Q Isn't it true that she said to you that she could not have killed anyone?

A Yeah. She would emphasize that she did not have hostile tendencies.

Q Did she seem concerned to you that she did not know where she had been during that time period?

A You know, what I never understood was that like when she talked to me, she would be concerned that she didn't know where she was; but then like the day that they had the funeral service and everything, she mourned all day, you know--I couldn't understand.

Q You said she wore black, I believe?

A She wore a long black dress and a thing over her face. She had them flowers.

Q Do you recall reading anything in the newspaper about a child's hobby horse in connection with this crime?

A No. She mentioned that to me the night out by Haymont. I had never read that.

Q Now, the time when you went to the door, did you happen to look at the clock to see what time it was?

A Yeah. I got up to go to the bathroom, you know, I have a--I don't know if it is a habit or what, but for the longest I can remember, around 4:00,

4:30, or 5:00 o'clock, I get up and go to the bathroom. I mean, I do it all the time, you know. See, let me explain something. The reason that I went to the door to look out--we were having trouble with people blocking our driveways and stuff like this. Like a couple of mornings I got up to go to work and there would be people staying over there and they would have our driveway blocked and they would have, you know--they partied all the time and it was just, you know, you couldn't get any rest.

Q How long after you testified at the Article 32 did you remain in the Fayetteville area?

A Only a couple of days.

Q You left rather quickly?

A Yeah.

Q Do you recall being given $150 by Lieutenant Malley when you left?

A It was between $100 and $150; yes.

Q Did you know that he was a friend of Dr. MacDonald's; is that correct?

A No. All I knew was that he was with the military. That is all. That was for moving expenses, you know, that is all.

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BY MR. BLACKBURN:

Q Do you recall ever talking to Mr. Brisentine?

A Who is he?

Q Prior to yesterday?

A I don't know who you are talking about.

Q He's the tall fellow--the tall thin fellow with sort of silvery hair. He has been here this afternoon. Do you recall seeing him prior?

A One man that I have seen before, yeah, years ago.

Q Do you recall ever telling Mr. Brisentine in the past that perhaps you were mistaken as to the night that you saw Helena?

A No.

MR. BLACKBURN: No further questions.

MR. SMITH: Any questions for the court?

MR. SEGAL: Just on your redirect very briefly to clarify a matter, Your Honor. May I?

REDIRECT EXAMINATION

BY MR. SEGAL:

Q Mr. Posey, you said that very shortly after you testified at the military proceeding that you left Fayetteville, is that right?

A They broke into my house, you know; somebody broke into my house; and when the police came, in my bedroom, there was a knife behind the door.

It was--oh, never mind.

Q Were you scared?

A Yeah, I was scared.

Q Where did you move to after you left?

A My home, Alabama.

Q Did you feel that the episode at your home was in any way related to the fact you had testified at the military proceedings?

A Well, that night when John and all of us went to the police there was a dirt alley about a block and a half from our house.

Jim, one of the guys that used to come over to Helena's, was in his yellow Plymouth sitting right there. We went down to the police station. He was right behind us following us down there, you know.

So I felt like I wasn't safe there, no.

Q What did you use the $150.00 for?

A To get a moving truck, you know; rent one of them U-Haul trucks to move with.

Q You moved down to Alabama?

A Yes.

Q Do you live there now?

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A Yes, sir.

MR. SEGAL: Thank you very much.

THE WITNESS: I had a good job going and everything too.

MR. SEGAL: You left a good job in Fayetteville?

(Witness nods affirmatively.)

MR. SEGAL: Thank you, Mr. Posey.

THE COURT: Is there perhaps a sixth witness?

MR. SEGAL: No, Your Honor, I could look, I suppose, but I don't think it will do any good. No, Your Honor, that is the evidence on voir dire. I should say that there are obviously additional facts that these witnesses possess, but that is the basic outline.

All of these witnesses, in fact, spoke with--I shouldn't say all of them. Mr. Posey, Ms. Zillioux, Mr. Underhill have all spoken--Mr. Beasley--to Ms. Stoeckley yesterday.

There are things that were said there, but that is not germane to the main part of the testimony. I would only say in support of our offer to call these witnesses that, again, that, one: if it was a prosecution for a homicide, if witnesses who possessed

information which contained both inculpatory and perhaps exculpatory information, that that would not prevent that information from being heard by the jury. It would go to the question of weight only.

