

1' testifies.

2 THE COURT: Go ahead, get the jury.

3 (Jury present.)

4 ERIC WEBBER, M.D.

5 was sworn and testified as follows:

6 DIRECT EXAMINATION

7 BY MR. JORDAN:

8 Q Doctor, would you tell us your name for the record,
9 please?

10 A Eric Webber.

11 Q And, Dr. Webber, who do you work for?

12 A For the University of South Alabama Medical Center.

13 Q Doctor, you speak very softly, so I'm gonna put that in
14 front of you so it will amplify a little bit,
15 hopefully.

16 And, Doctor, you're what we all refer to as a
17 brain surgeon; is that correct?

18 A I am a neurosurgeon, yes, sir.

19 Q And you're, in fact, licensed to practice medicine in
20 the State of Alabama?

21 A Yes, sir.

22 Q And did you have occasion on March the 2nd of 1992 to
23 come into contact with Mrs. Valerie Finley?

24 A Yes, sir.

25 Q Would you tell us, Doctor, just pretend we are lay-

v
1 people with virtually no knowledge of medical terms, or
2 just pretend we don't know anything about medicine or
3 anything. Talk to us, explain things so we can
4 understand it as lay people the condition that you
5 first found Valerie in when she was brought to USA
6 Medical Center.

7 THE COURT: The only thing I'm gonna correct you
8 on, you said pretend. There's not any
9 pretending. We don't know.

10 Q Okay. As a fact, we don't know anything.

11 A Yes, sir. I first saw Mrs. Finley in the emergency
12 room on a hospital stretcher. She was on a board that
13 patients are placed by the EMTs or the emergency
14 medical technicians. At that time, she would respond
15 to questions with, perhaps, a moan or sort of a nod of
16 her head. She could move her right arm but not her
17 other extremities. As I said, she was not conversant,
18 but she was able to follow some simple directions or
19 simple commands for things that I asked her to do.

20 Q For example?

21 A Move your hand or lift your leg up off the bed; can you
22 hear me, and she may moan or nod. She would either be
23 able to move or not move her arm or her leg, depending.

24 Q Doctor, what was your first information as to what the
25 nature of her injury might be?

1' A There were a number of historical or a number of
2 histories that were obtained that changed as time went
3 on. It is my recollection that the first thing --

4 MR. NIXON: Judge, I'm gonna, excuse me. I'm
5 going to respectfully object to what he's
6 gonna testify. I don't know what it is, but
7 it obviously would be hearsay.

8 THE COURT: How do we know that? Go ahead.

9 Overruled.

10 MR. NIXON: Well, I would object, unless he has
11 first-hand knowledge of the history of this
12 particular case.

13 Q You may answer.

14 THE COURT: Isn't it a fact, Doctor, that you were
15 the one that saw this young lady at the
16 hospital?

17 THE WITNESS: Yes, sir.

18 THE COURT: And aren't you relating what was told
19 to you and how you were able to converse with
20 Mrs. Finley?

21 THE WITNESS: With Mrs. Finley and a variety of
22 other people.

23 THE COURT: And didn't you just testify that
24 some things that you could relate to, that
25 she shook her head or whatever?

1 THE WITNESS: Yes, sir.

2 THE COURT: I don't understand your objection.

3 MR. NIXON: Judge, I don't have any objection to
4 the history as related to him by Mrs. Finley.
5 She's here and prepared to testify. I just
6 have an objection to him relating history,
7 and I don't know what it is, that was related
8 to him by someone else that's not going to be
9 here to testify. That would be hearsay.

10 THE COURT: Restate your question and let's go.

11 Q I'll restate it this way: Were you aware, initially,
12 when she was brought in that she had been, in fact,
13 shot in the head with a gun?

14 A No, sir.

15 Q Tell us, as you found her laying there, what was it you
16 began to do to try to find out what had happened to
17 Mrs. Finley, what was wrong with her?

18 A I initially examined her. I spoke with some family
19 members in an effort to find out what happened to her.
20 I listened -- there were a number of other physicians
21 who were also involved in her care who had also
22 obtained information from the emergency medical
23 technicians, and I asked them what they had obtained as
24 a history in terms of what happened to this particular
25 patient.

