

Doctor Miller.

00252

(Excused from witness stand.).

DOCTOR EARL R. MILLER, being duly sworn according
law, testified as follows:

DIRECT EXAMINATION

By Mr. Ertel:

Q. State your full name, Doctor?

A. Earl R. Miller.

Q. Your occupation?

A. Physician.

Q. How long have you been a physician, Doctor Miller?

A. Since 1946.

Q. Will you tell the Jury your medical backbround
as far as, let's start with College, your educational background?

A. Locally school. Bachelor's Degree in Science,
Washington-Jefferson. M.D. Degree from the University, School
of Medicine.

Q. When did you receive your M.D.?

A. 1946.

Q. Did you have any further training?

A. After that in the Air Force as Flight Surgeon.

Q. How long did that take?

A. Two years in the Air Force.

Q. As well as being a Medical Doctor, do you have
an official duty in this County?

A. I am Coroner.

Q. Doctor Miller, on October 28th in the afternoon,
late afternoon, did you have occasion to go to the scens of a

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369
Back Notes
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body located on the , in the Sylvan Dell area in the cornfield?

A. Yes.

Q. Can you tell me approximately what time you arrived there?

A. Between 4:15 and 4:30.

Q. What did you do when you got there?

A. I parked my car along the right side of the road there there were Troopers in the road stopping traffic. I parked my car on the right side of the road and was shown a little path, wagon type path into a cornfield. I was instructed to walk down the center of this trail, staying out of the bare spots.

Back in the cornfield there were other Troopers and from this little path you could see the body of a person lying on the ground in the cornfield.

Q. Now, did you go back to the body at that time?

A. At that time, no.

Q. Were there photographs taken before you went back there?

A. Yes.

Q. I show you marked as Commonwealth's Exhibit No. 1 and ask you if you can identify that?

A. Yes, Sir, that is the scene of the body lying in the cornfield.

Q. Is that how you saw it when you arrived that day?

A. Yes.

Q. I show you Commonwealth's Exhibit No. 2, can you identify that, please?

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A. This is the scene, it is the same scene taken from a farther distance from the body, and it is within keeping of along the edge of the path, the wagon path into the cornfield.

Q. Now...

A. This is aimed in an easterly direction.

Q. I show you marked as Commonwealth's Exhibit No. 3, Doctor, and if you can identify that?

A. Yes, that is a closer view of the body taken from the south side of the body.

Q. Was this taken from some distance from the body ?

A. Yes.

Q. I show you marked as Commonwealth's Exhibit No. 4, and ask you to identify that?

A. Yes, this is a picture closer to the body and taken from the north side.

Q. I show you marked as Commonwealth's Exhibit No. 5, and ask you if you can identify that?

A. Yes, this is a closer picture of the body taken from the south side after I pulled the jacket down, revealing specifically to show the position of the arm and the upper torso of the body.

(Commonwealth's Exhibit No. 6 marked.).

Q. I show you marked as Commonwealth's Exhibit No. 6, can you identify that?

A. Yes, this is a picture taken from the opposite side of the body showing again the position of the hand in the jacket, the hand being still in the upper part of the sleeve

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of the jacket.

Q. Had the jacket been moved at that point?

By Mr. Fierro:

Now, only if he knows, we are trying to get along in this case.

A. I moved the jacket.

Q. He moved the jacket?

A. I testified before on previous film that I turned the jacket down and kept it in this position to demonstrate, I asked the picture be taken from one side and then the photographer walked around the body and took the picture from the opposite side.

By Mr. Ertel:

Q. I show you marked as Commonwealth's Exhibit No. 7, can you identify that?

A. Yes, this is a picture from the head of the body demonstrating the position of the corn stalk....

By Mr. Fierro:

Q. The what?

A. The corn stalk, it is under the left shoulder, holding the shoulder up off of the ground.

By Mr. Ertel:

Q. I show you marked as Commonwealth's Exhibit No. 8, can you identify that?

A. Yes, that is another close view of the picture of the opposite side of the head. As a matter of fact, it has picture of my hand in it and I am demonstrating the ear ring in the

check page 276 B971 should be

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right ear.

Q. Now, Doctor, after these photographs were taken, what was done as far as you were concerned at that time?

A. The next immediate thing that we did was to cut corn stalks away from the body in an advancing distance out away from the body. These were labeled and identified as to the relative position of the body.

Q. Did you dictate this to somebody?

A. Trooper Houser was acting as my scribe, I was dictating all of the things I saw on the ground and measurements at that time.

Q. Will you describe how you approached the body?

A. After Trooper Keppick took the original pictures, No. 1 and No. 2, I proceeded to the south, in a south direction out of a distance of approximately 20 to 30 feet and entered the cornfield and make a circular path to come into the body from the head end, which is demonstrated by No. 7.

Q. Would it help you to show that to the Jury in doing this?

By Mr. Fierro:

It is not whether he says it is helpful.

By The Court:

No. 1 and 2 have been admitted, the others have not been admitted yet.

By Mr. Ertel:

We will offer cross examination so we can get those admitted.

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*BASED ON PHOTOS 1 AND 2 KEPPICK 14T
26-29 4 MARK - MILLER IS CONCLUDE
SUSPICION WITH BODY LYING ON GROUND*

Doctor Miller.

By Mr. Fierro:

Are you through with this witness?

