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W309 241/99 AB-K1

NEW SOUTH WALES STATE CORONER'S COURT

ACTING STATE CORONER: J ABERNETHY

THURSDAY 19 AUGUST 1999

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INQUEST INTO THE DEATH OF DAVID SAMUEL ROSE

Sergeant E Radzieta assisting the Coroner
Mr A Morison for family of deceased

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EXHIBIT #1 BRIEF OF EVIDENCE AND PHOTOGRAPHS TENDERED,
ADMITTED WITHOUT OBJECTION

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EXHIBIT #2 FORMAL DOCUMENTS TENDERED, ADMITTED WITHOUT
OBJECTION

ORDER FOR WITNESSES GIVEN

20

<SANDRA ANN DURWOOD (10.32AM)

SWORN AND EXAMINED

RADZIETA: Q. Could you tell the Court your full name?

A. Sandra Ann Durwood.

25

Q. Your occupation?

A. I'm a Telemarketer.

Q. And your address?

A. At the moment Number [REDACTED]

30

Q. In relation to the death of David Rose, you assisted
police by conducting two records of interview, is that
correct?

A. That's correct.

35

Q. Now if I just relate to the first one, it's dated

26 December 1997 and 6 February 1998?

A. Correct.

40

Q. Do you recall having records of interview in relation to
those?

A. Yes.

45

Q. Now firstly I just show you a copy to refresh your
memory.

RADZIETA: If I could approach, your Worship.

50

Q. The first record of interview you had was with Brian
Matthews on 26 December 1997, is that right?

A. That's correct.

Q. And there was a second record of interview at Redfern
with, again, Detective Sergeant Matthews?

A. That's correct.

55

Q. Dated February '98 - it actually says '97 - do you agree

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with that?

A. I agree.

Q. And everything within that record, both records of interview, are true and correct?

5

A. Yes.

Q. Is there anything within either one of those records of interview that you'd like to add to or delete from?

A. No there isn't.

10

Q. And that's the evidence you'd like to adhere to as far as this hearing is concerned, is that correct?

A. Yes.

15

Q. Now how long had you known David Rose for?

A. About 10 years.

Q. And how did you meet him?

A. We met through radio station 2RPH, radio for the print handicapped. We were both working in a voluntary capacity and I met him when he trained me to use the technical stuff.

20

Q. At the station?

A. That's correct.

25

Q. Now there was a time there that you had lived with David at his unit, is that correct?

A. I have stayed with him for some periods of time and at one stage when he was overseas I stayed in the unit for a period.

30

Q. And when you lived with him, for how long a period did you stay?

A. It would have been not very long, days or weeks.

35

Q. And when he went overseas you made mention, how long did you stay at his unit then?

A. I think he was away for two months so 6 to 8 weeks.

40

Q. And for you to gain access to the unit, how was that obtained?

A. I had his spare set of keys.

Q. Was that a wooden dolphin set of keys, is that right, the key ring?

45

A. Yeah it wasn't wooden. I think it was metal.

Q. A metal dolphin, is that correct?

A. I - yeah.

50

Q. And obviously for you to gain entry into the unit itself they're the spare set of keys that you used?

A. That's right, yes.

55

Q. And on each occasion as you used the unit and returned - sorry - moved away from the unit itself, did you return those keys or not, or did you keep them for a while?

A. I - I kept them for a while.

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- Q. How long did you keep them for?
 A. I'm really not sure. I can't recall.
- Q. What year was this when you had those keys?
 A. It would have been 1997 I would think. 5
- Q. Can you recall approximately what month you stayed and you kept these keys?
 A. It was later in the year, that's all I can recall. 10
- Q. When you say later in the year, from September till December or earlier?
 A. Just in the latter half of the year.
- Q. And that's 1997?
 A. Yeah, it was in the months prior to Dave's death. 15
- Q. And what was the arrangement with these keys, you were to return them once you'd stopped flatting with David?
 A. Yes - can I make a statement, like can I say something without being in direct response to a question? 20
- Q. Yes, what would you like to say?
 A. I was, and still am, an alcoholic and was what I suppose would be referred to as my rock bottom period at that time. It was before I went into recovery and my recollection of events and times and places is hazy to say the least. 25
- Q. And that's even to - up until this point in 1999?
 A. Yes. 30
- Q. With the comment you've passed there, obviously you've had a lot of times to reflect over what's occurred from the time - what has occurred since the time of David's death. Has anything become more clearer to you?
 A. No. 35
- Q. You're saying everything's still a lot of a blur, is that right, what blurs your memory, is it aspects leading up to David's death or is it years before David's death that you say your mind is blurry?
 A. At least the last couple of years, yes. 40
- Q. And what about in 1997 when you were flatting with David, are there things there that you can remember quite clearly or are they just cloudy as well?
 A. Some things are clear, some things are cloudy. 45
- Q. What things to you are clear at the moment - back in 1997? Living with David?
 A. I didn't actually live with him. I just-- 50
- Q. You shared the same unit - put it that way?
 A. Yes but it wasn't on a long-term basis. It was for never longer than a few days or a week at a time. It was-- 55
- Q. And that's clear, is it?
 A. Yeah, it was--

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Q. And what period of time do you say that occurred?

A. Well, once again, in the second half of the year.

Q. Not from January to June 1997?

A. I can't recall.

5

Q. Now the aspect of the keys themselves. You said when you'd moved or you'd left where you were living with David for a short time you kept the keys, is that right?

A. The only reason that I know that is because I've been told by other people that I have the keys and that they were subsequently returned to Dave.

10

Q. Whom by?

A. By my sister I believe.

15

Q. Who's that?

A. Fiona Feary.

Q. And when was that done, do you know?

A. I can't say first-hand but she and I have discussed this and it was once again in the second half of the year.

20

Q. Was it soon after you left David's or was it months after?

A. I would think it would be fairly soon after.

25

Q. Well you say you think, is it because your mind's not clear, you just don't really know?

A. Well no I don't, I don't really know.

30

Q. Did you ever cut those spare keys of David's?

A. Cut?

Q. Yes, have another set of keys?

A. No.

35

Q. Not at all?

A. Nuh.

40

Q. Now whereabouts did you give these keys to Fiona at?

A. It would have been at her house.

Q. And where's that at?

A. In Mona Vale.

45

Q. Mona Vale?

A. Uh-huh.

Q. And the street?

A. [REDACTED]

50

Q. And can you actually recall handing these spare keys over to your sister?

A. No, as I say, it was something that we discussed later on.

55

Q. Wasn't it also the case that a meeting was made with David some time prior to his death to meet him in town for

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lunch and hand him over the keys. Do you remember that?

A. I don't recall.

Q. You can't recall whether you did it back then?

A. No.

5

Q. You can't really say for sure whether you handed the keys to Fiona to give to David, can you?

A. No I can't, I - as I say - this is just what I've discussed with her.

10

Q. And you can't really say whether Fiona had given the keys to David himself, can you?

A. Well no, but if she says she did, then she did, that's my impression is that she did.

15

Q. Would there be a reason why you would give the keys to Fiona to hand back to David and not yourself?

A. Simply because as a practising and very sick alcoholic, I found it, and still for that matter do, find it very difficult to sometimes to do things. I'm just--

20

Q. To do things such as?

A. Well to organise to meet to hand back the keys and so on.

25

Q. Wasn't there a time when David was alive and you'd left living at his unit for the time that you did, that he was in contact with you at times asking for the return of those keys?

30

A. I don't recall.

Q. Well you'd agree with me then, wouldn't you, that Dave was fairly security conscious about where he was living at that unit?

35

A. Yes, yeah.

Q. If I can phrase it - he was paranoid about it, would you agree with that as to whether he kept the premises secured and who had the keys?

40

A. No I wouldn't say paranoid, no.

Q. And you can't recall David ever ringing you up to say 'Where are the keys, could I have those returned'?

45

A. I can't recall, no.

Q. When was there a time when a number of other people had lived in the unit and they had the spare keys, was this the time when Dave was overseas?

A. That's correct, yes.

50

Q. And who were those people?

A. An old friend of mine and his girlfriend stayed--

Q. What was his name?

55

A. Paul Hilton.

Q. And they had the keys, the same keys we're talking about with the metal dolphin on the key-ring?

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- A. Yes I believe so.
- Q. And when were they living at the unit?
A. When Dave was overseas, I can't recall the exact dates. 5
- Q. You can't remember the month or the year?
A. No.
- Q. Was it prior to '96 - '97?
A. I - no, I can't recall. 10
- Q. Now did you move into and stay with David prior to these people or subsequent to them?
A. Both prior and afterwards. 15
- Q. Now David didn't have any enemies as far as you were aware?
A. No.
- Q. He was quite a likeable chap so the picture is painted, there's no question about that?
A. Mmm. 20
- Q. He had no enemies that you were aware of?
A. No, not that I'm aware of. 25
- Q. He never discussed with you any problems he was having with a number of people?
A. No. 30
- Q. Not at all?
A. No.
- Q. What about yourself, did you have any problems with David?
A. No. 35
- Q. What about during the time when you say you were going through this alcoholic period. When you were living with David were you drinking anything then?
A. Yes I would have been, yeah. 40
- Q. Do you recall what were you drinking?
A. No. 45
- Q. Methylated spirits, does that help?
A. At one stage I tried to but it wasn't a very successful attempt.
- Q. And during the times of these - your alcoholism, has David ever asked you to leave the unit itself?
A. Not that I recall, no. 50
- Q. But he may have done so?
A. He may have done but I don't recall it. 55
- Q. Do you recall if he spoke to any mutual friends of yours and David as to the problems he's having with you?
A. No I don't recall.

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Q. Do you recall any of these people that are friends between you and David, ever coming to you and discussing that David is concerned about your alcohol intake while living at his unit?

A. I'd have to say that just about everybody I know has approached me at some stage or another to say that they're concerned about my alcohol intake. 5

Q. And do they make mention as to David's concerns, if he had any?

A. I don't recall. 10

Q. Not at all?

A. No. 15

Q. Now on the date of David's death, do you recall where you were?

A. To be honest with you I don't even know what the date of his death was. I have specifically avoided asking at any point. As far as I'm aware it could have been any time between - like over the whole weekend. On the Friday night- 20

Q. Which weekend are we talking about?

A. This would have been 19, 20, 21 and 22 December I think. I think the Friday was 19th. 25

Q. If I take your mind back then to 20 December 1997 which was a Saturday, do you recall what you were doing on that occasion?

A. On that day I was living in the western suburbs, I was staying with a friend in the western suburbs-- 30

Q. Whereabouts?

A. In St Marys. And I - it would have been a taxi because the bus service is so appalling out there I would have caught a taxi into St Marys station-- 35

Q. From where?

A. From where I was staying at St Marys. 40

Q. You would have caught a taxi to where were you going to?

A. Into the station, just to St Marys station, then a train into the City. I stopped at Wynyard station and I actually bought a pair of shoes and I don't know why I remember that but I do. And then went on over to Neutral Bay where I attended an AA meeting at which a number of people who were able to - would have been able to identify me, a number of people that I knew. 45

Q. Was that your first Alcoholics Anonymous meeting you attended?

A. No. 50

Q. At Neutral Bay?

A. At Neutral Bay? I think I've only been to a couple at Neutral Bay. I couldn't tell you if they were before or after. 55

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Q. And whereabouts are these meetings staged, are they just placed in various areas at a given time in the metropolitan area?

A. Yeah. They're generally on a weekly or daily basis.

5

CORONER: Q. So you're saying that it could have been your first Neutral Bay meeting, is that right?

A. It could - it could have been but I don't recall.

RADZIETA: Q. And how many other people were at the meeting?

10

A. It was - it's a pretty big meeting. There would have been 50 people there I guess.

Q. And you recall that quite clearly?

15

A. I just recall being at the meeting, yeah.

Q. But you also said it was pretty big and there were 50 there so there must be something there on the back of your mind to remember how many people were there and it was a big meeting?

20

A. Well I'm just thinking the room was about this size and it's full of chairs so that was just an estimate.

Q. I see, and it's full of chairs and they actually have people sitting in them, that you remember?

25

A. Yeah.

Q. You recall that?

A. Yeah, I go to quite a lot of meetings, both NA and AA and you just know some meetings are big meetings and some meetings are not so big meetings and Neutral Bay is known as being a fairly strong meeting.

30

Q. And on 20 December 1997, that's quite clear in your mind that you actually attended Neutral Bay on this occasion?

35

A. Yeah.

CORONER: Q. What time would that have been at - time of day?

40

RADZIETA: Q. What time did you get there?

A. It was mid-day, 1 o'clock, something like that. I'd have to look it up in the meetings book to--

45

Q. Now the meetings book itself, do you write anything in that book, do you log something in it?

A. No, no, this is just a little leaflet that gets handed out with venues and times of meetings.

50

Q. What about when you get there to show that you've attended an Alcoholics Anonymous meeting, do you get a diary out and put your own name down to say what time you got there, who you got there with--

A. Well no, I think the operative word here is 'anonymous'. You don't actually keep a record of it.

55

Q. What about the people who run the meetings..(not transcribable).. to show who attended on this occasion?

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A. No.

Q. No?

A. No.

Q. So if you arrived there, for example, and as I understand you there's nothing recorded there, is that right?

A. No.

Q. So you wouldn't have a diary to say 'Sandra, this date, had arrived'?

A. No.

Q. So who else was there that you remember that was with you at this Alcoholics Anonymous meeting?

A. A friend of mine who's not present in court today.

Q. Who's that?

A. David Thwait's. Also - he's the only person whose surname I actually know. I believe the meeting on that day was - the only reason that my recollection of this is a little bit clearer than my recollection of a lot of other things is because I went through it in the interview with the police in the first place. The - I believe the meeting was being chaired by an acquaintance of mine named Greg and I also recall seeing an acquaintance there of mine named Clive.

Q. And you got there around about, was it almost 1pm, is that correct?

A. I think it's a 1 o'clock meeting but I'd have to look it up, you know.

Q. How long do these meetings normally go for?

A. An hour and a half.

Q. So you'd be out of there by about 2.30?

A. Yeah.

Q. And is that's what's occurred on this occasion, can you remember that?

A. Yep, yep, and then David and I went for a walk.

Q. This is David Thwait's?

A. Uh-huh. We went for a walk around the back of Neutral Bay.

Q. How long did you go walkabout for?

A. Well I recall getting - there was a bit of sort of time pressure and it was about 4 o'clock when we got back up to the main road, is it Military Road, because I had to get back into town and get moving.

Q. Is that what you're referring to when you say the time pressure?

A. Yeah, yeah, I had to get back to St Marys that night.

Q. Now you said it was 4 o'clock by the time you get back to Military Road, is that right?

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A. Well that was what I was aiming for. I can't recall whether I actually made it on that time.

Q. So it could have been a lot earlier than 4 o'clock that you got to Military Road and left David?

A. Well I don't think so because the meeting wouldn't - if the meeting started at one it wouldn't have finished till 2.30 and we would have walked for at least an hour.

Q. How do you know that?

A. Well I just remember that we covered a fair bit of distance and we also sat down on a little brick wall and talked for a while too.

Q. Do you recall how long you were talking at this brick wall for?

A. No.

Q. Who was present, just you and David?

A. Yep.

Q. And what brings it to mind that it was about 4 o'clock when you got to Military Road?

A. I just - I don't know. It's because I went through this in the interview with the police in the first place and that is the time that sticks in my mind.

Q. You say sticks in your mind, was there anything that you referred to, a watch, a timetable, a particular train you caught and what time you got back to St Marys?

A. No.

Q. You didn't go back to David's place that evening, did you?

A. No.

Q. That afternoon?

A. David Rose?

Q. Yes?

A. No.

Q. Not at all?

A. No.

Q. Now what happened at 4 o'clock - you were with David--

A. Mmm.

CORONER: Thwait's.

RADZIETA: Q. This is David Thwait's - I beg your pardon, let's call him Mr Thwait's. How did you part company or did you stay together and go into town?

A. I left him at Neutral Bay.

Q. By what means, what did you do?

A. I can't remember whether I got a bus or a taxi. I would imagine it would have been a bus because it's the easiest way to do it from there.

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Q. Into town or through to St Marys?

A. No, into town and then the train.

Q. Whereabouts did you end up in town?

A. I normally change at Town Hall so I'd imagine--

5

CORONER: Q. What, you got a bus from Military Road and when down to Town Hall?

A. Yeah - sorry, not Town Hall - Wynyard.

10

RADZIETA: Q. Do you recall that or is it just something 'well that's what I would have done'?

A. I recall being at the bus stop on Military Road.

Q. Do you recall actually jumping on the bus itself and coming into town?

15

A. Well no but I travel by public transport all the time, you know. Recalling a particular bus trip is--

Q. No, but just on this occasion, 20 December 1997, you were pretty clear that you caught transport from St Marys into town and then into Neutral Bay?