1' Q And what did you begin to do to try to help her or to
2 try to diagnose what her problem was?

3 A She had a variety of diagnostic studies, x-rays, blood
4 work. She had some treatments, IVs, catheters. She
5 eventually had tubes placed in her bladder and her
6 throat. She had a CT scan of the head, some x-rays of
7 her head, her neck, her chest, a variety of other
8 studies.

9 Q And from those CAT scans and x-rays, what were you able
10 to find out and determine?

11 A In addition to her physical examination, first of all,
12 she had an open -- by physical examination, she had an
13 open wound on the top of her head that was bleeding.

14 Q Let me show you what has been marked as State's Exhibit
15 Number 38 and ask you if you can identify that
16 photograph.

17 A Yes, sir. This is a photograph that was taken when I
18 took Mrs. Finley to the operating room later on that
19 same day.

20 Q Prior to you beginning an operation, you had shaved the
21 top of her head so you could go into her skull and do
22 your operation?

23 A Yes, sir. This was in preparation for her operation.

24 Q Does that picture fairly and accurately depict the
25 nature of the injury to the top of her head?

1' A It accurately depicts the scalp injury. Of course, the
2 injury that is really critical to Mrs. Finley was the
3 injury to her brain, and it does not depict that. This
4 shows the scalp injury.

5 MR. JORDAN: We would move to introduce State's 38
6 at this time.

7 MR. NIXON: Judge, may we approach for a quick
8 second, please?

9 THE COURT: Sure.

10 (Whereupon, a side-bar conference
11 occurred as follows:)

12 MR. NIXON: Judge, for the record, I'm gonna
13 object to the introduction of those photo-
14 graphs (inaudible) prejudicial (inaudible).

15 THE COURT: I overrule the objection.

16 (State's Exhibit 38 marked in evidence.)

17 Q May I publish this to the jury?

18 A Certainly.

19 THE COURT: Ms. Curtis, this is gonna eventually
20 get to you. You don't have to hold it. You
21 can just put it on that seat next to you.

22 MR. JORDAN: I was just gonna publish it this way,
23 Judge, to save time.

24 THE COURT: That's fine.

25 MR. JORDAN: I think everybody can see the blow-up

1' pretty well.

2 Q Doctor, would you tell us what the x-rays or the CAT
3 scans revealed to you prior to your operation?

4 A They showed that she had both fragments of bone and
5 metal in both her scalp and deep within her brain.

6 Q And would you tell us about what you did to help her,
7 to save her life?

8 A Yes, sir. Let's see. We took her to the operating
9 room. I had to extend the scalp laceration that you
10 saw on the picture in both directions in order to have
11 enough room to remove the bone from the very top which
12 had been fractured or broken in a number of pieces.
13 Those pieces of bone were removed both from underneath
14 the scalp and from within the brain. To leave them
15 there would present her problems from an infection
16 point of view. So I removed those fragments of bone,
17 the fragments of hair, and there were metal -- metallic
18 fragments in there, as well. She had some bleeding of
19 her brain around where those fragments of bone were
20 driven through the tissue. I stopped the bleeding and
21 did the best I could to repair the blood vessels and
22 the covering of the brain called the dura to repair
23 that so she wouldn't leak fluid, brain fluid, through
24 her scalp laceration and then repaired her scalp
25 laceration to the best that I could. I wasn't able to

1' replace all of the bone fragments that had to be
2 removed, some of them were so small and this and that,
3 that I couldn't replace them all, so there is an area
4 where it is not covered by bone.

5 Q And where would that be? On top of her head?

6 A Yes, sir.

7 Q So she's got, basically, a space on top without skull?

8 A Yes, sir.

9 Q Or there's a hole there?

10 A There's an area that's not covered by bone, yes, sir.

11 Q Is the injury that was made to her head, is that
12 consistent with a bullet being fired into her skull?

13 A Yes, sir.

14 Q And the metallic fragments that you recovered, describe
15 those to us.

16 A I can either read from the report or I can describe --
17 There was some metallic dust within the wound and also
18 a number of small metal fragments that were sort of
19 small pieces of metal that had been flattened, for
20 instance, and I think there were two, three or four
21 pieces in various areas of the wound.