By Mr. Ertel:

I am offering him for cross examination as to the pictures.

By The Court:

You are not finished, proceed.

By Mr. Ertel:

I would like to move their admission at this point.

By The Court:

And it has been objected to as he has not had an opportunity for cross examination.

By Mr. Ertel:

I offer him for cross examination as to the photographs.

By The Court:

Are you finished with the witness?

By Mr. Ertel:

No.

By The Court:

Proceed with your direct examination.

By Mr. Ertel:

Q. After you proceeded around to the head of the body, what did you do next?

A. Well, that was when we finished taking the pictures in this direction, then we cut the corn stalks out, after we

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got all of the corn stalks out, there was a readily identifiable footprint next to the body, and at that time Trooper Keppick secured the plaster of Paris and we made a print of that indentation in the ground.

Q. Is that in one of the photographs that you have?

A. No, I do not see it. there is one with the footpring.

Q. I show you Commonwealth's Exhibit No. 11, can you identify this, Doctor?

A. I can identify this, but that is not the picture I was looking for.

Q. If you identify that, we will, until we find 12 here.

A. This is a picture laterally outward from the left knee, left thigh, and it shows the picture of my hand with a ruler in my hand, with the ruler against the girl.

Q. Did you go around the body and make measurements?

A. Yes.

Q. Of footprints?

A. Yes. At this particular time we attempted, or I attempted to identify impressions on the ground. The ground was quite granular and, it is, of course, in a cornfield that had not been cultivated recently and had not been rained upon recently. Since the surface element of the ground was quite granular in opposition to fine powder, immediately around the body there was impressions which would make you think they were footprints.....

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By Mr. Fierro:

I object to that statement and move that it be stricken, he said, "...make you think it would be footprints...".

By Mr. Ertel:

Q. Were these footprints?

A. These were impressions that I interpreted as footprints.

By The Court:

Any objection?

By Mr. Fierro:

Yes.

By The Court:

The objection is over ruled, it may remain.

By Mr. Ertel :

Q. If you would describe the photograph, maybe I can find it for you?

By The Court:

He can step down.

(Doctor Miller leaves witness stand.).

By The Court:

Mr. Ertel, it is definite we are not going to finish with this Gentleman, if you want to have a breaking spot?

By Mr. Ertel:

All right, it is just as good as any.

By The Court:

The Court is going adjourn for today. We will reconvene tomorrow morning at 9:00. No one may leave until the

Doctor Miller.

Court announces. The Defendant is now excused and the Jurors are now excused.

Court is adjourned until 9:00 tomorrow morning.
(Adjourned at 5:30 P.M., EDT.).

And Now, to-wit, Friday, February 22, 1974, beginning at 9:00 A.M., EDST, the trial in the above-captioned matter was continued before the Honorable Charles F. Greevy, President Judge, and a Jury, in Court Room No. 1, at the Lycoming County Court House, Williamsport, Penna., at which time and place the following proceedings were had:

(IN CHAMBERS.).

By Mr. Pierro:

On the record. Your Honor, I requested this conference for this reason, prior to this morning the District Attorney has told the Court that he probably will have Officers testify concerning the Defendant's inconsistent statement as to his whereabouts prior to 4:00 P.M. on the day that Jennifer Hill disappeared, and the Defense then argued to the Court that if that were allowed in, the question of smoking "pot", the buying or selling or giving or the smoking of it might forcibly become introduced, thus prejudicing the atmosphere of this trial. I am now here to say that the Court, and add to my argument this, that it now appears from the Commonwealth's testimony, and unquestionably will later on, that there was no contact between the Defendant and the decedent at least prior to 4:00 P.M., or perhaps 4:30, if one of the witnesses is to be believed, but to allow the Commonwealth all latitude, from quarter to four, prior to quarter of four there was no contact between the deceased and the Defendant in any manner whatsoever. Assuming that the Commonwealth proves contact later on, I agree, that is admissible, but I am saying to the Court the Defendant's movements prior to

that time, since there was no contact at all, do not relate at all to what happened beginning at 4:00 P.M. and are no more germane than what he did a week before, since they are not related to the issue here. In other words, your Honor, what I am saying is if the Defendant had made inconsistent statements or frankly lied about any other matter a week before, it is not germane than his lying as to what he did at 2:00 or 3:00 P.M. that afternoon, especially because they do relate to "pot" and it may be that he was trying to cover or whatever, but has no significance to this issue, and I am asking now that the Court rule on this matter.

By The Court:

When we had the other pre-trial discussion the Court stated that I would rule on each one individually when and offer was made. The Court now has had an opportunity to research the law, and is it coming up this morning or not, Mr. Ertel?

By Mr. Ertel:

I don't know.

By The Court:

What I want before them is make an offer, I have searched the law. Anything further, Mr. Fierro?

By Mr. Fierro:

No.

By The Court:

Mr. Ertel, I am not asking you to reply at this time, because the Court has stated that it wants a full offer on this type of testimony.

By Mr. Ertel:

Which type?

By The Court:

The type of testimony that Mr. Fierro talked about today as prior inconsistent statements.

By Mr. Ertel:

Not prior, but inconsistent statements.

(Off-the-record discussion.)

(Returned to Court Room No. 1, at which time no Jurors were present. The only parties present were the District Attorney and Defendant with his Counsel. Jurors were not in the Box.)

By The Court:

At this time you may proceed, Mr. Ertel.