THE COURT: Does the posture of this case at this moment equate with a criminal prosecution in which the Government might seek to introduce a so-called admission, confession or admission of guilt, knowing at the same time that they would be obliged to introduce a retraction or explanation of it?

MR. SEGAL: Your Honor, I don't think the Defendant has less of a right to show that another person has made statements that reasonably inculpate him in the crime. Our points in our memorandum of law here that we filed with the Court--it is perfectly clear under the cases that a statement does not have to be a straight out-and-out confession--"I done did it"--without any retraction to get it to be admitted into the record.

The cases stand that where evidence could be useful to show both the person's knowledge of the crime, acts of consciousness of guilt, acts relating to state of mind: the fact that that person also contradicts that, and wishes others to disregard that, does not prevent its admissibility.

This is very similar, I think, to the case of

Chambers v. Mississippi in the United States Supreme Court, in which a Defendant was denied, as I recall the case, an opportunity to introduce a declaration against interest by some other party. Essentially, a Defendant proceeds under his Fifth Amendment right to offer a jury any reasonable defense that he has.

His burdens of proof are different, Your Honor, but that does not give the prosecution greater latitude to do this. Some of our evidence is circumstantial. Some of it is much more direct and conclusive. I will simply say that we don't rest on any one piece of evidence, although I think certain pieces of evidence that we have offered today are total and complete in terms of what they show about Ms. Stoeckley's involvement, about such acts as getting rid of clothing that is identified with the crime.

Yes; it is both capable of both innocent and a guilty motive. Innocent motive, I suppose, would be, "People were hassling me." A guilty motive is consciousness that this links the person to the crime. But the issue is only a foundational one for Your Honor. Your Honor is proceeding under Rule 103 to determine only whether or not the jury should hear this. The Court cannot make a decision as to anything more than, I think, that this evidence bears reasonably on the issues in the

case, that this evidence is not incredible at all.

And I think the only thrust that I can sense from the Government's arguments here is that perhaps Ms. Stoeckley was under the influence of drugs at times that she made some of these statements.

THE COURT: You may be getting a little ahead of the game. Are you resisting the introduction of this thing? We could go home real early if you say "no" to that.

MR. MURTAGH: Your Honor, it seems to me that the Court is not bound only by Rule 103, which the Defense would---

MR. SEGAL: (Interposing) And 104.

MR. MURTAGH: I am sorry; what we are talking about, I believe, are hearsay statements. It seems to me, Your Honor, that the rule that is directly in point is Rule 804, and if I could just skip to the last sentence of it--perhaps I shan't. On 804(3):

> "...A statement which was, at the time of its making, so far contrary to the declarant's pecuniary or proprietary interests, or so far tended to subject him to civil or criminal liability, or to render invalid a claim by him against another, that a reasonable man in his position would not have made the

statement, unless he believed it to be true. A statement tending to expose the declarant to criminal liability and offered to exculpate the accused is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement."

I think that is exactly what they have shown by their witnesses, Your Honor. First of all, Ms. Stoeckley's statements are not clearly admissions of guilt. If anything, what they are is what has been brought out on direct and cross, that the woman doesn't know where she was that night; that she was being constantly interrogated by the police; and that she began to, you know, have fears about not being able to account for where she was.

And all of these statements cannot be taken out of that context and out of the context that the woman has been a drug addict, has had hepatitis, has been incoherent--to use the statements of one of the witnesses--has been hysterical. So it seems to me that these statements are not trustworthy, and they certainly are being offered to exculpate the accused.

What Mr. Segal is trying to say is, if the Government was trying to introduce these statements,

the rule would be different. That is irrelevant because the Government is not trying to introduce these statements, nor has it sought to introduce any statements like this coming from the Defendant at any time during its case.

THE COURT: That was the reason that I asked Counsel if this situation presently before this Court equated with the situation where you were prosecuting this witness here, Stoeckley, and were trying to get this stuff into evidence against her. I didn't exactly get a "yes" or "no" to that, but maybe he wants to tell me now.

MR. SEGAL: Your Honor, my view is that the right of the Defendant is precisely the same as the Government. As a matter of fact, the right of the Defendant is probably even stronger, because I suggest that under Chambers v. Mississippi that---

THE COURT: (Interposing) Give me the citation of that, please.