22 Q Specifically, Doctor, were you able to recover a full
23 size bullet from the injury location of her head?

24 A No, sir. There is not a fragment that looks as you and
25 I would think of a bullet before it gets fired, and

1 understand I'm not a ballistics expert, but when
2 bullets hit something hard like bone or whatever, they
3 become flattened, and the fragments that were removed
4 were consistent with that, in my opinion.

5 Q So consistent with a bullet, but you did not actually
6 recover a flat bullet from her head?

7 A No, sir, not a fragment like one pictures a bullet when
8 someone says bullet.

9 Q Okay. Now, she was discharged from the hospital on
10 April 6th of 1992. Did you continue to see her after
11 that?

12 A Yes, sir.

13 Q And what reasons would you see her for after she was
14 discharged from the hospital?

15 A I've seen Mrs. Finley a number of -- about every two or
16 three months until this past year for a variety of
17 neurosurgical problems that she's had. She had a
18 seizure, or developed a seizure disorder as a result of
19 her --

20 Q This injury?

21 A Yes, sir. And she is treated with anticonvulsive
22 medication for that disorder, and I followed her for
23 some time with that. I think she's now following, for
24 that particular problem, with someone else. She had
25 also had difficulty for about, well, for at least two

1' or two and a half years with fluid leaking from her
2 nose.

3 Q What kind of fluid?

4 A This is the fluid that surrounds the brain called
5 cerebral spinal fluid.

6 Q This is actually fluid in the brain area?

7 A It's the same fluid that circulates both within and
8 over the surface of the brain.

9 Q Would you explain to the jury why, if it is the case,
10 why this is a serious complication or a serious concern
11 to you as a doctor and especially for Valerie as a
12 patient?

13 A First of all, if fluid can get out, that means that
14 there's an open pathway which is open to organisms or
15 bacteria getting in. The fact that the fluid comes out
16 is not particularly a problem, although it can
17 sometimes give people a headache. It's bothersome, but
18 it's not much more than that. But the problem is that
19 people that have a cerebral spinal fluid leak are very
20 susceptible to getting meningitis or infection in and
21 around the brain.

22 Q And what can meningitis do?

23 A People can die from meningitis.

24 Q So it's a serious --

25 A It's a threatening --

1' Q Was that also as a result of the injury from the bullet
2 to the head?

3 A Yes, sir.

4 Q Doctor, would you tell us about the permanence of her
5 injuries that she sustained now, specifically her
6 limbs?

7 A Mrs. Finley can move her right arm quite well and
8 fairly normally. She has very little in the way of
9 voluntary movement in her left arm. She can move her
10 left shoulder, but she has no use of her left hand, and
11 she has no useful function in either of her legs. So
12 she can manage or she manages with her right arm.

13 Q And are these injuries a result of the gunshot wound to
14 the head that she sustained?

15 A Yes, sir.

16 Q Doctor, will, in your opinion, will Mrs. Finley ever
17 walk again?

18 A No, sir.

19 Q Doctor, thank you for coming down here. Thank you for
20 all the work you did on Valerie. If you would, answer
21 any of the Defense's questions.

22 CROSS EXAMINATION

23 BY MR. NIXON:

24 Q Dr. Webber, if you could, please -- my name is Ken
25 Nixon. We've never met before, have we?

1' A Not to my knowledge, sir.

2 Q I've never talked to you before. If you will, could
3 you please outline briefly the dates? You started
4 treating her, or you performed surgery on her on
5 3/2/92, correct?

