

APPENDIX D

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APPENDIX D

SAMPLE TRANSCRIPT

Explanatory Note

The following pages illustrate a portion of a sample transcript, table of contents and index of exhibit volume and samples of exhibit sheets and a witness and exhibit list.

See Chapter 5 for the Appellate Rules concerning preparation of transcripts.

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IN THE
INDIANA COURT OF APPEALS

APPELLATE NO: _____

JOHN DOE,]	APPEAL FROM THE _____
APPELLANT/PARTY BELOW]	SUPERIOR COURT
]	
VS]	TRIAL COURT CASE NO.: _____
]	
STATE OF INDIANA,]	BEFORE THE HONORABLE
APPELLEE/PARTY BELOW]	_____, JUDGE

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MR. ATTORNEY NAME	MR. ATTORNEY NAME
CHIEF DEPUTY PROSECUTOR	PUBLIC DEFENDER
ADDRESS	ADDRESS
CITY, STATE, ZIP	CITY, STATE, ZIP
PHONE	PHONE

JANE THOMAS
OFFICIAL COURT REPORTER

SUPERIOR COURT

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EXHIBIT INDEX
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APPEARANCES

1 COUNTY OF _____)
2
3 IN THE _____ SUPERIOR COURT
4 CAUSE NO.: _____
5 STATE OF INDIANA,)
6 Plaintiff)
7 VS)
8 JOHN DOE,)
9 Defendant)

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TRANSCRIPT OF JURY TRIAL

BEFORE THE HONORABLE _____
JUDGE OF THE _____ SUPERIOR COURT

DATE: JANUARY 22-25, 28-31; FEBRUARY 1, 4-8, 2003

JANE THOMAS
OFFICIAL COURT REPORTER

A P P E A R A N C E S

APPEARANCES

1 ON BEHALF OF THE STATE:
2
3 MR. ATTORNEY NAME
4 PROSECUTOR
5 ADDRESS
6 CITY, STATE ZIP
7
8
9
10 ON BEHALF OF THE DEFENDANT:
11 MR. ATTORNEY PRIVATE COUNSEL NAME
12 ADDRESS
13 CITY, STATE ZIP
14
15 MR. ATTORNEY NAME
16 CHIEF PUBLIC DEFENDER
17 ADDRESS
18 CITY, STATE ZIP
19
20
21
22
23
24
25

VOIR DIRE

1 **THE COURT CONVENEED ON JANUARY 8, 2003, AND THE**
2 **FOLLOWING EVIDENCE WAS PRESENTED:**

3

4 PRESENT:

5 JUDGE NAME, Judge _____ Superior Court

6 MR. ATTORNEY NAME, Prosecutor

7 MS. ATTORNEY NAME, Chief Deputy Prosecutor

8 MR. ATTORNEY NAME, Counsel for Defendant

9 MR. ATTORNEY NAME, Chief Public Defender

10 John Doe, Defendant

11

12 THE COURT: State v John Doe, 0010-CF-343. Would
13 all the juror panel members please stand and raise your
14 right hand. Do you, and each of you, solemnly swear or
15 affirm under the penalties of perjury that you will
16 give true answers to all questions put to you
17 concerning your qualifications to sit as jurors in this
18 case at issue, and which now is the subject of trial,
19 so help you god?

20 PROSPECTIVE JURORS: I do. (All answer in unison)

21 MS. BAILIFF: If I mispronounce your name please
22 let me know. Juror No. 1, JURY NAME. Juror No. 3,
23 JURY NAME.

24 [CONTINUOUS TEXT IN SEATING JURORS]

25

VOIR DIRE

1 **VOIR DIRE CONDUCTED:**

2 MR. ATTORNEY: This is the portion of the trial
3 called jury selection and that's what we're here today
4 to do now.

5 MR. ATTORNEY: Okay. So the crime investigation,
6 you believe that it can be an ongoing process that may
7 go right up to the moment of trial?

8 JUROR NO. 3: Yes.

9 MR. ATTORNEY: Is that a fair answer, does everyone
10 agree with Ms. JUROR NAME at that point? Mr. JUROR
11 NAME, if you had evidence of a criminal act and you
12 were asked to reveal any of that information to
13 authorities, would you feel obligated to do so, turn it
14 over to a law enforcement agency that requested it?

15 JUROR NO. 39: Yeah.

16 MR. ATTORNEY: What if the information could make
17 you look bad or embarrass you. Would you still feel
18 obligated to turn it over?