20

A. Mmm.

Q. And you were pretty clear of the Alcoholics Anonymous meeting with about 50 odd people, is that right?

25

A. Mmm.

Q. You were pretty clear David was there - David Thwait's?

A. Uh-huh.

30

Q. And a fellow Clive and Greg were there?

A. Uh-huh.

Q. You left the meeting about 2.30, walked around with David up to about 4 o'clock which was pretty clear?

35

A. Uh-huh.

Q. Spoke on a brick wall with David Thwait's for some period of time?

40

A. Uh-huh.

Q. That was pretty clear and then when David left you caught a bus--

A. Back into Wynyard.

45

Q. --back into Wynyard itself. Is that pretty clear then that you got on a bus?

A. I'm not going to lie to you. I couldn't swear to it, you know.

50

CORONER: Q. No, no, we don't want you to lie to us.

RADZIETA: Q. I'm not suggesting - you're not suggesting you're having selective memory, are you?

55

A. No.

Q. Stating what will suit you as to your answers given to this Court?

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A. No, no.

Q. Now once you get into town do you recall getting back to St Marys by a cab, a train?

A. Well I wouldn't have caught a cab because it's - it would be a very expensive proposition. Yes it would have been the train. 5

Q. You say it would have. Is it just that you can't recall what you actually did?

A. Not at this length of time, no. 10

Q. Do you recall on that day whether you were under any substances - you made mention of NA and AA - had you been drinking or taking any drugs on that day?

A. There were certainly no drugs. I've been clean for a long time but I-- 15

Q. Could have you been intoxicated on 20 December 1997?

A. Not after an AA meeting, no. 20

Q. Why not?

A. Well it just doesn't - I just wouldn't have been - I may have drunk later in the evening but it would have been much later. 25

Q. What time span are you talking about?

A. Dear I don't know.

Q. What about prior to going to the AA meeting. Had you been drinking at St Marys?

A. No. 30

Q. Are you sure of that?

A. Well - yeah, as sure as I can be. 35

Q. Were you working the night before at St Marys?

A. Once again, this is my recollection of - normally I wouldn't recall this so clearly but I'm pretty sure I wasn't working that night - the Friday night. 40

Q. Were you drinking that night at all?

A. I probably would have been, yes, I was living in an alcoholicly active household. 45

Q. So could that have been an all-night drinking session?

A. No it wouldn't, no.

Q. To when do you say you may have had drinks to?

A. I don't know. 50

Q. All right, so when you caught a train back from Wynyard, where did you go?

A. Back to St Marys. 55

Q. Do you recall going back there?

A. Not specifically. It was a journey I made on a large number of occasions.

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Q. You say a large number, why would you make such a large number?

A. Well because I was actually living and working at St Marys at the time.

5

Q. And what would the reason be to come into town then?

A. Because I've always sort of lived around the city area and most of my social focus and most of the AA meetings and stuff that I go to is in the city.

10

Q. How often would you keep in contact with David Rose in 1997?

A. With Dave Rose. It could be anything from every week or so to, you know, we might go a month without speaking.

15

Q. Was that generally by phone or would you go and visit him in town or at his unit?

A. Generally by phone or we'd meet each other at the radio station.

20

Q. And where's that at?

A. At Marrickville.

Q. And the occasions that you managed to go to David's unit, did you have the keys then to enter the unit itself?

25

A. I - after I stayed with Dave I honestly wasn't aware that I had the keys. It - I don't know what transpired, I can't remember. I can't recall whether my sister Fiona spoke with Dave or if he contacted her and asked if she, you know, could get the keys from me or what. I just don't know.

30

Q. And you're unclear on that then - about the keys?

A. Yeah, I'm unclear on just about everything at the moment. I don't know what you want from me.

35

Q. When you were living with David, these keys, where did you keep them - on your person, in a purse?

A. In my handbag.

40

Q. Constantly, it never varied?

A. Well I always keep my keys in my handbag?

Q. And whether you were intoxicated or not, I take it you gathered - you were aware of whose keys they were?

45

A. Yes.

Q. And what the function of those keys were to enter David's unit?

A. Yeah.

50

Q. Now correct me if I'm wrong, but soon after David's death from the places you were working out at St Marys - David Rose's death - you made mention that you may have killed him in some respect. Do you remember saying comments - words to that effect?

55

A. Ah--

Q. To some of the workers at the establishments you were

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working at?

A. I recall there was something but that would have been, with all due respect to the people who are present in the Court today, that would have been my sometimes somewhat macabre sense of humour.

5

Q. What do you mean by that?

A. Well I might - well maybe just - I can't recall but it would have been something along the lines of 'Next they'll be saying that I did it' or, you know, it's along the lines of - it's just unfortunate - and I must say that the last 18 months has knocked the stuffing out of my sense of humour, such as it was.

10

Q. All right, a moment ago you said yes I did recall words to that effect of the comments that you made. What did you recall about it and who did you say it to?

15

A. I don't recall now, I don't recall - I just - I remember it came up in the record of interview at some point.

20

Q. Do you recall speaking to anyone in particular or--

A. No.

Q. --it stands out where you've passed a comment something like that?

25

A. Nuh, it'll be in the record of interview which I deliberately - I've got the tape somewhere but I deliberately haven't listened to them.

Q. Do you recall whether the comments were made at St Marys themselves?

30

A. No.

Q. Do you recall whether it was working at a brothel when you were speaking to someone there?

35

A. It could well have been if that was where I was working.

Q. What about one of your - the people you were sharing houses with, did you pass a comment to them or words to that effect?

40

A. Yeah but it wouldn't have been - I don't recall.

Q. You said a moment ago it wouldn't have been, it wouldn't have been what? Now you're saying 'I don't recall'. You must have some recollection of it, Miss Durwood?

45

A. No I don't.

Q. Not at all?

A. Not some sort of off-hand - no.

50

Q. Then why did you say a moment ago words to the effect of 'my sense of humour'. You must have some recollection of it if you referred to it as being 'my sense of humour'?

A. I honestly don't.

55

Q. You don't?

A. No.

Q. Would a reason - would you know a reason why these

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people would say that if it wasn't said by you?

A. Well what people are you talking about?

Q. I'll leave that for the time being. Now this is after David Rose's death. You phoned a person by the name of Donna Devitt. Do you know who that person is?

5

A. Yes I do.

Q. And the phone call was on 24 December of 1997 and it turned out to be an answering machine. Now if I just read you a passage from what you're saying and we understand that it was your voice. You say 'Ah darling, hi, it's me. It's um, God, what is it, Wednesday evening after the funeral. It was really nice to see both of you and I can't thank you enough for being there. Um, and I really need to have a word with you. I was on my way back on the train and the most hideous realisation struck me', and from there you go on to say so if it's possible could they contact you. It just goes on from there. Now on your way back from the train what were you referring to when you said 'this most hideous realisation struck me'?

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15

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A. I've got no idea. I've got no recollection of that, I've got no idea.

Q. You're not denying it though, are you, that you phoned on that particular date and left a message for Donna Devitt?

25

A. If the evidence is there, the evidence is there but I--

Q. I just want to take your mind back just after the funeral. You are coming home by train, aren't you?

30

A. After the funeral, yes, yeah.

Q. And obviously there was something on your mind when you rang up Donna. Just think back, just take your time to think back. With that comment I made from what you said on the answering machine 'I was on my way back on the train and the most hideous realisation struck me'. Just consider it for a moment, don't just rush in with an answer. I want you to think back as you're on that train. Go back as clearly as you can?

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40

A. I don't recall. I don't know.

Q. But certainly about that time in December 1997 you had your own mobile phone, didn't you?

A. Yeah.

45

Q. Yes, go on, you were about to say something?

A. Okay. I had a mobile phone at about that time I believe. I mean it was only active for a short period of time so--

50

Q. And it was about the time on 24th when--

A. Yes it was around about that time.

Q. So that comment that you passed on to Donna, you can't remember why you said that - this is Donna Duett?

55

A. Devitt.

Q. I beg your pardon, Devitt. No? Did she subsequently

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phone you back?

A. I can't recall.

Q. Not at all whether she phoned back and said 'What's up?'

5

A. I don't - I don't remember.

Q. Now the phone number that you gave - the [REDACTED] number, was that the place you were staying with - or staying at at St Marys?

10

A. I'm afraid I don't recognise the number. I couldn't tell you whether it was either where I was staying or where I was working at the time.

Q. You go on further to say if she couldn't contact - 'If not I'll speak to you on Friday but it's um, it's quite nasty and quite serious and I need to speak to you, thanks, bye'. Do you remember saying that to her at all on the answering machine?

15

A. No I don't.

20

Q. 'Um, it's quite nasty and quite serious and I need to speak to you'. Not at all?

A. No.

25

Q. All right, did Donna Devitt ever contact some time after that about what you left on the answering machine?

A. I don't remember.

Q. Are you sure?

30

A. I'm quite sure, I'm quite sure you've asked her as well and maybe she's got more recollection of it than I have.

Q. And thinking back a few years ago now, those comments you passed on to Donna 'most hideous realisation' and 'quite nasty and quite serious', thinking about it can you recall what that conversation was about?

35

A. No I can't. It could have been anything. I--

Q. Well after David's funeral would it more likely pertain to David's death - David Rose's?

40

A. I - I don't think even I at my most - I do have - I did have an inappropriate sense of humour and I can't think that even I would have said anything like that.

45

Q. You keep raising this inappropriate sense of humour. What do you mean by that, what are you referring to as 'it's inappropriate' - about David Rose's death?

A. No.

50

Q. Then what are you referring to?

A. Just - just about everything.

Q. What's 'everything', could you elaborate please?

A. It's--

55

Q. At the time you were living with a woman, was it Deidre Miles, was that correct?

A. Dee?

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Q. Deidre Miles out at St Marys?

A. Yes.

Q. And this was around about the time of David's death, is that correct?

5

A. That's correct, yeah.

Q. And it's true to say, is it not, that you had an argument with her around about 19, 20 December and you left where you were living at St Marys?

10

A. No, no, that - it was--

Q. Do you recall?

A. It was - it was after that, it was after - it was after the funeral, it was after Christmas, it was later than that that I actually left.

15

Q. And not beforehand?

A. Not that I--

20

Q. Do you recall that, have you got a clear memory of it?

A. No, not that I can recall.

Q. So it could well be that you left around about the time of David's death?

25

A. No.

Q. Why is that?

(No verbal reply)

30

RADZIETA: Pardon me a moment, your Worship, please.

Q. Ma'am, I'd just like to take you back to a letter you sent to [REDACTED] Dobell Circuit, St Clair. And it says 'Dear Jeff' - who's Jeff - or perhaps before I go on any further, I'll just ask you to have a look at this, ma'am. This is a photostat copy of a letter. Do you recognise the handwriting?

35

A. Yeah, that's my handwriting.

40

Q. Is that yours, and there's a second page there?

A. Yeah, just let me go through--

Q. Excuse me, I'll just show you the second page. Is that your handwriting?

45

A. Yep.

Q. The particular point I would just like to refer you to - if I may have it back please. It's the third paragraph, you say 'Jeffery, I may as well come clean' - something - what does that word there say - within upon or something--

50

SPEAKER: With you.

RADZIETA: Q. '...with you. I'm since of dissimulating(?). You may prefer not to know about this but I'm way out there at the moment, wins by horror, not only at the fact that Dave has gone forever - or so it seems to be - but by the distinct possibility that I was responsible however

55

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indirectly'. What do you mean by that?

A. Yeah, okay. I can answer that one specifically and the police involved will--

Q. You say 'I'll get to that later--

5

A. No, do you--

CORONER: Let her answer the question.

RADZIETA: I beg your pardon, your Worship, I was trying to read on.

10

A. --I was never approached by the police with regard to this investigation or whatever you want to call it. I actually went - I rang the Crime Stoppers number that was published in the newspaper and approached the police voluntarily and cooperated fully as I have done all along, because I thought the information that I had that this ex friend of mine who had stayed in Dave's flat at some stage. I - I just - that was that refers to. This man was someone I'd had a relationship with a long time ago and he was - he was violent to me.

15

20

CORONER: Hilton.

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A. I have no reason to think that he might be violent to anybody else.

RADZIETA: Q. Are you referring to this fellow Hilton, are you?

30

A. Yes.

Q. All right, continue?

A. And that was why--

35

CORONER: Q. You went to the police - that's why you went to the police?

A. That's why I went to the police.

Q. And that's what you're talking about when you talk about indirect responsibility--

40

A. Yes, because it was only through me--

CORONER: Q. Take your time.

A. It was only because of that time and still to this day nobody knows what happened and I - that's all that refers to.

45

Q. Okay, okay.

50

RADZIETA: Q. Just tell me when you're right to go on. I don't want to keep asking you questions if you're going to be upset, okay.

CORONER: Q. Now getting back to the questions he was asking you before - the conversation recorded on Miss Devitt's answering machine?

55

A. That's exactly what that refers to because Donna - I've known Donna for many years now and she knew Paul as well.

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Q. Right, so you're saying that probably refers to Hilton?
A. Well--

Q. You're thinking that he might have had something to do with this murder?

5

A. I don't think so now but I thought at the time that--

Q. Okay, all right, I understand that. Now did you ever have a conversation with Miss Devitt - Mrs Devitt - about the matter you rang up about?

10

A. I can't recall.

RADZIETA: Q. Now just keeping along those same lines of what you say to various people, obviously you're aware a number of people have been spoken to and statements obtained right across the board. Now there's a woman in the brief itself by the name of Irene Patricia Burrows. Do you know her?

15

A. Yes.

20

Q. How do you know her?

A. I don't think that's the name that I knew her by.

CORONER: Q. Well would you accept that she--

25

RADZIETA: Q. Trish, would the name Trish--

A. Trish.

CORONER: Q. She was your boss, is that right, is that how you know her, Trish?

30

A. That's correct, yes.

Q. Out at St Marys?

A. The establishment in which I--

35

Q. She didn't live there, did she?

A. Sorry?

Q. She didn't live there, did she, where did she live - Trish?

40

A. Emu Plains.

RADZIETA: Q. All right. Now she supplied a statement. You've had no problems with this person Trish, have you, is she all right as far as work relations and all that goes?

45

A. Yeah I don't think we ever had a problem.

Q. And also a Veronica - I beg your pardon. Do you recall a person working at the Bare Bunnies, Marissa?

A. Yes she was the other receptionist, yeah.

50

Q. Yes she was one of the receptionists there. Similarly no problems with her in a working relationship, things were fine?

A. Well as fine as they could be with Marissa.

55

Q. Now if I could just take you back to - this is part of a statement, page 6 of Irene Patricia Burrows, and paragraph 21 and Irene's referring to comments she'd had

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with you. 'One day last week Sandra and I had been at work and I gave her a lift home. We got home about 12.25am and we sat at the table. I made her a cup of tea and we were talking'. Do you recall that?

A. No.

5

Q. Can't recall Patricia giving you a lift home and having a chat later?

(No verbal reply)

10

Q. You're shaking your head, is that - you'll have to answer?

A. No, no I don't recall.

Q. She goes on further to say 'How did you do tonight? And she said - referring to you - 'All right'. Then she put her elbows on the table and she put her head in both of her hands. She said 'Maybe I did kill him'?

15

A. Oh--

20

Q. 'Then I said 'Well either you know whether you did or you didn't'. She didn't say anything. She got up and went to bed. Earlier that night--

CORONER: --at work she seemed quiet'.

25

RADZIETA: --at work she seemed quiet. When she talked about killing someone I'm sure that she was - that she sober - she was sober'. Do you recall that conversation with Irene?

30

A. No I don't specifically but I'd imagine that that's the one that you were referring to earlier when I asked you who it was and it would have been - it's half-past one or half-past twelve in the morning. It would have been one of those stupid melodramatic, you know, - 'Maybe I did do it' kind of thing.

35

Q. Why would you say that to her?

A. Well--

40

Q. We're talking about a man's life here--

A. I know.

Q. --and you're in a sense implicating yourself 'Maybe I did kill him'?

45

A. Believe me, if I could - if I could erase those words I would.

CORONER: Q. Are you suggesting to me it's your - what you call your macabre sense of humour?

50

A. Yeah. I'm sorry, that seems to be trivialising it.

Q. No, I don't think - I'm not suggesting that at all but that's the explanation you gave?

A. Yes.

55

RADZIETA: Q. Further to that, and that conversation -

there's a further statement by Marissa I think it's Craker--

A. I didn't - I never knew her surname. She was just a

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woman that I had the unfortunate experience of working with occasionally.

Q. I'm just trying to see where the date she says - just bear with me a moment please. So there's a time span that Marissa Craker puts it, she '...was pretty sure it was on Wednesday 31 December '97, it could have been Thursday 1 January '98 I was working at Bare Bunnies. I got into work about 10am...' - this is page 3, paragraph 11 of Marissa's statement - she went and got dressed and put her makeup on and then she lay down on the lounge in the reception area around 7 to 8, she was falling asleep and she said a few words to you. Then it goes on continuing from that in paragraph 13 page 4 of Marissa Craker's statement of a person who entered the room, it was all right for him to come in. She gave him prices and then walked back to her desk and she said she saw you wake up. Then she says 'Can you get up, you make the place look untidy' and then she said - referring to you - 'I'm real sorry'. She rolled off the lounge onto her knees and stood up. She had her hair all in mess, it says, and she put both her hands on the side of her head. She said 'I don't know what's wrong with me, maybe it's not a nightmare, maybe I did kill him'?
A. Oh.

