

Crown Witness #1 – Constable Drake

You are a member of the local R.C.M.P. On November 24, 1991, you were called to 1352 Juniper Street about 9:30 p.m. There you observed the body of a young woman, Roxanne Andrews. She was lying in a bedroom, fully clothed. You counted twenty-five cuts through her clothes, which were marked by blood, and you took photographs. (One of these is Exhibit 1.) You took fingerprint impressions throughout the house but none of these belonged to the accused. You also seized various hair samples found within the house, but none were matched to the accused.

You searched the house that night and returned the next morning to conduct further investigations. You did not find anything which might have been the murder weapon. You did notice a glass of water in the kitchen by the sink.

Exhibit 2 is a photograph of the house taken by you on the morning of November 25, 1992.

On March 31, 1992, you were called to 1575 Midnight Drive about 7:20 p.m. There you observed the body of a woman, Cleo Sims. She was lying in a bedroom. Her skirt was pulled up and her pantyhose were pulled down. She was naked from the waist down. You counted twenty-two cuts through the clothes on her back, which were marked by blood, and you took photographs. (One of these is Exhibit 3.) You took fingerprint impressions throughout the house, but none of these belonged to the accused. You also seized various hair samples found within the house, but none were matched to the accused.

You searched the house that night and returned the next morning to conduct further investigations. You did not find anything which might have been the murder weapon. In the foyer of the house you observed many muddy footprints which you photographed (Exhibit 4).

Exhibit 5 is a photograph of the house taken by you on the morning of April 1, 1992.

On August 3, 1992, you accompanied Sgt. Haney to the Mitchell home to arrest Travis Mitchell. After Mitchell had been taken away by Sgt. Haney, you searched his bedroom. You found a Lloyds calculator, which you seized (Exhibit 6). You also found a pair of running shoes, which you seized (Exhibit 7).

When you returned to the detachment you compared the tread on the shoes to the muddy footprints shown in the photograph, Exhibit 4. You observed that one footprint seemed very similar.

On December 13, 1992, you were called to attend at the schoolgrounds of the local high school about 9 a.m. There, lying clearly visible beside a walkway, you observed a lady's purse, which you seized (Exhibit 8). In the purse you found a wallet, some make-up, a comb and various other unremarkable items. There was no calculator among the contents.

Crown Witness #1 – Constable Drake *(continued)*

On cross examination, you will agree that you cannot say with certainty that the shoes you found in the accused's bedroom were the shoes which left a print in the house at 1575 Midnight Drive many months earlier, you will also agree that they are quite a common type of running shoe.

On cross examination you will recall that a Texas Instruments calculator was found later in the day on December 13, 1991, upon the same school grounds where the purse was found. This calculator will become Exhibit 9.

Crown Witness #2 – Mr. Sims

You are the widower of Cleo Sims. She was a real estate salesperson. On March 31, 1992, she was holding an open house at a new house. You and she had planned to attend a Sacred constituency meeting that night, and you went to pick her up at about 7:15 p.m. When there was no response to your knocking on the front door, you opened it and went inside. You found your wife dead in a bedroom and immediately called the police. You remained at the scene and were there when Cst. Drake attended. (You will identify the scene which Cst. Drake photographed.)

You will say that your wife always carried a calculator in her purse and that you are certain Exhibit 6 was hers.

You will identify your wife's purse, Exhibit 8.

On cross examination you will reluctantly agree that you cannot be absolutely certain that Exhibit 6 was your wife's calculator.

Crown Witness #3 – Sgt. Haney

You are the member in charge of the General Investigation Section (G.I.S.) of the town's R.C.M.P. detachment. In June 1992, you received a tip from a confidential informer to the effect that Travis Mitchell's brother, Roland, was the killer of Roxanne Andrews and Cleo Sims.

Roland Mitchell is a man well known to you and you obtained an order from a judge allowing you to place a wiretap on Roland Mitchell's phone. You knew that Travis Mitchell was living with his brother and that he was involved in some small time soft drug dealings. You therefore decided to arrest him also. You did not much care about the drugs he was apparently selling, but you hoped that when you questioned him, he might provide information involving his brother in the murders.

On August 3, 1992, at about 10:00 a.m. other officers advised you that they had arrested Roland Mitchell at the Ranch Hotel. You immediately went with Cst. Drake to the Mitchell home, where you found and arrested Travis Mitchell.

When you arrested Travis Mitchell, you said to him:

"Travis, I am a police officer. I am arresting you for trafficking in marijuana. It is my duty to inform you that you have the right to retain counsel without delay. You are not obliged to say anything, but anything you do say may be used in evidence against you. Do you understand?"

Travis Mitchell replied, "No."

You then said, "Travis you have to come down to the police office with us now for trafficking in marijuana. Do you understand that?"

Travis Mitchell said that he did understand that.

At the police office you interviewed Travis Mitchell first, from 11 a.m. until noon. In your opinion, this interview produced no useful information concerning the killings. The interview was terminated so that you and he could eat lunch.

During the lunch break you talked to Cst. Drake, who told you of finding the calculator and running shoes in Travis Mitchell's Room. Cst. Drake showed you the shoes and the photograph, Exhibit 4, to compare. Cst. Drake also told you that she had called Mr. Sims, who confirmed that his wife had always carried a calculator in her purse. You therefore began to suspect that Travis Mitchell might be the killer.

You resumed interviewing Travis Mitchell at 1:30 p.m. (The tape of this interview will be played. It begins with a badly garbled Charter warning. The jury members will be given copies of the interview transcript, Exhibit 10.)

When the interview with Travis Mitchell ended, he was placed in cells. You had arranged to have Cst. Kake in the cells also. You did that because you hoped that Mitchell would make more admissions to Cst. Kake, who was told to pretend that he had been arrested for the possession of five pounds of marijuana. Travis Mitchell and Cst. Kake were left together from 4:00 p.m. until 5:30 p.m. You then removed Travis Mitchell from cells and asked him to accompany you in a police car to show you the places the killings had happened and to locate the purse belonging to Cleo Sims and the knife used to kill her.

You drove your police car with Travis Mitchell in the front passenger's seat. You first drove towards the place where Cleo Sims had been murdered. This place is about three city blocks from the place where Travis Mitchell was living.

You then went down the old Dairy Road where Travis Mitchell said he had thrown away the purse belonging to Cleo Sims and the knife he used to kill her. You stopped the car when Travis Mitchell directed you to do so, and the two of you got out to search for the knife and the purse. You did not find those things, but while you were looking, you asked Travis Mitchell how he felt after he had committed the murders. Travis Mitchell responded by saying that he had wondered when he would be caught.

You then drove to the place where Roxanne Andrews had been murdered. As you slowly drove along, you pointed to the house at 1352 Juniper Street. Travis Mitchell said he wasn't sure, but thought that was the house where he killed Roxanne Andrews.

You returned to the R.C.M.P. detachment about 7 p.m. Travis Mitchell was returned to cells (again with Cst. Kake) and given dinner.

At 8:45 p.m. you removed Travis Mitchell from cells and took him to an interview room. You then told him that he was going to be charged with the murders of Roxanne Andrews and Cleo Sims and that you wished him to write out a statement. You also told him that he did not have to do this and that if he did, the statement would be used as evidence. You said that he had the right to telephone a lawyer and if he could not afford to pay a lawyer, legal aid was available.

Travis Mitchell said that he did want to talk to a lawyer, and you, therefore, took him to the telephone. Travis Mitchell spent four minutes in the telephone room, and then left. He told you that the lawyer he had called was on holidays.

You said, "Well, you have a choice, you can either wait and call a lawyer later, or you can come back with me to the interview room."

Travis Mitchell replied, "I'll come back with you." In the interview room you asked Travis Mitchell to write out his statement, and he did that. (The statement is Exhibit 11 and you will read it to the jury.)

After obtaining Travis Mitchell's statement, you returned him to a jail cell and called for Dr. Vinos to attend and examine him.

In the morning of August 4 you were monitoring a wiretapped telephone call made by Garth Mitchell, a brother to Travis Mitchell. You then heard Garth Mitchell ask Travis Mitchell if he knew his rights and Travis Mitchell replied:

"Yeah, the right to remain silent, I know. I have the right to remain silent. Anything I say can and will be used against me in the court of law. I have the right to speak with an attorney, or to have an attorney present during questioning."

You will also recall that Travis Mitchell told his brother, "I watch TV, man, I know what's going on."

On cross examination your testimony will focus on the following issues:

- a) You will agree that you knew from the beginning of your investigation that Travis Mitchell is mentally handicapped. The officer in charge of your detachment had told you that. He said to be particularly careful to deal with Travis Mitchell fairly. You will add that you found Travis Mitchell "cunning."
- b) You will maintain that you really did arrest Travis Mitchell for a drug offence, not simply to get information concerning the murders.
- c) You will say that you did not tell Travis Mitchell that he was going to be charged with the murders until a very late stage in the investigation because "once he's at the police office he can be questioned about anything at all."

d) You will agree that after talking to Cst. Drake during the lunch break on August 3, you were convinced that Travis Mitchell had committed the murders and that nothing could change your mind. You therefore became determined to “lead him and draw it out” and to “do anything legally in my power” to get a confession.

But you will not agree with the suggestions that you browbeat Travis Mitchell until he simply gave up and adopted your version of the killing.

e) You will strenuously disagree with the suggestion that you lied to Travis Mitchell when you told him that a witness had seen “somebody who looks exactly like you” at the house where Cleo Sims was murdered. (But you will agree that you cannot name any such witness.)

f) You will strenuously disagree with the suggestion that you lied to Travis Mitchell when you suggested that his fingerprints had been found in the house where Cleo Sims was murdered. (But you will agree that his fingerprints were not found there.)

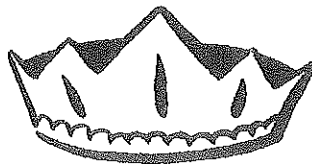
g) You will acknowledge that Roxanne Andrews was not sexually assaulted when she was murdered.

h) You will agree that when you went on the “show and tell” tour of the crime scenes with Travis Mitchell, he did not correctly identify the house where Cleo Sims was murdered. Rather, he pointed out the house across the street. You then pointed out the correct house, and he agreed.

i) You will recall that before taking Travis Mitchell’s written statement, you asked him if he could read and write. He said that he was “good at it.” But you will recall that it took him nearly an hour to write out Exhibit 11.

j) You will read to the jury the entire transcript of the phone call between Garth Mitchell and Travis Mitchell (Exhibit 12).

k) Finally, you will agree that Travis Mitchell has been in custody continuously since he was arrested on August 3, 1992.



Crown Witness #4 – Dr. James Vinos

You are a general practitioner. You came to this town after completing your internship six months ago.

On August 3, 1992, at about 10 p.m. Sgt. Haney called to request that you attend at the R.C.M.P. detachment to examine a prisoner. He wanted you to take hair and blood samples and to see if the man was a "mental case."

You arrived at the detachment at 11:30 p.m. and examined Travis Mitchell in one of the detachment offices. You knew what his charges were.

You will say that Travis Mitchell was co-operative during your examinations. He was quite willing to provide you with both head and pubic hair samples and blood samples. During the course of your examination, you observed extensive scarring upon Travis Mitchell's upper body.

You told Travis Mitchell that you had to ask him some questions to learn if he was "crazy" or not. You consciously tried to keep things simple and straightforward.

You asked Travis Mitchell some questions to see if he knew the difference between right and wrong, and he showed a "good judgement of those concepts." He then surprised you by rather suddenly saying he expected to get twenty-five years for having murdered two women.

At that point you changed your line of questioning and asked Travis Mitchell to tell you why he had done the killings. His response was to the effect that he was very "frustrated" with women, who were always teasing him and laughing at him. You will recall that Travis Mitchell said he "just couldn't hold it in anymore."

You will say that you knew that Travis Mitchell was supposedly mentally handicapped, but you found him to be "a fairly articulate young man" and "insightful" as well. You concluded that Travis Mitchell was not insane and that he was fit to stand trial.

On cross examination you will agree that you have no specific training in the field of psychiatry. You will say that when Travis Mitchell told you he killed the women because he was "frustrated," you did not sense that he was merely adopting and repeating a suggestion made to him by police. You believed him.

Finally, on cross examination, you will say that you estimated Travis Mitchell's I.Q. to be about eighty and that a "normal" I.Q. is one-hundred.