?

8 A. YES. JOE GARCIA, I BELIEVE.

9 Q. AND SO HE WAS THERE WHEN YOU ARRIVED?

10 A. YES.

11 Q. WHAT WAS THE FIRST THING THAT YOU DID ONCE  
12 YOU ARRIVED?

13 A. PROBABLY GRABBED A DRINK.

14 Q. WHAT'S THE NEXT THING YOU DID?

15 A. PLAYED POKER.

16 Q. HOW LONG AFTER YOU ARRIVED WAS IT BEFORE YOU  
17 SAT DOWN TO PLAY POKER?

18 A. NOT VERY LONG.

19 Q. BEFORE THE GAME -- WELL, HOW LONG IS NOT  
20 VERY LONG? HALF HOUR, HOUR, TWO HOURS?

21 A. IT WAS A VERY SHORT TIME BEFORE WE STARTED  
22 PLAYING POKER.

23 Q. BASICALLY YOU ARRIVED, YOU MAY HAVE GOTTEN A  
24 DRINK, YOU MAY NOT HAVE, YOU SAT DOWN AND STARTED PLAYING  
25 POKER?

26 A. YES.

19121

1 Q. AFTER YOU ARRIVED BUT BEFORE THE POKER GAME  
2 BEGAN, WAS THERE ANY DISCUSSION ABOUT WHETHER OR NOT THERE  
3 WAS ENOUGH CHANGE TO PLAY, ENOUGH COINS AROUND?

4 A. IT'S BEEN A LONG TIME AGO, BUT I SEEM TO  
5 RECALL HAVING GOTTEN CHANGE AT THE BARS WE WERE AT. BUT  
6 IT'S BEEN TOO MANY YEARS AGO. I DON'T REMEMBER IF THERE  
7 WAS A DISCUSSION --

8 Q. REMEMBER AFTER YOU ARRIVED A DISCUSSION THAT  
9 MAYBE YOU WERE GOING TO NEED CHANGE IN ORDER TO PLAY?

10 A. I THINK WE BROUGHT OUR CHANGE WITH US.

11 Q. DO YOU REMEMBER LEAVING THE HOUSE IN ORDER  
12 TO FIND CHANGE AT DIFFERENT BARS IN THE AREA?

13 A. NO, I DON'T. I THOUGHT WE ALREADY HAD ALL  
14 OUR CHANGE WITH US WHEN WE WENT.

15 Q. ARE YOU CLEAR ON IT?

16 A. THAT'S THE WAY I RECALL IT. IT'S BEEN 14  
17 YEARS AGO.

18 Q. SO YOU START PLAYING?

19 A. UH-HUH.

20 Q. AND YOU THINK THAT'S WITHIN WHAT, 15 MINUTES  
21 OF YOUR ARRIVAL?

22 A. IT WAS VERY SHORTLY AFTER WE GOT THERE.

23 Q. WHO ALL WAS PLAYING POKER?

24 A. MYSELF, WAYNE BAILEY, THE PERSON THAT OWNED  
25 THE HOUSE, I DON'T REMEMBER HIS NAME, AND I BELIEVE JOE  
26 PLAYED FOR A LITTLE WHILE, BUT HE DIDN'T PLAY VERY LONG.

19122

1 I REMEMBER HE LEFT THE PARTY EARLY. WE STAYED AND PLAYED  
2 UNTIL THE NEXT MORNING. TILL THERE WAS NO MORE MONEY  
3 LEFT.

4 Q. WHAT WAS THE FIRST THING THAT MARK DID ONCE  
5 HE ENTERED THE HOUSE?

6 A. HE TRIPPED OVER A COFFEE TABLE.

7 Q. WAS THAT ON THE WAY INTO THE HOUSE?

8 A. YES.

9 Q. WHAT HAPPENED TO HIM?

10 A. HE FELL DOWN. SAID HE DIDN'T FEEL LIKE  
11 PLAYING POKER. HE WASN'T FEELING GOOD. JUST WENT AND  
12 LAID DOWN ON THE COUCH BECAUSE HE DIDN'T FEEL UP TO IT.