(At this time the Court reviews slides of victim.)

By The Court:

Who is going to identify these, the Coroner?

By Mr. Ertel:

Yes, this is a picture of the head.

By The Court:

The purpose of this?

By Mr. Ertel:

This is to show petechiae around the eyes. There is something around the eyes which indicate strangulation and also shows the markings on the head of the victim. ✓

By Mr. Fierro:

What do those markings show?

By Mr. Ertel:

1 shows her injuries, that is all I can tell you. ✓

By Mr. Fierro:

Injuries from what? ✓

By Mr. Ertel:

I don't know.

By Mr. Fierro:

I think we should find out, because, your Honor, just having this slide being shown, if it is not necessary, through his expert, then that is completely inflammatory. This slide is one of the ugliest looking thing of a corpse that a person can look upon, and if that would not inflame the Jury, nothing would. His expert is a Forensic Pathologist, a Doctor Catherman, and I know he can testify without the aid of this particular slide, to say that this child was manually strangled. Unless there is something peculiar about the markings on this slide shown on the righthand side, there are two or three scratches. He wants to say there is something unusual which requires it being shown, if there is nothing unusual about it, then I would ask the Court that the Jury not see this slide.

By Mr. Ertel:

Well.....

By The Court:

We are not going to argue it now, I want to see all the slides first.

By Mr. Ertel:

I only have three.

(Commonwealth's Exhibits Nos. 56, 57 and 58 marked for identification.).

By The Court:

Now, go ahead.

By Mr. Ertel:

Now the purpose of this, Commonwealth's Exhibit No. 57, is to show the markings on the neck which is a strangulation mark and it shows the petechiae of the eyes, but it shows the strangulation marks from which he can draw conclusions. Here are the markings on the neck, and that is the main purpose of that.

By The Court:

The same argument, Mr. Fierro?

By Mr. Fierro:

Even more so, your Honor, if he wants to use this to show strangulation marks on the neck, he is exhibiting, to put it bluntly, an ugly corpse that appears to have been manhandled, and that inference may be drawn by the Jury. Now, the markings on the neck the Doctor does not need this photograph to tell the Jury that he saw markings on the neck, he can say so without showing this photograph, and when Mr. Ertel talks about the word he used, it was petechiae, what he means is the breaking of small blood vessels under the skin which the Coroner or some other Doctor can say when a person is manually strangled there is a breaking of small blood vessels under the skin, and it appears in various places, without showing this disturbing photograph.

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By The Court:

The next slide.

By Mr. Ertel:

The next would be 58, that is to show the markings on the back of the neck and the midline, which are external markings here, of thumbpring or nailprint, I should say.

By Mr. Fierro:

I think the District Attorney should go further, I think if the District Attorney is going to establish that thumbprint belongs to the Defendant, I agree that this can be shown, but it must be established through a fingerprint expert. If the District Attorney says he cannot establish that, that this belongs to the Defendant, then I say it is useless and the Coroner or the Forensic Pathologist can say, "Yes, I found a thumbprint.", and he can describe where. Now, I am asking the District Attorney, is that thumbprint, does the Commonwealth expect to prove that thumbprint is the thumbprint of the Defendant?

By Mr. Ertel:

By circumstantial evidence, yes.

Handwritten:
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"I saw it" "I saw it"

By Mr. Fierro:

No, by fingerprint evidence?

By The Court:

We won't argue at this time. Is that your last one?

By Mr. Ertel:

Yes, Sir.

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(Off-the-record discussion.)

(Jury entered Court Room at 9:45 A.M., EDST.)

(Doctor Earl R. Miller returned to witness stand.)

By Mr. Ertel:

Q. Doctor Miller, yesterday you were looking for a photograph, have you cleared that up in your mind as to which photograph you were looking for?

A. There was not one taken at the time, I recalled that there had been one taken.

Q. Now, I show you what is Photograph 11, can you identify that, please?

A. Yes, that shows taking a measurement of an imprint on the ground, lateral to the body at the level of the knee.

Q. Is that a fair representation of what you saw at that time?

A. Yes, Sir. That also shows my hand in there, as a matter of fact.

Q. I show you marked ~~as~~ ^{See San Gazette Photo} Commonwealth's Exhibit No. 12, can you identify that, please?

A. Yes, Sir.

Q. This is what?

(A. This is a picture of the, of a fresh cast and imprint into the ground, which is at the, at the right shoulder level of the body. The body is not shown in this picture, the body has been removed.)

Q. Is that a fair representation of what you saw on that particular day?

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A. Yes, Sir.

Q. I show you marked as Commonwealth's Exhibit No. ¹³ 13, can you identify that?

A. Yes, this is a picture that was found, or I am sorry, this is a picture showing the stick that was found under the body and which we have used as a point of reference for multiple measurements and geographical location of imprints with the body after the body has been removed. This shows a ruler measuring an imprint that is next to and over the stick.

Q. Is that a fair representation of what you saw on that particular day?

A. Yes.

Q. I show you marked as Commonwealth's Exhibit No. 14, can you identify that, please?

A. This is a picture showing some vegetation and my arm and a rule, and I need another picture in order to localize it for the people.