19 JUROR NO. 39: Well, yes. Should anyway, but yes,
20 even if it looked bad I'd still turnt [sic] it over.

21 MR. ATTORNEY: What if, what if that information
22 would either convict or would incriminate? What if it
23 would incriminate a family member? Would that change
24 whether or not you turn it over?

25 JUROR NO. 39: It might, hard to say.

VOIR DIRE

1 MR. ATTORNEY: All right.

2 JUROR NO. 39: But I, yes, feel I should.

3 MR. ATTORNEY: Okay, fair answer. Ms. JUROR NAME?

4 JUROR NO. 49: Well, I'd have to assess the
5 situation.

6 MR. ATTORNEY: If it would incriminate a family
7 member?

8 JUROR NO. 49: Yes, but would be hard.

9 MR. ATTORNEY: Mr. JUROR NAME, how about you? Have
10 you ever been put in that situation?

11 JUROR NO. 7: It'd be hard to do and I'm not sure
12 what I would do. I hope I could. I do and am law
13 abiding and want to do the right thing. I would think
14 I would do the right thing.

15 MR. ATTORNEY: Mr. JUROR NAME?

16 JUROR NO. 13: I think I could and would.

17 MR. ATTORNEY: Well, how about if it's one of your
18 family?

19 JUROR NO. 7: I would turn it over to the cops.
20 There wouldn't be anything to keep me from turning it
21 in.

22 MR. ATTORNEY: Mr. JUROR NAME?

23 JUROR NO. 21: The same, I'd turn it over.

24 [CONTINUOUS TEXT IN VOIR DIRE]

25 **PANEL OF 12 JURORS & 3 ALTERNATES SELECTED & SWORN**

STATE'S WITNESS - WITNESS #1 NAME (DIRECT)

1 JURY ADMONISHED & RECESS FOR DAY

2

3 **COURT RECONVENES:**

4 COURT REPORTER/BAILIFF: You may be seated, the
5 jurors are in the box.

6 THE COURT: First witness?

7

8 **STATE PRESENTS ITS EVIDENCE**

9 MR. ATTORNEY: The State would call Andrew
10 Lee.

11 THE COURT: Raise your right hand. Do you
12 swear to tell the truth, the whole truth and
13 nothing but the truth, so help you God?

14 WITNESS: I do.

15 THE COURT: Please be seated and move up to
16 the microphone.

17 WITNESS: Thank you.

18

19 **TESTIMONY OF WITNESS #1 NAME**

20 **DIRECT EXAMINATION:**

21 BY: MR. ATTORNEY NAME

22 Q For the record, would you state your name, please?

23 A TROOPER NAME.

24 Q What's your occupation?

25 A I'm a Trooper with the Indiana State Police.

STATE'S WITNESS - WITNESS #1 NAME (DIRECT)

- 1 Q How long have you been so employed?
- 2 A Just over eight years.
- 3 Q Were you employed with the Indiana State Police on
- 4 September 28, 2000?
- 5 A Yes, I was.
- 6 Q Do you remember a phone call coming in September
- 7 28, 2000, around 9:30?
- 8 A Yes, I do.
- 9 Q Who was the phone call from?
- 10 A It was from David Doe.
- 11 Q And did you, hear the phone call?
- 12 A Yes, I did.
- 13 Q You received it?
- 14 A Actually, it was transferred to me.
- 15 Q And you talked to who? Who was on the phone?
- 16 A Oh, Mr. Doe was on the phone.
- 17 Q I'll hand you what's been, it's not been marked
- 18 yet, what's been marked as State Exhibit No. 1 and
- 19 ask if you recognize this?
- 20 A It appears to be an audiotape recorded from the
- 21 master tape at the Post.
- 22 Q Have you recently had occasion to review it?
- 23 A Yes, I have.
- 24 Q Is it a true and accurate reflection of the
- 25 conversation you had with, David Doe?

STATE'S WITNESS - WITNESS #1 NAME (PRELIMINARY)

1 A Yes, it is.

2 MR. ATTORNEY: At this time, Your Honor, the
3 State would move State's Exhibit No. 1 into
4 evidence and publish it to the jury.

5 MR. ATTORNEY: Preliminary question, please?

6 MR. ATTORNEY: Yes.

7

8 **PRELIMINARY QUESTIONS:**

9 BY: MR. ATTORNEY NAME

10 Q WITNESS NAME, the tape that you've listened to,
11 does it have, uh, the person picking up the phone
12 call originally, when Mr. Doe would have called in
13 or does it just have your conversation?