MR. SEGAL: I am sorry; I do not have it. It is 1960's, United States Supreme Court case, Your Honor.

THE COURT: 1960's?

MR. SEGAL: My recollection of Chambers is a case in which the Defendant sought to introduce a

declaration against interest by somebody else, and under Mississippi law he was precluded from doing that. The Supreme Court indicated that the Fifth Amendment gave the Defendant a right to assert his defense. And that case has been read so broadly in so many cases, it says, there are even times a defendant can assert a defense that maybe as a matter of law could excuse him.

But you can't stop him from at least asserting it. So I say, in a certain sense, we are in a stronger position than the Government is, because our right stands upon the Fifth Amendment. The Government putting on a case--the only difference between them and us is that the amount of proof they have to offer, when it is weighed at the end of the case, must be beyond a reasonable doubt. But that doesn't make a piece of evidence more admissible or less admissible as to the quantity you have to wind up with at the end.

THE COURT: What do you say to his argument based upon the second sentence to subsection (3) of subsection (b) of 804?

MR. SEGAL: Your Honor, I'm sorry; I did not catch the predicate to that sentence?

THE COURT: Counsel has called the attention of the Court and yourself to the second sentence of 804(b)(3).

MR. SEGAL: 804(b)(3), Your Honor?

THE COURT: Yes; he maintains that in order to let this evidence come in, there must be some showing of its trustworthiness in advance--this being the position the case is in at the moment, to determine whether or not the Court will let it in, in compliance with its duty under 104.

MR. SEGAL: Let me tell Your Honor, I have studied the history of the section at some considerable length--and I mean, not for this case--it was in regard to other responsibilities that I have, and on other occasions.

And I would say the history of this section makes it perfectly clear that what the Federal Rules drafters were doing was saying, "We don't think that an accused in a criminal case should be able to bring in somebody off the street and say, 'Oh, yeah; some fellow who is now dead and long gone and can't be found--he once confessed to this crime that the Defendant has been charged with,' and then sit down."

What that section says is, there has to be some circumstances of corroboration that give us a sense that this is other than contrived testimony. It is for that reason the Federal Rules have a provision that does not exist in any other state ruling in the United States,

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other than those states which have adopted the Federal Rules. And that is the rule that where declarations against penal interest are admissible, the Federal Rules have said some corroboration is necessary.

That is why we have six witnesses to that fact, because we understand the rules direct us. The question is, though, how strong or clear must each statement be? That is what I gather Mr. Murtagh is arguing.

I commend to the Court the statement of the Court of Appeals in United States v. Thomas in a brief that we filed. The United States Court of Appeals says,

> "...We do not read Rule 804(b)(3) to be limited to direct confessions of guilt. Rather, by referring to statements that 'tend' [that word is in quotations] to subject the declarant to criminal liability..."

The emphasis, as the Court of Appeals reads it, is on the tendency to subject to liability:

> "...the Rule encompasses disserving statements by a declarant that would have probative value in a trial..."

And that is our first part. It is very difficult, I think, to escape the feeling--the logic, I think--that the statements made by Ms. Stoeckley from each of these witnesses would have that tendency. It

doesn't say that they have to have proof beyond a reasonable doubt in and of themselves.

The same view has been stated by the United States Court of Appeals for the First Circuit in the Barrett case.

THE COURT: When you give me a case name, give me the citation?

MR. SEGAL: Yes, Your Honor; first of all the Thomas case I have cited is quite new, 571 F.2d 285 at page 288, Your Honor--1978 case for the Eighth Circuit. There is a similar view in another circuit opinion--1976--called United States v. Barrett, B-a-r-r-e-t-t. The Barrett case is found, if Your Honor pleases, at 539 F.2d 244.

If I may just read, because I think there is a relevant section here:

"...The Court of Appeals noted that the statement offered by the defendant contained no direct confession of guilt by the unavailable declarant. But, said the court, '[a] reasonable person would have realized that remarks of the sort attributed to the [declarant] . . . strongly imply his personal participation in the . . . crimes and hence would tend to subject him to criminal

liability. Though by no means conclusive, the statement would be important evidence against the [declarant]...'"

THE COURT: Now, let me ask you this? I have noted the word "reasonable" in your reading it, and you have read it there. Does the admissibility presuppose that the statement was made by a reasonable person? Or, to go further, is it one that could be made by anybody--but if made by a reasonable person--that is, drunk or sober--but, if made by a reasonable person, would be admissible?