6 A That's correct.

7 Q The date she was admitted, and that's the date you did
8 the surgery?

9 A Yes, sir.

10 Q And when was she discharged from the hospital?

11 A I believe the date was April 6th of that same year. It
12 was slightly more than a month after her admission.

13 Q Okay. And was she discharged to go home at that time?

14 A No, sir. She was discharged to Rotary Rehabilitation
15 Hospital.

16 Q And was that per your instruction?

17 A Yes, sir.

18 Q And the Rotary Rehabilitation Hospital is a rehab
19 hospital that helps people such as Mrs. Finley to
20 regain their motor skills and their speech and
21 communication skills; is that correct?

22 A Yes, sir.

23 Q And was that the purpose of you sending her there or
24 referring her there?

25 A Yes, sir.

1⁷ Q Now, do you practice at USA?

2 A Yes, sir, among other hospitals, but, yes, sir.

3 Q And when you send -- I assume that you saw Mrs. Finley
4 on a regular and routine basis for the first 30 days
5 while she was at USA; is that right?

6 A Yes, sir, just with the exception of a day off here and
7 there, but continually.

8 Q Sure. You wrote her orders and she was on your rounds
9 every day?

10 A We saw her every day on rounds, and there were
11 residents and other physicians involved in her care, so
12 I probably would not have personally written her
13 orders, but the orders that were written were written
14 at my direction.

15 Q I understand. And when she was discharged to Rotary
16 Rehab, did you go by Rotary Rehab and monitor her
17 progress, or did you change -- or did you refer her to
18 some other physician?

19 A No, sir. Your first question, no, I did not monitor
20 her progress while she was at Rotary. I believe -- I
21 could check, but I believe it was Dr. Brown who managed
22 her medical care while she was at Rotary Rehabilitation
23 Hospital.

24 Q Did he consult with you during that time or did he
25 pretty much take over the case at that point?

1 A He pretty much assumed the management of the day-to-day
2 care. I would receive communications from them on a
3 periodic basis but certainly not on a daily basis. If
4 you're asking did I speak with him on the telephone or
5 something, I do not recall any interaction.

6 Q Would it be fair to say that he managed her day-to-day
7 care while she was at Rotary Rehab, and you may have
8 been consulted from time to time, but he was primarily
9 telling her what to do or supervising what she was
10 doing each day while at Rotary Rehab?

11 A Yes, sir, he was managing her day-to-day care, and I do
12 not believe that I was formally consulted.

13 Q Okay. Would you give her routine examinations and
14 check-ups while she was there? Do you recall whether
15 or not you checked her after she went to Rotary Rehab?

16 A Not during her in-patient stay at Rotary
17 Rehabilitation. I did not see her between the time
18 that she was discharged from her acute care
19 hospitalization at the University of South Alabama
20 Medical Center until she returned to my office for
21 follow-up care toward the end of June, June 25th, I
22 believe. I don't believe I saw her in and between
23 those two dates.

24 Q Okay. And you have seen her on occasion since then?

25 A On the order of every two months or so, yes, sir, many

1' times.

2 Q And you have monitored her progress?

3 A Yes, sir.

4 Q Now, this type of injury entered -- what lobe of the
5 brain did the bone fragments and metal fragments enter?

6 A Primarily her frontal lobe. There were portions of the
7 injury that involved the parietal lobe, as well, also
8 the vasoganglia and the deeper structures of the brain.

9 Now, understand that those were the areas
10 that were directly underneath the skull injury and
11 in the direct trajectory of the operation. When
12 people have trauma of a significant nature like
13 that, there is injury diffusely spread in a wide
14 area of the brain, not necessarily just in those
15 two -- in that focal area. Do you understand what
16 I'm saying? I'm saying that although the injury
17 looks most severe right in the center, which is
18 where Mrs. Finley's injury was, that doesn't mean
19 that the remainder of the brain was perfectly
20 fine. It sustained some injury, as well. It's
21 just not as severe or significant as that we could
22 see.

23 Q And you were able to detect that injury or that damage
24 to the brain matter through a CT scan?

25 A The central area of injury, yes, sir. The more

1' peripheral or the injury elsewhere, one may or may not
2 see on a CT scan.