Q. I show you Commonwealth's Exhibit No. 20, is that the one you wish to look at?

A. Yes.

Q. Can you identify that one, please?

A. Yes, this is a picture after the cast, plaster of Paris cast has been made of the representative footprint scene and it shows a stick which is again was under the body. It shows corn stalks which have been cut. In relationship then to your Exhibit No. 14, you can see the vegetation relating to the cast which was at the level and outside of the right shoulder.

SAYS ON CAST on Photo 20, - says 2 imprints on 265

Doctor Miller.

Q. And is that a fair representation, Commonwealth's Exhibit No. 14, of what you saw at that particular time?

A. Yes.

Q. We will come back to Commonwealth's Exhibit No. 20, so let's keep that out, please. I show you marked as Commonwealth's Exhibit No. 15, can you identify that, please?

A. Yes, this shows the rule measuring another imprint into the ground, and I can orient it with Photograph No. 11.

Q. Is that a fair representation of what you saw at that particular time?

A. Yes, Sir.

Q. Now, in relation to Photograph No. 11, can you orientate that as far as where the body was located?

A. The easiest thing to identify is the two big globs of dirt, the rectangular identification you can see, the lower one in the picture is just laterally and to the left of the left lower leg of the body. The other one is almost at the knee level, but is more lateral or more left to the left leg of the body. These two objects are easily identified.

Q. Are these a fair representation of what you saw on that day?

A. Yes.

Q. I show you marked as Commonwealth's Exhibit No. 16 can you identify that?

A. Yes, Sir.

Q. What is that?

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A. This shows the rule lying at the end of the stick and inside of the original cast, it was an imprint which was partially obscured by the victim while the victim was lying on the ground and at the right side of the victim.

Q. Was that a fair representation of what you saw on that particular day?

A. Yes, Sir.

Q. Now, turning to Commonwealth's Exhibit No.....

A. These, just by comment, Sir, these two films also on 16 and 12 show the plastic material that we put over some of these casts because it had started to rain.

Q. Now, turning to Commonwealth's Exhibit No. 20, can you identify that?

A. Yes, Sir, again shows the cardinal point, shows the stick which had not been moved, it shows the plaster which had been poured into the imprints. The picture was taken for orientation, for identification before these prints, before these casts were moved from the specific imprints.

Q. Is that a fair representation of what you saw at that particular time?

A. Yes, Sir.

Q. Now, turning to Commonwealth's Exhibits Nos. 1 through 8, can you re-look at those and tell us if they are a fair representation of what you saw on that particular day and identify each photograph if you do?

A. You wish me to identify them?

Q. Just identify the Commonwealth Exhibit Number and

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(No Plastic)
Photo All is wet - Body Not Mins

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tell me if that is a fair representation of what you saw on that day?

A. No. 1 is the view taken from the path in the corn-^{LANE} field in relatively close proximity to the body. It shows specifically the legs and the clothing and sneakers around the ankles and the lower extremities.

Q. Incidentally, there is an object to the right of the body there which appears white in the photograph, can you identify that?

A. Yes, that was a part of a pair of pajamas.

Q. Is that a fair representation of what you saw prior to moving into the body?

A. Yes, Sir. No. 2 is the same scene a little bit farther towards the road. You can see the same objects, although the pajamas are more obscured by vegetation, corn and weeds. ^{weed}

Q. Is that a fair representation of what you saw on ^{Go on} that day? ^{on the edge of corn field}

A. Yes, Sir.

Q. Go on? ^{Swick has picture on Jury Page 310}

A. No. 3 shows the body with the jacket pulled down over the torso and upper thighs and this picture was taken from the south side of the body and it shows a white object here which has the "Glick" name on it, and I know it to be a Glick shoe bag. If you, I know it to be a Glick shoe bag, if you look at it intently you can see grey on this black and white picture, you can see the grey stripes of the bag. ^{BACK OF}

Q. On the photograph that is black and white?

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A. Yes.

Q. Is that a fair representation of what you saw on that day?

A. Yes.

Q. Continue with No. 4, please?

A. No. 4 shows the same material as viewed from the other side of the body, namely the north side of the body and therefore you are seeing the detail of the right body. You can even see the Glick shoe bag above the body in the, in this picture, and the stripes are easier to see on this picture.

Q. Is that a fair representation of what you saw?

A. Yes, Sir. No. 5 shows the body with the jacket having been pulled down by myself, demonstrating that the right arm is still in the upper part of the sleeve of the jacket.

Q. Is that a fair representation of what you saw on that day?

A. Yes, Sir. ^{Page 310 says he moved coat for to show hand} (No. 6) is the same, the body and jacket have not been moved, but this shows a picture from the other side of the body, namely the north side and it demonstrates that the hand is still in the upper part of the sleeve of the jacket.

Q. Is that a fair representation of what you saw on that day?

A. It is. No. 7 shows the body as we approached it from the east. The cardinal point of interest is that it shows the left shoulder being supported up off of the ground by a corn stalk which is pointed, I know it to be pointed to the east, in this picture it shows it pointing to the right. The significance

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being this demonstrates the position of which the body came against the corn stalk.

Q. Do you know that to be a fair representation of what you saw on that day?

A. Yes, Sir. The other point, if I may add, shows the left ear without an ear ring.

Q. All right?

A. The last picture you handed me, No. 8....

Q. Doctor, No. 7, was that a fair representation of what you saw?

A. It was. No. 8 shows the head from the, with the camera from the right side depicting the fact there is an ear ring in the right ear. It also shows my hand pulling the leaves of the corn stalk out of the way so you got a good view.