14 A I think it has the, the one that I listened to has
15 the original.

16 Q And do you know who would have picked the phone up
17 originally?

18 A It was a dispatcher, Pat.

19 Q All right. Okay. So the voices we would hear on
20 this tape would be Pat's, John's and yours?

21 A Yes.

22 Q All right. And the best of your recollection this
23 is as accurate a tape-recording that exists,
24 right?

25 A As far as I know.

STATE'S WITNESS - WITNESS #1 NAME (CROSS)

1 Q Okay. Thank you.

2 MR. ATTORNEY: I have no further preliminary
3 questions and no objection, Your Honor.

4 THE COURT: Exhibit 1 will be admitted.

5 **STATE'S EXHIBIT 1 ADMITTED INTO EVIDENCE**

6 **STATE'S EXHIBIT 1 PLAYED TO JURY**

7

8 MR. ATTORNEY: You may ask Mr. Attorney.

9 MR. ATTORNEY: Thank you.

10

11 **CROSS EXAMINATION:**

12 BY: MR. ATTORNEY NAME

13 Q How long had you known John?

14 A I'm sorry?

15 Q How long have you known John?

16 A I first met him when I transferred to the District
17 in, it would have been March of 1995.

18 Q Now, I understand you have a scheduled matter out
19 of town here in the next week or so, is that
20 right?

21 A Yes, Sir.

22 Q All right. Will you be back at the end of that
23 time?

24 A Yes, I will.

25 Q All right. Beyond the scope of what you were

STATE'S WITNESS - WITNESS #1 NAME (CROSS)

1 asked, but did you have any other involvement in
2 the investigation of this case?

3 A I performed a dive operation and I followed a
4 vehicle to Evansville to the lab one day. Other
5 than that, that's all.

6 Q All right. We may talk about that when you get
7 back next week. I understand you need to get out
8 of town this afternoon, is that right?

9 A Yes, Sir.

10 Q All right.

11 MR. ATTORNEY: Would release, subject to
12 recall, if that's all right with the State and the
13 Court, Your Honor?

14 MR. ATTORNEY: Yes.

15 THE COURT: Anything else? All right.

16 WITNESS: Thank you.

17 THE COURT: You may step down.

18 WITNESS: Thank you.

19 **WITNESS EXCUSED**

20
21 MR. ATTORNEY: The State would call WITNESS #2
22 NAME.

23 THE COURT: Raise your right hand. Do you
24 swear to tell the truth, the whole truth and
25 nothing but the truth, so help you God?

STATE'S WITNESS - WITNESS #2 NAME (DIRECT)

1 WITNESS: I do.

2 THE COURT: Please be seated and move up to
3 the microphone.

4

5 **TESTIMONY OF WITNESS #2 NAME:**

6 **DIRECT EXAMINATION:**

7 BY: MR. ATTORNEY NAME

8 Q For the record, state your name, please.

9 A WITNESS NAME.

10 Q And your occupation?

11 A I'm a meteorologist.

12 Q How long have you been so employed?

13 A Thirty-two years.

14 Q And where have you been employed?

15 A The past thirty-two years at WAVE television in
16 Louisville.

17 Q You're the weatherman?

18 A I am, one of them.

19 Q Would you have records that would tell us the
20 weather and astronomical conditions on September
21 28, 2000?

22 A Yes.

23 Q Around 6:00 p.m. through 9:00 p.m., can you tell
24 us the temperature?

25 A At six o'clock it was sixty-six degrees (66°) and

STATE'S WITNESS - WITNESS #2 NAME (DIRECT)

1 slowing fell down to the, [four (4) words
2 indiscernible] by ten o'clock down to fifty-nine
3 degrees (59°). I think it was sixty-six, sixty-
4 six, sixty-five and sixty-three and sixty-nine
5 during those hours. I can get that precisely here
6 if you wish. [five (5) seconds inaudible]

7 Q It would be nice.

8 A I know it started at sixty-six and ended at fifty-
9 nine by ten o'clock. So it went, it went, let's
10 see, six o'clock it was sixty-six, then seven
11 o'clock was sixty-five, sixty-three, and these
12 are, of course, Louisville International Airport,
13 so it would have been perhaps probably, or in
14 Floyd County, particularly up in the Georgetown
15 area, it would have been a couple degrees colder
16 then that.