3 Q In Mrs. Finley's case, you've already told us the other
4 areas that you felt were damaged or received some
5 injury as a result of this, other than the peripheral
6 area where the initial contact was made, did you make
7 that determination about those other areas and the
8 injury to those other areas from a CT scan or MRI, or
9 did you do that based on your observations of her and
10 what motor skills were affected?

11 A Both.

12 Q Did you see that damage or could you see that damage to
13 the other areas of the brain on your CT scan that you
14 reviewed in Mrs. Finley's case?

15 A Yes, sir, you could see areas of injury, and I saw it
16 at the time with my eyes at the time of operation.

17 Q Yes, sir. Now, you said that you recovered some
18 metallic fragments. I want to touch on that briefly.
19 You're not a forensic pathologist, are you?

20 A No, sir, I'm not.

21 Q You haven't had any training in that field?

22 A No, sir.

23 Q And you've already admitted that you're not a gun
24 expert or any expert in bullet trajectory; is that
25 correct?

1 A I am not a ballistics expert, yes, sir. That's
2 absolutely correct.

3 Q Now, you said that the fragments you received were not
4 the size of a bullet, and you made mention or talked
5 about a flat bullet as if a bullet had hit a flat
6 surface. You're not telling the jury that you found a
7 flat projectile, are you, or a flat piece of metal?

8 A I found several small fragments, and they were small
9 pieces, and they would be, maybe, less than a quarter
10 of an inch in size that would have been flattened with
11 curl wedges and that sort of thing and very irregularly
12 shaped.

13 Q And would that have been consistent with the -- or
14 would her injury, in your opinion, be consistent with a
15 bullet having hit her and bounced off and some of the
16 fragments having entered her head, bone fragments, and
17 some of the metal dust and small fragments going into
18 her brain area?

19 A Yes, sir, that is consistent with an injury such as
20 that, yes, sir.

21 Q And if that had happened, then the major missile or
22 projectile would have went off somewhere else, but
23 small portions would have been left in Mrs. Finley's
24 brain. Would that be consistent, based on what you
25 saw?

1' A Yes, sir. There were a variety of fragments, some in
2 the bone, some in the brain, some in the scalp. Those
3 that were in more superficial or top areas were larger
4 than those that made it all the way in, but, yes,
5 whether the fragments I recovered represented a bullet
6 or pieces of a bullet, I'm not certain.

7 Q You didn't see -- There was no exit wound that you
8 observed, was there?

9 A That's correct. No discreet exit wound. You
10 understand that her wound was quite large. Whether
11 that represents both entry and exit or simply a large
12 entry wound, I -- but there was no separate exit wound
13 that I was ever able to locate.

14 Q Yes, sir. Now, the entire time that you treated her or
15 that she was at the hospital, would it be fair to say
16 that she had family members present in her room almost
17 constantly?

18 A My recollection is a little shaky in that regard, but
19 it seems to me she had family members visit. How often
20 they were there and how much time they spent there with
21 her, I can't speak to that at three years later.

22 Q And did you know that she had been shot before you
23 performed your surgery?

24 A I had suspicions with regard to the appearance of her
25 wound and the initial history I was given, which seemed

1 inconsistent with each other. Her x-rays showed that
2 there was both metal and bone deep within her brain.
3 Again, that was inconsistent with the history as was
4 given to me on her initial presentation. I put that
5 together as my hypothesis, if you will, how I put the
6 pieces together, so to speak, that it was a gunshot
7 wound.

8 Q So it would be fair to say at the time you performed
9 the surgery you had a suspicion that it was a gunshot
10 wound and not what you had been told, but you weren't
11 sure until you did the operation?

12 A That's -- Yes, sir, I think that's --

13 Q Now, what is the coma scale, Dr. Webber?

14 A I presume you're referring to the Glasgow coma scale?

15 Q Yes, sir.

16 A Which is a way of simplifying the neurologic
17 examination to four numbers and, really, to a single
18 number, which is useful in communication with regard to
19 a patient's neurologic status.

20 Q That's basically the way you rate them from good to
21 bad, isn't it?

22 A Yes. Rather than A, B, C, it happens to pick actually
23 15 numbers, but, yes, sir.

24 Q It would be one to 15?

25 A Yes, sir.

1' Q With what number being the best and what number being
2 the worst?