Q. Is that a fair representation of what you saw on that day?

A. Yes.

Q. (To The Court.). At this point, your Honor, we would like to offer in evidence these photographs and offer him for cross examination as to the photographs.

By The Court:

Mr. Fierro?

By Mr. Fierro:

I want to wait until he is through with this witness.

By The Court:

The Court is going to rule on the photographs at this

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time, if you desire to cross examine strictly on the photographs, I will permit it, Sir.

By Mr. Pierro:

No, I am going to wait until this witness is through, and you may rule as the Court sees fit.

By The Court:

As I understand now, Mr. Ertel, Nos. 1 and 2 have been admitted without objection of the Defense Counsel, and you are now offering for admission Nos. 3 through 16, is that correct?

By Mr. Ertel:

Nos. 9 and 10 are different objections, they are not photographs.

Page 709 Ertel says
These are true
Photographs

By The Court:

No. 9 and 10 I don't have on my list. What you are offering now, would you make it specific?

By Mr. Ertel:

It is Nos. 3 through 8, No. 20, 11, 12, 13, 14, 15 and 16.

By The Court:

These Exhibits are admitted into evidence over the objection of the Defense Counsel, and the Jury is specifically instructed in regards hereto, these photographs are admitted into evidence for the purpose of some showing the nature of the wounds received by the deceased, some showing the conditions of the scene of the alleged crime and others helping you to understand the testimony of the witnesses who have referred and will refer to

Check these numbers being re-admitted
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them. The photographs of the deceased are not pleasant photographs to look at. You should not let them stir up your emotions to the prejudice of the Defendant. Your verdict must be based on a rational and fair consideration of all the evidence and not on passion or prejudice against the Defendant, the Commonwealth, or anyone else connected with this case. Those Exhibits are admitted into evidence.

By Mr. Ertel:

Q. Doctor Miller, if you will, can you take Photograph No. 20, which you have previously identified as the photograph of the casts, and can you arrange on the floor these objects and identify the objects as you go and then describe where the body was in relation to the cast?

A. Yes, Sir.

By The Court:

See that the objects are marked.

By Mr. Ertel:

They are marked.

By Mr. Fierro:

I would like to know what this experiment is and whether or not this man is qualified to conduct this experiment.

By The Court:

May I see Counsel at Side Bar? Might I state again, as I did in my opening remarks, that Counsel and I are required by law to take up certain matters out of your hearing. We may do this at the Bench, as we are doing now, or in my Chambers, or I shall ask you to leave so that we may do so in the Court Room.

This morning we did so in the Court Room while you were in the Deliberation Room. You should not concern yourself with any of these proceedings.

(Side Bar Consultation not made a part of the record.).

By Mr. Ertel:

Q. Doctor Miller, when you were there, will you describe the process you did in measuring and what happened as far as making of casts, can you go through that in detail?

A. Yes, Sir. As we first approached the body, coming from a wide area around the body, we were looking for footprints or disturbances in the ground. We found none until we got in the immediate vicinity of the body. At that time we attempted, or I attempted to make measurements of impressions. Some of these impressions were quite vague and ill-defined. The process of which this was done, was Trooper Houser had a pad of paper and was writing down, I was calling off measurements and roughly orientating them in relationship to the positions of the body, and Houser would call back the measurements to make sure he heard what I was saying. We took, Trooper Keppick and myself, made an imprint, made a cast of the first imprint which looked like it would be reproducible was outside of the lateral to the right shoulder. At that time we were aware that there were other prints partially obscured, particularly one to the right of the body, and obscured by the right arm, so that we could not make a print.

Q. Now, what do you mean by making a print?

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Body parallel with KILLS

A. Making a print is the pouring of wet plaster of Paris solution into the ground and dropping pieces of wire, such as a cut coat hanger into this mould on the top surface of it to give it reenforcing so it would not be broken in being handled and being extracted from the ground.

Q. Now, continue, please, with your narrative?

A. It become apparent there were other prints which we would be able to make impressions of with plaster of Paris after the body was moved. At that particular time, I spent more time looking at the body and the most obvious things of the body were the multiple petechiae around the eyes, the face, the tongue and on reflection of the eye lids in the conjunctival surfaces of the eye, that being the vascular covering of the eye ball. There was a particular arrangement, sor of linear arrangement of a row of petechiae on the left side of the neck.

(To me, petechiae in a localized area of the body such as the head and neck in a deceased person is indicative of a strangulation process, and it was at this time that the decision was made that we do, ~~we~~ not uncover the body or do anything more with the body until we secured the services of a consultant, a Forensic Pathologist.) At this stage of the game, with myself watching the footprints, making sure that the Troopers who were being used to pick up the body and remove it immediately to the east through the same row of corn, my job at that time was to safeguard that no Trooper stepped anywhere near in this vicinity and by supervision of having them pick up the body and move it, that was accomplished. We then went back, Trooper

Doctor Miller.

Keppick
1007
See Hospital
265.

Keppick and myself, and he prepared the plaster of Paris and he poured it into the imprints on the ground. I dropped the reinforcing wire into them. We completed this through a total of six imprints, one of which is actually a casting of two imprints, so we eventually have a total of six casts. At that time we had a picture taking, which is specifically being No. 20, and is necessary for the orientation of where these casts came in relationship, the picture shows in relationship to the stick and the previous picture shows the relationship of the stick to the body, so I can identify the relationship of the cast to the body which has been removed.