13 Q. WAS THE COUCH WITHIN YOUR VIEW AS YOU SAT  
14 THERE PLAYING POKER?

15 A. NO, IT WASN'T.

16 Q. DIFFERENT ROOM?

17 A. YEAH. IT WAS JUST OUTSIDE THE ROOM.

18 Q. BUT YOU COULDN'T SEE IT?

19 A. NO.

20 Q. COULD YOU HEAR HIM SNORING OR MAKING ANY  
21 SOUND AT ALL AS YOU SAT DOWN TO PLAY?

22 A. NO, I DON'T RECALL WHETHER HE WAS SNORING OR  
23 NOT. I DON'T RECALL HEARING ANYTHING LIKE THAT, NO.

24 Q. WHEN HE TRIPPED OVER THE COFFEE TABLE, WERE  
25 YOU WATCHING HIM?

26 A. I WAS WITH HIM. I WAS RIGHT BESIDE HIM.

19123

1 Q. WAS HE STUMBLING AS HE FELL INTO IT?

2 A. I DON'T REMEMBER. I JUST RECALL HE TRIPPED  
3 AND FELL.

4 Q. IN YOUR OPINION WAS THAT BECAUSE OF THE FACT  
5 HE WAS DRUNK?

6 A. YES.

7 Q. WAS HE HAVING TROUBLE TALKING?

8 A. I DON'T RECALL. IT'S BEEN TOO LONG AGO.

9 Q. DO YOU REMEMBER HAVING CONVERSATION WITH  
10 DETECTIVE STANSBURY FROM THE ORANGE COUNTY SHERIFF'S  
11 DEPARTMENT ABOUT YOUR RECOLLECTIONS OF WHAT HAPPENED AT  
12 THAT PARTY ON JANUARY 10TH, 1976?

13 A. AT WORK?

14 Q. YES.

15 A. YES.

16 Q. AT EMERSON ELECTRIC?

17 A. YES.

18 Q. DO YOU REMEMBER TELLING DETECTIVE STANSBURY  
19 THAT MARK HALL DIDN'T HAVE THE ABILITY TO STAND OR EVEN  
20 SIT WITHOUT FALLING?

21 A. OKAY.

22 Q. HAD YOU SEEN HIM TRY TO SIT UNSUCCESSFULLY?

23 A. IT'S BEEN SO MANY YEARS AGO THAT I DON'T  
24 REMEMBER WHETHER I SAW HIM -- RIGHT NOW IT'S MY  
25 RECOLLECTION HE CAME IN, HE TRIPPED OVER THE COFFEE TABLE  
26 AND LAID DOWN ON THE COUCH. THAT'S 14 YEARS AGO. I DON'T

1 REMEMBER SEEING HIM TRY TO SIT.

2 AS I RECALL, ON THE WAY DOWN THERE HE WAS  
3 LAYING IN THE BACK SEAT OF THE CAR, SO THAT MIGHT BE WHERE  
4 THAT STATEMENT CAME FROM.

5 Q. DID YOU TELL DETECTIVE STANSBURY THAT HE  
6 DIDN'T HAVE THE ABILITY TO SPEAK AUDIBLY?

7 A. PROBABLY. I -- I DO NOT RECALL.

8 Q. AT SOME POINT DURING THIS POKER GAME, THE  
9 NEIGHBOR, MR. GARCIA, LEFT?

10 A. YES.

11 Q. DO YOU KNOW HOW LONG INTO THE GAME IT WAS?

12 A. IT SEEMS LIKE IT WASN'T TOO VERY LONG INTO  
13 IT. BUT -- I KNOW -- LATER WHEN WE FOUND OUT THAT MARK  
14 WAS DEAD, WE JUST ASSUMED THAT MAYBE THEY WENT OUT  
15 TOGETHER OR SOMETHING. SEE, I DO RECALL THAT HE LEFT AND  
16 WHEN HE LEFT, MARK WAS STILL THERE.

17 WE THOUGHT MAYBE HE CAME BACK OVER OR  
18 SOMETHING LATER AND HELPED MARK LEAVE. I DON'T KNOW.

19 Q. CAN YOU QUANTIFY THE AMOUNT OF TIME THAT  
20 PASSED AFTER YOU ARRIVED AT THE PARTY IN SAN JUAN  
21 CAPISTRANO UNTIL THE TIME THAT MR. GARCIA QUIT THE GAME  
22 AND LEFT. WAS IT AN HOUR, TWO HOURS?

23 A. IT'S BEEN SO LONG AGO, I REALLY DON'T  
24 REMEMBER.

25 Q. AT SOME POINT DURING THE EVENING, DID ONE OF  
26 YOU DISCOVER A COUPLE HUNDRED DOLLARS MISSING?

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1 A. THE NEXT DAY WAYNE SAID THERE WAS A COUPLE  
2 HUNDRED DOLLARS MISSING.

3 Q. WAS THERE AN EFFORT, AS SOON AS THAT  
4 STATEMENT WAS MADE, TO CHECK AROUND THE HOUSE AND SEE IF  
5 IT COULD BE LOCATED?