3 A Actually, three is the lowest you can go.

4 Q You're in pretty bad shape if you're three on the
5 Glasgow, aren't you?

6 A Yes, sir. You're in pretty bad shape with a three.
7 Eight is coma -- Anything lower than eight is comatose,
8 and 15 is essentially normal.

9 Q And did you do that as part of your course of treatment
10 with Mrs. Finley, did you do the Glasgow scale and note
11 it in the record?

12 A I don't recall making a formal entry in that regard.
13 One of the nice things about the Glasgow coma scale is
14 that you can go back and figure it out, usually, from
15 the information obtained in the record, which is how
16 the scale was originally developed in the first place.

17 Q And do you recall whether or not -- Well, you said that
18 when Mrs. Finley first came in, that she appeared to
19 nod in response to some questions?

20 A Yes, sir.

21 Q Could you make any impression at that time whether she
22 was understanding what you were asking her or whether
23 she was just hearing you, or could you tell? Would she
24 respond appropriately to your questions?

25 A Yes, sir, she seemed to respond appropriately.

1' Q Now, after the surgery, did you check her at that point
2 when she woke up?

3 A Yes, sir.

4 Q When she woke up?

5 A Yes, sir.

6 Q And did her abilities to respond appropriately decrease
7 for a time?

8 A At some point during the hospitalization I believe that
9 they did. I don't recall at the moment exactly when
10 that was. It seems to me it was a number of days after
11 her operation that she began to have some difficulty,
12 but I do not recall specifically.

13 Q And the difficulty that you're talking about was a
14 difficulty in understanding what you were saying,
15 understanding or responding to questions; is that
16 correct?

17 A She was generally less responsive.

18 Q Right. And during that hospital stay there were
19 occasions when you questioned her that she appeared to
20 be disoriented and non-responsive?

21 A There were periods when she was less responsive than at
22 other times. I don't recall her being disoriented, but
23 there were times when she was less responsive than, for
24 instance, than she had the day before.

25 Q And when was it when she was able to speak to you; do

1' you recall?

2 A No, sir, not from my memory.

3 Q Do you recall whether it was weeks or days after the
4 operation?

5 A I don't recall without additional reference to a
6 record.

7 Q Now, did you ever experience any problem with her
8 responding to you while she was in the hospital,
9 appropriately responding to your questions?

10 A I'm not sure I understand your question. I think that,
11 yes, I mean, there were times when she was clearly
12 poorly responsive. In other words, she was not very
13 well -- and that's to me, as well as to other people
14 that were taking care of her.

15 Q Okay. I guess what I'm saying, as part of your follow
16 up after you do brain surgery on someone, it's part of
17 your follow up that you ask them questions regarding
18 their identity and whether or not they're oriented to
19 the date and time and place, isn't it?

20 A Yes, sir.

21 Q And that's part of your check to see how they're doing
22 after surgery?

23 A Yes, sir.

24 Q And did you do that with Mrs. Finley?

25 A Yes, sir.

1' Q In fact, every day when you went in the room you would
2 ask her some questions to elicit that response, right?

3 A Yes.

4 Q And what I'm asking you now is were there occasions
5 during that period when she did not respond to you
6 appropriately.

7 A Yes, sir. If I remember correctly, there were times
8 when she did not respond at all.

9 Q Okay. I'm not really asking you about those. What I'm
10 asking you is, in other words, did you ask her at any
11 time, do you know what year it is and she told you the
12 wrong year, or do you know where you are and she told
13 you the wrong place? Do you recall that happening?

14 A I don't recall.

15 Q You don't know?

16 A As I say, I could probably refer to a record and
17 refresh my memory, but I don't recall at this point.

18 Q Now, just briefly, the areas of her brain that received
19 the injuries, could you tell us what those areas
20 generally are responsible for, as far as, for example,
21 speech, motor skills, etcetera?