Q. Now, Doctor, can you identify those casts, prints?

(A. Yes, Sir. I saw Trooper Keppick put his initials on them at that time.) → See Bill Nixon about hospital incident

Q. I show you marked as Commonwealth's Exhibit No. 50 and ask you if you can identify that in relation to the photograph and what it is? 274. 256-257-Photo 16

A. Yes, your Exhibit No. 50 is the first cast which was made which is and was outside and lateral to the right shoulder of the body. Poured before leg was removed → 275 right shoulder
STALK

Q. Doctor, possibly it might be convenient for you to write the Commonwealth Exhibit No. on the photograph so the Jury would be able to understand which relates to which?

A. Yes. (Marks photograph.)

Q. I show you marked as Commonwealth's Exhibit No. 51, and ask you if you can identify that?

A. Yes, that is the cast which actually is, has two

Doctor Miller.

imprints, and the first one at the lower part of the Picture No. 20.

Q. Where was that in relation to the body?

A. That was underneath the buttocks. We have, that has the deepest heel print of all of that we acquired, and another heel print going in the, or in a slightly diagonal angle to it. These heel prints we did not see until after the body was moved.

Q. Can you mark that on Commonwealth's Exhibit No. 20?

A. (Witness marks.).

Q. I show you marked as Commonwealth's Exhibit No. 52, can you locate that on Commonwealth's Exhibit No. 20? *Page 275*

A. Yes, Sir, that is the cast which was immediately *7* at the end of the stick in No. 20. You can see it, the end of the stick is right underneath this corner of the cast and that is the one that we could partially see under the body under the right *5* arm, and we made the cast after the body was removed, or moved.

Q. Can you mark that? Maybe you can write it right on the print itself?

A. Right over the white?

Q. Yes?

A. It will show better. Would you like me to put 50 and 51 over the white?

Q. Yes, I think it would show better. I show you marked as Commonwealth's Exhibit No. 53, and ask you if you can identify that?

A. Yes, Sir, this is the cast at the lower level of the stick in the picture of No. 20.

Q. Where would that be in relation to the body?

Doctor Miller.

A. Immediately to the left under the left lower abdomen. *Another Partially obscured Foot Print*

Q. I show you marked as Commonwealth's Exhibit No. 54, can you identify that?

A. Yes, Sir, that is the extension of a print above, immediately above the stick which was to the left of the body.

Q. And you marked that on Commonwealth's Exhibit No. 20 as you have the other ones?

A. Right, Sir.

Q. I show you marked as Commonwealth's Exhibit No. 55, can you identify that, please?

A. Yes, Sir, that is the uppermost cast as shown in the picture on Exhibit No. 20.

Q. You will mark that also?

A. Yes, Sir.

Q. Now, Doctor, the footprints as you observed them, in which direction was the toe pointed in relation to the heel, in relation to the body?

A. The toes were basically pointed towards the foot of the body, that is towards the west. *(check page 295)*

Q. Where would the road be, the farm road be?

A. The toes are pointing towards the path through the cornfield.

Q. Now, Doctor, can you arrange these casts in a similar design on the floor, using the photograph and then layout where the body would be in relation to the cast?

A. Yes, Sir.

By The Court:

Now, Gentlemen, Side Bar.

(Side Bar consultation not made a part of the record.).

By Mr. Ertel:

Q. Now, Doctor, would you come down, please?

By The Court:

Now, no conversations unless they are on the record.

By Mr. Ertel:

Yes, Sir.

(Witness leaves stand.).

By Mr. Fierro:

May I have Side Bar?

By The Court:

Members of the Jury, as I have stated to you this morning, there are matters that are required by law to take up out of your hearing. At this time I am asking that you leave the Court Room so that we may do so in the Court Room. (AT SIDE BAR.).

By Mr. Ertel:

All that we are going to do is put the photographs up that have been admitted, have him refer to the photographs and hand him the casts on the floor so he can relate the two, show where the body was on the ground as it relates to the photo.

By Mr. Fierro:

He is going to put some photographs on this stand.

Doctor Miller.

By Mr. Ertel:

I will put all of them, I will, I am not putting the body up.

By Mr. Fierro:

It does matter to me, what I am going to say he has some photographs up here on the pedestal which are going to be up in the air, so to speak, and then he is going to have these casts. Now, there is no relationship between what is on the ground and what is on these, on this pedestal. Of course, he can explain this is an experiment to do what, that he can't do on the stand?

By Mr. Ertel:

It shows the Jury exactly how the photographs relate to those prints and what is happening.

By Mr. Fierro:

He already said that on the stand, and he even identified photographs. It does not show the Jury exactly nothing, because the casts are on the floor of the Court Room and the photographs or some of them, are six feet up in the air.

By The Court:

Except this, I assume that just the cast by itself, unless they see the photograph with it, is probably not going to mean as much to them.

By Mr. Fierro:

Let it go.

By The Court:

What is the purpose of the demonstration?

Doctor Miller.

By Mr. Ertel:

The purpose of the demonstration is to layout the casts approximately in the same location they were in the day they were made, to show the footprints in relation to the location of the body. The measurements are approximately within an inch. He will describe where each one is and point to the one on the photograph, which is Commonwealth's Exhibit No. 5 and also relation to Commonwealth's Exhibit No. 20, which is the photograph when the cast was poured and after the body was removed, and he will probably use other photographs to relate those to the casts and show exactly where these footprints were in relation to the body.