17 Q And when was sunset?

18 A Sunset, according to the US Naval Observatory,
19 which does the calculations for, those things, for
20 Georgetown, Indiana, September 28th, the sunset is
21 at 7:32 p.m.

22 Q And is there a period of twilight.

23 A There is something which is defined as civil
24 twilight, which is, basically it lasts until the
25 sun is six degrees below the horizon. At the end

STATE'S WITNESS - WITNESS #2 NAME (DIRECT)

1 of civil twilight it's considered that anything
2 you would do normally under daylight conditions
3 would cease at that point. There is theoretically
4 enough light if you're situated, well, to be able
5 to read a newspaper throughout that time, and at
6 the end of civil twilight that, you go to
7 nighttime conditions.

8 Q So six, 7:32, that's Eastern Daylight time?

9 A Eastern Daylight Time, that was sunset.

10 Q Set. And when would the civil twilight have been?

11 A That night it was twenty-six minutes later, which
12 would have been 7:58.

13 Q 7:58.

14 A P.m., Eastern Daylight Time, right.

15 Q What was the humidity?

16 A Humidity was pretty low. The air was pretty dry
17 at that time. At six o'clock it was sixty-three
18 percent (63%) and when to sixty-five at seven,
19 sixty-seven percent (67%) at eight o'clock, and
20 seventy-two percent (72%) by nine o'clock.

21 Q Do you know anything, is it within your area of
22 expertise to, based on temperature and position,
23 let's say down a hill or in a hollow, to know
24 anything about how sound could travel?

25 A Usually in the evening hours, under relatively

STATE'S WITNESS - WITNESS #2 NAME (DIRECT)

1 calm conditions, this was particularly after,
2 getting close to sunset, around 7:30 or so, when
3 the wind has calmed down you tend to get a little
4 bit colder in the, valleys, the cold air kind of
5 drains into those areas and sometimes you get
6 what's called an inversion over top of that which
7 tends to let sound travel horizontally, but not
8 too much vertically. It's similar to what you
9 have in the wintertime particularly like on a snow
10 case. So when it snows sound travels, it's
11 muffled by the snow, but it travels horizontally,
12 but very little vertically.

13 Q And would it travel over the terrain?

14 A Hmm. Speculation here, but I would assume right
15 at that time ...

16 MR. ATTORNEY: I would probably have an
17 objection to the speculation.

18 A Well, let's ...

19 THE COURT: Just a minute.

20 WITNESS: Sure.

21 THE COURT: Anything else? Any response?

22 MR. ATTORNEY: Oh ...

23 Q Outside the area of speculation, could you tell us
24 how sound would travel under those conditions?

25 A At this point in time the inversion would not be

STATE'S WITNESS - WITNESS #2 NAME (CROSS)

1 well developed and so sound could travel pretty
2 much freely in any direction, maybe a little bit
3 more in the valley area because of the beginning
4 of the inversion. But wouldn't be sharp enough to
5 stop any sound movement.

6 Q Okay.

7 MR. ATTORNEY: I have no further questions.

8 MR. ATTORNEY: Thank you.

9

10 **CROSS EXAMINATION:**

11 BY: MR. ATTORNEY NAME

12 Q Afternoon, WITNESS #2 NAME. Gonna ask you a couple
13 things here.

14 A Sure.

15 Q The records that you were working from, whose
16 records are those?

17 A Those are the government's records, National
18 Weather Service takes them. These were from
19 Standiford Field. They are compiled by the
20 National Climate Data Center in Asheville, North
21 Carolina, and that's where they're from. They are
22 published in what's called the Local Climate to
23 Logical Data, which is a government publication.

24 Q And the, let's see, what's the altitude at
25 Standiford Field, where those temperatures would

STATE'S WITNESS - WITNESS #2 NAME (CROSS)

1 have been collected?

2 A I believe they, I think they list it as like, it's
3 four hundred seventy-seven feet above sea level, I
4 believe is the, let's see if I've got the actual.
5 Okay, well, four -- no, they changed it, four
6 hundred eighty-one feet above sea level.

7 Q All right. Landfill.

8 A Well, actually they, what they, well, the last
9 decade, the modernization of the National Weather
10 Service actually moved the-the recording site.

11 Q All right.

12 A It's right in the middle of the two runways. When
13 they rebuilt the airport they moved it so it must
14 have been four feet higher then it was before.