22 A Well, the things that most significantly impact her,
23 she had an injury to the anterior cerebral artery,
24 which is the blood vessel that supplies the area of the
25 brain which controls the legs, and, of course, the

1' injury to that blood vessel is why her legs don't work
2 well for her.

3 There was area of white matter or the axons, which
4 is more like the cable portion of the nerves in the
5 central area of her brain, injury to that area is most
6 likely responsible for the trouble that she has with
7 her left arm.

8 She also has areas of her brain where the fiber
9 bundle where the nerves from one half of the brain talk
10 to the other half of the brain, those have also been
11 injured to a very significant extent.

12 Q Would it be common for a person who receives an injury
13 such as the one you observed in Mrs. Finley to suffer
14 some effect to her memory and her capability to
15 remember events?

16 MR. JORDAN: Judge, I would object to "somebody
17 like." I would like him to be referred to
18 this particular patient through his
19 experience, instead of a generality. I
20 object to the form of the question.

21 THE COURT: Overruled.

22 A I'm sorry. Could you ask the question again?

23 Q Yes, sir. Would it be common for a person, a person
24 who received an injury as Mrs. Finley did, to suffer
25 some type of problems with her memory?

1' A Patients that have had very severe injuries,
2 particularly head injuries, may have some memory
3 problems in the acute period. Surprisingly,
4 considering the magnitude of her injury, I've never had
5 that particular problem with Mrs. Finley.

6 Q But you said you haven't reviewed your records
7 completely, have you?

8 A I haven't reviewed -- I have my records. I do not have
9 the hospital records.

10 Q As far as you know, Mrs. Finley has never voiced any
11 memory problems to you; is that what you're saying?

12 A That is correct, and I never had any difficulty. She's
13 been a wonderful patient. She's done everything I've
14 asked and she's followed my instructions every time
15 we've had interaction. I've had no reason to question
16 her memory in my interactions with her.

17 Q Did you refer her to speech therapy because her speech
18 was not appropriate when she was discharged from the
19 hospital?

20 A Her speech was not appropriate when she was discharged
21 from the hospital. I don't recall whether I referred
22 her specifically for the speech therapy or whether that
23 was part of her rehabilitation program.

24 Q And do you recall when you came by discussing her
25 condition with family members who had been in the

1' hospital with her, her husband, her mother, her sister?

2 I know it's been a long time, Doctor.

3 A Yes. I'm sorry. The question?

4 Q Do you have any independent recollection of speaking to
5 her family members when you came around, made your
6 rounds to check on her?

7 A Yes, sir. I don't remember specific conversations, but
8 I do remember speaking to a number of her family
9 members.

10 Q Do you remember speaking to her husband?

11 A Yes, sir.

12 Q Do you remember speaking to her mother?

13 A I remember speaking to a number of female family
14 members. I'm not sure I can identify who was who. In
15 other words, whether the person I was speaking with was
16 the mother or sister, aunt or -- I'm uncertain there.

17 Q And would they tell you how she had been doing while
18 they had been sitting in there?

19 A Yes, sir.

20 Q I believe that's all. Thank you, Doctor.

21 THE COURT: Anything further?

22 MR. JORDAN: Doctor, thank you very much for
23 coming down.

24 THE COURT: Thank you very much, Doctor.

25 I was asked by Mary was there a chance

1' we would go past 5:00, and the answer is no,
2 there is no chance. We will be out of here
3 by five or before, and I realize it's five
4 after four.

5 All right. Captain, you've already been
6 sworn in, right?

7 MR. DEES: Yes, sir.

8 CAPTAIN FRANK DEES

9 having previously been sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. JORDAN:

12 Q Tell us your name for the record, please.

13 A Frank Dees.

14 Q And, Frank, you're a captain now with Prichard Police
15 Department; is that correct?

16 A Yes, sir.

17 Q And did you have an occasion back on March 2nd of 1992
18 to go to the home of Mrs. Valerie Finley?

19 A I did.

20 Q And is that address on that home 1736 Meadow Avenue?

21 A Yes, it is.

22 Q Is that in Whistler, Alabama?

23 A Yes, sir.

24 Q Is that in Mobile County?

25 A It is.