By Mr. Fierro:

Well, we don't object to the casts being placed on the floor, but it seems to me that the Doctor can testify where these casts were relative to a particular photograph. In fact, he has already done so. Now, I don't know what No. 20....now, No. 20 apparently is characteristics of the various items that are now in, on the Court Room floor, is that correct?

By Mr. Ertel:

It is a picture of them.

By The Court:

Does the pointer have any significance?

By Mr. Ertel:

The pointer is the stick.

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Exhibit 20 is picture
of ACST

Doctor Miller.

By Mr. Fierro:

Where is the stick?

By Mr. Ertel:

Probably in the cornfield. You mean do we have the stick? We don't have the stick.

By Mr. Fierro:

The stick that was under the body?

By Mr. Ertel:

We don't have that stick.

By Mr. Fierro:

Consequently I think, that is Exhibit No. 20, your Honor, upper righthand corner that is now a photographically depicted to the Jury what is now on the Court Room floor, and what then is the purpose of this Exhibit? He has the two photographs he can explain, which he has already done.

By The Court:

Is there any objection to the photograph at the bottom?

By Mr. Fierro:

I don't object to the photographs as such, I am going to object later on, although you admitted it, on the grounds that it is inflammable, but let me look at this bottom one, Judge.

By The Court:

What is the stick there?

By Mr. Ertel:

The same stick. The stick has not been moved.

Doctor Miller.

By Mr. Fierro:

The stick you were talking about under the body is shown in this photograph?

By Mr. Ertel:

Yes.

By The Court:

The other is the ruler you testified about?

By Mr. Ertel:

Yes.

By Mr. Fierro:

That is his ruler, that is something injected, that is not necessary for this purpose.

By Mr. Ertel:

Obviously we are missing something there, but the point is it shows the relationship of this cast so he can show it in relationship to this stick and where it was in relation to the body, because the stick is a reference point which is here and under the body.

By Mr. Fierro:

But the stick is shown in No. 20.

By The Court:

What other photographs do you want the Doctor....

By Mr. Ertel:

I think that is all we will have the Doctor refer to.

By The Court:

Anything further, Mr. Fierro?

Doctor Miller.

By Mr. Fierro:

Nothing further.

By The Court:

The objection is over ruled, you may bring the Jury back.

(Jury returned to Court Room.).

By The Court:

May I see Counsel?

(Side Bar consultation not made a part of the record.).

By Mr. Ertel:

I would move into evidence Commonwealth's Exhibits nos. 50 through 55.

By The Court:

Those are the casts?

By Mr. Ertel:

Yes, Sir.

By The Court:

Any objection?

By Mr. Fierro:

Not if they are the casts.?

*Fierro is asking
what they did
NOW*

By The Court:

They are admitted.

(Commonwealth's Exhibits Nos. 50, 51, 52, 53, 54 and 55 admitted into evidence.).

By The Court:

The Jury is again instructed that the photographs and the casts are admitted for the purpose of showing the condition

Doctor Miller.

at the scene of the alleged crime and helping you to understand better the testimony of the witnesses who refer them, and I as I have also stated, the photograph of the victim is not a pleasant photograph to look at. You should not let it stir up your emotions or to the prejudice of the Defendant. Your verdict must be based on a rational and fair consideration of the evidence and not on passion or against the Defense, the Commonwealth or anybody connected with the case. Proceed.

By Mr. Ertel:

Q. Doctor Miller, will you, obviously on the floor are casts laid out with a pointer, can you explain what you have done in relation to these casts?

A. Yes, Sir. The crucial point in relationship of the picture to the casts is the stick.

By The Court:

The Jurors may stand up if they care to, in the back row.

By Mr. Ertel:

Q. We can move this up a little closer.

A. The stick we do not have, so we are substituting a pointer only as a characterization of the original scene. This again is the picture taken of the original scene after the plaster had been poured, before the plaster casts have been moved. In correlating the picture with the scene on the floor, you will note I testified that the one cast, namely which you identify, No. 50, here is this cast. It was poured before the cast was moved, and that is what this picture is. This is No. 16,

Doctor Miller.

it shows my taking a measurement of an imprint on the ground, and this picture you notice shows the smoothness here in opposition to the roughness, to the pebble effect of the ground which I previously mentioned. We were unable to take the casting of this imprint with the body there, because of the position of the arm.

Q. The arm that you are referring to is on Commonwealth's Exhibit?

A. Commonwealth's Exhibit No. 5. This is the right arm of the victim. Subsequently, the body was picked up and removed in that direction in a linear manner and this then was casted. This was casted and we proceeded around casting these in this manner. This is the, the display of the casts are to show you the relative position of the casts in a representation of what this picture shows as a photograph.

Q. Now, Doctor, Commonwealth Exhibit No. 51, which is the cast which looks somewhat like an inverted "Y" to the Jury, where was that located in relation to the body as shown in Commonwealth's Exhibit No. 5?

A. You cannot see it in Exhibit No. 5 because it is right under the buttocks.

Q. And Commonwealth's Exhibit No. 52 where was that in relation to the body?

A. It is relatively under the right arm, lateral, parallel with the body. } what does that mean

Q. And Commonwealth's Exhibit No. 50 would be where?

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266-5200-AT
END OF STICK

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List
5200-AT

Doctor Miller.