15 Q All right. Are you familiar with the altitude out
16 in the Georgetown area where we're talking about?

17 A I'm not, I know it's higher. Exactly how much
18 above sea level, I'm not sure.

19 Q Would that ...

20 A It's probably over a thousand feet.

21 Q Would that count for the couple degrees variance
22 in temperature you were talking about?

23 A Partially, and the other is simply what's referred
24 to as the urban heat island, large metropolitan
25 areas, people, cars, industry, generate heat and

STATE'S WITNESS - WITNESS #2 NAME (CROSS)

1 when you get away from that the temperature is,
2 too cool.

3 Q Is there anyway you can look at the records that
4 you have to determine whether or not, there would
5 have been an inversion in the Georgetown area
6 during the times that we've talked about back on
7 September 28, 2000?

8 A Unfortunately we don't, we do not take vertical
9 measurements of the atmosphere here. So to
10 actually precisely say there definitely was an
11 inversion and where it was, you just have to go
12 from experience as to what the weather conditions
13 were and would see one beginning to form.

14 Q Okay. So when you were talking about speculation
15 a little bit ago, that's, you know, that's what
16 you were talking about, it's be hard to say?

17 A Well, it's almost a sure thing an inversion was
18 beginning to form at that --

19 Q Uh-huh.

20 A -- point because of the relatively calm
21 conditions. Mostly clear skies by that time, but
22 the intensity of it, the depth of it, how high
23 above sea level.

24 Q Uh-huh.

25 A That part would be the part you couldn't answer.

STATE'S WITNESS - WITNESS #2 NAME (CROSS)

1 Q All right. And would the data be different for
2 Standiford Field versus Georgetown on the
3 possibilities of inversions being created?

4 A Actually, it'd be more of a tenancy for an
5 inversion in Georgetown because of the, you're
6 cooler, you're away from the city heat --

7 Q Uh-huh.

8 A -- and that that nighttime cooling actually
9 accelerates in evening hours in suburban areas,
10 but not in city areas.

11 Q Okay. Thank you.

12 MR. ATTORNEY: That's all I have.

13 MR. ATTORNEY: That's all I have. Thank you.

14 THE COURT: Just a second. Thank you. You
15 may step down.

16 **WITNESS EXCUSED**

17

18 MR. ATTORNEY: Your Honor, the State calls
19 Trooper WITNESS NAME.

20 THE COURT: Raise your right hand. Do you
21 swear to tell the truth, the whole truth and
22 nothing but the truth, so help you God?

23 WITNESS: I do.

24 THE COURT: Be seated. Move up to the
25 microphone, please.

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IN THE
INDIANA COURT OF APPEALS

APPELLATE NO: _____

JOHN DOE, APPELLANT/PARTY BELOW]	APPEAL FROM THE _____ SUPERIOR COURT
]	
VS]	TRIAL COURT CASE NO.: _____
]	
STATE OF INDIANA, APPELLEE/PARTY BELOW]	BEFORE THE HONORABLE _____, JUDGE

VOLUME OF EXHIBITS

VOLUME I OF I
PAGES 1 to 25

ATTORNEY FOR APPELLEE:	ATTORNEY FOR APPELLANT:
MR. ATTORNEY NAME	MR. ATTORNEY NAME
CHIEF DEPUTY PROSECUTOR	PUBLIC DEFENDER
ADDRESS	ADDRESS
CITY, STATE, ZIP	CITY, STATE, ZIP
PHONE	PHONE

JANE THOMAS
OFFICIAL COURT REPORTER

SUPERIOR COURT

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EXHIBIT INDEX

STATE'S EXHIBITS

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SUPPRESSION HEARING

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JURY TRIAL

2. Order of Probation

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3. 19" television

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SEARCH WARRANT

[exhibit retained in the _____ Superior Court
Evidence cabinet]

STATE'S EXHIBIT NO. 1 --- 11/12/02 --- J.T.

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ORDER OF PROBATION

[exhibit retained in the _____ Superior Court
Evidence cabinet]

STATE'S EXHIBIT NO. 1 --- 1/22/03 --- J.T.

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19" TELEVISION

[exhibit retained in the _____ Superior Court
Evidence cabinet]

STATE'S EXHIBIT NO. 2 --- 1/22/03 --- J.T.

WITNESS AND EXHIBIT LIST

Case Name: _____

Cause Number: _____

Hearing: _____

Date: _____

WITNESS	PARTY	DIRECT/CROSS	EXH #	DESCRIPT	IDENT	ADM	TRANS PG
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