6 A. I DON'T RECALL IF IT WAS RIGHT THAT INSTANT  
7 OR NOT.

8 Q. WAS IT DURING THAT CHECK THAT YOU DISCOVERED  
9 THAT MARK HALL WASN'T ANYMORE IN THE RESIDENCE?

10 A. NO, I BELIEVE IT WAS AFTER WE FOUND OUT THAT  
11 MARK WASN'T THERE THAT WAYNE ALL OF A SUDDEN SAID GEE,  
12 THERE'S A COUPLE HUNDRED DOLLARS MISSING. I DON'T RECALL;  
13 IT'S BEEN TOO MANY YEARS AGO. I DO REMEMBER WAYNE SAYING  
14 THERE WAS A COUPLE HUNDRED DOLLARS MISSING, YES.

15 Q. CAN YOU PICTURE RIGHT NOW THE STREETS YOU'D  
16 HAVE TO TAKE TO GET TO THE HOUSE THERE IN SAN JUAN  
17 CAPISTRANO TO THE CLOSEST FREEWAY?

18 A. YEAH. I ONLY WENT TO THE HOUSE ONCE, BUT I  
19 REMEMBER GETTING OFF THE FREEWAY, TURNING LEFT OFF THE END  
20 OF IT WHERE IT T'S OFF. WE WENT LEFT FOR ABOUT TWO  
21 BLOCKS, AND IT WAS RIGHT THERE WHERE WE PUT THAT STICKER.

22 Q. HOW LONG WERE EACH OF THESE BLOCKS WE ARE  
23 TALKING ABOUT?

24 A. THEY WERE VERY SHORT ONES. IT WAS RIGHT --  
25 CAN I MOVE THIS?

26 Q. NO, LEAVE IT.

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1 A. YOU HAVE TO SEE RIGHT UNDERNEATH THERE'S A  
2 RAMP HERE, THEN IT COMES LIKE THAT AND IT'S TWO BLOCKS  
3 DOWN.

4 Q. THE STREET YOU ARE TALKING ABOUT PARALLELS  
5 THE SAN DIEGO FREEWAY?

6 A. YES.

7 Q. AFTER YOU WENT TWO BLOCKS SOUTH, YOU TURNED  
8 WHICH DIRECTION?

9 A. I THINK IT WAS RIGHT ON THAT STREET, FAR AS  
10 I RECALL.

11 Q. SO THE OFF RAMP --

12 A. THE OFF RAMP COMES OUT THIS WAY, THEN YOU  
13 TURN ONTO THIS STREET.

14 Q. WHERE IS THE NEAREST ON RAMP TO THAT  
15 FREEWAY?

16 A. I DON'T KNOW. I JUST REMEMBER THE OFF RAMP.  
17 THE OFF RAMP WAS JUNIPERO SERRA, WHATEVER IT IS. I CAN  
18 NEVER SAY IT RIGHT.

19 Q. WAS IT HARD TO BELIEVE --- STRIKE THAT.

20 IN VIEW OF MR. HALL'S CONDITION AS YOU  
21 OBSERVED HIM THERE AT THE PARTY, DID YOU FIND IT HARD TO  
22 BELIEVE HE WOULD BE ABLE TO GET UP AND WANDER OFF ON HIS  
23 OWN?

24 A. EXTREMELY DIFFICULT. WE NEVER REALLY  
25 THOUGHT HE DID WANDER OFF ON HIS OWN.

26 Q. IN FACT, IT WOULD BE HARD FOR HIM TO GET UP

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1 AND EVEN GET OUT OF THE LIVING ROOM?

2 A. YEAH. ONCE HE LAID DOWN ON THE COUCH, WE  
3 FIGURED HE WAS THERE FOR THE DURATION OF THE NIGHT.

4 Q. DID YOU SEE MARK BREAK A BEER BOTTLE BY  
5 FALLING ON IT WHILE HE WAS THERE?

6 A. IF I DID, I DON'T RECALL IT.

7 Q. REMEMBER TELLING OFFICER STANSBURY "HE  
8 RECALLED HIM FALLING ON A COFFEE TABLE IN THE LIVING ROOM  
9 AND BREAKING A BEER BOTTLE"?

10 A. NO, I JUST REMEMBER HIM FALLING OVER THE  
11 TABLE. I DON'T REMEMBER THE BEER BOTTLE.

12 Q. OR THE FALLING OUT OF A CHAIR?

13 A. OR THE FALLING OUT OF A CHAIR.

14 MR. MERWIN: THANK YOU VERY MUCH. NOTHING ELSE.

15 THE COURT: MR. BROWN, ANYTHING ADDITIONAL?

16 MR. BROWN: NO, SIR.

17 THE COURT: THANK YOU, SIR, FOR COMING IN. NEXT  
18 WITNESS, PLEASE.

19 MR. BROWN: MR. TURNER.

20 THE COURT: BE SEATED, SIR. YOU ARE STILL UNDER  
21 OATH, TESTIFIED PREVIOUSLY. AND YOU MAY PROCEED, MR.  
22 BROWN.

23 PAUL SEDGWICK, \*

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