MR. SEGAL: If Your Honor pleases, I think the answer to that is contained in the statement of the Federal Rule 601. I would say it this way: we are dealing with what is conventionally called a double-hearsay problem.

If, in fact, Ms. Stoeckley was not unavailable--i.e., she had memory, could she testify to these things. The answer is, obviously she could testify to what she said. We are one step removed. She made these statements to other persons.

But the fundamental question is, could she have testified to these things? Could she say these things? Rule 601 says, as to competency of witnesses:

"...Every person is competent to be a witness except as otherwise provided in the rules."

There is an exception in civil actions, where state law is made applicable.

So the threshold is under 601 everyone is

presumed competent. The evidence that we have introduced on behalf of our offer here in no way shows that she is incompetent. The cross-examination, which is their burden to try to show, I suppose, or to offer extrinsic evidence on the subject of incompetence, is nonexistent.

THE COURT: You established her competency here today.

MR. SEGAL: I think so.

THE COURT: I think her incompetency at the time she made at least some of the statements has been more than adequately established.

MR. SEGAL: Your Honor, I dare to disagree, and say this: incompetency in the legal sense--the evidentiary sense--says a person did not know--have the capacity to make the statement. That is as defined in the rules. The lack of capacity means they did not know the subject matter which they were talking about--didn't have an understanding of the subject matter they were talking about.

It is a different standard than some of the conventional common law rules on capacity. The standards in the Federal rules are much broader, because the whole thrust of these rules is to do what we are doing here, which says, "Let the evidence"--as I think Your Honor has

said to us at one time--"Let it hang out."

These rules are designed to bring out evidence. Many of us were raised--I certainly was raised in a traditional common law state. I practice in California, which is a modified evidence code. None of them are like the Federal rules. The Federal rules say, "Let it come out."

We make everyone competent. We don't bar people, Your Honor. When you bring in a patient from a state mental hospital who is certified as insane, and if she is sexually molested by a guard or an attendant, she is competent under the Federal rules to get up there and say that that man assaulted her or molested her, even though there is a certificate hanging around her neck that she is literally non compos.

Now, there is no such thing here. We regularly, Your Honor, arrest people for drunk drivers. We have people who ring the bell on the breathalyzer. They also said, "I had 12 beers and six shots." And that is admissible evidence against them.

If we were to say in this case, because maybe somebody thinks that Helena was using some drugs that her statements are inadmissible, what are we saying about statements we take all the time in connection with the criminal process? We have worse things.

I, in my own experience, Your Honor, in trying all types of criminal cases, in about 50 percent of all the cases I have ever seen, alcohol is a factor. Defendants claim--there is evidence of intoxication to varying degrees. Except for those Defendants who are unconscious, I have never yet really seen that as a barrier to when he says, "Well, I think I was there."

What it does go to, Your Honor, perhaps at best, is to weight. Your task is under 104. It is only to say not whether you, Your Honor, accepts it. You, perhaps, with your own sophisicated view, would form an opinion about this testimony. What we are saying is that under that test, we only have to say, "Would it be unreasonable for the jury, as a matter of law, to use it for the purpose the Defendant offers?" I think it not.

Is the jury incapable of understanding that Helena Stoeckley, on some occasions at least, was under the influence of drugs? Perhaps; but also, if Your Honor will note, her testimony about drugs is not that all the time that she was talking, nobody listened to her. Mr. Beasley makes that point preeminently.

MR. SEGAL: (Continuing) If her word is good enough, smashed on heroin and opium, to then justify a Fourth Amendment search, having someone's home ripped open, having someone seized, some car halted--and I think her word is good enough--then why in the name of the rules of this court must the Defendant here have to prove more about it?

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If she is good enough to tear down the Fourth Amendment for somebody else, then she is good enough for our Fifth Amendment right to let us hear this testimony.

I don't think it is so outlandish what we are offering, Your Honor, on balance. Just perhaps if we were lay people instead of lawyers, would lay people actually say, "This is ridiculous." It's not. I mean, the behavior is bizarre.

As a matter of fact, there is a certain internal consistency that always has impressed me about what she said. I truthfully do not think there is any evidence that Helena Stoeckley inflicted an injury. There is clearly evidence in my mind from all these witnesses that she carried a candle and was present that is good enough to indict her in murder as a conspirator under the felony murder rule.

