

STATE OF TEXAS)	IN THE DISTRICT COURT
V.)	HARRIS COUNTY TEXAS
WILLIAM IRVAN)	180 th JUDICIAL DISTRICT

WRITTEN INTERROGATORIES OF MACK ARNOLD ATTORNEY AT LAW

Please answer the following questions and ultimately swear to the truthfulness of your answers before a notary public.

1. Please state your name and your profession:

2. What is your level of certification by the Judges of Harris County, Texas and the 2nd Administrative Judicial District?

3. When were you appointed to represent William Irvan in the 180th District Court?

4. How many attorney's represented Mr. Irvan at trial, and what was your position in the trial of this case?

5. Were the responsibilities divided up in this case. If so how, if not what was the understanding of each attorney's responsibility.

6. What was your understanding as to why Wayne Hill was relieved from representing Mr. Irvan in this case?

7. Did you ever discuss with Mr. Hill as to why he asked to be removed from further representation of Mr. Irvan? (If so give us the gist of the reason)

8. At any time prior to the trial of this case did Mr. Irvan tell you that he had a consensual sexual relationship going on with Michelle Shadbolt before and at or near the time of her murder?

(Yes) (No) circle one.

9. If the answer to number 8 is yes, what did he tell you?

10. Did you ever talk to or discover any other witnesses who had information concerning any type of a romantic relationship going on between Irvan and Michelle Shadbolt during the time period mentioned in question number 8? If so give their names.

11. Did you or your team talk to George Caldwell before or during the trial of this case? If so what information did he give to you?

12. Why was he not used as a witness in this case, if you know?

13. Did you or your team discuss the relationship issue with a witness by the name of Darlene "Dee Dee" Hughes? If so, what do you remember her saying about the alleged relationship?

14. Were there any other possible witnesses to this relationship between the victim and Mr. Irvan that he gave you names of?

15. At what point, i.e. that is before the trial, or during trial was it decided that the consensual sex defense was not going to be used?

16. Do you remember the basis or reason that the consent defense was not going to be used? If so, what was that reason?

17. During Ms. Siegler's opening statement she established the time line for the capital murder. She stated: "and you are going to hear that that night Michelle had gone out to play Bingo with some friends and got home about 3:00 in the morning. And she was found by her stepmom the next morning at 8:00 o'clock." (RR20, 25)

During opening statement Ms. Siegler also established her position that the person who had sex with Ms. Shadbolt was the same person who killed her. She also established her position that the sexual contact was a rape. For example, "And you can tell how hard she fought the person who killed her and who raped her." (RR20, 23)
She also established her position that the last person who had contact with her alive was William Irvan. See the following:

"One thing you are going to know is that the last human - - or I guess I should say inhuman contact she ever had alive was with this defendant William Darin Irvan. How do you know that? Because of the miracles of modern technology. Because of the miracles of modern science. Because we now have in law enforcement a tool, a wonderful tool called D.N.A. evidence." (RR20, 23)

She also established during her opening statement that her position that no fingerprints at the scene matched William Irvan. That even though no fingerprints matched him that was not a big deal. "and you are going to learn that in the real world, in this real world, unlike the T.V. world, fingerprints aren't like what you hear about on T.V. That when you have a lot of blood all over the place, like you do in this case, that even lessens the likelihood even more that identifiable matched prints are going to be recovered from the crime scene." (RR20, 26)

Was it clear to you then before the first witness was called that the State's position was that William Irvan killed and raped Michelle Shadbolt in the same episode, and that episode took place between 0300 when she returned home from playing Bingo, and 0800 of the same day when she was found by Kathy Masters?

18. If it was clear to you after opening statement that the State would take the position that the murder occurred between 0300 and 0800 of the morning that she was found dead, had you also already decided what your trial strategy would be? Specifically, had you already made your mind up, at that time, that you would not present a consensual sex defense?

19. If the answer to number 18 was yes, Why?

20. If the answer to number 17 was no, why not? Also, when was that position finalized?

21. During the trial the State called as a witness a person named Kathy Masters. She was the step-mom of the complainant, Michelle Shadbolt.. She testified that the complainant and her husband Jack Shadbolt were separated at the time of the murder, and that they had been separated for about six weeks. She testified that it was the Complainant who separated from Jack. She also testified that the separation was because of Jack's drinking. (RR20, 34,35)

She also testified that she and her husband would see the Complainant about two or three times a week back then, and that they lived about a mile and half or two miles away from each other. (RR20, 35)

She was then allowed to testify, without objection to the following:

Question by Kelly Siegler: "Okay. When Michelle separated from Jack had she begun yet to date any other men?"

Answer by Kathy Masters: No.

Siegler: Were there any other men in her life at all?

Masters: No, she was through with men." (RR20, 35)

It was important to the State that there was no reason for any man to be at her house the night or morning of the killing other than the murderer. It was also important for the State's position that there be no romantic or consensual sexual relationship between the Complainant and William Irvan. Knowing that, why did the defense choose not to object to the testimony of Kathy Masters, a person who only saw the Complainant two or three times a week during the six week period of her separation from her husband, that the Complainant was not seeing any other men and that she was through with all men? Wouldn't that either be mere speculation on her part since she only saw the Complainant two or three times a week? Or, would it not have to be the result of hearsay statements made to this witness by the Complainant, which would never have been the subject of confrontation by the defense team?

22. Was the failure to object to the above reference testimony of Kathy Masters trial strategy or was it just something that was missed during the heat of battle? If it was trial strategy, please explain?

23. Kathy Masters was also allowed to testify, without objection to the following:

Siegler: "Did you have an agreement that day with Michelle to babysit Ashley?"

Masters: Yes.

Siegler: What was that agreement?

Masters: She was going to bring Ashley by and then she was going to go play Bingo.

Siegler: Okay, She was going to bring Ashley by after she got Ashley from where?

Masters: After she got off from work and picked her up from Sybil's.

Siegler: And Michelle was going to go where?

Masters: She was going to play Bingo with some ladies from work, from her work.

Siegler: Yes. She got there a little after 5:00 and like 5:15 she had dropped everything, got her potty chair and everything, because Ashley was training - - potty training, dropped her off, and we were having dinner, and Michelle left.

Why did the defense choose not to object to the substance of the agreement between the Complainant and Kathy Masters as being hearsay and denying the right of confrontation?

24. Was the failure to object to the content of the Masters/Shadbolt conversation referred to in the last question an instance of trial strategy, or was it just something that was missed during the heat of battle?

25. After the testimony of Kathy Masters a time line of between 5:15 or 1715 hours on February 13, 1987 until 0800 hours on February 14, 1987 had been established. After the testimony of Kathy Masters that time line or window of opportunity for the killer to have struck was set. The State wanted to narrow that time line as much as they could. So through the next witness after Kathy Masters, the State called Harris County Sheriff's

Officer William Hilden. During his testimony the following occurred:

Assistant District Attorney: "Okay. You were careful to preserve all the evidence?"

Hilden: Yes, ma'am.

Asst. D.A.: Okay. Did you have a reason to talk with a witness by phone?

Hilden: Yes. Ma'am, I believe the lady passed away now, but there was a woman that had been, according to Miss Masters, been out playing Bingo with her.

Asst. D.A.: Okay, do you remember what that woman's name was?

Hilden: I'll check back in my report. Mary Sinkbush.

Asst. D.A.: You spoke with Mary Sinkbush?

Hilden: Yes, ma'am.

Asst. D.A.: Okay. Did you, after speaking with Mary Sinkbush, determine approximately what time the victim had last been seen?

Hilden: She told me approximately - - about 2:50 a.m.

Asst. D.A.: And did you make note of the time that she was last seen alive in your report?

Hilden: Yes, ma'am. I believe that was - - Miss Sinkbush told me that she last saw her at 2:50 a.m. when she was playing Bingo with her and she had left.

Asst. D.A.: Okay. And that information is important for the homicide detectives to know; right?

Hilden: Yes, ma'am." (RR20, 58,59)

Now, the time line had shrunk to between 0250 hours and 0800 hours on February 14, 1987. Why did the defense choose to make no hearsay or denial of confrontation objection to the testimony of William Hilden as he testified to what Mary Sinkbush told him over the phone?

26. Was the failure to object mentioned in question number 25 a result of trial strategy or just something missed during the heat of battle?

27. Do you agree that the more narrow the window of opportunity the easier the State's case becomes when you know that their case is dependent upon the DNA evidence showing that William Irvan had sexual intercourse with the Complainant, and they want the jury to believe that whoever had sex with her had to have also killed her?

28. The defense team member who questioned William Hilden was Dick Bax. How did Mr. Bax become a member of the defense team in this case?

29. Was Mr. Bax certified by both the 2nd Administrative Judicial District and the Harris County Board of Judges to handle either first or second chair capital cases at the time of the questioning of William Hilden?

30. Was the allowing of the time line to be narrowed to between 0250 hours and 0800 hours on the morning of February 14, 1987, by the hearsay testimony of one witness telling what another now deceased witness told him over the phone, a result of trial strategy by the defense team or was it something that just slipped by during the heat of battle?

31. During the trial the State called the mother of the Complainant as a witness. Her name was Jacqueline Barrett. She testified as follows:

Siegler: "How often did you talk to Michelle in the weeks before she was killed?"

Barrett: Two or three times a week.

Siegler: Where were you living then?

Barrett: I was living in Nacogdoches, Texas." (RR20, 104)

The State again wanting to cut off any chance of a consensual sex defense asked this witness:

Siegler: "During the time that Michelle was separated did she tell you of any interests she had in dating any other men?"

Barrett: No." (RR20, 104)

This witness was cross-examined by Bob Loper. Was it trial strategy to allow her to testify to the above concerning her not having interests in any other men at the time of her death at trial without raising a hearsay and denial of confrontation objection? If so, what was the trial strategy?

32.

Did the defense team have any intention of placing into evidence a consensual sex defense during the trial? If so what was that plan?

33. During the trial the State called Detective Rossi of the Harris County Sheriff's Dept. Det Rossi was ultimately cross examined by Bob Loper. Rossi testified, in pertinent part on direct with Siegler asking the questions, as follows:

Siegler: "When you asked those people, Sam and Brenda Rarquhar, and Rhonda White, and Pauline Shadbolt, where Jack Shadbolt had been that night and into the early morning hours, was what they told you consistent or inconsistent with what Jack Shadbolt himself had told you he had been?"

Rossi: Consistent. (RR20, 55) and;

Siegler: "Up until this time that we are talking about so far, did you have any hard physical evidence linking Jack Shadbolt to the murder of Michelle?"

Rossi: No, ma'am, did not.

Siegler: Had you found any inconsistencies in his story of his whereabouts during the time, the crucial time that you were worried about him?"

Rossi: No, ma'am.

Siegler: Other than the fact that they were separated, did he tell you anything that lead you to believe there was some other motive he would have had for killing Michelle?"

Rossi: No, ma'am." (RR5, 67,68)

Was there some trial strategy for allowing Detective Rossi to allude to hearsay statements made to him by Jack Shadbolt and others that, in Rossi's opinion, would help free Jack Shadbolt as a suspect and thereby make the jury have an easier time focusing on William Irvan? If so, what was it?