Q. This is what you've said to Marissa, allegedly. Why would she say that if you didn't say it, and from there she says--
A. Ah--

Q. --'You're fucking kidding. You'd better get your shit together because if you did kill someone this'll put you away for a long time'?
A. No.

Q. And then from there 'I said to Jazmyn..' - this is Marissa - 'I think she's fucking loopy. Maybe she did do it. Jazmyn said 'I think so'. And from there it says 'Sandra said 'I've got to make a phone call, this is my alibi'?
A. No.

Q. What have you got to say about that?
A. Okay, the use of the word 'alibi', again, it's just inappropriate.

CORONER: Q. It's hard to imagine Miss Craker, no matter the fact you don't get on with her particularly well, making all that up, is it?
(No verbal reply)

Q. Where would she get it from, it's so consistent with what you've said to another person?
A. Yeah I know.

Q. You're going around - you give the impression you're going around saying to people you work with that type of thing. It's an almost overwhelming impression you give, the same line all the time - 'Maybe I did kill him', that's what

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you're saying. What do you say about that - why would you say it, 'Maybe I did kill him'?

A. Because it just didn't seem real that it could have happened to someone like Dave and I just didn't know what I was saying. I can't - hearing it like that, it just sounds so awful. 5

Q. And Miss Craker goes on that later that night you made a phone call. She goes on and says that you tried to make the call, you sat down on the steps in front of the reception desk. Can you imagine that? 10

A. Uh-huh..

Q. 'She said 'Maybe it's not a nightmare, maybe I did kill him in my sleep' and then Craker says, she says 'What's all this about?' and she says you said 'Me thinking I'm doing the right thing and called Maroubra Police as I stayed at his place when he was overseas'? 15

A. Yeah. 20

Q. 'My(?) stepson also stayed with me, I think my stepson may have had a set of keys cut or he may have taken my keys'. What do you say about that - Craker making it up?

A. No. I'm not disputing any of that. Paul did stay there and so did his son Joel but as far as I'm aware Joel was only there for, I don't know, a night. 25

Q. What do you mean 'Well maybe I did kill him in my sleep'?

A. No - I don't know what to say, I don't - I don't-- 30

Q. Is that your answer 'I don't know what to say'?

A. I can't believe I was so stupid and insensitive as to say those things but if - if it's there, then I said those things and - it was just wrong and it was stupid. 35

RADZIETA: Q. Just let me run this scenario by you. What I'm going to suggest to you is this. If you attended the Alcoholics meeting and you left David Thwait's behind on Military Road, Neutral Bay, you were looking for alternative accommodation away from Deidre Miles because you weren't getting on well, would you agree with that, towards the end? 40

A. At that - I don't recall at that stage whether we were or were not getting on. I think at that stage - yeah, no, things were okay at that point. 45

Q. See what I'm suggesting to you is you decided to look for alternative accommodation - this is on 20 December 1997 - went to visit David Rose. You gained entrance into his unit and spoke to him and things got out of hand there-- 50

CORONER: Q. Perhaps because he wouldn't let you stay, perhaps because he wouldn't let you stay with him?

A. No. 55

RADZIETA: Q. And a scuffle broke out within the unit itself?

A. No.

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Q. And you killed him. Isn't that right?

A. No. No. I don't believe this.

SHORT ADJOURNMENT

CORONER: Q. Now before we go any further I will caution you. You don't have to answer any questions if you believe that any answer you give may incriminate you. Do you understand that?

(No verbal reply)

Q. I'll go through it again. You've got a right under our law so that if you are asked a question and you give an answer which you think might incriminate you, you don't have to answer the question. Do you understand that?

A. I understand that but--

Q. Do you want to go on?

A. Well I don't see how anything could incriminate me but--

Q. Okay, that's fine, as long as you understand that.

RADZIETA: Q. Ma'am, you're quite willing to go on, is that right?

A. Well yes.

Q. Now with the scenario I put to you just before the adjournment, is it true around about that time you had a bruise to your face?

A. Yes I had - it was a black eye actually.

Q. And what I'm putting as a scenario is as a result of an altercation with David in his unit, would you agree with that?

A. No it wasn't, it was the result of unpleasantness - this is to say, it was the result of an accident with a client and this person in the course of our mutual business dealing had actually - I think it was the right eye - had hit me in the eye socket with his knee-cap.

Q. And how long ago was this prior to 20 December 1997?

A. I can't recall, I just know it was around about the same time.

Q. Now are you suggesting to the Court that you weren't looking for alternative accommodation about 20 December 1997?

A. Well my recollection is that - that things were pretty good right up until Christmas - right up until 25 December and I know that I moved out at some point after that but I don't think that there was any problem before then.

CORONER: Paragraph 5 of Mark Craker's statement.

Q. You were staying with Deidre at that time - Dee?

A. Yes.

Q. Did you ever get her to ring up for you and say you were going to be late for work?

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A. I can't recall, I may well have done.

Q. Might you have done that on 22nd - I'm sorry, on the Saturday 20th?

A. I--

5

Q. You got Dee to ring up and say I'd be in late?

A. I don't recall.

Q. Do you have any recollection of saying that you were having - one of your kids was missing or a kid was missing?

10

A. There was an episode around about that time where Dee - I was out for the day and - this was Dee's daughter, yeah, had gone out to play with some kids on the street, it was almost like a cul-de-sac but not quite and Dee had woken up and--

15

Q. Couldn't find her?

A. That was all that was about.

20

RADZIETA: Q. Now you certainly - after the Alcoholics Anonymous meeting, did you go to Maizie's Cafe - does that ring a bell?

A. I went - we went to a cafe in Neutral Bay, I can't remember the name of it.

25

Q. And weren't you upset on this occasion when you went to the cafe - emotionally upset or distressed, can you recall that?

A. No.

30

Q. Not at all - just think about it, I don't want you to rush around. Just think about Maizie's Cafe, you're there, you're having coffee with - do you remember with who?

A. David Thwaites and Clive who I mentioned before I think was there. I think-0-

35

Q. Is that Clive Starling?

A. I - I have no idea, it's an anonymous fellow--

40

Q. And how did the conversation go about between the three of you, quite normal as you would have with a coffee or were you upset, anyone else distressed at the table?

A. I - I think that was probably the occasion that you just referred to when I rang Dee and she said her daughter was missing but we kind of got that sort of out later on.

45

Q. And would you have been agitated at the time and quite emotional in relation to the missing child from Deidre, do you recall?

A. Well I - I don't recall whether I was or not but I would imagine that--

50

Q. Wasn't it the case when you were at Maizie's Cafe that during that time you were making a - had your mobile phone with you and you were going through the paper looking for alternative accommodation on that day - and this is 20 December 1997?

55

A. I don't recall, I don't remember.

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Q. Is that because of your alcoholism?

A. Yes. I--

Q. Well what - yes, go on, you were about to say something?

A. I just - I just don't remember. 5

Q. But it could have been possible that you were looking for alternative accommodation that day - looking through the paper, using your phone, trying to find somewhere else to live? 10

A. I - I don't remember, anything's possible, I don't remember.

Q. See whether it's through your alcoholism or not, but you do have a propensity to becoming violent, haven't you, you go into a rage at times? 15

A. No.

Q. Not at all?

A. No. 20

Q. See what I'm suggesting to you is Irene Burrows, her statement page 7 paragraph 22, she says 'On Wednesday 28 January 1997 I got up at 9.40. I found a note from Sandra on the table. She was not at home. Sandra didn't come home all day and I don't know where she was. I know that Sandra didn't work yesterday. About 6.25pm I was in my bedroom and I heard the front open and I knew that it was Sandra coming home. I went out to the front door, the front door was open and Sandra was in the lounge room. I said "Sandra, are you all right?". Sandra said "I've fucking had enough, I've fucking had enough of it all". She brushed past me and went into her bedroom. Sandra was bloody angry. I followed her into her bedroom and she was shoving all her stuff into her bags. I said "What's going on?". She just kept on swearing and kept saying "Fuck", she didn't tell me what was going on. I heard a car blow their horn out the front of the house and she said "I'm coming you fucking cunt". While I was standing there she urinated on the carpet'. Now you were angry on that day? 25 30 35 40

A. I - I don't remember that at all.

Q. Who was the person in the car that was waiting out the front for you tooting their horn - do you know? 45

CORONER: Well read on, read on.

RADZIETA: Q. 'I was stunned by her because I had never ever heard her swear. She seemed very angry. She picked up her bags and walked towards the front door. She knocked over a plant on the way out. I said "What about the keys?". She had a set of keys cut to my house and she used those to get in and out. She said "I paid to have them cut". She didn't give me the keys back. By that time she was outside, had gotten into a taxi which was waiting out the front. The taxi was white and was a station wagon. I don't know what company it was from. The taxi drove off and that's the last time I heard or seen from her'. You've got a propensity for keeping people's house keys, don't you? 50 55

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A. I honestly don't recall that episode.

Q. Well what about the house keys, the keeping onto other people's house keys. You've done that on more than one occasion, haven't you, David Rose's and this lady here, Irene Burrows. Do you agree? 5

A. Well yes if you have the--

Q. No, I don't want you to say what's written in this document. I want you to see if you've got a clear recollection or not as to what you remember of hanging onto her house keys and saying words to the effect 'Well I've cut them'? 10

A. No I don't, I don't remember that. 15

CORONER: Q. What did you do with Burrows' keys?

A. I - I disposed of them somehow, either threw them away or - I remember realising that I still had them after knowing that I'd never go back there, I just got rid of them somehow. 20

Q. Do you remember being angry the last time you saw Mrs Burrows?

A. No. 25

Q. You don't remember that?

A. No I don't.

RADZIETA: Q. See, paragraph 25 page 8 of Irene Burrows' statement, about 7th line she says 'She appeared to be in a rage and her eyes were black and glazed. I've seen some junkies in my time but this was a complete rage. Alcohol does not do that to a person. She's describing how you were on that day, in a complete rage. Do you recall that? 30

A. No I don't and-- 35

Q. So could it be the case at times then when you do consume alcohol, you don't know what you're doing but you certainly may be in a rage at times?

A. I'm not - I don't do that, I'm not a violent person. I'm not. 40

Q. You certainly can't recall on this occasion as to your emotional state or otherwise, and this is the time I'm describing by Sandra Burrows? 45

A. Irene Burrows.

Q. Beg your pardon, Irene Burrows?

A. I'm not going to lie to you, I don't remember. 50

Q. Do you recall a time when you were living with Deidre Miles, she has a young child, is that correct?

A. Yes she does.

Q. And what was the name of that child? 55

A. See I can't--

Q. All right, how old was that child, do you remember?

A. I think she was 4 or 5.

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Q. Was the child's name [REDACTED]?

A. Yeah.

Q. Now Deidre Miles, page 4 - this is paragraph 16 of the first statement--

5

A. Can I pre-empt you here. I think I know what you're going to say here--

Q. Just let me finish please?

A. Now paragraph 16, the 5th line, [REDACTED] was jumping up and down and yelling and Sandra yelled at her "Shut up".

10

[REDACTED] didn't stop and she was sitting on the ground near Sandra. Sandra kicked her in the back quite hard. I've seen her get a bit cranky but nothing out of the ordinary--

A. No.

15

Q. You kicked that child on that occasion, didn't you?

A. No that - I've discussed that with the police, that's something that has actually been raised to me before. [REDACTED]

20

was behaving extremely badly, particularly towards her mother. I don't remember the exact occasion, I think it was early evening at some point and she happened to be sitting down in front of me sort of there facing away from me and just to reinforce what I was saying to her "Don't talk to your mother like that" - I would have said it was a nudge in the back with my foot. I wouldn't have said it was a kick.

25

Q. Do you recall that incident?

A. Yeah I do because I remember apologising to [REDACTED] immediately afterwards because I had - I just felt that I probably over-reacted a bit but she was being - she was--

30

Q. And on this occasion had you been consuming alcohol?

A. I can't recollect but I should think so, yeah.

35

Q. What was your relationship with this fellow Thwait's?

A. We were in detox and rehab together and we just - we got on well and we remained friends after that.

Q. Any other form of relationship between you?

40

A. Well no, he was living on and off with his girlfriend and - no.

Q. No sexual relationship between you and he at all?

A. There was a certain level of sexual activity, yeah, but - this is all information I volunteered, you know. Why does it have to be dragged out in this forum?

45

CORONER: Q. Unfortunately because we are investigating a homicide.

50

A. Yeah, I'm sorry.

Q. That's the only reason and you're unfortunately got to be asked things.

55

RADZIETA: Q. Ma'am, if I could just ask you just a few more questions. There was a time there you said that this other person Hilton was violent towards you. Do you recall saying that?

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A. Yes, that was when we lived together between 1977 and 1982.

CORONER: Q. You also said he - I thought you said he had access to Mr Rose's flat?

5

A. He did at one stage.

Q. That was at the stage when you were living there I suppose - or stayed there?

A. Yes, but I never stayed there at the same time as he was there.

10

Q. Well under what circumstances did he have access?

A. He had telephoned me and said he was in town and could he stay for a few days and I stupidly and without Dave's knowledge - well he was overseas - offered Paul the use of Dave's flat.

15

Q. But you weren't there yourself?

A. No, which I have subsequently regretted--

20

Q. So did you give him a key to the flat - your key?

A. Yeah - well, again, I can't recall specifically but yeah I hadn't had any other keys cut so.

25

Q. And you know he did, in fact, stay there? You're saying he did stay there?

A. I believe he did, yes.

Q. Do you know?

(No verbal reply)

30

Q. Like did you ring him while he was there or did he ring you from there?

A. I can't remember but I - it's fixed in my head that he did stay there so I would imagine we had conversation.

35

Q. But this was in the early 80's, wasn't it?

A. No, no, no.

40

Q. When was this?

A. It was in Dave's last overseas holiday before--

Q. So it was just before he died - not long before he died?

A. No - no, I think it would have been in - certainly within a two-year period.

45

Q. In 1996?

A. Yeah, I can't remember when he was overseas.

50

Q. How long did he stay there?

A. I don't know.

Q. Days, weeks, months?

A. A matter of - it would have been days.

55

Q. Do you have any recollection at all of giving him the keys?

A. No I don't.

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Q. Do you have any recollection of receiving keys back from him?

A. No.

Q. But that's just like an everyday transaction, you know. I - it's been a long time, I can't - I can't recall, you know, handing over a set of keys. 5

Q. No well keys are important in this case and that's why you're being asked? 10

A. I understand that.

RADZIETA: Q. Ma'am, this fellow Hilton, he had no contact with David, he's never met him before, David Rose?

A. I don't think they ever had any contact. 15

Q. He never knew anything about his private life or his employment?

A. No. 20

Q. There wouldn't be any real suggestion why then that this fellow Hilton may want to come back and visit David, would there?

A. No, none. I approached the police in the first place because the story in the newspaper said if anybody has any information and I just thought it might - I thought it might come up and if I could kind of answer the question before it was asked, you know. If the neighbours said 'Ah, there was some guy staying there at some point'. If the police had that information then it would have been easier for everybody. 25 30

RADZIETA: Q. When you let this fellow Hilton stay at Mr Rose's premises, there wasn't any occasion - this is in 1997 - that you and he had an altercation that became physical in any way? 35

A. No.

Q. So there's no reason for you to think that Mr Hilton would do something against Mr Rose? 40

A. No.

Q. Now with your mobile phone--

CORONER: Q. You say he was violent with you, Hilton, you say he was violent with you in your relationship with him. That's true isn't it? 45

A. That's correct, yes.

Q. How violent? 50

A. Well we lived together for 5 years and I suppose he would have - he would have hit me maybe 10 times throughout that period.

Q. Did you ever have to go to the doctor over it - over the assaults? 55

A. Well he never broke any bones or anything, no. It's - domestic violence is a very shameful thing.

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Q. Did you ever go to the police about it?

A. No.

Q. Why not?

A. It was like you can't help bad luck, you know.

5

Q. Do you have any knowledge at all of this man having any record or violence other than in a domestic violence situation?

A. No I don't.

10

Q. What's he like after alcohol?

A. I haven't seen him for so long I don't--

Q. Well what was he like after alcohol when he was living with you - was that when he became violent or was it when he was sober?

15

A. I don't - I don't remember.

RADZIETA: Q. Do you recall having your mobile phone, you made mention to Irene Burrows, in this - Irene's statement page 4 paragraph 15. You mention about keeping the phone so if you're late for one of the Alcoholics - AA meetings, you can give her a call and you said "Now I can keep it private" and she said "Keep what private?" "My calls, I don't get bills". Now with your private calls you had those re - I'll refer to them as throwaway SIM cards. Do you recall that?

20

A. Yeah.

25

Q. And the reason to keep your calls private. Why would you make a comment like that for?

30

A. I don't know.

Q. It wasn't about the same time you were trying to keep in contact with David Thwait's when he was living at a hostel, to work out your story between he and you as to the death of David?

35

A. No.

Q. Are you sure?

40

A. Yeah I'm--

Q. All right. Now at some stage during the course of the investigation, you've spoken to Fiona I take it - this is your sister, Fiona Feary, a number of times?

45

A. Yes.

Q. And I'll just refer to her statement. This is page 3 paragraph 10. 'I recall having a conversation with Sandra after David's death' - and I take it you've spoken to Fiona at some stage after David's death?

50

A. Yeah.

Q. And you (as said) say 'During that conversation she mentioned that she believed that the television in his unit may have fallen over onto his head causing his death'. Why would you say that for?

55

A. No. The only - I don't recall that, the only reason I can think of is that someone had said that to me that one of

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the investigating police or someone had said something to me at some stage.

Q. All right, let me continue on from there. You(as said) say 'According to Sandra, the television stand was unstable. She didn't tell me where she heard this or how she came to this conclusion. I don't remember what led to the mention about the television except that we were speculating about how he may have died'? 5

A. The television stand was unstable. It was - it was just like - like it wasn't like four legs, it was just - and Dave used to wheel it round from room to room. 10

Q. Well why mention it unless you were there when the TV had fallen? 15

A. Well I - I - is there any record, any indicating that someone said that - I wouldn't have said that out of the blue.

Q. You say the television was on a stand he could wheel around, is that correct, you said that a moment ago. That's my understanding and I'll stand to be corrected but is that right? 20

A. Yeah, he used to have it so he could turn it so he could watch it from different parts of the flat. 25

Q. Let me suggest this to you that there were two milk crates underneath the television set?

A. Well he-- 30

Q. And it seemed from my viewing - and I'll stand to be corrected - but it sat quite firmly on those two milk crates, if that's what they are?

A. He may have seen sense and actually - it certainly wasn't on milk crates when I last saw it. 35

Q. Could I just show you the photograph--

CORONER: Q. No, you have a look at it. 40

RADZIETA: May I have access, your Worship, I may have been misleading.

CORONER: I know you're right. There's certainly other devices there. 45

RADZIETA: Q. How was this, as you've describe it on - a set of wheels, is that correct?

CORONER: Q. Or a central pole, is that what you're saying? 50

A. Yeah that - well that's - yeah that's my - I just remember always being worried when I - if I wanted to move it, that it would tip over or - so I never moved it. I just kept it in the one position. 55

Q. How did that television sit on that particular stand you've mentioned, what was there to support it?

A. I don't remember. It just sat on--

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CORONER: Q. Table-top type of thing?

A. Yeah.

RADZIETA: Q. Is that what you remember?

A. Yeah, but - yeah. I know Dave - I know Dave had - had milk crates in the flat because he used to keep records and stuff for the radio station in them. 5

CORONER: Q. What did he sit the speakers on for his stereo? 10

A. I don't remember, his whole stereo system was just kind of this wall full of equipment and it was all, you know, he'd wired it himself and so on. I don't remember the details. 15

RADZIETA: Q. Now the following day, this is the Sunday 21 December 1997, what were you doing the next day?

A. I don't - I don't remember.

Q. Did you go back to Dave or did you go to David Rose's flat on-- 20

A. No, no, no.

Q. You say 'I don't remember'. Are you saying I didn't go back to David's - David Rose's unit. What makes you say that? 25

A. Well because I found out I think on the Monday I had a call to say that - what had happened and I--

Q. Who called you? 30

A. Steve Becker.

Q. You mentioned a moment ago, ma'am, that you heard the TV may have been unstable on its stand and it could have been an investigator who told you that. Do you remember who that person was who spoke to you? 35

A. No, I've got no idea where that came from.

Q. Are you sure about that, because what I'm suggesting to you is it was none of the investigating police who said that to you. Isn't that correct? 40

A. I - I'm telling you, I don't remember where that came from.

Q. And in answer to your question you asked me a moment ago where that information come from, if I read from Detective Thornton's statement of page 64, paragraph 75. It starts off on 7th line and you're referring to the television stand being unstable. Now what Detective Thornton says is 'No person other than investigating police and members of the deceased's family were aware that signs of a struggle were evident in the unit and that the television was not found in its normal place'. How would you know that unless you were there. That's a pretty good guess in my estimation. How would you have known that? 45 50 55

A. I don't know what - I don't even know what day Dave died on. I don't know how he came to his death.

Q. Well if you can answer my question. How would you know

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to have passed that comment on to your sister unless you were there?

A. But--

Q. Because you were there, weren't you? Things got out of hand and now David Rose is dead, isn't that the case? 5

A. Dave is dead, yeah, but it was nothing to do with me and I don't know what I can say or do beyond tell the truth which is what I've done.

Q. All right, could you just answer that last question. I'll ask you a third time. How could you pass a comment onto your sister about the TV stand falling or the TV falling from an unstable stand if no-one had told you? 10

A. I cannot recall - I can't recall making the comment and as I know I wasn't there, I have to put - I, I don't even know if - if-- 15

Q. And is that your answer?

A. I - I have to keep on being as honest with you as I have been up until now. I don't know. 20

MORISON: Q. Miss Durwood, did you have any other bruises around about that time?

A. Well some couple of weeks later - I can't remember the exact time - I was attending an AA meeting and it was the time of intense stress for me and I actually fell off the chair that I was sitting on and basically passed out and hit the floor and suffered another black eye and I think it was the same eye. And I remember thinking I'd just got over the first one and here's a second one. I have extensive liver damage and I bruise very easily. 25 30

Q. Did you tell someone that you got a bruise from your bag at about the time - around about this time? 35

A. I don't recall.

Q. You say you bruise very easily?

A. Uh-huh. 40

Q. How - what, just from - how easily can you get a bruise?

A. Well the first black eye was a knee-cap in the socket and the second one I fell sideways onto a concrete floor.

Q. So that you had to actually physically, what - you'd have to hit something fairly solidly or just brush it? 45

A. For something - I mean they were pretty extensive black eyes, it'd be pretty solid.

Q. How long does it take normally for a bruise to come up? 50

A. I don't know, a day.

Q. About a day?

A. I'm guessing. 55

Q. Of course the bruise on your eye came up on Sunday, didn't it?

A. I don't remember.

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Q. You said that you made some macabre comments - a sick sense of humour, is that right?

A. Yes.

Q. Is that your only explanation as to why you made any of those comments - about you potentially being a person that caused the death of David Rose? 5

A. Yeah I know it sounds stupid and inadequate but it's true.

Q. That's the only reason, is it? 10

A. Just stupidity, yeah.

Q. Well--

A. And - yeah - and misguided. 15

Q. Well you're an intelligent woman, if I might say, Miss Durwood, you understand what a macabre sense of humour is, don't you?

A. Yes. 20

Q. And the circumstances in which you used that, don't you?

A. Yes.

Q. Well it's quite different to being insensitive or to being stupid, isn't it? 25

A. No it's insensitive and stupid in hindsight.

Q. But at the time it was meant to be said in a macabre sense of humour, is that right? 30

A. Yeah at the time I didn't know it was going to be put down on paper and repeated in a Coroner's Court.

Q. Are you presently on drugs?

A. No. 35

Q. And when did you stop taking heroin?

A. The early 80's.

Q. Early 80's? 40

A. Mmm.

Q. So it's only been a difficulty with alcohol since then, is that right?

A. Mmm. 45

Q. Any other pills, marijuana, anything else?

A. No.

Q. You've only consumed alcohol since the early 80's, is that right? 50

A. Yeah maybe three or four occasions I've consumed amphetamines or heroin but no more than that.

Q. When were the occasions that you consumed heroin since the early 80's? 55

A. God - ages ago, I can't remember.

CORONER: She said amphetamines since the early 80's -

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amphetamines.

A. Everything.

MORISON: I think she also - she said heroin as well 5

CORONER: Sorry, I misheard.

MORISON: Q. You don't know, is that what - around about
the time of David Rose's death? 10

A. No, it was long before that.

Q. Long before that?

A. Long before that, yeah. 15

Q. Now you said that you consumed methylated spirits at
David Rose's residence and he was upset about it and
rejected you from the home, is that correct?

A. Sorry, could you repeat that? 20

Q. Did you consume methylated spirits at David Rose's home?

A. Yes.

Q. He was upset about it--

A. Mmm. 25

Q. --and rejected you from the home, is that correct?

A. I don't recall if that was actually the action that
precipitated it but-- 30

Q. How did he react to that?

A. I don't remember.

Q. You only did it once, as I understand your evidence -
you only did it once? 35

A. Yes.

Q. Is that right?

A. Yeah well it's - yeah it's not-- 40

Q. Is that right?

A. Yes.

Q. One cup or one sip, what was it?

A. Enough to make me sick. 45

Q. How much did you consume?

A. Maybe half a cup.

Q. And David was present when that happened, was he? 50

A. No he wasn't.

Q. How did he find out?

A. Well he came home afterwards and he could smell it. 55

Q. On your breath?

A. Well yeah it's pretty pervasive kind of--

Q. Or had you left it out - had you left it out?

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A. Left it out?

Q. The methylated spirits and the cup or did you put it away?

A. No, no I would have put it away.

5

Q. Do you recall that?

A. I don't recall it specifically, no.

Q. Was that the only thing he got upset about?

10

A. As far - well my drinking in general but I might also point out that when I was in rehab on various occasions David was the only friend of mine who actually visited me, had a certain degree of tolerance to people's--

15

Q. When everyone had given up on you David would still be there, is that right?

A. Yeah, he--

Q. Is that right?

20

A. Yeah he--

Q. So when things are rock bottom, when everyone else is saying 'No', you go to David, is that correct?

A. It got - it got so bad I couldn't even go to him. I wouldn't have - I couldn't have--

25

Q. Sorry, do you want to say something or--

A. No.

30

Q. You knew where he kept his spare set of keys in the house, didn't you?

A. Yes just--

Q. Where did he keep them?

35

A. On the bookshelf next to the telephone.

Q. And you knew that in order to lock the house upon leaving, you needed to use the keys, isn't that right?

A. Yeah I think so.

40

Q. You think so? You're not sure about that?

A. I wouldn't swear it - I've sworn an oath, you know, I couldn't swear to it.

45

Q. Tell me this. How many houses have you been to where you need to use the key to lock the door upon leaving?

A. I couldn't tell you, I've got no idea.

Q. More than one?

50

A. I suppose if it was a deadbolt you've got to but--

Q. Sorry?

A. I - I can't tell you, I don't know. When you say how many houses have I been to that you need to, I don't know.

55

Q. Has there been another one apart from David's?

A. I don't know.

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Q. Where you've used the key in the way that you'd use David's spare keys upon leaving?

A. I suppose so, yes.

Q. There are others?

5

A. I suppose so, yes.

Q. Why do you suppose so?

A. I - like there must be certain types of locks that you have to.

10

Q. Do you understand what I'm suggesting to you?

A. No.

Q. In order to leave - in order to lock David's door--

15

A. Mmm.

Q. --you had to have a set of keys upon leaving, didn't you, you had to use the key. You couldn't leave that residence without using the keys, isn't that right?

20

A. I don't remember.

Q. How many times did you stay there?

A. I think he had - I think there were three - either two or - two locks on the door and one on the screen door.

25

Q. Well let's just ignore the screen door for a moment and just talk about the main door, okay?

A. Mmm.

30

Q. Now you needed a key not only to arrive but to actually leave. It wasn't a door that you could simply close and off you'd go. Do you understand what I'm suggesting to you?

A. Yes I understand what you're suggesting but--

35

Q. You had to actually physically lock it otherwise the door would be open, isn't that right?

A. I can't remember. It's a couple of years.

Q. Well had there been other - you understand what I'm--

40

A. Yes I understand what you're getting at.

Q. Tell me how many other houses you've been in where you have to do that, that you can tell us about?

A. I don't know.

45

Q. Well have you ever done that before with a set of keys?

A. I guess so, I--

Q. See I'd suggest to you that it's a very unusual situation, that David was paranoid, fastidious about security. Would you agree with that?

50

A. No I - once again, I would take issue with the word 'paranoid'. No I don't think he was.

55

Q. Fastidious, how about that. You understand what that words means, don't you?

A. Yes I do understand what that word means. I would say he was security conscious, he was very aware of it.

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Q. Why don't you like the word paranoid, you don't - okay.

CORONER: She's told us she prefers the words 'security conscious'.

5

MORISON: Q. So you understood how important it was for David to know where his spare keys were. Were you aware of that?

A. Yes - yeah I - I don't know what to say. I mean it's - it's not something I've ever sat down and thought about, like is Dave, you know.,

10

Q. I may have - you don't remember him ever chasing the keys, is that right, when you left - or you do?

A. No but I was in a haze. I was - God Almighty. No I don't remember.

15

Q. You were aware that David was ill that weekend, weren't you?

A. No I haven't spoken with him for quite some time.

20

Q. When was the last time you'd spoken to him?

A. I can't remember, it would have been - and I know I'm on oath and everything and I can't promise that this is true but it would have been at least a couple of weeks before. No I didn't know he was ill.

25

Q. Had you been staying at his house three or four weeks prior to his death?

A. I don't recall exactly when it was.

30

Q. It might have been three or four weeks prior--

A. It might have been, yeah.

Q. Had you returned the keys after you'd been staying there?

35

A. I have - my recollection is unclear on that. However, I believe what was subsequently said to me that no I didn't return the keys.

40

Q. Do you have any idea where they are?

A. Where they are now?

Q. Yes?

A. No.

45

Q. They might still be in your possession?

A. No.

Q. Why not?

50

A. Well just because I know they're not.

Q. Well how do you know that?

A. I - no they're not.

55

Q. You might have misplaced them?

A. No.

Q. But you're very forgetful, aren't you?

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A. Yeah but I - once again, this is - I suppose this is hearsay more than anything else but my understanding is that my sister returned the keys to Dave.

Q. But that was months before this happened. I suggest that you might have been staying there three or four weeks prior to his death? 5

A. Ah--

Q. Since then - since your sister gave them back? 10

A. No, no I - no, after the keys went back I - no, I don't think I even went to the flat after that.

Q. Didn't you tell Irene Burrows that you had been there?

A. No. 15

Q. Are you sure?

A. If I did it would have been when Dave was there, he would have let me in and let me out. Look, can I--

20

Q. He's never refused you entry, has he?

A. No, not--

Q. Sorry?

A. No.

25

Q. Do you know where David Thwait's is?

A. Sorry?

Q. Do you know where David Thwait's is?

A. No.

30

Q. When was the last time you had contact with him?

A. Three or four months ago.

35

Q. Did you talk about this incident?

A. In sort of general terms, you know, he says--

Q. What do you mean by that?

A. Well he might say 'How are you feeling about it?' and--

40

Q. How are you feeling about what?

A. About the death of a close friend.

Q. He said those words, did he?

A. Sorry?

45

Q. He said those words, did he?

A. No he didn't say those words. I'm just describing to you the kind of incident that--

50

CORONER: Q. The way in which you were mentioning the subject with him?

A. Yeah--

55

Q. And that was the question?

A. Yeah, you know--

MORISON: Q. How many times have you spoken to him since

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the incident about it?

A. Since Dave's death?

Q. Yes?

A. It - we've gone to a lot of meetings together. It'd be probably a couple of dozen. 5

Q. Did you maintain the relationship with him on a sexual basis?

A. No. 10

Q. When did that end?

A. I suppose 6 months ago.

Q. Six months ago? 15

A. Mmm.

Q. You saw him three months ago, is that right, about three months ago, the last time. Is that right?

A. Okay, January, February, March - okay, it would be closer to 5 months since I've seen him 20

Q. You broke up--

A. Well we-- 25

Q. Sorry?

A. Broke up? We were never together.

Q. You were having a sexual relationship with him?

A. Do I really have to - sorry - it wasn't a sexual relationship. It was-- 30

CORONER: Q. Was it a contractual one, is that what you're suggesting - money?

A. No, no, no, no. 35

MORISON: Q. Well what was it then - were you having sex or not?

(No verbal reply) 40

Q. What is so difficult about that question?

A. Because I don't want to have to say this but I'm obviously going to have to say it. We had oral sex, that is that he received oral sex. He didn't impart oral sex, on approximately half a dozen occasions over the period of time that we knew each other. 45

Q. You agree that you have a very hazy recollection of the events of that weekend, is that right - in relation to what you were doing? 50

A. It's a lot clearer than my recollection of a number of other weekends--

Q. Why is that?

A. Well because I've been through interviews with the police about it. 55

Q. Why did you go around attempting to cover your tracks?

A. What do you mean 'cover my tracks'?

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Q. Well you purposely went around trying to obtain details to substantiate an alibi, isn't that right?

A. How do you mean, I don't understand.

Q. You rang people up, warned them, the police might be calling--

5

A. I rang people up and warned them?

Q. Is that right?

A. The people that I would have spoken to - we're talking about people who are members of a 12-step organisation, the second word of which is 'anonymous'. If suddenly Detective Sergeant so-and-so is going to come and be knocking on someone's door. That was the only reason why I mentioned that to anyone.

10

15

Q. You had to make sure they got their stories straight?

A. No. I never once suggested to--

Q. Who did you ring up?

20

CORONER: Q. Let her finish the question - give her answer. The microphone protects you as well as gets you into trouble. If you want to add to your answer, do so?

You never once suggested, you started to say, is that all you wanted to say?

25

A. I'd never once suggested to anybody that they say or do or corroborate anything.

Q. Presumably if we go round to these various people, they'll confirm that?

30

A. Well I certainly hope so, and I understand that most of them, if not all of them, have actually been approached at some time in the last 18 months.

35

MORISON: Q. Did you go over at all to David Rose's house on that weekend?

A. No.

Q. And how can you be sure of that?
(No verbal reply)

40

Q. What I'm saying to you is if you can understand, and I think you do understand what I'm suggesting, you've got a very bad recollection of your movements - as a general rule - so it could be, couldn't it, that you popped over there?

45

A. Where--

Q. And you just don't remember it?

A. When you're--

50

Q. Quite innocently?

A. Okay, there's two--

Q. You understand what I'm suggesting to you?

55

A. --there's two points I'd like to make. Firstly, that when you're telephoned and told that one of your closest friends has passed away under whatever circumstances, you sort of tend to be aware of whether you popped over to their

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place on Sunday afternoon or whenever you're suggesting. The other thing is that, as a chronic alcoholic, at that stage of addiction, it was just simply - I probably couldn't have - just the thought of organising the two legs or three legs of the journey would probably have been - I mean when you're that far gone you don't do anything if you don't absolutely have to do it.

5

CORONER: Q. But you got from the western suburbs to Neutral Bay the day - on the Saturday, the three legs of that journey weren't insuperable, were they?

10

A. No but--

Q. There's not much difference getting from St Marys to ..(not transcribable).. is it, really - easier if anything?

15

A. No I suppose not but - I mean I just know - I know that I didn't.

MORISON: Q. Just getting back to the three legs of your travels, isn't it the case that your preferred mode of transport is taxi?

20

A. My preferred mode?

Q. Yes?

A. Well certainly from the house - Dee's house to St Marys, it wasn't so much preferred as being just about the only available option.

25

Q. It was the only option you ever took, isn't it?

A. No, no sometimes I used to walk down to the shopping centre and get the local bus in.

30

Q. So there was another option?

A. Yeah.

35

Q. Well why did you say there wasn't - it was the only option when you were at Dee's house?

A. It was the preferred option. I mean the bus runs once an hour or something like that.

40

Q. Does it - how do you know that?

CORONER: Q. She lived in St Clair did she?

A. Yes.

45

Q. So you've got to go - is that - you go under the expressway, do you, under the M4 or was it - to get to St Marys shops?

A. I think - is it Mamre Road or something you have to cross, yeah.

50

Q. Over, over, yeah all right. So she's south of the expressway off Mamre Road?

A. She's near the St Clair shopping centre.

55

Q. Yeah okay.

A. And which is where the local bus--

Q. It was a fair way to St Marys?

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A. It was about a ten-dollar cab fare I guess.

MORISON: Q. But not only when you lived there but where ever you lived from time to time, your preferred mode of transport was to jump into a cab, wasn't it, that's what you did the majority of the time, isn't it? 5

A. I wouldn't say the majority of the time, no.

Q. You wouldn't. You'd struggle down to the bus stop, get the bus and the train even though you're in this disturbed alcoholic, difficult to get to places and do things. You'd just find out when the next bus was on, the next train was scheduled to meet it. You organised all that, you get to work on time. Is that right? 10

A. I was quite happy to ring up a cab and get a cab from the house to St Marys station because the trains run a lot more reliably than the local bus does. 15

Q. You said before that you didn't know which day David Rose died, is that right? 20

A. That's correct.

Q. But didn't you tell Miss Clifford - you know Miss Clifford?

A. No - Miss Clifford? 25

Q. Louise Margaret Clifford?

A. Yeah, yeah, that's--.

Q. Her working name was Mandy? 30

A. Mmm.

Q. Didn't you say to her that you knew who had killed the decease?

A. Sorry, that I? 35

Q. That you knew who had killed David Rose?

A. No.

Q. And didn't you say to her that you were worried about your fingerprints being all over the unit? 40

A. Well I - I mean I knew my fingerprints were all over the unit because I'd stayed there and I - you know, I just thought 'Well they're..' - that's one of the reasons why I went to the police in the first place so that I could go along and say 'Look, here I am'-- 45

Q. Didn't you say to her 'At least I now know what day it happened on'?

A. If I ever said that to her it would simply have been because of the direction that the police questioning took, all seemed to centre around the Saturday so I'm just assuming that it was the Saturday. 50

Q. Who told you that? 55

A. What?

Q. That it was on the Saturday?

A. No-one--

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CORONER: She said it's how the questioning centred.

A. Because they were so interested in my movements on that, you know, on that day.

5

MORISON: Q. You took a lot of details down at one stage on an envelope. Remember doing that?

A. Yeah well that's something I do frequently, bits of paper, envelopes.

10

Q. Why did you do it on this occasion?

A. I do it as a memory thing because I just don't remember things otherwise. For instance, if I ring work and they tell me when I'm working next, I tend to write it down.

15

Q. Didn't you tell Irene Burrows that you believed that Joel Hilton committed the crime?

A. Not committed the crime. I might have said to Trish that - it - I, just the feelings of those few days when it had all just happened and then when I remembered that Paul had had access to the unit, just - there was so much going on.

20

Q. You came up with a theory that Joel Hilton had done it because he was prone to stealing things. Isn't that right?

25

A. I - no I wouldn't have--

Q. Something along those lines?

A. I wouldn't have come up with a theory that Joel had done it because he was prone to stealing things. It's because at the time he had stolen some items. I certainly wouldn't say that he's prone to stealing things.

30

Q. You're prone to stealing things, though, aren't you?

A. What do you mean?

35

Q. Don't you understand what I'm asking you?

A. What--

Q. That's why people didn't want you to stay at their houses because you used to steal things as well as drink, isn't that right?

40

A. No - no.

Q. It's totally untrue is it?

45

A. Yeah.

Q. Is it?

A. Yes.

50

Q. You're sure?

A. Yeah.

Q. You weren't stealing things from people's houses?

A. No.

55

Q. And that's why people didn't want you to stay at their houses any more?

A. No, no.

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Q. You were in some financial difficulty at the time, weren't you?

A. Not at that time, no.

Q. You weren't. Are you sure about that? 5

A. Well I had an income.

Q. But business wasn't that good, was it?

A. Yeah but I wouldn't - I don't - where are you going with this. Like I didn't steal from anybody, ever. 10

Q. Ever, is that right?

CORONER: Will you be a while? 15

MORISON: Yes, I'll be a little while.

CORONER: We'll take the break.

<WITNESS STOOD DOWN 20

LUNCHEON ADJOURNMENT

<SANDRA ANN DURWOOD (2.10PM)

ON FORMER OATH 25

MORISON: Q. You were saying before lunch that you didn't ever steal anything from anyone's property, is that right?

A. That's correct. 30

Q. Do you have any idea why - or could I ask you this. Miss Devitt, Miss Donna Devitt's a friend of yours, is that right?

A. Yes. 35

Q. In fact, she was your best friend, is that right?

A. She was a close friend of mine, yes.

Q. You told us also before lunch that you hadn't been using heroin since the early 80's, there'd been probably one or two occasions since then, is that right? 40

A. I think I said three or four occasions.

Q. Three or four occasions with heroin now and that doesn't include the amphetamines, is that right? 45

A. That's correct.

Q. Is that all, is that it, what, were you using it around about the time of David's death or not?

A. No I wasn't. 50

Q. Could you explain why Donna Devitt would say something like this - paragraph 7 of page 2 of her statement. 'Sandra used to be my best friend and was a good friend of David. Sandra was having problems with alcohol and heroin and this was causing concern between us and our other friends. She would be constantly contacting people to stay at their house and they would be refusing to allow her to stay because of her problems. There was also the concern that she may steal 55

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property belonging to friends because of her substance abuse and David had become aware of this and he was worried about her staying at his unit'. Do you have any explanation why someone would say that?

A. No, that sounds as if it was something that took place between Donna and Dave. I'm not aware of that, no. 5

Q. There's no basis for that?

A. No. 10

Q. Could you - were you ever turned away from the house of Donna Devitt?

A. On one occasion I - yeah I believe I was.

Q. And what happened - they had to call the police, is that right? 15

A. I don't recall. I just know that there was one occasion.

Q. 'On one occasion we had to actually call the police because she refused to go' - paragraph 8 of page 2 of Donna Devitt's statement. Is that correct or not? 20

A. Yes if she said it, yeah.

Q. You don't remember though?

A. I remember an occasion when they refused me admission to the house. I honestly can't recall if the police were called or not? 25

Q. Paragraph 9 of Donna Devitt's statement at page 3. You told us that you only had one occasion when you were drinking methylated spirits, is that correct or not? 30

A. One occasion at Dave's place, yes.

Q. There were other occasions at other people's houses, were there? 35

A. There was one other occasion elsewhere.

Q. And where was that?

A. I can't recall. 40

Q. Are you sure there was only the one occasion at Dave's house?

A. I'm about as sure as I can be, yeah. 45

Q. Donna Devitt's statement page 3 at paragraph 9. 'He mentioned that he noticed his bottles of methylated spirits disappearing but it didn't make sense until he realised that Sandra was drinking it obviously because of her drinking problems'. Is there any basis to that allegation? 50

A. There was the one occasion, that was it.

Q. What about Marcia Vaarg(?)?

A. Yes. 55

Q. You do. What's her - is she - did you have any difficulty with her?

A. I haven't seen Marcia for years.

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Q. Would there be any reason for her to lie about something in relation to you that you can think of?

A. No.

Q. A telephone conversation she is alleged to have had with David, and David said "A friend of mine is having very serious personal problems. She's addicted to heroin and she's an alcoholic. The day you phoned I was talking to her sister and she was telling us - telling me about how this friend had taken a turn for the worst. I can't remember the exact conversation but David told me that this friend of his had been staying with her sister, that she'd been thrown out when she'd been caught stealing from them to buy heroin or alcohol. This girl's sister did not want David to take her in because she feared that she might do presumably the same". Is there any basis to that or is that - you've got no reason for her to lie about that conversation, do you, can't think of any reason? 5
10
15

A. Well I - no, I don't think that she was lying about the conversation. I think that there was a misunderstanding there. There's been no heroin use for a long time. 20

Q. You said before that the incident with the methylated spirits wasn't the reason why David had turfed you out of the house, is that right? 25

A. Well it may have been, I don't remember him saying specifically that that was the reason why.

Q. Just following on to that conversation, 'I said - this is Marcia Vaarg talking to David - "Have you taken her in before?", David said "Yes, she's homeless but I threw her out when I caught her drinking turps or metho. She had put cordial in it". Is that correct? 30

A. Yeah. 35

Q. So you did add cordial to it?

A. Yeah, I did.

Q. She wouldn't know that otherwise unless--

A. No. 40

Q. --David had told her that, and that..(not transcribable).. , would she?

A. Mmm. 45

Q. Is that right?

A. Yes that's correct.

Q. But the allegations of stealing amongst those conversations I've been referring you to are completely without foundation, are they? 50

A. I know they're without foundation because it's not something I've ever done. Where there are other people who've said that I've done it, is another matter. But I know that I haven't. 55

Q. Do you know Gordon Sharp?

A. Yes.

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Q. He worked at the radio station where you worked, is that right?

A. That's correct.

Q. Do you have any gripe with him? 5

A. No.

Q. NO reason for him to lie, is there, that you're aware of?

A. No. 10

Q. Page 2 paragraph 7. This is relating to a conversation he had with David Rose. 'On this occasion that I spoke with him he warned me not to let Sandra in the house if she came as she had stolen from her sister Fiona and he was concerned that she would also steal from me. He said he would not let her into his apartment, that he would not answer the door unless he knew who was there'. Now is that, again, without foundation? 15

A. I wasn't completely clear on who'd said what at that point but it is without foundation. 20

Q. You didn't steal from your sister?

A. No. 25

Q. What about Elizabeth King, is that a person that you know?

A. I can't recognise the name immediately, no.

Q. 'At the beginning of the rehab course Sandra pretty much kept to herself. However, as the course was progressing and more people were leaving, Sandra and I became good friends'. You were at the rehabilitation centre with her, is that right? 30

A. Which one was that? 35

Q. Yarra House at the Prince Henry Hospital?

A. Uh-huh.

Q. Do you know who I'm talking about now? 40

A. Um--

Q. It's all a bit blurry, is it?

A. Well I remember a Liz but, you know. 45

Q. You told her you had a drug problem - paragraph 13 page 3 of her statement. Is that right or not?

A. I'd - I'd - I think once you're addicted to a substance, you can - I think you always have to - or I feel that I always have to keep it in my mind that it's an ever recurring danger for me but that doesn't mean by any means that I have been in active addiction for a long time. 50

Q. Dee was the - that's referring to Deidre, isn't it?

A. Dee, yeah. 55

Q. That's who you were living with allegedly around about the time that..(not transcribable).. or not?

A. Yes, I was living there.

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Q. Is there any reason why Elizabeth King or Liz that you remember from Yarra House would lie about something that you can think of?

A. I can't recall but I could trip over her now in the street and - I'm really not clear on who precisely you're talking about there.

5

Q. Did you have a run-in with Liz at Yarra House?

A. No I didn't, I didn't have any run-ins with anyone at Yarra.

10

Q. So can you explain why someone would say this, 'Her and Dee had a conversation..' - paragraph 21 at page 5 of Elizabeth King's statement. '...Dee said that she needed to talking to someone because she was scared. I asked her what she was scared off. She told me that she was scared of Sandra because she had shot through with some of her money, house keys and clothes. I told her to change the locks and she said she hadn't any money because Sandra had taken it. I offered Dee some money but she didn't want it. She only wanted me to ring the police because she was scared. She was telling me that Sandra had told her so many lies, that she had found empty bottles of vodka under her daughter's bed'. Any substance to that?

15

20

A. That's - that's not true.

25

Q. What's not true - all of it?

A. I had certainly, as she put it, shot through. I left the house but I didn't take anything with me. In fact, I left quite a number of things there and--

30

Q. Are you telling me there's a number of people saying that you've stolen things, would you?

A. It--

35

Q. Do you agree with that proposition?

A. Well no it seems to me that, you know, people are saying that they've heard this thing about me. It's just not true.

Q. Well there's certainly a lot of people talking about it, aren't there, for something that's not true, is that right?

40

A. I suppose so but it's just--

Q. The people who've got no reason to lie about it, is that right - yes or no?

45

A. Yeah people have made these statements.

Q. Are they making it up - are they making it up?

A. I'm not saying that, I'm just saying that it just seems to be a misconception or--

50

Q. It's just a lot of people talking about you, lying, cheating, stealing, is that right?

A. People talking about it, yes, but it doesn't--

55

Q. People that have got no - that you have no difficulty with, they're just making it up. Is that right?

A. No I'm not saying that they're making it up. I'm saying that this seems to be some sort of perpetuated

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misconception.

Q. Do you know Nazime Hudson?

A. No.

5

Q. She was a prostitute working at Bare Bunnies were you used to occasionally work, isn't she?

A. She may well have been.

Q. New Years Eve, paragraph 3 'I worked at Bare Bunnies, 43 Queen Street, St Marys. I started about 6.30pm. I think Veronica - that was your name, wasn't it?

10

A. Yes.

Q. '...may have been there when I started. Around 9 to 9.30 we were in the reception area and she was lying on the lounge. She said "I must have done it in my sleep". I said - that's Nazime - "What have you done?". She said "I must have killed this guy. Didn't you see it on the tele, the cross-dresser. I couldn't have done it. He was my best friend". I said "What are you talking about? If you didn't do it you shouldn't say you did. You should be locked up". She said a couple of times "I might have killed him in my sleep". Then she would say "No it couldn't have been me, I must have been drinking". Did that conversation take place?

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25

A. I certainly don't recall it. I'm not saying that it didn't but I don't recall it and if we accept that it did, then once again I have to put it down to stress and a highly inappropriate sense of what to say.

30

Q. You've changed your reason for the confessions from a macabre sense of humour to stress, is that right?

A. No I thought that it would be understood that I was under a fair amount of stress at the time.

35

Q. But you would agree with me that you haven't been telling us that it's stress that caused you to say those things in the first instance though, isn't that right?

A. I didn't think it was necessary to say it. It seemed self evident.

40

Q. Weren't you asked the reason on a number of occasions as to why you'd said these things - yes or no?

A. Yes I - the record will show that, yes.

45

Q. You said you got a bus into town on the Saturday, is that right to Wynyard or to Town Hall and then you changed it to Wynyard, remember doing that?

A. No I don't think I said that. I think I said I got a train.

50

Q. To Neutral Bay?

A. You mean on the return journey?

55

Q. Yes?

A. Yeah, it was either a taxi or a bus, I don't recall.

Q. It might have been a taxi now, is that--

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A. Well yes.

Q. Weren't you running late and you had to get a taxi or don't you remember?

A. I don't recall.

5

Q. You don't remember that aspect of the day any more?

A. Sometimes I get a bus, sometimes I get a taxi.

Q. It's the first time you'd ever been in Neutral Bay, wasn't it, to one of these meetings?

10

A. It's the--

Q. It's the first time you'd ever been in Neutral Bay to one of these meetings?

15

A. Yeah, but I've been to Neutral Bay on a number of occasions. I'm not unfamiliar with Neutral Bay.

Q. You don't remember the - do you remember Saturday night, what you did on Saturday night?

20

A. My recollection is that I worked on Saturday night.

Q. Is there anything that jogs your memory about - that makes you think that?

A. No, just that, you know, I've been over the events of that period of time.

25

Q. Question 106 of your record of interview 'What about Saturday night?', answer 'Yes, well I think I was working, actually yes I - Saturday night, yeah, I remember now. I had a memorable client. I worked up until midnight there and then - we have another studio down the road at number 43 Queen Street...' et cetera, et cetera. That jolt your memory?

30

A. Yes it does actually but I wouldn't have - been able to specify a date but yeah.

35

Q. Sorry - that's a pretty relevant night, isn't it, to this investigation?

A. I'm sorry?

40

Q. It's a pretty relevant night to this investigation?

A. Well I don't know. This was the Saturday night, 20th I take it.

45

Q. You were very concerned about your movements and getting right your movements of that Saturday and Saturday night and Sunday, weren't you, for the police, you were endeavouring to make sure that you were correct about those things, weren't you?

50

A. Well yes I wanted to be as accurate as possible. I--

Q. You see you told the police, question 79 and answer, to when I was asking you about the taxi and the bus a minute ago. 'Then because I had a little time to kill and so did David we walked for I don't know how long, we walked around the area. Approximately 4 o'clock we were back in Military Road because I realised it was going to be impossible for me to reach St Marys in an hour I caught a taxi'. That jolt

55

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your memory, that's what you told the police isn't it?

A. Well if that's what I told the police, then that's what I told the police, yeah. It's - it would have been a lot easier for me to remember then than it is now 18 months after the event.

5

Q. You see you were asked why you said to, you know, you remember Marissa I was asking you about before?

A. Uh-huh.

10

Q. Question 266 of your record of interview. She further states that you said "I don't know what's wrong with me, maybe it's a nightmare, maybe I did kill him?". Answer "Jesus, here we go again. If I've ever said anything like that it was in sheer total desperation. I don't recall saying anything of these things". So it was in desperation you said these things, was it?
(No verbal reply)

15

Q. Yes or no?

20

A. Desperation in the sense that there was a tragedy in my life and I was really not - I just couldn't deal with it.

Q. Question 248, Patricia Burrows we're talking about here, the conversation you had with her. 'She claims that you put your elbows on the table and place the front of your face into both your hands, in the kitchen this is, on the kitchen table. You said "Maybe I did kill him" and she then said "Well you either know whether you did or you didn't. Do you recall that conversation?', answer 'Well this would have been about the time when I was feeling under so much pressure that I didn't know what I was saying, what I was doing. I certainly wouldn't have meant it. I don't know, I may have said it but it - I mean that's along the lines of I don't know, I don't, if I said it it was, it was, it would have been out of fatigue and desperation and grief and I doubt whether I would have used those words because I'd become aware at that stage of the investigation and every single thing I said to every single person was being reported and analysed'. Nothing in there about a macabre sense of humour, is there?

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30

35

40

A. No.

Q. So see you've said the same thing over and over in a different way to quite a number of people and not only a number of people, to the same people on a number of occasions, haven't you?

45

A. I have to say I don't recall - I know that I made that comment but I don't recall making it - I don't recall any specific occasion when I made the comment and I don't recall making it repeatedly.

50

Q. You see every time things get a bit tough or there's a difficult question, you don't recall, do you?

A. Mmm.

55

Q. Any reason for that?

A. The passage of time and the fact that particularly at that time I was--

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A. You're lying, aren't you?

A. No.

Q. If it gets too tough, once the questions start to be probing, you don't remember. You use your alcoholic haze to cast a cloud over your recollection, don't you? 5

A. I can tell you one thing. Incontrovertibly I did not have anything to do with what you insist on referring to as the incident.

RADZIETA: Q. Very briefly on that point that you mentioned you've had nothing to do with it, you made comment perhaps indirectly 'I may have killed him' referring to David Rose. Could it be the case that on this occasion entry and access was gained through you via David Thwait's, that he went to David Rose's unit? 10 15

A. I - I think that up until - then they didn't - as far as I'm aware they didn't even know of each other's existence.

Q. So you're saying David Thwait's had no hand in the death of David Rose? 20

A. Of course not.

Q. And you're saying to your knowledge whether you directly involved or anyone else being involved, you have no knowledge of how David Rose came to die? 25

A. I'm going further than that. It's - I had no involvement, I have no knowledge, it's as much of a mystery to me as it is to everybody else. 30

<WITNESS RETIRED AND EXCUSED

<IAN GRANT ROSE (2.34PM)
AFFIRMED AND EXAMINED 35

RADZIETA: Q. Could you tell the Court your full name?

A. Ian Grant Rose.

Q. Your occupation?

A. I'm a bus operator for the STA. 40

Q. And you're address?

A. [REDACTED]

Q. In relation to the death of your brother, David, you supplied the police firstly with a statement and then you were - there was an electronic interview, is that correct? 45

A. That's correct.

Q. Now Mr Rose, if I just show you a copy of a statement that's dated 22 December 1997, just going into 8 pages, just see if your signature's there? 50

A. Yes, my signature is there.

Q. Is that on the bottom of each of those pages, Mr Rose? 55

A. Yes it is.

Q. Is there anything on that statement you'd like to add to or delete from?

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A. Would you give me a moment to read it so that I can go through it?

Q. If you wish to refresh your memory, yes.

5

MORISON: If I might assist my client?

CORONER: Yes.

MORISON: Q Ian, that's the same statement you made to the police?

10

A. Yes.

Q. No tricks - it's the same statement?

A. Yeah - no, that's exactly as given. I don't wish to change it in any way.

15

RADZIETA: Q. It's a true and correct statement?

A. To the best of my knowledge, yes.

20

Q. And further to that I'll show you - it's a record of interview conducted between Detective Matthews, Detective O'Reilly and yourself on 31 December 1997. You had an electronic recording in relation to your brother's death?

A. That's right.

25

Q. As far as you can recall in relation to that is there anything you'd like to add to or delete from it?

A. No.

30

Q. And is it a true and correct of the interview between yourself and police in relation to your brother's death?

A. Yes.

Q. And both the statement and the record of interview, that's the evidence you wish to adhere to?

35

A. That's correct.

Q. Now I take it your brother was a very private person as far as you know--

40

A. As far as I know, yes.

Q. Who he socialised with?

A. I have no idea.

45

Q. As we understand, he being a cross-dresser, you had no knowledge who, again, he associated with?

A. No--

Q. Or what his habits were - outside--

50

A. I can't answer those questions because I just don't know.

Q. How often would you see your brother at the time when he was alive up until 20 December '97 on a weekly basis?

55

A. Once maybe twice a week.

Q. And was that generally at your parent's place for a Friday night meal with the family?

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A. That's correct.

Q. What about throughout the week whether at work or after work, would you have social contact with him?

A. Any social contact would have been while my parents were away overseas and we would have had dinner on a Friday night and that would have been the sum total of it. 5

Q. So you don't know who David associated with?

A. I have no idea at all. 10

Q. What his lifestyle habits were away from work?

A. No.

Q. Now without probing too deeply, look there's a time there on the date that your brother, we believe, had died. You told police you were playing computer games on your computer? 15

A. Yes that's correct. 20

Q. And there's a time frame I think it was 1.30 and 7.30 that night that the hard drive was looked into and it showed you had made a couple of entries there?

A. Mmm. 25

Q. Now there's a gap there of some approximately 6 hours from 1.30 to 7.30?

A. Sure.

Q. During that time-- 30

A. I would have been at home and doing what one normally does at home.

Q. And I think if I recall from your record of interview, you also believe to have attended the shops at Bondi? 35

A. At Bondi Junction I believe.

Q. Bondi Junction?

A. Yes. 40

Q. Do you recall that incident where you went to the shops--

A. Well it was a normal routine for the weekend for me. I would do my weekly shopping and go home and take it easy. 45

Q. How long would that generally take for you to do your shopping?

A. It varied, dependent upon how much I needed. I think on that particular day it probably would have taken an hour, an hour and a half tops. 50

Q. And the rest of the time where do you say you were?

A. At home.

Q. Was anyone with you at the time or was it by yourself? 55

A. No.

Q. Now during that time, that's on the Saturday, had you seen your brother at all during the day, David?

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A. No I hadn't seen David for - at that stage close on to two weeks I would say.

Q. And the Hanukkah Festival, about what time was that?

A. Hanukkah normally early to mid-December, it's basically the Jewish equivalent of Christmas - for want of a closer parallel. 5

Q. And you saw David some two weeks prior to his death, is that right? 10

A. That's correct, at my parent's place for dinner.

Q. And you were aware of your brother's cross-dressing?

A. I was aware that he cross-dressed but only - as far as I knew only in the home. 15

Q. And he had whether jewellery or makeup on as far as fingernail polish?

A. He was - I have seen him wear nail polish and other makeup, yes. 20

Q. How did you feel about that yourself with the way he conducted himself outside of work with the dress sense that he had?

A. Well that's a hard question to answer. I was - I didn't have any feeling for or against it. It was his life style, it was his decision to make. 25

Q. And in respect of it there was - or was there any animosity between yourself and your brother in relation to that code of dress if you like? 30

A. No, no, none at all.

Q. But certainly you were aware your parents were displeased as to the way he would be dressed? 35

A. Displeased is perhaps the wrong term. It upset my mother a little bit and I had suggested to him on at least one occasion it might be more politic to not wear it when he came over but I was told to mind my own business. 40

Q. And that was by David, was it?

A. That was by David, yes.

Q. At the time of the Hanukkah was it arranged that between you and your brother you had made arrangements to put in for a present, collect money off David? 45

A. Well what had happened was we had discussed with Mum and Dad what they would like as a present. David and I had decided that we would buy Mum and Dad a modem for their computer and I would put an old sound(?) card of mine into their computer as well and it was agreed that David would pay half the cost, yes. 50

Q. And did you collect the money from David?

A. No I didn't end up getting the money from him. 55

Q. And, again, that was some two weeks prior to 20 December '97?

A. The initial arrangement was made then, yes.

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Q. And during that time up until 20th had you seen David during that two weeks leading up to it?

A. No, no I hadn't seen him. I had spoken to him a couple of times on the phone but I hadn't actually seen him.

5

CORONER: Q. Had you seen him again about the Hanukkah gift on - perhaps on the - you said you spoke to him by phone on the Friday, for example, 19th?

A. Yes--

10

Q. Did you mention the Hanukkah gift then?

A. Yeah, if I remember correctly, we - he had said that he was ill and he wouldn't be going over to Mum and Dad's for dinner like we normally do on a Friday night. I said well okay, well the present for Mum and Dad's all set and ready to go and we hadn't made any solid arrangement with regard to when I would collect his half of the payment.

15

Q. Hadn't made any arrangement, okay. Were you planning - did you in fact give it to your parents that night?

20

A. To be honest I can't remember when I gave it to them.

RADZIETA: Q. Had you spoken to David by phone then leading up to his death?

A. On a few occasions, yes. The exact number would be difficult to recall.

25

Q. And there was nothing raised about anyone being upset about his dress, whether yourself or your family?

A. No.

30

Q. Did David mention to you on these occasions he was having any particular problems with any of his associates from work, whether it was in the radio or at the bank?

A. No he didn't say anything at all.

35

CORONER: Q. Did he ever mention a woman named Sandra Durwood to you?

A. Not that I can recall.

40

RADZIETA: Q. What about a person David Thwait's?

A. As I said, you know, I mean I don't know any of David's friends so he wouldn't have mentioned any names other than to say that they were friends, you know, and people that he knows.

45

Q. So not by name he said I knew this person but he wouldn't go into great detail as to who they were?

A. Well if - he didn't say anything with regard to there being any trouble bit if he had mentioned a person, it would have been like, you know, 'a friend of mine had said such-and-such' as opposed to being a name.

50

CORONER: Q. Rather than naming the person?

A. That's correct.

55

RADZIETA: Q. Was there any reciprocal arrangement between yourself and David as to spare keys to either your unit or his?

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A. I - I didn't have any keys for his unit. I think on one occasion my brother did have keys for my unit but that would have been while I was up in Queensland and my father and my brother were painting my unit. That would have been the only time there would have been anything like that.

5

Q. And as you understand or if you don't - David had a spare set of keys, but those keys have since gone missing?

A. I didn't know that. I didn't know he had a spare set of keys at all.

10

Q. Did you go into David's unit often during the time when he was alive?

A. No, very rarely, in fact.

15

Q. Thinking about it now almost 2 years, has anything come to your attention as to a motive as to why someone would want to take your brother's life?

A. I have no idea at all. I have no conception of why anybody would want to take his life.

20

Q. Do you have anything to your knowledge as to who had taken David's life?

A. No I have no conception at all. I can't even imagine a person doing it.

25

CORONER: Q. Because to you he was a gentle sort of man, was he?

A. He was a very gentle man, he wouldn't have hurt a fly. He was a generous, kind soul that minded his own business. Even now I still have difficulty accepting that somebody would have done such a thing to him.

30

NO QUESTIONS - MORISON

35

CORONER: Q. Well thanks very much for your help, Mr Rose, the fact that you were called as a witness doesn't mean anything in particular. It's an unsolved homicide and I'm looking at all angles, it's as simple as that. Do you understand that?

40

A. Yes.

<WITNESS RETIRED AND EXCUSED

<FIONA CATHERINE FEARY
SWORN AND EXAMINED

45

RADZIETA: Q. Can you tell the Court your full name?

A. Fiona Catherine Feary.

50

Q. Your occupation?

A. Typist.

Q. And your address?

A. [REDACTED]

55

Q. And you're in fact the sister of Sandra Durwood, is that correct?

A. Yes.

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- Q. To assist in the investigation of David's death, you supplied police with two statements. Firstly I'll show you one which is dated 9 January 1998, some 4 pages long, and a further statement the police obtained from you and it was dated 9 June 1999 some 3 pages long. First if I show you the one dated in January '98. It's dated there 9 January '98, that's the initial statement you gave to police. Does your signature appear at the bottom of each of those pages? 5
- A. Yes. 10
- Q. Is there anything on that statement you'd like to add to or delete from?
- A. Not as I remember it, do you want me to read it?
- Q. No, no, it's as you remember it, there's nothing that's changed? 15
- A. As I remember it that's all.
- Q. And the statement is true and correct?
- A. Yes. 20
- Q. Now the second statement ma'am, it's dated 9 June 1999. Does your signature appear on each of those pages?
- A. Yes. 25
- Q. Anything on that statement as you remember you'd like to add to--
- A. Not as I remember it, no, I don't want to change it.
- Q. And it's a true and correct statement? 30
- A. Yes.
- Q. And those two statements are the evidence you'd like to adhere to, is that correct?
- A. Yes. 35
- Q. Now just to your knowledge the relationship between Sandra and David Rose himself, can you comment on that, was--
- A. It was a very close friendship. I would have thought that Dave was Sandy's best friend. 40
- Q. And there was a time there that Sandra had stayed at David's house and had the spare keys to his unit?
- A. Yes. 45
- Q. It wasn't the case, was it that Sandra had given you the keys to give to David?
- A. No. 50
- Q. As far as you were aware it was an arrangement made by Sandra that she will return those keys herself, is that right?
- A. Yes. 55
- Q. And there was some evidence there, as I understand it, after the death of David there was conversation held between you and Sandra as to an unstable TV stand. Do you recall her speaking to you about that?

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A. Yes.

Q. Can you recall when and where that was?

A. No.

5

Q. How long ago it was?

A. No.

Q. When Sandra was talking to you about it, just think back, take your time, as best as you can remember do you recall the exact conversation Sandra had with you about that TV - unstable TV, like she said and then I said?

10

A. No, I can't remember it that clearly but I can remember it was in the context of maybe this is what happened. It was a suggestion that maybe - she was speculating on how Dave could have died, maybe it was something as simple as that.

15

Q. Other than that did she suggest some other way in which - how David may have been killed?

20

A. No.

Q. She certainly didn't say that police had spoken to her about an unstable TV stand or anything similar?

A. Not that I remember, no.

25

Q. You don't recall where she got that information from specifically?

A. No.

30

Q. And you're aware at the time that Sandra was an alcoholic?

A. Yes.

Q. Are you able to say the time when she has a quantity of alcohol her demeanour - first, say, physically?

35

A. Well what do you mean physically?

CORONER: Q. Well was she at all violent or--

A. Well she's about as far from violent as you could get. She's very - she's a very shy quiet person in herself--

40

Q. This is - in alcohol I'm talking about?

A. Yes, in alcohol she's sort of very laid back I would say.

45

RADZIETA: Q. Had you ever seen Sandra whilst having a fair bit of alcohol to go into a form of rage, just off her head in other words?

A. No, no, nothing like it, the complete opposite.

50

Q. How often would you see her say in 1997, was it a fairly regular basis, once every week or once every month?

A. I can't remember, probably every month or two I would say.

55

CORONER: Q. Can you comment at all on her memory these days--

A. Not so--

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Q. --about things that happened some time earlier?

A. I don't know. I don't speak to her often enough but I would imagine it's not particularly good.

Q. RADZIETA: Q. Have you ever known Sandra to say things off the cuff when she doesn't really have knowledge of or meaning of what she's saying. She'll just say something just blurt it out and say 'what did you say that for Sandra, you had nothing'?

5

A. Yeah she's a real one-liner. She tosses one-liners away all the time.

10

Q. Well give us an example, a few examples--

A. I don't know if I can at the moment.

15

CORONER: Q. No, it's hard, isn't it?

A. Yeah she quite flippant though, she's very flippant.

Q. Is she?

A. Yes, very flippant.

20

RADZIETA: Q. In what respect?

A. With her sense of humour. If we're talking about something she will just make a joke about things,--

25

Q. Sometimes a black joke?

A. Yes.

Q. So would you say you've seen her exhibit a macabre sense of humour?

30

A. Yes. In our family it's a real thing to drop one-liners and make little jokes about things.

RADZIETA: Q. Had Sandra said anything to you about David's death as far as her knowledge of what happened?

35

A. Only that she's as baffled as the rest of us are, who could have done it.

CORONER: Q. How did she react in those few months after she found out?

40

A. She was devastated about Dave's death.

Q. She appeared devastated?

A. She appeared devastated and baffled and why would somebody do that to such a nice person.

45

Q. Did she ever suggest to you that she had some involvement in his death, whether directly or indirectly?

A. No.

50

CORONER: Q. Because you see she has to a number of other people?

A. Well that's the sort of flippant remark she - I can't believe that she's actually insinuated seriously to anybody that yes I was involved in it.

55

Q. I see, okay.

RADZIETA: Q. Did Sandra give any indication to you about

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20 December '97 where she was or who she was with, what she was doing?

A. Is that when Dave died, around that day?

Q. About that day, it's a weekend, it's a Saturday? 5

A. Yeah we have talked about that and I know that she worked and I think she went to an AA meeting. We've only - I mean normally we wouldn't have discussed that but it's because it was when Dave died that, yes, we have discussed that. 10

Q. And she's made no comment to you as to her knowledge whether there could have been another party, if it wasn't Sandra, who caused the death of David Rose?

A. No, no. 15

Q. Do you know whatever happened to the spare set of keys to David's unit?

A. Well I know what happened to them. 20

Q. Have a go?

A. Dave - Sandy had been staying at Dave's place for a couple of weeks and then she pretty well overstayed her welcome. It's a little bit hard having an alcoholic living with you-- 25

CORONER: That's right.

A. And, so she came to stay with me because that's how things would go. She'd usually end up at my place and Dave rang me a day or two after she came to my place and said 'She's got my spare keys, can you get them back for me'. So I asked her about them and then she subsequently, I think, as I remember it, went to stay with Mum and Dad and Dave rang me at least once, I can't remember if it was more than that, we were going to get my husband to drop them into him but my husband is quite busy at that time of year and I said, you know, - he couldn't drop them in during the day at work, maybe he could drop them into you at your apartment. Dave wasn't happy about that because he'd never met my husband and didn't want a strange person coming there. And so I couldn't actually remember Sandy giving the keys back to Dave but I think it was after I had given my statement I went round to my parent's place - because they were minding my children - and I said the police seem to be really interested in Dave's keys, they're missing, and Mum said 'Oh well I can remember her giving them back to him' and my mother is a very organised person. She actually had written in her diary the day that Sandy went into town to meet Dave in Hyde Park to give them back to him and I am sure if Dave hadn't got those keys back, that he would have rung me about it. 30 35 40 45 50

CORONER: Q. How long was this before 20 December?

A. Well I think it was a few months. I really can't remember but I have a very-- 55

Q. So according to your mother's diary she went specifically from - where do your parents live?

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A. At Bayview.

Q. So she went from the peninsular into the city?

A. Yes.

5

Q. Specifically to return a set of keys?

A. Yes, that's - yeah.

RADZIETA: Q. That's your knowledge but are you able to say if--

10

CORONER: Well no it's more than that. It's - it doesn't mean it happened, it means though her mother made a diary entry of a specific trip Miss Durwood said she was going to make.

15

RADZIETA: Which is in the brief, your Worship.

CORONER: It doesn't mean that she made it but certainly--

20

RADZIETA: Q. And as far as you're aware Sandra has been - from the time where that you say you feel the keys have been given back, Sandra had been back to David's unit a number of times since then?

A. I don't know. I don't know but Dave was more than happy to have her back.

25

CORONER: Q. He had a period of respite leave, did he?

A. Yeah, that's basically what it was--

30

Q. And I'd imagine you used to too, you'd have her for a while?

A. Yes, yes.

Q. And it got too much for you?

35

A. Yep that's exactly - and he was always on the phone to me frequently saying 'How are you going, are you managing. If it gets too much--

Q. Was he?

40

A. Yes, in the weeks - I think the week before he died he would ring me every so often just to see how I was coping.

Q. Is that right?

A. Yeah.

45

MORISON: Q. Did you have much to do with your sister around about this time?

A. Yes, yes.

50

Q. How do you mean?

A. Well she would come and stay with me.

Q. How often?

A. How long for?

55

Q. Was she living with you?

A. No, she would come and stay with me for a few days at a time.

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- Q. Here and there. How often would that happen?
 A. I don't know, maybe every two or three months.
- Q. You said to us that David was her closest friend at one point, is that right? 5
 A. Yes.
- Q. But you only ever met him twice, is that right?
 A. Yes. 10
- Q. And that was two and a half years before, is that right?
 A. It was - I think it was at Sandy's 40th birthday if that was two and a half years before.
- Q. Before you made your statement on January 1998, is that right? 15
 A. Her 40th birthday, it was in April - I don't know - '96, '95, I can't remember.
- Q. So even though Sandra was with you occasionally at your house, living at your house? 20
 A. Yes.
- Q. You wouldn't really have much association with who she would be associating with, is that right? 25
 A. No, not really, except I would talk to Dave on the phone.
- Q. She was having quite a - she lives in quite a different walk of life than yourself, doesn't she - or not? 30
 A. Yes.
- Q. So do you have any association with the people that she would associate with or not?
 A. No probably not - well she was in and out of detox and rehab facilities at the time and I would always go and meet her and I would meet the people that she knew. 35
- Q. And did you ever have a conversation with David about concerns you had about what your sister was capable of when she'd hit rock bottom with the alcohol around about this time? 40
 A. Do you mean in terms of being violent?
- Q. No, not necessarily, but just in terms of her alcoholism - it had really got quite extreme, hadn't it--
 A. Yes I had a lot of conversations with Dave about Sandy's alcoholism. 45
- Q. And she'd been - it's been sort of suggested that she's been stealing things from people as well, is that right? 50
 A. Not that I'm aware of.
- Q. You never made an allegation that she'd stolen anything from your house? 55
 A. No.
- Q. Are you sure?
 A. Yeah I can't remember having made - like what?

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Q. I don't know?

A. Yeah - no.

Q. Was there any suggestion that she was using heroin at the time?

5

A. Yes.

Q. She was?

A. There was a suggestion, I don't know if she was or not.

10

Q. You didn't notice needles or any of the--

A. No, no.

Q. --signs at your house?

A. No. I have two young children so I would be on the lookout for that sort of thing.

15

Q. When you said that she was anything but a violent person, some people are happy drunks, aren't they?

A. Mmm.

20

Q. And they either fall asleep or they laugh - yet some people can be verbally aggressive--

A. Mmm.

25

Q. --and become violent?

A. Mmm.

Q. Was Sandra prone to some verbal abuse?

A. No.

30

Q. At all--

A. No.

Q. She was always a happy drunk, was she?

35

A. Yes she was a happy drunk or a quiet drunk and a bit of verbal banter.

Q. Well when you say 'banter', it was never in an aggressive manner?

40

A. No.

Q. Ever?

A. No. Not that I'm aware of, not that I can remember sitting here now, no.

45

Q. Were you ever - were you in her presence when she was drunk?

A. Yes, often.

50

Q. Often?

A. Mmm.

Q. Yourself drunk at the time?

A. Me drunk? No, I virtually don't drink.

55

Q. But she'd be at your house rolling drunk?

A. Yes, yes.

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Q. Did you find bottles of alcohol around your house?

A. Yes.

Q. Vodka bottles under your bed and things like that?

A. Yes, yes.

5

Q. Methylated spirits?

A. Yes.

Q. She was drinking methylated spirits?

10

A. I don't know.

Q. Well why did you just say that?

A. Because I didn't actually see her drink any but I found-

15

CORONER: Q. You saw the bottles?

A. Yes, I saw the bottles.

Q. We believe she was.

20

MORISON: Q. Are you aware of other people alleging or David being concerned that she was stealing--

A. No.

25

Q. --as well as drinking?

A. No.

Q. What was the problem then with David having her come and live with him any more, didn't - he didn't want her coming round any more because he'd had enough, hadn't he?

30

A. All I can remember - I mean it is very difficult having someone in your house who's drinking to that extent so I can imagine that that was as difficult for him as it was for me and I can remember one occasion he said that she had fallen asleep on his couch when he had visitors and it was a little bit embarrassing.

35

Q. That was the only thing he ever said untoward about her?

A. Yes, yeah.

40

Q. And he said he didn't want her staying any more in the house--

A. It wasn't 'I don't want her staying any more in my house', it was sort of like 'I need a bit of a break but she can come back. If she gets too much for you let me know, she can come back'. He was very very supportive.

45

Q. And she never said anything to you about - there was no conversation about any sort of struggle or anything like that - with David at any stage - never any sort of physical confrontation or anything?

50

A. A conversation between me and David?

Q. Well have you ever heard anything like that?

55

A. No, no, she's not a physical person at all, not a violent person, not a physical person. Dave had been with her obviously like I have, many times when she'd been completely written off and he had never said anything to me

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about her touching him, attacking him. It was basically just probably what she would do at my place, just go and pass out.

Q. The flippant remarks you referred to earlier when you suggested well if she'd said that 'Oh God I might have killed him' or something like that. Has she ever talked to you about ever making a remark like that? 5

A. No, she's - I wasn't aware that she'd made a flippant remark like that. But I can imagine her doing that. 10

Q. Has she discussed the matter with you since the incident?

A. The matter of Dave's death? 15

Q. Yes?

A. Yes.

Q. Many occasions?

A. A few occasions. As far as we were concerned it was sort of a really unfortunate awful thing that happened and it was over. 20

Q. You didn't know David very well though, did you?

A. No. 25

Q. Why would you be speaking to him on the phone on a number of occasions?

A. Because he was a kind considerate person. He knew how difficult it was coping with Sandy. He was concerned about how I was coping, he got to the stage in the months before his death where he would just ring me occasionally, as I said, to see how I was going and to ask how Sandy was. 30

<WITNESS RETIRED AND EXCUSED 35

<STEPHEN DAVID BECKER
SWORN AND EXAMINED

RADZIETA: Q. Could you tell the Court your full name thank you? 40

A. My full name is Stephen David Becker.

Q. Your occupation?

A. At present I'm a cleaner. 45

Q. And your address?

A. [REDACTED] Pennant Hills.

Q. And to assist in the death of David Rose you underwent an electronic recording of interview? 50

A. Yes I did.

Q. And it was dated on 22 December 1997 at Pennant Hills Police Station, is that correct? 55

A. Well I don't recall the exact date but yes it was at Pennant Hills.

Q. And it was Detective Thornton and O'Reilly who were

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present, is that correct?

A. That's correct.

Q. I'll just show you this document here, Mr Becker. It's dated 22 December?

5

A. Yes.

Q. It's the electronic recording that I'm referring to. To the best of your knowledge in relation to that, was there anything you'd like to add to or delete as to your answers given in that record of interview?

10

A. Well not as such. I've always believed in telling the truth and what I said on that night I will adhere to. I - everything that I stated on that night I've got no reason to change.

15

Q. So it is a true and correct recording?

A. Yes to the best of my ability, yes.

Q. And how was it that you came to meet David Rose?

20

A. Through an association at the community radio station 2RPH in Sydney.

Q. How long ago was there?

A. I would think perhaps early '93, maybe February, March 1993.

25

Q. And how would you describe your relationship with David as being a workmate, a close friend?

A. Well it was never a close friend because we weren't friendly - basically we met at the radio station and seldom outside there. If we did, it was for purposes related to radio work.

30

Q. Functions and that sort of thing?

35

A. Well I think there may have been one or two functions. Otherwise David produced his own radio programs. He produced a half-hour children's program and he also did a phone link-up with one particular fellow, Patrick McDonald, who was a short-wave radio expert and at such times that David took extended holidays from the radio - essentially David trained me in his capacity as radio trainer at 2RPH and once I'd been trained I told David that I would be happy to take over his programs for the duration of his holidays so that there'd be a continuity in the program. So basically the association was purely radio based. There would have been one or two outside functions. I think one was at the casino, maybe both were at the casino restaurant, the old casino, with other people from the radio.

40

45

Q. And on 20 December 1997 you were in the area of Kensington where David lived?

A. On the Saturday night I had - I had intended to catch up with David to give him a small gift and catch up and say hello and, you know, just to catch up for a bit of chit-chat essentially and wish him all the best for Christmas, because I'd - previously I hadn't seen him before that, I think it was the RPH Christmas party early in December '97.

50

55

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Q. And the reason why you were in the area on this particular occasion?

A. Well I had a few people to see. I had my elderly mother in a nursing home at Botany. I'm not 100 percent certain of what I did on that date. I should mention that I'm diabetic and my short term memory - up until July '97 I'd driven taxis and I'd worked myself into the ground and my weight had become quite huge and essentially I needed to recover my health. I gave up driving taxis and my health wasn't 100 percent but - and my short term memory with it wasn't 100 percent but - so I can't recall everything now looking back but as far as I remember from the statement I'd visited or tried to visit my elderly mother in the nursing home which I believe at that time was at Botany. There may have been other people that I dropped in to see, I can't quite recall but David, I did try to catch up with - I had spoken to him earlier that day, maybe 8 o'clock, 9 o'clock in the morning or whatever time it was and I - the phone rang a few times before he did answer and when I spoke to him he sounded very weary. His words to the best of my knowledge 'I'm very very tired and I really can't talk right now' and I said 'That's okay David, put your answering machine on and I'll try and catch up with you later in the day' - because I had a small Christmas present for him and a card and I just wanted to say hello, you know, and tell him, you know, how much he meant to me as a person because he was one of nature's warm individual people who was very pleasant, very - everybody that knew Dave spoke highly of him. He was warm, a very kind generous person for the person that he was. His outward looks were different, sure, but once you got over that he was a terrific human being.

Q. And when you spoke to him on this occasion about 8 in the morning, how long was it for?

A. It was only a very brief phone call because it would have only lasted maybe a couple of minutes, 2 minutes, maybe 3 at the most. He said 'I'm very very tired and I really can't talk right now'.

Q. Did he say anything to you at that time that he was having any problems with any former associates or current associates?

A. No, his words were limited to that 'I'm very very tired and I really can't talk right now'. He sounded very weary. He sounded, you know - personally I thought maybe he'd taken some medication and sort of that really - because of that I really wanted to catch up with him that day to make sure that he was okay, that he'd gotten over whatever was the problem that morning.

Q. And did either you or he make arrangements to visit him later that afternoon or that evening?

A. Not in that phone call, no.

Q. Did you ask whether he would be home later that day or evening?

A. No I didn't.

Q. So it was a spur of the moment thing that you attended

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his unit?

A. Well it wasn't, it wasn't quite spur - well, I had intended to - I may have said 'Dave, I've got something for you I'd like to bring around'. I can't quite remember but I - see Dave was always outgoing. He was very warm, very generous and he was always pleased to see people. It was basically - whether it was mentioned specifically in the phone call or whether it was understood, I was in the area and visiting my elderly mother in the nursing home at Botany and, you know, it was something I wanted to do. It was probably the last occasion before Christmas that I would be able to catch up with him and wish him all the best.

5

10

Q. So when you said he was a very warm person and very pleased to see people, then do I understand that he would have visitors fairly often to his unit to see him?

15

A. I don't know. I - to be honest on the few occasions I went to his unit, it was radio-based. If I needed to pick up some equipment - on the occasions that - the previous occasion that I'd made contact with Dave inside his unit it was to pick up a telephone coupling equipment by which he used to record Patrick McDonald the short-wave expert. It was tapped into the - it was a phone system wired up and one plug went into the PABX board slots of the radio or whatever - all the pins.

20

25

Q. And how often prior to 20 December 1997 had you been inside David's unit to visit him?

A. Maybe once or twice over a period of two years or so.

30

Q. So it wasn't a regular occurrence--

A. No, no it was not. When - you know, when I saw Dave it was more often, you know, 99.9 percent at the radio station. It was that kind of relationship.

35

Q. When you had visited David, did he ever make mention to you of spare keys to his unit?

A. No, no.

Q. Had he ever made mention of people using his unit while he was away on holidays?

40

A. No, that was never discussed.

Q. Had he ever made any adverse comments about a person Sandra Durwood or problems he may have had with her?

45

A. No, no, Dave - the only thing - okay, Dave would seldom speak poorly of anyone. It wasn't in his nature. I think Dave - all Dave would say of Sandra Durwood was that she wasn't the warm-hearted person that he first met when she started at the radio station, that because of problems that she may have had, she just wasn't, you know, she wasn't the same person that he'd met when he first knew her.

50

Q. He didn't take it any higher than that?

A. No. Dave was not the sort of person to speak adversely of anyone. It was not in his nature.

55

Q. Now on this occasion that you attended David's unit, this is 20 December 1997, about what time did you get there?

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A. Well I remember it was still daylight. It would have been possibly about 8pm, at a rough guess it would have been about 8pm.

Q. Now prior on these one or two occasions when you visited David's unit, was it that both his security screen door and the main door was unlocked and open? 5

A. No, I believe on those occasions that both the screen door and the main were both locked. I can recall - essentially the last time I visited Dave at his unit when he opened the door to me was when he was going on his last vacation. I think it may have been the Alaska trip but I'm not sure how long prior to his death that was. That was at a time when I was taking over some of his radio programs and I needed the telephone linkup to speak to Patrick McDonald. 10 15

Q. So you never found those doors to be unlocked and open?

A. No, no.

Q. Now what about on the occasion on 20 December '97? 20

A. Um--

Q. Did you hear anything inside his unit this--

A. No, no I did not. I got there just before it got dark. I - he lived in the top floor apartment at the rear so the entrance, the unit entrance was towards the back of the block and as I went up the stairs I knocked on the door. 25

Q. Which door?

A. Well the - the screen door was - I remember that ultimately when I wasn't able to make contact with David I was - I put the CD present that I'd bought for him between the screen door and the front door so at that stage the screen door was open. 30 35

Q. Now when you say open, open away from the--

A. No, no, no sorry--

Q. --or it was just closed?

A. No, sorry, it was closed but not locked. 40

Q. So you managed to open that and knock on the door?

A. Yes I did.

Q. And at that stage the main door itself appeared to have been locked? 45

A. Yes it was.

Q. Certainly you couldn't gain entrance inside?

A. That's correct. 50

Q. And how long did you stay there, did you just knock on the door and call David's name out?

A. Well - well yes I did. And also on my mobile phone I rang Dave's number from the landing. 55

Q. And what happened?

A. There was no reply.

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Q. Was the phone ringing?

A. To be honest, as I mentioned I'm diabetic and my short term memory is not the best at that time and from this perspective--

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CORONER: Q. Well can you remember it ringing in the flat?

A. I didn't hear it ring, no. I - no, no, I did not ring the phone ring inside.

Q. Do you know whether it was engaged?

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A. To be honest I - at this point in time I can't recall. I would have--

Q. What about the answering machine?

A. I would - no, there was no answering machine on in the evening when I was there. I would have stayed till maybe about 8.30 trying to make contact outside.

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RADZIETA: Q. So, all up, how long were you there for trying to make contact with David?

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A. Twenty minutes perhaps, half an hour at the most.

CORONER: Q. Could that perhaps be because the phone wasn't ringing engaged, you assumed he was in there?

A. Sorry, could you repeat that?

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Q. Could that perhaps be because the phone was ringing engaged, then you assumed he was on the phone?

A. Possibly, quite likely, but as I mentioned, I was diabetic and my health wasn't the best at that time and from this perspective looking back I'm not too clear on--

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Q. So how long did you stay there you reckon?

A. About 20 minutes, half an hour, knocking on the door trying to ring him, calling out his name, waiting for a while and then knocking again.

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RADZIETA: Q. And you were persistent for that reason, to wish him well prior to Christmas?

A. Well yes because I haven't seen him since the RPH Christmas party and that - possibly that was the first Friday in December.

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Q. When did you become aware of David's demise - this is the Saturday night, bear in mind you're knocking on the door and ringing--

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A. Well okay I was concerned because I'd spoken to David on the Saturday morning. When I tried to make contact on the Saturday evening about 8 o'clock to 8.30 I wasn't able to make contact and I was concerned at that stage. It wasn't in Dave's nature to ignore the phone. I tried ringing David at home on the Sunday at different times on the Sunday, Sunday morning, Sunday lunch, Sunday evening, I tried to ring his work in case he'd gone to work at Westpac during the day. I rang Prince of Wales Hospital - bearing in mind when I'd spoken to him on the Saturday morning he said 'I'm very very tired and I don't - I'm very very tired and I can't talk now'. I thought possibly something was wrong with him at that time and that he may have taken himself to

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Prince of Wales Hospital. So I rang the out-patients and asked whether, you know, perhaps he'd been admitted to hospital and I can recall ringing Prince of Wales Hospital perhaps on about three occasions over the Sunday and Monday morning.

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Q. Now you made mention a short time ago that you had tried to call David's unit the Sunday, that would have been 21 December?

A. Phoned from home.

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Q. From home, yes. When you phoned what kind of a tone did you get from David's side?

A. Again, I can't remember at this stage. I probably would have mentioned it in my statement but at this point I'm not clear on that.

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Q. You can't say whether it was actually ringing, engaged or an answering machine?

A. I can't - I can't remember--

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CORONER: Well he doesn't really believe it was an answering machine.

A. No there was no - there was no answering machine. The - when I first phone David and spoke to him on the Saturday morning there wasn't an answering machine on and I - at that time, Dave - when Dave said 'I'm very very tired, I really can't talk now', I said 'That's fine Dave but put your answering machine on and, you know, so that you'll know when people phone'. But no certainly the answering machine was not on at any time over that Sunday or Monday, no it was not on.

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RADZIETA: Q. Or that Saturday evening when you called around?

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A. Correct, correct.

Q. Now you've dropped off the present and the card between the door, main door and the security screen door?

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A. Correct, yes I did.

Q. You've then closed that security screen door and leave or did you leave it open?

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CORONER: He didn't leave, he stayed around for 20 minutes.

RADZIETA: Q. After he's finished - after he's tried to knock on the door and dropped the present off?

A. I can't remember, I'm not certain whether the door would close with the CD inside - CD and card.

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Q. So when was it that you became aware about David passing?

A. Well certainly I had my concerns, other than that, you know, I wasn't aware - I was terribly concerned. I'm that sort of person--

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CORONER: Q. Yes, the question - sorry to stop you. The

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question was when do you recollect being first aware he'd died?

RADZIETA: Q. When someone told you?

A. When someone told me that--

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Q. Actually that David had died?

A. I think I phoned - I phoned Mr and Mrs Rose at their home and I spoke to Max Rose and he told me.

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Q. What day was that?

A. That was the Monday evening.

Q. So that's when you were first told?

A. Correct.

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Q. You don't know of David Rose having any enemies in his life whether through work at the bank or at the radio station?

A. None - well there was a slight altercation - David resigned from the radio station in July - June or July 1997. David was a free spirit with a nature - David was a giving sort of person and he was open, didn't have a harsh word to say about anyone but he was also flippant on the radio when the radio had a policy of 'no comment'. The station manager said 'David, this will not do. You know the station policy is "no comment". You can't be flippant, tone it down or we'll have to do something about it'. There'd been a few warnings. David also played a comedy track at 7.30 and he'd been told "You can't do that". David felt that--

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CORONER: Q. Why ever not?

A. Because it's - the radio station's a community radio station, 2RHP, which was radio for the print handicapped. Essentially the brief and the station policy was to read newspapers and magazines for the benefit of the print handicapped people and--

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Q. Very serious..(not transcribable)..

A. And - unfortunately yes, and the comedy track fell outside that brief. The station manager was very concerned that we stick to the rules otherwise there was a possibility of losing the licence.

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Q. I see, fair enough.

A. And, in fact, the station manager just saw things in black and white--

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Q. Yes, he had concerns that Mr Rose probably didn't..(not transcribable)..

A. --and basically there was a falling out. Dave resigned on air, he read a 5 or 10 minute prepared speech. The station manager thought he'd been maligned, slandered if you will, and there was some antipathy between them because - I mean to say it doesn't take much to upset the station radio manager.

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Q. How long was this before his death though?

A. This would have been either late June or early July '97.

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RADZIETA: Q. Mid-year, say?

A. Yeah, and after that there was - the station manager took the hump(?) and said that Dave had maligned him, slandered him. There was a Christmas party at the radio station in early December '97 and Tom Crozier, the station manager, rang Dave up and said 'Dave, you are not coming, you are not setting foot inside the radio station' and he said 'Yes I'm coming, I'll see you there'. It was a minor disagreement--

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CORONER: Q. And he went?

A. Yes he did--

Q. And there was no problem that night?

A. Well the station - when Dave arrived the station manager sent his 2IC, Carol Tonkin--

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Q. To do the dirty work?

A. Yeah, and she headed Dave off in the foyer and I said 'Carol, please, it's Christmas, it's the season of good will to all men. Please, this is not necessary' and she calmed down and she, you know, she let him stay in the foyer.

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RADZIETA: Q. Are you able to say to the Coroner, to your knowledge, do you know what happened to David, who killed him?

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A. I do not know, I do not know. I sincerely hope that the truth comes out.

Q. There's no rumour or scuttlebutt since that time, you managed to speak with Sandra or other people?

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A. I - I contacted Sandra to let her know the funeral details. I contacted a lot of people connected with the radio to advise them of the funeral details in case they didn't know. Unfortunately there was no close network of people - unfortunately the radio people are largely concerned with their own egos and they didn't have time for other people and I took it upon myself to ring people up and say 'Unfortunately Dave's passed away, the funeral--

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CORONER: Q. Gosh it's like that in community radio as well as the big stuff like 2UE, is it?

A. I'm sure it is, I'm sure it is. So I did ring Sandra, yes I did, and I rang a lot of other people.

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RADZIETA: Q. Did Sandra make a comment to you either directly or indirectly she had a hand in the death of David?

A. No, no, in fact when I - no, Sandra made no such comment. In fact, Sandra expressed concern and surprise when I told her of Dave's demise.

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MORISON: Q. How long did you know David?

A. I'd known David since probably February or March 1993, so it's all of - so all of '93, '94, '95, '96 and '97 - so almost 5 years and in that time we had worked closely together because the nature of the radio station is that you had readers to read the various news items and you had the fellow who panelled. So Dave was the panel producer, whereas I was his regular reader on Saturday evenings.

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Q. So you were close friends?

A. Well it depends how you term friendship. I was a close associate as far as reading with Dave on the radio station and the association really didn't go any further than the radio.

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Q. So the relationship--

A. I'd like to call David a friend, yes, but it didn't extend to social occasions. It wasn't that kind of relationship.,

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Q. But the relationship you had, did it pick up from '93 and continue on or did it only start to blossom towards the end?

A. Well no, no, it was long term. Once I got over the initial shock - the station, the then station manager rostered people and I was rostered to read on that shift and when I first saw Dave I was surprised. I thought 'Oh my God, what have I done' because I wasn't used to seeing people like that but once I'd sat down with Dave, Dave had made me feel welcome and comfortable and said 'Have you got any questions?' and I said 'Well, you know, why do you dress like this?'

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Q. But you warmed to him--

A. Yes I did. Yes I did, he was a very warm jovial person. I'd - anyone that met him would feel the same.

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Q. Had you ever bought him a Christmas present prior to 1997?

A. I bought Dave many presents in the context of the radio station and Dave used to play his comedy track so for birthdays and Christmases yes I bought him comedy albums so he could play them on the radio.

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Q. So you'd go and - you'd go to - it was a common thing for you to do to go over every Christmas and give him a present?

A. Don't forget we met at the radio, so the nature of presents whether they were Easter eggs or Easter chocolates, comedy records for birthday and Christmas, they were largely done at the radio. It was only because David had resigned from the radio in say late June, early July that I - at that stage, you know, I'd gone to his house that Christmas or his flat.

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Q. Did you know he was coming to the radio station Christmas party?

A. Yes I did and that's why I made every effort to go to the radio station for the Christmas.

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Q. Why didn't you give him his Christmas gift then?

A. Because I hadn't bought it at that stage.

Q. You asked him to put the answering machine on, why did you do that?

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A. Well if he said 'I'm very very tired and I really can't talk now', you know, at least it was a means of, you know, keeping communication channels open.

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Q. When you went over - you said that you tried him on the telephone but you can't remember whether there was an engaged signal or not, is that right?

A. I genuinely can't.

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Q. The lights weren't on?

A. They were definitely not on. It was something I checked. I would have stayed at Dave's for maybe half an hour, 20 minutes, half an hour at the most. In that--

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CORONER: Q. What time was this?

A. Well I believe it was possibly 8 o'clock to 8.30. In that time it did get, you know, the sunset was forming and it did get dark. There were no lights in the unit, no.

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Q. It's the longest day of the year, it's still dark.

MORISON: I've nothing further.

<WITNESS RETIRED AND EXCUSED

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RADZIETA: If I can call Detective Senior Constable--

CORONER: Well do you have any questions of - do you have any questions you want to put to the officer-in-charge, the investigating police? If you don't--

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MORISON: No.

CORONER: --and if they have nothing more to volunteer other than what's in the brief, well there's no point in calling him. But check - get some instructions Sergeant? Are your family happy with the calibre of the brief--

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SPEAKER: Yes, yeah, there's no criticism.

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RADZIETA: Well if I can indicate from the Bar table, your Worship, that there was an injury placed on Mr Becker's eye around about the time of this incident. Detective Senior Constable Thornton had made inquiries from the Hornsby Hospital and Mr Becker was there at a period of two months prior to that with that complaint of a dog attacking him, as I understand it. So that goes no further. There were presumptive tests made around the area, nothing came of it. Taxis were checked. The only fingerprint identification as mentioned within the brief was found was Mr Becker's which was the card he left behind. The only other fingerprints found were that of Mr David Rose within the unit. Sandra Durwood and a number of other people including Mr Becker have supplied elimination fingerprints and they have all been negated. The only outstanding fingerprint was the plastic insert--

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CORONER: It was a palm print.

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RADZIETA: A palm print, I beg your pardon from a plastic--

CORONER: Which won't come up in normal matching.

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RADZIETA: No, and according to Detective O'Reilly, her information is that it could have been there up to 12 months prior, and unless we have a suspect who can give an actual palm print, it'd be very hard to ascertain who that palm print belongs to. 5

CORONER: Although there's a question of Mr Thwaits and whether he should be examined. Do you want to get some instructions, do you want to discuss with Sergeant Radzieta and make a decision. 10

MORISON: That might be--

CORONER: Another area I wouldn't mind canvassing with your clients and the detectives but I don't know that I want to do it in open court. It's a subject they're not very enthusiastic about, but we're running out of ideas here. So would you get some instructions on that and perhaps - yes, so there's the two areas, Mr Thwaits and the forensic benefit we may gain from - or may not gain - from calling him. And there's that other issue we discussed earlier which you I think - don't think you've canvassed in great deal with your clients. You know what I'm talking about? 15
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MORISON: Yes. 25

CORONER: Okay, all right. Because in view of the fact...(recording finishes)... 30

SHORT ADJOURNMENT 30

CORONER: For the record I've had a discussion with the family of the deceased and their counsel. We do feel that Mr Thwaits needs to be examined and so we're going to try to fix a date later in the year to do that. 35

To the members of the press. You like to use this jurisdiction to sell newspapers and I respect that - I really do. We like to have the advantage of the press to help us solve violent crime. I ask you simply to reflect your articles to the best of your ability in that vein. A lot can be made of the way Mr Rose chose to dress but the big picture is that he was a perfectly normal gentle human being who didn't deserve to die violently and I would rather like to see the article canted as a plea to the public to come forward if they have any information relating to his death - his homicide I should say - because it will be a finding of homicide. 40
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(Short discussion on suitable adjourned date) 50

ADJOURNED PART HEARD FOR FURTHER HEARING TO WEDNESDAY
17 NOVEMBER 1999

I'm part heard and I'd like a transcript please. 55
To the officer-in-charge: I believe Mr Thwaits is somewhat difficult to get hold of. You, of course, have the device and the summons under the Coroner's Act and, indeed, if you get any feeling that he's not going to turn up, you can

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apply for a warrant under the Coroner's Act and if that's the case, well arrest him and bring him before the Court and examine him as quickly as we can. It's more important that we get him here than anything else as far as I'm concerned as a material witness.

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I thank the police for their efforts in this matter, it's been an extremely difficult case to solve and I know that they have been up against it from day one because of some internal things.

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I do also offer my sympathies to the family. I have some idea of what you've been going through. Unfortunately I see a lot of these cases and simply again to the press, please try to cant the - try to talk your sub-editors into canting this matter as some sort of an attempt to get some more evidence to solve this because the way it's going there won't be a case against a known person unless something unusual happens.

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