I mean the fact that she did not lift the weapon, if that is true, that she did not pick up the club, if that is true, that she did not have the ice pick or the knife, the fact that she loved little children and didn't lay a knife on them does not keep her from being indicted, if it were possible, for felony murder.

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If that is true--and in her own caution some of the words she said, "I don't think I better say that"--she tries to pull it back. All that says to us is: I think a reasonable jury can understand that and can sort that out as to the weight to be given to it.

In my view, it is not in any way improper under the rules.

THE COURT: All right, what says the Government?

MR. MURTAGH: Your Honor, I would again reiterate--and I think Mr. Segal is missing the point--that we are talking about whether a reasonable person making this statement at the time would so appreciate the gravity of the statement that they wouldn't make it unless they meant it.

I don't think we have that in this case. What we are talking about is somebody who is

hysterical, perhaps hallucinating, certainly at times I think going through withdrawal, has hepatitis, is completely in a drug-oriented state and suffering continually from the effects of drugs.

At this time, she makes various statements. Now, those statements are never of an unequivocal nature. It can all be drawn back to her lack of an alibi and the fact that she is constantly being interviewed, picked up, hassled by the police, and having to account for her whereabouts. So that, I think that you can't take it out of that context.

I'm somewhat confused by Mr. Segal taking on the role of prosecutor in this case and arguing that Helena Stoeckley, based on this evidence, could be indicted and I assume, if indicted, could be convicted or if a search warrant was based on her various statements, that the search warrant would be valid.

I think that that is somewhat stretching the point. I still think, Judge, that the issue here is that these statements are being offered not by the Government but by the Defendant to exculpate the Defendant, and then I think the rule mandates that the statements should not be admitted unless there are corrobative circumstances which clearly indicate

the trustworthiness of the statement. I just don't see how Mr. Segal can argue that these various statements which are all over the lot are trustworthy or unequivocal or, for that matter, are really statements against interest.

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THE COURT: What do you say about Rule 403? Does that have any pertinency here?

MR. MURTAGH: Your Honor, if you would indulge me for a second.

MR. SEGAL: If Your Honor means confusing---

THE COURT: (Interposing) I mean Rule 403. There is a little more in it than that.

MR. SEGAL: If Your Honor is saying, on balance, the Government is going to be more prejudiced than the probative value of this-- if that is the part of 403 Your Honor is raising now, then I am prepared to respond to that.

There are several parts of 403: one, the probative value is outweighed by the prejudice. Secondly, the so-called time-wasting factor. Thirdly, the cumulative factor. I perhaps will address them in reverse order.

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THE COURT: Well, we have suspended the operation of the time wasting factor for this particular trial, so you need not address that issue.

MR. SEGAL: I understand Your Honor's admonition in that regard.

MR. MURTAGH: Your Honor, I believe-- I don't know who is up at bat at this time.

THE COURT: Well, you get to go last. I think you were the one who is making the objection to the testimony, are you not?

MR. MURTAGH: Yes, Your Honor.

THE COURT: Well, I will hear you last.

MR. MURTAGH: Okay, Judge.

THE COURT: I'll hear him first.

MR. SEGAL: As far as 403 is concerned, Your Honor, here you really do have, I think, several issues, one of which is of constitutional dimensions.

We are talking about the denial of the right of the Defendant to show that there is evidence that could raise a reasonable doubt on his behalf, because it tends to show the involvement of someone else.

Remember, that is all his burden is. I think that it would be sad beyond measure to think that

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the teachings of Chambers v. Mississippi--the general sense of what a defendant is entitled to say in his own behalf to one, to not only affirmatively prove his innocence, but to perhaps do more than raise a reasonable doubt.

Now, 403 is a rule which says that when a court has really little doubt that prejudice is going to be so great and probative value is so small, that it ought to be kept out.

But we have several things that contravene such a conclusion, Your Honor. First of all, evidence of a person being involved in these homicides could not under any test be viewed as being of little probative value.

Evidence that a person--that the Defendant says and the Defendant offers with great, I think, range of witnesses coming from every side--police officers, persons who do not know the person, persons who want to help this person--a range of persons come forward and say she has made statements which have the tendency to involve her, to incriminate her in the crime.