A. This is under the right shoulder, slightly laterally to the right shoulder.

Q. Could you see that, was the right shoulder on the ground when you got there?

A. The right shoulder is slightly raised above the ground because of the corn stalks. 242- LEFT SHOULDER OFF (C...)

Q. Which way were they bent, away from the head?

A. They were directly in the line of the head.

Q. Proceeding in the direction of the head?

A. In the direction of the head or as we would say anatomically with a cephalad direction.

Q. East or west?

A. That is pointing east.

Q. Now, Commonwealth's Exhibits Nos. 53, 54 and 55, where would they be located?

A. They are, 53, and 55 are over the stick, slightly separated, which is lateral to the body and it would be up in this position, under the shoulder going again toward the head or cephalad.

Q. Which way was the heel of the prints?

A. The...

Q. The back of the heel, which way was that located on these prints, can you show us that?

A. The prints, if you turn over the casts you will see the round part of the heel is pointing towards the head or east.

29 #5
Q. The back of the shoe?

Doctor Miller.

Check
12 ver
page
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about
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see 259 First Paragraph

A. The back of the shoe is pointing eastward.

Q. Now, were there measurements taken of these prints except for one of them before they were cast?

A. We took measurements of indentations on the ground where ever we found them. When the body was moved, and we found the prints which this has made a cast of.....

Q. 51?

A. 51, particularly there are two heel prints under there, particularly one of them is very distinct, was sharply outlined and was the deeper imbedded into the ground than the other imprints. We spent particular attention to 51 and 52 because of the definition of these imprints at that time. There were other imprints we could not cast, and you have 55, is really a poor quality.

Q. And was 51 a good quality?

A. It is very good.

Q. Anything that was able to be cast, was it cast?

A. No, Sir, you could have cast the whole ground.

Q. I mean to get any kind of definition?

A. We cast everything we thought that would give us definition.

Q. Cross examination.

CROSS EXAMINATION

By Mr. Eierro:

I was hoping this would be a good time for a break.

By The Court:

The Court is willing to take the break at this

Doctor Miller.

time, this is time for the break anyway. The Defendant is excused. Everyone else remain seated. The Jury is excused. Court is recessed, for 15 minutes.

(Recessed at 10:30 A.M., EDST.)

(Reconvened at 10:50 A.M., EDST.).

(Doctor Earl R. Miller returned to witness stand.).

By Mr. Pierro:

Q. Doctor, you mentioned that in your examination of this area, long with the Troopers, that you found many other impressions but they were ill or poorly defined?

A. I found, yes, Sir, right in the immediate vicinity of the body.

Q. Well, when I say "you", I don't mean that you found them alone, maybe the Officers found some. I mean whatever knowledge you and the Officers working concurrently had is all right for you to express under this questioning. In what area surrounding the body, what was the extent of the area in which you found any impressions at all?

A. Oh, within two feet.

Q. Surrounding the body?

A. Basically laterally with the body. If you recall, this is in a corn field and the markings that I am talking about are within the confines of which would be basically four rows of corn.

Q. What were they, about 18 inches apart, these rows? Two feet apart?

A. I would imagine they are about two feet.

HAD TO SAY THAT BECAUSE HE SAID CORN ONLY 2 FT APART

Doctor Miller.

Q. You say four rows?

A. Would be the extreme extent.

Q. That is eight feet?

A. Yes.

Q. So these various impressions, the good ones and bad ones were within an area of eight feet?

A. The overwhelming majority of these impressions would have been within an area of three feet.

Contradiction of Previous Page 2

Q. I am talking about all of them, I am trying to find out what the outside perimeter was whatever these impressions were, were they eight feet away?

A. They would be less than eight feet.

Q. You are the one that said four rows of corn?

A. What I am saying, if you look at the picture, for example, you will see this body lying in between two rows of corn, and just to the outside of those there were a couple ill-defined markings. Now, this would be within an area of two feet of that body.

Q. The extreme outside of the next row of corn which you have deduced to be the eight feet because of the judgment of the corn being two feet?

A. My judgment was less than that.

Q. Four rows of corn, two feet apart?

A. No, Sir.

Q. Let's forget it, let's go on, I want to know how many impressions you saw, good or bad?

A. I did not count all of the markings on the ground.

Doctor Miller.

Q. Give the Jury an idea, an estimate?

A. There perchance was maybe 10.

Q. What you did, of course, you and the Troopers, were you recovered the distinct impressions?

A. That is correct.

Q. You did not try to make a cast of what you call the ill-defined impressions?

A. That is correct.

Q. What did these ill-defined impressions look like?

A. Smooth, flattening surfaces of the ground.

Q. Smooth, flattening surfaces?

A. Yes.

Q. In what dimension, what size?

A. Oh, in dimensions maybe two, three inches in diameter, but the problem we had was measuring them because the edges were not definite, were not defined.

Q. How many impressions of foot prints were you able to see, defined well or otherwise?

A. Well, the ones that we, that was recognizable as footprints would be a total of seven.

Q. A total of seven? *only took 6 casts*

A. Yes.

Q. Of which you made how many casts?

A. Six.

Q. What about the 7th one?

A. In the cast, in the biggest cast there are two very good footprints.