In fact, Mr. Brisentine's statement goes far beyond that, sir. Mr. Brisentine's statement--but we do not rely on that entirely because we want corroboration to meet the test of the rules.

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So, how, I think, can the Government truthfully argue under 403 there is not very much probative value to evidence that someone else committed the crime.

On the other hand, what is the prejudice? The interesting thing here is that there is most assuredly no trial by ambush.

Mr. Posey's testimony has been known to the Government since 1970. He was cross-examined then. Mr. Posey has been interviewed since that time.

Some of these persons are police officers whose statements have been given to the Government recently.

Ms. Zillioux who came to--I must tell Your Honor--perhaps you want the source of that. We do have some disagreements at times about the role of the members of the press. Ms. Zillioux came to the attention of the Defense because she read a press account that this trial was about to happen.

She called the newspaper. The newpaper in turn passed it over to an editor who made two calls: one to the Defendant and one to the Government. And we have both known of her testimony for many months.

And Mr. Underhill has also been similarly disclosed to the Government.

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So we are not talking about prejudice as a sense of surprise, unfairness. We are talking about how unfair is it. Well, if we test the Government's case and say, "Look, your theory is not as credible as you want it because there is some evidence that a reasonable person would have to really consider another person," that can't be so prejudicial as to keep this out.

I do say as my last observation in this regard--these crimes were not committed by reasonable persons. These acts are unreasonable. The testimony--these acts are so consistent with the kind of culture, the kind of persons that Ms. Stoeckley was involved with, that they in themselves tend to be corroborative.

I think we have a tendency in our own sanity, to lose sight of the fact that we are dealing with truly acts of monstrous insanity.

I think that the Constitution would say to us--under Chambers, on the Fifth Amendment--that the 403 Rule cannot be used as a basis of denying a defendant his right to be heard.

THE COURT: Do you give up under 403?

MR. MURTAGH: No, Your Honor. I would say that the portion of the Rule clearly relevant here is in its cumulative value. I think, you know,

MR. MURTAGH: (Continuing) I think the basic issue here is that the Defendant has not been prejudiced by the exclusion of having the witness testify. She was asked point-blank on the stand the sixty-four dollar question about whether she was there or whether she did it.

She certainly was subject to searching cross-examination. I think we have more than satisfied the Fifth Amendment requirements of due process in this regard. I think that 403 would be applicable in addition to 804(b)(3), and that would be our position, Your Honor.

MR. SEGAL: I must say if I could ask Your Honor's brief indulgence: Mr. Murtagh has reminded me of one of the other changes in the rule that I neglected to mention. We are entitled to impeach Ms. Stoeckley. She has in fact denied her involvement.

We are entitled to offer all of this testimony Your Honor heard as impeaching evidence against her. Under the Federal rules, that may be received both as impeaching and substantive evidence. The jury, in fact, can find that, but we are only offering it even as impeaching evidence. I do not understand then why under that simpler theory perhaps

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they've had Helena Stoeckley on the stand for the better part of the day.

I think that she was more than cooperative with both sides. Your Honor, the picture that we showed Ms. Stoeckley taken of her in 1970 was shown to the Defendant at the Article 32 investigation. He did not identify her at that time or at any subsequent time when he has been shown other pictures of her as the girl with the candle.

I think that Mr. Segal's observations that the crime must be the product of an insane act is pure argument. We don't agree with that at all.

that avoids some of the knottier constitutional questions we have been talking about, that we cannot offer it simply as impeachment and have these witnesses heard promptly on Monday morning.

MR. MURTAGH: Your Honor, I don't believe these are her statements. These are statements of witnesses as opposed to the witness' prior statement, and I don't think his observations about impeachment are at all in point. And besides he had the opportunity, if there were prior statements by the witness, to impeach her at that time.

I think that we are now mixing apples and oranges, Judge.

THE COURT: The Court will rule on this motion Monday morning, the 20th of August, at 10:00 a.m. Take a recess until that hour, please.

(The proceeding was adjourned at 3:58 p.m., to reconvene at 10:00 a.m. on Monday, August 20, 1979.)

C E R T I F I C A T E

I, Ervin B. Bush, Jr., do hereby certify that the preceding 293 pages represent a true and accurate transcript of the proceedings held in Raleigh, North Carolina, on Friday, August 17, 1979.

ERVIN B. BUSH, JR., CVR-CM
OFFICIAL COURT REPORTER
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA