

ON RESUMPTION ON 27 AUGUST 2007: (at 10:12)

MR DE BRUYN: May it please you M'Lord, Learned Assessors. I call as the first witness today, Mr Paul Francis Ryder.

5 PAUL FRANCIS RYDER: (sworn states)

MR DE BRUYN: Can we just have the spelling of your surname, Ryder.

MR RYDER: R-Y-D-E-R

EXAMINATION BY MR DE BRUYN:

10 Thank you. Mr Ryder, I have requested you to try and speak a bit slower, so that we follow each other and especially for His Lordship and the Learned Assessors to follow you properly. You have been approached in this matter, and I will deal with your qualifications and experience and employment
15 as yet, in a moment, to render an opinion in this case on what is called the, let us call it the print on the bathroom floor of the deceased's flat. Is that correct? --- That's correct, I have, yes.

Now, are you employed by the Forensic Science Service?

20 --- I am, yes.

Is that a trading name for Forensic Science Service Ltd, and is that a United Kingdom government fully owned company? --- It is, yes.

As a consequence of the request to you, have you
25 prepared a report which sets out your opinion? --- I have,

yes.

M'Lord, may I hand that up. Your Lordship will see it consists of two reports. The one is a very short one and with your permission we have marked it Qx7(1), which is dated the
5 3rd of February 2007, and Qx7(2) which is dated the 7th of February 2007.

SHORT REPORT DATED 3RD OF FEBRUARY 2007 HANDED UP AS EXHIBIT Qx7(1)

REPORT DATED 7TH OF FEBRUARY 2007 HANDED UP AS
10 EXHIBIT Qx7(2)

MR DE BRUYN: Thank you M'Lord, may I proceed?

COURT: Yes.

MR DE BRUYN: Thank you. Mr Ryder, would be so kind to read out your report, where I deem it necessary I will interrupt
15 you and I am sure His Lordship will do the same. So if you could just start reading from: "Qualifications, Experience," etcetera, just read that out for us please. ---

"I am a Bachelor of Science with a First Class Honours Degree in Chemistry from the University of
20 Manchester, England. I am a Chartered Chemist and a Member of the Royal Society of Chemistry. I am also registered as a Forensic Practitioner with the Council for the Registration of Forensic Practitioners. I have been employed as a Forensic
25 Scientist by the Forensic Science Service in the

United Kingdom since 1989...”

...(intervention)

'89? --- '89, yes.

Yes. ---

5 “...and I have carried out many investigations,
involving the comparison of footwear with marks
recovered from crime scenes. I have worked as
part of the Major Incident Team covering the North
West of England and North Wales since its
10 inception in 2001, working primarily on homicide
cases. I have considerable experience in the
location, recovery and enhancement of marks at
scenes of crime and in particular the location,
recovery and enhancement of marks made by
15 bloodstained footwear. I have also carried out
many examinations involving the recovery of trace
particulate material on clothing and footwear.”

Do you consider yourself qualified to express the views
stated in this report? --- I do, yes.

20 Now your company and you yourself, you have referred
to primarily homicide cases, do you work primarily with
criminal cases? --- Yes, that's right.

And could you just inform His Lordship, insofar as your
work is related to State work for police or for civil, how would
25 you state that? --- The vast majority of the work undertaken

is undertaken for the police forces in investigation of crime.

Could you put a percentage roughly on it? --- I would say about 99% of the work I do is for the police.

For one of the police forces in the United Kingdom? ---

5 That's right, yes.

I believe there are how many forces in the United Kingdom? --- 41.

41. Okay. Could you go to your "Background Information" at page 2 and read that for His Lordship, please.

10 ---

"In summary, I have been provided with information that at 22h30 on the 16th of March 2005, the body of Ms Inge Lotz was discovered within her flat. Shiraz, Flat 21..."

15 excuse my pronunciation, in Klein Wel ..."

...(intervention)

Welgevonde Landgoed, in Cloetesville. ---

20 "...in Cloetesville. Her body was discovered on a sofa in the living room of her flat. She had suffered blunt force injuries to her head and various stab wounds to her neck and thorax.

25 A mark was found on the bathroom floor, believed to have been made by a bloodstained item. This mark was recorded and was the subject of a chemical treatment. The mark has been compared

with a pair of shoes seized from the apartment of Fred van der Vyfer on the 15th of April 2005. The mark was reported by Bruce Stuart Bartholomew of the South African Police Service, to correspond
5 with the right shoe.

I have been asked to offer an opinion in relation to the reported correspondence between the mark and the shoe. To assist and informing the opinion, I requested further information in relation to the
10 scene and the examinations carried out. I have been provided with a number of documents and sets of photographs stored on a compact discs and via e-mail. These include:

- An account of the alleged sequence of events.
- 15 - Statement of Peta Janet Davidtsz, dated 9th of March 2006.
- Statement of Dr Rachel Johanna Adendorff, relating to an incident.
- Direct translations of statements made by
20 Bruce Stuart Bartholomew, dated 22nd of August 2005, and 8th of September 2005.
- Sketch plan drafted by Inspector D Share on the 21st of April 2005.
- A folder of photographs labelled as 'Photos
25 05-03-17.'

- A folder of photographs labelled 'Photos 05-04-28.'
- A folder of photographs labelled 'Photos 05-06-09.'
- 5 - A folder of photographs labelled 'Photos of Shoes.'
- A folder of photographs labelled 'Photos summary of relevant.'
- And a Powerpoint presentation showing the
10 'Bathroommark timeline.'
- I also received copies of correspondence with William J Bodziak."

Yes, continue please. ---

15 "I have also received separate further images of a Hi-Tec sport shoe, and ink prints from a shoe of the type depicted in the photograph."

Can I just stop you there. You were a bit puzzled yesterday because you referred me to the statement of Ms Davidtsz, which referred to a Nike shoe instead of the Hi-Tec
20 sports shoe and is it correct, I have indicated to you that that is merely a mistake, that the shoes are in fact Hi-Tec sports shoes? --- That's correct, yes.

Thank you. Could you continue, please. ---

25 "I have referred to each of the above, in considering the significance of the findings in this

case. It should be noted that the correspondence with Mr Bodziak is listed above, as it contains information pertinent to the interpretation undertaken by Mr Bartholomew. My interpretation is independent of any conclusions drawn by Mr Bodziak. Similarly, I have been provided with, and read, a report prepared by the independent expert, Michael R Grimm. My conclusions are again drawn independently of his.”

10 Thank you. Could you continue, please. ---

“During assault or homicide, during which blood is spilled, it is possible that the under surface of soles of a pair of shoes can come into contact with wet blood. The initial contact with the wet blood will stain the under surface of the shoe. Often a clear indication of where the blood has been picked up by the shoe from the bloodstained surface can be seen. This usually manifests itself in the form of a bloodstain containing a negative image of the under surface of the shoe. I.e. areas of bloodstain, where the blood has been taken away.”

You’re talking about the source of possible blood marks then? --- Yes, effectively a pool of blood which the shoe can stand in.

25 Yes. ---

5 “Whilst there is wet blood on the surface of the shoe, each subsequent contact between the floor and the shoe will leave a positive bloodstain impression of the tread of a shoe, as the blood is transferred from the surfaces of the shoe that come into contact with the ground. Each consecutive mark will bear progressively less blood until all the wet blood has been removed from the shoe, or the blood dries.”

10 Yes? ---

“As wet blood is a liquid, the pressures applied when the shoe comes into contact with the ground, will tend ...”

...(intervention)

15 You have got – I am sorry, you have got “to”, should it be “with” the ground? --- That’s correct, yes.

With the ground. Yes, please continue. ---

20 “...will tend to force the blood to the edges of the pattern elements, in contact with the ground. This leaves a thin film over the contact surface and a collection of blood held in place by a capillary action on the edges of the pattern elements. Often this phenomena will manifest itself in marks made by bloodstained shoes, with the deposits of blood
25 being heaviest at the edges of the pattern

elements.”

Yes, please continue. ---

5 “A significant contact between a shoe and wet
blood can result in blood being forced up into parts
of the tread that do not normally come into contact
with the ground. However, unless this part of the
shoe comes into direct contact with the surface,
then this part of the shoe cannot produce an
impression of that part of the shoe by transfer the
10 blood.”

Please continue. ---

15 “The appearance of the marks made by
bloodstained shoes, can be enhanced by
application of chemicals. This process involves
fixing the mark by rendering it insoluble and adding
a chemical that reacts with the blood.
This treatment chosen will depend ...”

sorry,

20 “...the treatment chosen will depend on the surface
and the type and colour of it.

A dye will be chosen that will give the maximum
increase in contrast between the background and
the mark after treatment. Some processes allow
the fixative and dye to be added in combination.

25 In this case, I understand that the chemical Amido

Black has been used. This is a chemical that reacts with proteins, including those in blood.

5 The resultant mark from such a treatment will appear dark blue. The chemical used is sufficiently sensitive to stain marks left by bloodstained shoes that will be very feint or otherwise invisible without the treatment. The chemicals will also react with diluted blood and hence it is likely to reveal any areas where blood has been cleaned up, showing
10 distinct white marks.”

Thank you. Please continue. “The examination of the mark on the bathroom floor.” ---

15 “From the information provided, I understand that the scene comprises an open plan kitchen and a living area. On entering the address via the front door, off to the right of the living area, beyond the kitchen is a small hallway. Off this is a bedroom with an en-suite bathroom, a bathroom (described in some documents as the guest bathroom), and a
20 second bedroom being used as a study.

The mark under consideration is clearly visible as a red-brown stain crossing a line of the grout on a tile floor of the guest ...”

and that should read:

25 “...bathroom.”

You said "bedroom", is that a mistake? --- That was a mistake, yes.

It should be "bathroom." --- Yes.

5 "The early photographs of this mark show this mark as being adjacent to a bathmat and a towel.

Later photographs of this mark show that the appearance of this mark has been altered relative to the original photographs. In this photograph the lower edge of the mark has what has been described in some of the documentation received as a square appendage. The intensity of the red-brown staining in the surrounding areas of the marks, has also decreased. The appearance of a mark such as this, made in blood, will not alter after the stain has dried, unless it is a subject of physical force, or it becomes wet. I understand that a sample ha been taken from the stain for the purpose of DNA analysis."

10

15

Can I just stop you there. Subsequent to this report, you did receive a communication from myself in this regard, and your second report deals with that. Is that correct? --- That's correct, yes.

20

Thank you. ---

"It is usual to take samples by means of a swab that has been wet with sterile water. It is also advisable

25

to take the sample prior to applying any chemical treatment to the mark, in blood, as these have a tendency to reduce the likelihood of obtaining a DNA profile.

5 Overall, therefore, it is my view that the change in the appearance of this mark is most likely to be an artefact introduced into the mark as a result of sampling the blood. As such, this appendage should be ignored in any comparison between the
10 mark and any footwear.”

Photograph 3. ---

“Photograph 3 depicts the mark after the treatment with Amido Black. This process involves the treatment of the mark with a chemical fixative and
15 the protein stain, Amido Black. It is apparent that areas of the mark have not taken up the stain. This can occur when using Amido Black on heavy bloodstaining, as the blood is not always properly fixed, particularly if the stain is treated using the
20 fixative in the stain in a combined form.

The application of the dye has considerably enhanced the appearance of parts of the mark. There are no features clearly visible in this mark indicating a disruption to the edges of the stain,
25 that are likely to relay it from where the impact of

the bloodstained item has come into contact with the floor. These features and the general appearance of the mark, indicate that this object was heavily stained with wet blood and has had a relatively forceful contact with the ground.

The lower edge of the mark in the photograph has a distinct curve shape, likely to relate to the shape of the object from which the mark has been made. There is also some shape to the upper portions of the mark of the grout.

I have compared this mark as a whole with the inked impressions that I have been provided. It is my understanding that these impressions have been made by a representative of the South African State, from the shoes seized from Fed van der Vyfer. This comparison initially considered the class characteristics of the shoe and the mark. I.e. those features that will be present on each pair of shoes of that pattern type and size. Such as the pattern elements and the positions of them relative to each other. Beyond that, any character that might be unique to that shoe, for example the way in which a shoe has been worn and any features of damage that there might be on the shoes, was taken into consideration.”

Can I just stop you there please. When one investigates and compares a mark with a possible shoe, what is the first thing that one looks for, what comparison is made first? --- The first thing you would consider, is whether the pattern type
5 in question is the same as the pattern type of the mark.

Is that what is referred to as the class characteristics?

--- That's right, yes.

If you find no class characteristics, what is the accepted scientific method of dealing with this? If there are no class
10 characteristics, do you continue to look for unique feature or not? --- No. If there are no class characteristics that correspond, then it would be considered to be an elimination and that shoe can not have made the mark.

Thank you. Could you then continue with the second
15 paragraph: "It is apparent..." ---

"It is apparent from examination of the prints, that they relate to a left shoe and my understanding is that the mark is purported to have been made by a right shoe. A direct comparison between the mark
20 and an impression, known to have been made by the right shoe in question, has not been possible. Information contained within the correspondence with Mr Bodziak, indicates a reluctance by Mr Bartholomew to produce impressions with the right
25 shoe, due to the presence of sand in the tread.

This was considered to be delicate and so contributed to the mark and it was his intention to preserve this feature. From reference to the picture of the foot ...”

5 Sorry,

“...pictures of the foot were provided. There is no evidence that the impressions have to date been produced with this right shoe. Ink can be seen on the left shoe, but not on the right.”

10 Yes. May I just ask you this. Were you shown these shoes by me yesterday when we consulted? --- I was, yes.

The actual physical shoes. --- Yes.

Was that the first time that you actually saw them? --- It was, yes.

15 Thank you. Just continue, I will come back to that. ---

“It is my view that if a comparison is undertaken, that control or known prints should be made with the shoes with which the mark is to be compared. In this case, I have to work on the assumption that
20 the left shoe is an exact mirror image of the right shoe. During the comparison no area was found on the shoes that correspond with the shape of the curved edge visible within the mark. The two bars within the mark also converge towards the lower
25 parts of the image.”

Now could you just stop there. Just indicate to His Lordship and Learned Assessors what you mean by that and which marks you are referring to please, or bars. Just from the photos that you have there in your report. --- The parts of
5 the mark I was referring to with bars, are these two
...(intervention)

COURT: To what are you referring?

MR DE BRUYN: Sorry, what are you referring to now? ---
This is the photograph of the mark...

10 Oh I see, that is – do you have that in your report? It is
the one just before, on page 5. --- Photograph 3, yes.

Photograph 3. I think stick to your report. --- Certainly.

Photograph 3 on page 5. --- With reference to
photograph 3, the bars I was referring to are these
15 ...(intervention)

Oh, the two upper marks? --- Yes.

If I may call them that. --- Yes.

In other words the sort of a, close to a V mark? --- Yes.

Above the grouting? --- Yes.

20 Thank you. The bars then on the footwear. ---

“The bars on the footwear are parallel.
Furthermore, there are no features within the mark
that I would expect to see had the mark been made
by this or any other shoe and that wet blood has
25 not been forced across the contact surface to the

edges of the pattern elements.””

Yes? ---

“The blood is relatively evenly distributed and not what I expect had this shoe made the mark.”

5 Could I just stop there. Your finding about class characteristics, do you find any class characteristics between the mark and the shoe? --- No, I haven't.

Thank you, continue. ---

10 “In relation to the possibility of sand adhering to the shoe, having contributed to features within the mark, I make the following observations.

Sand adhering to the soles of footwear, is a transient feature. I would expect it to be lost quickly from the under surface during normal wear, a factor that Mr Bartholomew has taken into account when considering the fragile nature of this sand. For the sand to have left features within the mark at the scene, it would also have had to come into contact with blood. Therefore, if the sand was still present on the shoe that had contributed to the mark, I would expect it to be bloodstained.

20 No blood was detected on the shoes, according to the statement of Peta Janet Davidtz, even when the shoe was treated with luminol, which is an extremely sensitive means of detecting blood.

25

Therefore, taking this all into account, the sand referred to cannot, in my opinion, have contributed to the mark in the blood at the scene.

5 In addition, had the shoes been cleaned subsequent to the alleged production of the mark, I would expect the sand to have been removed, offering a further reasoning as to why the sand cannot be relevant to this case.”

10 Could I interrupt you there please. I would like to show you (indistinct – away from microphone) M'Lord. In the presence of my learned friends this morning, Director Trollop and I have reached agreement that the police have not fiddled with the sand in the shoe and the police ...(intervention)

COURT: I am sorry, that the police have not?

15 MR DE BRUYN: The police have not fiddled with the sand in the shoe and neither have the defence. So these are the exact particles of sand that are in the shoe and that are referred to all the time. I would like to hand this up to Mr Ryder, and then up to Your Lordship please and if Your Lordship would like to
20 make use of a magnifying glass, I have one ready for you. Would you have a look at that - just very carefully Mr Usher, please. Do you see the sand particles in the groove? --- I can, yes.

25 And did you see that yesterday as well when I showed the shoe? --- I did, yes.

Any comment on those particles before I hand the shoe up to His Lordship?

COURT: What is the exhibit number of this shoe?

MR DE BRUYN: I think Exhibit 2, M'Lord.

5 COURT: 1?

MR DE BRUYN: 1. I am sorry, Exhibit 1. --- The sand particles, in my view, are so deeply recessed within the tread of this shoe that they couldn't possibly come into contact with the ground when producing a mark.

10 Could you just hand up the shoe to His Lordship, with the magnifying glass?

Thank you. Mr Ryder, having physically now seen the sand in the groove, in the shoe - in your report you have expressed an opinion that you did not think that the sand could
15 have caused any marks on the floor, do you have any opinion now that you have seen the actual shoe with the actual sand particles in the groove? --- The location of the sand particles in those grooves could not, in my view, have come into contact with the floor, so therefore it can not have contributed towards
20 the mark.

"The second area then", continue please. ---

"The second area of staining visible in the later photographs, pre and post treatment with Amido Black, has no features that correspond with the
25 shoes of Fred van der Vyfer.

Mr Bartholomew concluded that in respect of type, size, place position and relation of the unique characteristics to each other, the class of the shoeprints correspond with the right shoe, which belongs to one Mr Frederick Barend van der Vyfer. From this it would appear that he accepts that there are no unique features to associate the mark with the shoe and the correspondence is only in terms of class characteristics."

10 Could I just stop you there. You have been informed since, that Mr Bartholomew now was of the opinion that some of the white marks that are seen on the black mark, after the treatment with Amido Black, has been contributed, or have been made by the sand particles in the shoe. So he is looking, he is now saying that those are unique marks. You know that now? --- I know about that, yes.

Any comment on that? --- As I explained earlier, I do not think that those sand particles could have contributed to the mark, because of the position of the sand on the shoes and because of the nature of sand being transient and the absence of blood within that sand. The features also shown within the mark that has been treated with Amido Black, appear white. Now Amido Black reacts with blood to give a dark blue stain, so where the white areas are within that mark, means that there is no blood at that point within the pre-stain marks. But

if we refer back to the stain before it's treated, those areas within the pre-treated mark are clearly red, which would indicate to me, that the Amido Black has not worked properly and areas of the bloodstaining have come away, explaining the
5 white features. And that can be seen quite clearly in the upper parts of the mark where large areas of the bloodstaining has been removed by the subsequent treatment.

Thank you. Could we go back to your report. I think the last sentence in that paragraph: "I have found no", could you
10 continue with that. "I have found no scientific evidence..." ---

"I have found no scientific evidence to indicate that the right shoe of Fred van der Vyfer has made the mark within the bathroom, and therefore disagree with the correspondence in terms of class
15 characteristics expressed by Mr Bartholomew."

Thank you. Could you continue with: "Further points to consider." ---

"In reaching an overall conclusion in this case, I have taken into consideration a number of other
20 factors at the scene of the incident and these are summarised below.

The marks found within the bathroom, i.e. the mark originally visible and which was initially obscured beneath the towel on the bathroom floor. As far as
25 I can ascertain, are the only marks that have been

found. No trail of marks leading to or from the position in which the marks were found, were observed. Contrary to my expectations had the mark been made by footwear. It could be argued that due to the light coring of the floor tiles throughout the murder scene, that an offender may have observed marks that his footwear may have left and these were cleaned up before the offender left the scene. However, the walls and floor of the lounge and bathroom were treated with Amido Black.”

Could I just interrupt there. I have explained to you that is was our understanding that the walls and floor of the lounge have also been treated with Amido Black. The subsequent evidence, I think, of the police was that the lounge itself, if I am correct, had not been treated with Amido Black, but only the bathroom floor and walls. Okay? --- Right.

Then, continue. ---

“Due to the sensitivity of this treatment I would expect the application of this dye to identify areas where any such cleanup had taken place. As far as I am aware, no such areas were identified.

Consideration needs also to be given as to how the shoe could have become bloodstained in the first place, to then deposit further marks. The only

areas of significant bloodstaining within the scene, that I observed, were on the deceased herself and where blood had drained from her injuries, collecting at the end of the saucer on the floor.

5 This was, however, mainly located between a table and the sofa and therefore could not be readily stood in. There are also no visible signs that anyone has done so.

10 Significantly, in the bathroom it can be seen that the towel on the floor adjacent to the mark also bears extensive red-brown stains and what appears to be large amounts of hair. Red-brown staining is also visible within the sink basin. As will be expected, had a bloodstained item been washed in

15 the sink.

From the statement of Mr Bartholomew it is apparent that he has given consideration to the possibility that a potential weapon has been wiped clean on the towel, and attempted to conduct

20 experiments to demonstrate this. Had a bloodstained weapon, or implement, been carried into the room and then placed or dropped on the floor, it is likely to have left an impression of the shape of the implement. It is had then been picked

25 up and wiped or washed, the presence of a single

impression could be readily accounted for.”

Your overall conclusions then. ---

5 “Mr Bartholomew concluded that ‘in respect of type, size, place, position in relation to the unique characteristics to each other, the class of the shoe prints correspond with the right shoe which belongs to one Mr Frederick Barend van der Vyfer.’ I disagree with this conclusion. It is my opinion that this mark has not been made this shoe.

10 In my opinion, the sand adhering to right shoe of Fred van der Vyfer, cannot be relevant to the investigation, due to the time scales between the seizure of the shoe and the lack of blood on it.”

15 And now would you add something to it, now having seen the shoe? --- Further, due to the location within, deep within the tread of the shoe, it could not possibly come into contact with the ground, in my opinion.

Thank you. ---

20 “In the circumstances of the case it is my overall view that the mark within the bathroom does not relate to the shoes under consideration and it is extremely unlikely to relate to any shoe. It is my view that the mark is most likely to have been produced when a bloodstained implement has been
25 placed on the bathroom floor, whilst the offender, or

offenders, wash themselves and/or the items responsible for the mark.”

Fine. Now, do you confirm those views? --- I do, yes.

Then you have prepared a second report, that is dated
5 the 7th of February 2007, Qx7(2). Just read that, the first paragraph first please. ---

“It has come to my attention that there is a
typographical error in page 4 of my report dated 3rd
of February 2007. In paragraph 2 it states: ‘The
10 mark under consideration is clearly visible as a red-
brown stain, crossing the line of grout on the tile
floor of the guest bedroom.’ This should read: “The
mark under consideration is clearly visible as a red-
brown stain, crossing the line of grout on the tile
15 floor of the guest bathroom.’”

Now may I just before you continue - M’Lord, I have
explained to my learned friends, when the instructions were
given to Mr Ryder we only had the report of Mr Kock as to the
scraping of a mark, which was made in June 2005. We had not
20 yet received any report by Mr Koekemoer and we as the
defence were totally unaware that there was going to be an
allegation that a swab had been taken and that was then
indicated to Mr Ryder before 7 February. Your Lordship, I do
not have the exact number now, but Mr Koekemoer’s report
25 regarding a swab is dated later and was handed to us shortly

prior to his evidence. This just by way of explanation. Could you just continue then Mr Ryder please. --- Certainly.

5 "I have also been provided with further information with respect to the sampling of the mark for the purpose of DNA analysis. I understand that the sample for purpose was taken on the 9th of June 2005, and was taken by means of scraping a sample of blood from the stain.

10 The photographs showing the appendage to the mark were taken on the 28th of April 2005, prior to the sampling. The change in the appearance of the original mark cannot therefore be as a result of a sampling of the mark for the purpose of DNA analysis in the circumstances. A change in the appearance is also not what I would expect, had the
15 mark been scraped as alleged."

The next paragraph please. ---

20 "It is my opinion that the mark must have been wet in some way to allow the observed change in appearance. If the DNA sample was taken from this item as suggested, on the 9th of June 2005, I am unable to offer an explanation relating to the change in the appearance of the mark in question that occurred between the original scene
25 photographs, I understand were taken on the 17th of

March 2005, and the photographs taken on the 28th
of April 2005.”

Thank you. M’Lord, there is one aspect that I have not
specifically dealt with, I would just like to consult very shortly.

5 The witness arrived yesterday morning in South Africa and I
hope Your Lordship understands. I wonder, I would need
about 15 to 20 minutes I think and I was wondering if it is
worth the while to do that and not to adjourn. Can I just have
a word with my learned friend for the prosecution, so that we
10 do not waste time? My learned friend agrees that if Your
Lordship would agree, that we could stand down till 11:30.

COURT: Yes, stands down till 11:30.

MR DE BRUYN:

Thank you, M’Lord.

15 COURT _____ ADJOURN: (at 10:49)

ON RESUMPTION ON 27 AUGUST 2007: (at 11:46)

PAUL FRANCIS RYDER: (still under oath)

EXAMINATION BY MR DE BRUYN: (Continued)

May it please you, M'Lord. Thank you for the
5 opportunity, M'Lord. Mr Ryder, just in conclusion. Would you
be so kind to go to page 6 of your first report? That's 7 x
Q(1), the two shoes. --- Yes.

The left shoe shows Photograph 4; right shoe – ag, I'm
sorry, the left photo shows Photograph 4, right shoe, and then
10 on the right there's photograph – right shoe, is that a mistake?
Should be left shoe? --- That should be left shoe, yes.

It does say underneath: Photo shows left shoe – shows
left. Thank you, M'Lord. That is the evidence in chief.

NO FURTHER QUESTIONS BY MR DE BRUYN

15 CROSS-EXAMINATION BY MS TEUNISSEN:

Mr Ryder, as I said earlier this morning, welcome to Cape
Town. --- Thank you.

While we're at the shoes. On 7 x Q1, page 6. The –
when did you see the shoes the first time? --- Yesterday.

20 Yesterday. And your examination of the shoes, was that
just a visual examination? --- It was, yes.

A visual examination. --- Yes.

You didn't take any measurements, or done any
experiments with the shoes? --- No.

Thank you. Now, Mr Ryder, in your – on the first page of your report, you indicate that you carried out many investigations; you've got considerable experience. Now I consider that to be slightly vague. Can you perhaps embroider
5 on that? Maybe give the Court more of an idea what you mean by 'many investigations'? --- I've compared hundreds and hundreds of marks with pairs of shoes, and been involved in a large number, it will be hundreds of different murder investigations.

10 Over what period of time? --- Over 18 years.

18 years. And on the average, how many murder scenes do you attend in a year? --- It will be 20 to 30 a year. I'd be investigating between 6 and 10 murders at any one time.

Good. And how many of those, would you say, you need
15 to use your expertise as a shoe print, or blood mark ... --- Virtually all of them.

Virtually all of them? --- Yes.

Does that always also be shoe prints (sic), or would it be other different kind of blood marks? --- It would be shoe prints.

20 And only shoe prints? --- In terms of comparing the marks. I compare footwear marks (indistinct) scenes with pairs of shoes.

Now if you can then go to – I'm just going to ask you a few general questions, Sir, today, and then we'll proceed again
25 tomorrow with more technical questions, okay? But when you

said that you received an account of the alleged sequence of events. Can you give the Court an indication what was this account that you've received? By whom was it compiled, and what was the contents of that account? --- I have a copy of it
5 here. It was a document that was sent to me with the other documents that I was presented in the case. I understand that this has been put forward by the defence team – a sequence. That's my understanding of it.

Okay. Is it a written document, or is it a photographic
10 document, like this one, saying time line? --- This is a written, just a written document.

Okay. And was this a document that was compiled before the case started, before the evidence was led? --- I'm sorry?

15 Can you give the Court an indication of the date of that document? --- It was produced prior to me producing my report on the 3rd of February 2007, but there is no actual date on the document.

Okay. Was it a summary of the evidence that – from your
20 opinion, that was contained in the docket? --- It appeared to be, yes.

Is there a summary of the statements of Mr Bartholomew, perhaps, as part of that document? --- Yes.

Can you please read it out to the Court? --- There's a
25 section here dated the 18th of April 2005.

5 “It’s a Supt Bartholomew, SAPS, declares later, in A131A that, on this date he compared all the shoes confiscated from Fred on the 15th of April 2005 with a dust lift from the scene, but none were identical. It would appear as if the comparisons were made through the clear plastic of the sealed bags, as he later declared that the seals were only opened on ...” (intervention)

10 Mr Ryder, you are – I’m sorry to interrupt you. You speak quite softly naturally, and now you also – your head has been down. Would you mind lifting up the dossier that you’re working from and perhaps reading a little bit louder? Because I’ve got difficulty following you. --- Okay. Would you like me to
15 start again?

Please.

20 --- “Supt Bartholomew, of SAPS, declares later, in A131A that, on this date, he compared all the shoes confiscated from Fred on the 15th of April 2005 with a dust lift from the scene, but none were identical. It would appear as if the comparisons were made through the clear plastic of the sealed bags, as he later declared that the seals were only
25 opened on a later date for the first time.”

And it says: See below.

5 “28th of April 2005. Supt Bartholomew
declares, A131A, that he revisited the scene
for the final clearance thereof, with special
focus on the alleged blood impression. We
refer to ‘alleged blood’, because, to this day,
no proof has been supplied to us that it wasn’t
blood. A sample was taken for DNA analysis,
but to date no results have been provided,
10 and thus no proof exists that it was, indeed,
blood. Bartholomew declares that, after the
Amino Black treatment, various additional
marks appeared, which were photographed by
Supt Koekemoer, directly according to size.
15 Photograph 4 was apparently taken on this
date, as it is clear that the fingerprinting of
the scene, which was done on the 17th of April
2005, was completed. The photograph also
depicts substantial traffic, according to the
20 dirt impressions on the bath mat. When
digital (?) zooming in on the mark, O4B, this
was done by the defence, and is not an
official police photograph. It appears fairly
consistent with the original mark, O2, with no
25 additional marks visible. In the series of

5 photographs supplied to us, the next one, 05, shows a close-up of the mark, with a significant deviation from the first mark. Significant is the fact that both the thin line originally obscured by the (indistinct) , as well as the alleged impression, have been contaminated, or diluted, and, in the case of one impression, there is a square protrusion added to the mark. Our local expert, Mr Dan
10 Becker, refers to this mark as a 'nipple' in his report. Photograph 6 is another photo of this altered mark, with a different angle, and with a ruler placed next to it. Important to know here is that the altered, contaminated marks
15 are still red, and that the additional altered, contaminated marks did not appear as a result of the Amino Black treatment, but are clearly visible even before Amino Black. In the series of photographs supplied to us, it is also
20 significant that after Photo 6, labelled DSCF0399, precede (indistinct) photos 28th of April '05, and another similar photo, DSCF0400, taken at the same scene, but then a number of other photos follows, depicting
25 other places in the flat before photo 07

follows. Labelled as the last of a series of three, differing only in the light intensity, being DSCF0421, DSCF0422, and DSCF0423. There is thus a gap between photos DSCF0400, and DSCF0421. Significant here is that 07 was taken after apparently being treated with Amino Black. Some questions come to mind. Could the lapse in continuity of the series of photographs between 06 and 07 be explained as a need to wait for the alteration of (indistinct) dilution to dry before Amino Black could be administered? Comparing photos of the mark immediately before the Amino Black treatment, to one after the Amino Black treatment, 07, areas on the floor that was clearly red in colour, did not react with the Amino Black, and appears white on 07. It should also be noted that there is proof that Inge bought a Steers hamburger on the afternoon of her murder, and the empty Steers container was found in the dustbin in the kitchen."

Okay. Mr Ryder, maybe you can help me out here. I presume you're read through this document before you started

looking at all the other exhibits that was given to you. You know, the ... (intervention) --- Yes.

Okay. And can I put it to you that that was not a factual – there was – somebody – the person who's written the
5 document, has come to certain conclusions. Would you agree with me? --- It is a summary produced by someone who's looked at the evidence, yes.

Ja. About what the evidence may suggest. --- Yes.

Okay. So when you've read through it, would you say
10 that that had any influence on you? --- No. None whatsoever.

Why not? --- Because I looked at the statements of all the – that have been provided by everybody else, and looked at the marks in question, and considered them independently.

Sir, no, with all due respect, you are just human. Now if
15 there was suggestion that the marks was tampered with, would you not look more closely to what is presented to you? If that suggestion was made to you. --- I'm sorry, I don't understand.

When you go into a scene, a murder scene ... --- Yes.

Cold. --- Yes.

20 You've got no information, except that you know there's a person that was murdered, and your mind is not contaminated by any suggestions about police that have tampered with the scene or anything like that. --- That's right, yes.

In this instance ... (intervention)

COURT: Sorry, was there an indication in that report that there had been manipulation or tampering with evidence?

MS TEUNISSEN: I think the suggestion was that there was a significant change in the blood mark.

5 COURT: But was it suggested that that was as a result of tampering and/or manipulation?

MS TEUNISSEN: M'Lord, this is how I understood it when the witness read it out ... (intervention)

COURT: Did you – well, how did you understand that,
10 perhaps? Because I'd just like to know that. To what extent did you understand that to be indicative of some kind of manipulation and/or tampering of evidence by the South African Police ... --- I understand ... (intervention)

Investigating this matter? --- Sorry, M'Lord. I understand
15 that there was a difference between the original mark as it was photographed at the scene, and photographs taken at a later date. I was asked to look at those changes to offer an opinion as to what might have caused it, and my view, initially, from that, was that the mark had been diluted in some way, and,
20 from my experience of dealing with scene examination and recovery of marks and samples for DNA, the most likely explanation, in my view, from looking at the photograph cold, was that a swab had been taken to recover DNA analysis. That was my initial view, from looking at it. I couldn't comment
25 on whether that manipulation was directly a result of that, or

whether it was a deliberate attempt to manipulate the mark.
I'm not in a position to make a comment on that.

MS TEUNISSEN: But it ... (intervention) --- But ...

Is it correct that it was suggested to you that this blood
5 mark – this mark was contaminated or diluted? That was
suggested to you in the report that was sent to you. --- It was
suggested, and observation of the photographs also supported
that view.

But that is my question. Would you have come to that
10 conclusion if that was not suggested to you? --- If I looked at
the photographs without that suggestion being made to me, it's
quite plain that there is a difference, and when you look at the
difference, it's because the mark is diluted in that specific
area, and the boundaries of the mark had changed.

15 COURT: Would that have been relevant at all to your
findings? Would it ... (intervention) --- No.

Have made any difference? --- Because the mark had
clearly been altered, I did not take that part of the mark into
account in forming my opinion whatsoever, because it was not
20 the original mark that was at the scene.

MS TEUNISSEN: If you say 'that part of the mark', can you
perhaps – that is – there's almost like a half-moon shape at
the bottom, at the lower side of the grouting. Is that correct?
On the one side of the grouting. Do you agree with me? --- In

reference to my photograph and the report, it would be this ...
(intervention)

COURT: Page? --- Page 4, there's a photograph at the bottom, M'Lord, Photograph 2. Just below the grout there is
5 the curved line, and just below the curved line is a square appendage. That is not visible in the mark above that, at Photograph 1, and, therefore, that part of the mark was ignored during my comparisons, because it was not part of the original mark.

10 MS TEUNISSEN: But what I'm trying to establish, Mr Ryder, is that just the half of the half-moon shape, as I call it - you can disagree with me whether it's a half-moon shape - just the half of the half-moon shape that you ignored, or the full half-moon shape that you ignored? --- It was the alteration beyond
15 the original boundary of the mark, it was the, what has been described as a nipple in the document (indistinct) square appendage.

The appendage, the square appendage. --- Yes.

Just that little bit. --- Just that little part on the mark
20 (indistinct) yes.

Okay. Now maybe I can then go onto the next aspect of the correspondence, or the information that as given to you, and that was the correspondence with Mr Bodziak that was given to you. --- Yes.

How many – what was given to you, as far as the correspondence with Mr Bodziak is concerned? --- I have been presented with two documents sent from P J de Bruyn SC to Mr Bodziak, and which were dated 26th of September 2006, 5 and the 19th of December 2006, and a response from Mr Bodziak dated the 19th of December 2006.

So the letter dated the 9th of December 2006, does that start with:

10 “Dear Mr De Bruyn, I’m just now in receipt of your letters dated September 26, 2006 and December 19, 2006.”

Is that the letter that was given to you ... (intervention) --- Yes, that’s correct.

15 M’Lord, that is part of the – Exhibit A, the plea explanation (indistinct).

COURT: What page is it that you’re referring to now?

MS TEUNISSEN: M’Lord, that is Appendix FDDD6.

COURT: Oh, yes. Ja, hierdie goed het nou hulle nommers verloor. You know, the one that I have before me goes up to 20 FDDD4, and ... Ja. Bodziak Forensics. Is that what you’re referring to?

MS TEUNISSEN: Bodziak Forensic. Yes, M’Lord, that letter.

COURT: Yes.

MS TEUNISSEN: You also indicated there was a letter, is it 25 to or from Mr Bodziak, on the 19th of September? --- There’s a

letter – sorry, 19th of December 2006 there was a letter to Mr Bodziak.

And that was your – sorry, the 26th of September. Is that ... (intervention) --- Right. There's one dated the 26th of
5 September.

Okay. Just a moment. I see the judge is (indistinct).

COURT: Just one moment. Yes, thank you. Yes?

MS TEUNISSEN: Thank you. Sorry, Mr Ryder. Just to get
back to my question. The document, you indicated the date
10 was 26th of September. Was that a letter from, or to Mr
Bodziak? --- That was a letter to Mr Bodziak.

Addressed – who sent the letter to Mr Bodziak? --- It's
signed by P J de Bruyn.

Good. Can you please read that out to the Court? And,
15 again, I think you will have to lift it up. So sorry.

--- "I refer to our telephonic conversation of
Friday 15th of September 2006. I'm very sorry
to worry you. As I explained to you, our
client's trial commences on the 9th of October
2006, and time is running short. I am the lead
20 counsel for the defence of Mr Van der Vyver.
I am assisted by two of my colleagues, Adv B
J Pienaar and Adv T N Price. I have
established from the prosecutor, Adv C
25 Teunissen, that you are not regarded as a

State witness. I have also requested the State to provide all documentation in regard to the visit to your good selves. The defence is entitled to this information, but, to date, we have not received anything. Adv Teunissen has also indicated to my colleague, Adv Price, that Mr Bartholomew has informed her that you supported his opinion that the mark in the bathroom is that of a shoe belonging to our client. We would appreciate it very much if we could receive your input on the following.

1 What exactly did Mr Bartholomew request from you, and did he request anything in writing? If anything in writing exists, may we please be provided with a copy thereof? How many photographs were shown to you by Mr Bartholomew, and what were they about? What is your opinion regarding the alleged shoe mark that allegedly matches that of our client's one shoe? What was your opinion expressed to Mr Bartholomew? We would appreciate any other input that you might think relevant in this regard. Thank you

for your kind assistance in this matter.

With kind regards.”

Okay. Now is it correct that, after that correspondence, and then the letter that I've also indicated to you, on the 19th
5 of December – dated 19th December 2006, that Mr Bodziak disagreed that – with the opinion of Mr Bartholomew? You were aware of ... --- I was aware of his disagreement, yes.

And that was, indeed, before you started with your examination of the documentation presented to you. --- It was,
10 yes.

The same with – it was – you were also in possession of Mr Michael Grimm's report, or not? --- That's correct, yes.

There's one other folder of photographs that you mentioned in your summary of documentation that you
15 received, and that was Photos Summary of Relevance. What did you mean by that? --- That was the label that was attached to the folder. I was provided with a folder of photographs that bore that label.

And this – these photographs, are they similar to the
20 folder of photographs dated 17th of March, 28th of April, and 9th of June? Or is it completely different photographs? --- These are the photographs that I was provided in that folder, which ...
COURT: Which form part of your own report now. --- Well, they're contained within my case file.

Yes. --- I understand that these are photographs that have been taken from folders from the other ...

Well, perhaps you should just show them to counsel. Would you like to see them?

5 MS TEUNISSEN: M'Lord, the Court may just (indistinct) to view them. The State is of the opinion that (indistinct) ... (intervention) --- Oh, sorry.

(Indistinct). --- Can I just ...

Sorry. --- Stop you there? I've actually given you the
10 wrong photographs there. These are the photographs ... (intervention)

Sorry? The wrong photographs. --- (Indistinct) the wrong section.

COURT: Is that from a different case? --- No. No, it's the
15 same one.

MS TEUNISSEN: No, M'Lord, they also look familiar to me. --- Those were photographs that I received by e-mail ... (intervention)

COURT: Well, judging from your reaction, I thought it might
20 be. Just show it to counsel, please.

MS TEUNISSEN: Thank you, M'Lord.

COURT: Right.

MR DE BRUYN: May I just quickly ...

MS TEUNISSEN: Mr Ryder, would you agree with me that
25 those are just a duplication of photographs that comes from

the three other groups of photographs that you've been given?

--- Yes, I would.

Thank you. Now have you had a opportunity to consult
with Mr Bodziak and Mr Grimm ... (intervention) --- No, I have
5 not.

I'm not talking about now, but before you compiled your
report? --- No.

You did not. --- I did not consult with them, no.

Now in your experience, when you have a scene where
10 there's a lot of blood, and it's fairly warm – you know, we are
familiar with the Cape, and in March it's fairly warm – what is
your experience, how quickly would blood dry when it drops on
the floor, or ... --- Drops on the floor would dry relatively
quickly.

15 Are we talking about seconds, or are we talking about
minutes? --- We're talking about minutes, but, depending on
the temperature, that can be cut down to ...

Okay. And when we have the blood dropping on the
floor, does it start drying from the inside out, or outside in, or
20 is there a different ... --- It would start to dry from the edges,
and work towards the middle.

So when you have, you know, a big splatter of blood on
the floor, would you expect, if it's been there for a bit before
somebody steps into it, or would you expect it to have little,
25 you know, a darker edge, and then, moving inside, more wet

substance in the middle? --- You would expect – it all depends on when that person stood in the blood. If that blood has been stood in some considerable time after it's been deposited, then you would get a different set of results than you would if it was
5 stood in if it had just landed on the floor.

Am I correct that, if I read your report, that the way you look at this, that mark, this - on the floor, that your impression is, or that your opinion is that the mark has been deposited there by something, by an object? --- The mark has been
10 deposited, yes. It's come from contact with a bloodstained item.

Have you considered at all that the blood was there, and then the – whatever object was on top of – or was impressed on the blood, which left the mark? Or what is your opinion? ---
15 There's nothing to suggest that's the case. It appears to be a contact stain that has been left by an item that was bloodstained.

Okay. So do I understand you correctly, that, if I have a object, there's blood on it, it was left there by the object after
20 it touched the floor. --- Yes, that's my opinion.

So it's not blood on the floor, and then – so you stepped into it. --- It doesn't appear to be that, no.

Now when you look at the murder scene, or a – I'll call it a murder scene, where there was violence, are you familiar
25 with the concept that sometimes the blood splatter formed

almost like a shadow, where there was something in its way?

--- A void.

A void, or a shadow, the way that I put it. You ...
(intervention) --- Yes. Yes, I'm aware that that can occur.

5 When you studied the photographs of the scene, do you
recall seeing such a void? --- To move into blood pattern
analysis and blood spatter, that is beyond my field of
expertise. I am a marks examiner. --- Okay. So you don't look
at the blood spatter.

10 I have received training in it to give me a basic
awareness so that I can have an informed opinion when I go to
scenes, but I am not considered to be an expert to provide
such evidence.

 From your examination of the photographs of this scene,
15 would you have expected – am I correct that you would have –
you expected that there would be, you know, that you could
see somebody walking away from their living room into the
bathroom, and, therefore, see the blood marks, the stain marks
on the tile floor? --- I would expect that if that mark had been
20 made by a shoe, that there would be a trail from where the
blood source was picked up, to where the mark was deposited.

 You can't think of any other scenario how the blood could
have been on the shoe, and then in the – then the mark was
deposited on the floor, still by the shoe? You can't think of
25 any other scenario? --- There are scenarios where you could

get blood on a shoe, then transported, and then put that down, if blood was transferred, that the shoe was not being worn. But that is one scenario.

Okay. You have seen Dr Adendorff's report. Is that
5 correct? --- Yes.

You've seen that it was a blunt object that was used, you know, to the head, and ... (intervention) --- Yes.

That was the cause for the wounds on the head. Is that correct? --- Yes.

10 Now you've also indicated that you've seen there was substantial blood in the washbasin. --- Yes.

And on the tile that was in the bathroom on the floor. --- Yes, that's right.

Have you considered that, because of the voids, you
15 know, which was testified about in the blood patterns on the floor, that this person may have not stepped into blood and walked to the bathroom, with no blood on the sole of the shoes, and to wash the blunt object, or maybe his or her hands? Have you considered that? --- I have considered the
20 possibility that some items were carried into the bathroom and placed on the floor and left that mark. Based on the examination of the scene, and looking at the scene photographs, and all the information I've been given, that opinion – that will, in my opinion, be the most likely reason

why we have a single mark in the bathroom, and no other marks leading up to or away from it.

So you don't exclude that that is a possibility, that the blood mark was – or the blood was carried to the bathroom; it
5 (indistinct) was transported with a shoe to the bathroom. --- In my view, that is, by far, the most likely explanation for the blood being in the bathroom.

Okay. Now if you had a bloody object in your hand ... ---
Yes.

10 And you're trying to clean it, but you also see there is maybe blood on your shoes and you're trying to, you know, just clean that away, can you consider that blood could have got onto the sole of the shoe, and, in your fumbling, put your shoe on and step onto the floor? Can you completely exclude
15 that scenario? --- In – I'm not sure I follow the scenario that you put. With ... (intervention)

While you're trying to clean yourself up, Sir ...
(intervention) --- You're wearing your shoes at the time ...
(intervention)

20 Yes. But you're trying to – and then you see, maybe on top of your shoes, you know, on the top part of the shoe, there's maybe also blood; you want to take – you take your shoe off, trying to clean it, and in the process, you know, some of the blood on the blunt object may come - you know, deposit
25 – be deposited on the sole of the shoe. Can you exclude that?

--- Well, if you were wearing the shoes it would be likely that the blood would drip onto the uppers of the shoe, not onto the sole.

No, but whilst ... (intervention)

5 COURT: Sorry, you mean that he would remove the shoe and put it down?

MS TEUNISSEN: Yes. And maybe ...

COURT: And that would leave just the one mark of the one shoe.

10 MS TEUNISSEN: No, M'Lord ... (intervention)

COURT: If there happened to be blood underneath that shoe's sole.

MS TEUNISSEN: No, M'Lord, whilst trying to clean up.

COURT: Yes.

15 MS TEUNISSEN: Some of the blood was deposited on the shoe whilst it was out of ... (intervention)

COURT: On top of the shoe, you mean?

MS TEUNISSEN: No, underneath, on the sole of the shoe, because if you – if – let me put it this way. You go into the
20 bathroom, you want to wash your hands, you want to clean the object, and – but you also notice some blood on your tekkies. Now you take the tekkie off to clean the tekkie, and you put it down, and, in the process, some of the blood get deposited on the sole of the shoe without you noticing; you put the shoe on,
25 and then deposit the blood onto the tile floor. Can you exclude

that kind of possibility? --- Am I being difficult in following this? The - I mean ...

COURT: Where would the blood come from, you mean?

MS TEUNISSEN: From the blunt object, M'Lord.

5 COURT: From the object?

MS TEUNISSEN: Yes.

COURT: I don't quite understand how you're suggesting that it actually got onto the sole of the shoe.

MS TEUNISSEN: If you have a blunt object, would you agree
10 that the injuries sustained by the deceased, there should have been quite a bit of blood on the blunt object? --- I would expect so, yes.

Ja. Okay. Now imagine yourself walking to the bathroom. --- Right.

15 You want to clean up. --- Yes.

Noticing some blood on your – on the top of your shoes. --- Yes.

On the up – you first remove your shoe, because that's the first concern you have, is to clean the top of your shoe. ---
20 Yes.

You haven't cleaned the blunt object yet. --- No.

Okay. --- But you'd have to put that down to remove your shoes.

Sure. --- Which - and we have a mark deposited from
25 something that's been bloodstained.

Okay. Let's, for that moment – let's go there. He put the
- the blunt object was put on the floor, and left some of the
blood behind. --- Yes.

And then you step with your shoe into it. Do you exclude
5 ... (intervention) --- Yes.

COURT: At the spot where you put the blood – the blunt
object.

MS TEUNISSEN: (Indistinct) ... (intervention) --- Yes. You
could do that, but how would you then know that you – it would
10 only then be when you'd put your foot down again, that you'd
realise that you've got blood on your shoe, and at that point
there should be an additional mark.

Okay. So do you say that this mark on the floor, was just
one impression? --- Yes ... (intervention)

15 It's just one object that was put down, or one impact with
the floor. There was no – there was not – it could not have
been a second mark, or that two separate ... (intervention)

COURT: In other words, are you saying that the mark above
the grouting could be one mark, and the mark below the
20 grouting, a second one?

MS TEUNISSEN: Indeed, M'Lord ... (intervention)

COURT: In other words, that they didn't have to be caused
simultaneously ... (intervention)

MS TEUNISSEN: Simultaneously. Indeed, M'Lord. Can you
25 exclude that possibility, that they were not made

simultaneously, the two marks? --- If we're talking in the context of the shoe - which is the most significant thing, I think, in this instance - I would say no, because that would mean that two different areas of the shoe would have to be

5 bloodstained. Because if you come into contact with blood with your shoe and you get blood on it and you deposit a mark, the next mark you deposit, will look exactly the same, except there would be less blood in it, and a further mark will be the same, but progressively less blood. So the shape of the two

10 marks, if they had been produced by a shoe, if it was two contacts, would be exactly the same.

But if your weight on the shoe, say, is first on your heel, and then on, sort of more on the middle part of the shoe, would you ... (intervention) --- It wouldn't work like that at all.

15 Because the blood stain will contaminate a part of the shoe. You would then put your shoe down and leave a mark. The following mark would show exactly the same shapes. You couldn't have two areas of the shoe that were independent of each other.

20 COURT: But, you know, that would be an explanation if people always did exactly the same kind of predictable thing, if you knew that this is the way a person is going to stand and move and so forth. But we don't know how those marks were caused. All we have to ask ourselves, is what is the probable

25 cause, if it's possible to establish that, of these marks. How

exactly they were there, how exactly they were left, we don't always know. To the right of your picture, for instance, on page 5 of your report, that photograph that you have there, there's another blood stain. --- Yes.

5 We don't – we've no idea where that comes from and whether that is part and parcel of an implement which was put down there, maybe a bloodied implement, or it could be something else. What we also know, is that there was a towel very close to this mark. --- Yes.

10 And it may, in fact, be that other marks were cleaned because they were visible, and this was not visible, and that's why it wasn't cleaned. I think that was a possibility you mentioned yourself, as to why it remained there. What we also know, and I'm not sure whether you were informed about this,
15 was that there were a hoard of policemen moving in and out of that apartment, and probably, in the process, managing to destroy a lot of evidence. One of the points that I mentioned earlier in the case which cause me a lot of annoyance and irritation, because that kind of thing should never be
20 happening, not if the policemen know what their job is. Unfortunately, the people who are the experts always come on the scene a little later, when some of the damage has already been done. So what we're doing, we're speculating about possibilities. But, obviously, to make a finding on any one or
25 the other of them, is virtually impossible. The only question is,

is it consonant with, or consistent with a shoe mark, or a mark made by – that could have been left by a bloodied instrument which was used in the murder, et cetera. So that's really what we're looking for. Whether we're going to get the answers, of course, that's something different. --- Yes, M'Lord.

On a speculative basis, I mean. Yes? Sorry, I'm not sure whether I've just confused the issue now.

MS TEUNISSEN: M'Lord, I think I'm going to ask the witness to - if there's anything he wants to – or whether the wants to comment on ...

COURT: Yes ... (intervention)

MS TEUNISSEN: The Court's observations.

COURT: Would you like to comment on anything the Court has just said? --- The – from my point of view, if we look at the scene as a whole, the most likely explanation, in my view, is that, for this particular mark in blood, is that a bloodstained implement has been put down on the floor. The findings, overall, will move me away from thinking that it was a shoe that had made it, because of the lack of evidence of a trail of marks that lead to and from that (indistinct) ... (intervention)

Yes, except that if you have a situation where he removes his shoe, realising – or shoes, realising that there might be blood underneath the shoes, and then puts one down at that spot, and doesn't notice the bloodied spot there because he places a towel on it, and then he cleans up the

rest, and not that one spot. That could be an indication of why you don't have a trail, and why only the one mark was left. --- H'm. I we could address that, M'Lord. The – for the blood to have come onto his shoes in a way in which you would notice
5 it without depositing marks first, would be if the shoes were not being worn at the time, and they were lying with the sole pointing upwards. And in terms of the cleaning up, the – if you were to clean up, you'd have to clean up very, very thoroughly to remove any trace of blood that has been left behind,
10 because the treatment that's been applied would find even diluted amounts of blood, and very – would even locate marks that were so faint, that you couldn't actually visibly see. And that is not commensurate with the level of cleaning that has actually gone on in the bathroom.

15 MS TEUNISSEN: Thank you, M'Lord. To go to something else, Sir. You mention on page 5 of your report, the second last paragraph:

20 “These features and the general appearance of the mark indicate that this object was heavily stained with wet blood, and has had a relatively forceful impact with the floor.”

--- Yes.

What kind of force do you have in mind? --- If you were to drop, for example, a heavily bloodstained item onto the
25 floor, where the blood was, it could be forced outwards, and

there are features around the edges of the mark which would indicate the forcing of blood away from the point of contact.

Okay. Was it suggested to you what kind of blunt object may have been used? --- I understand, from reading the
5 report, that some experiments were conducted with a hammer and blood staining on a towel, and this mark was found directly next to that towel which I understand that those examinations were conducted on.

Okay. So that is what's taking you to a blunt instrument,
10 you know, that could have been dropped. --- That would, yes.

Sir, but I know you've said you're not a blood pattern expert, but would you not have expected that, if a heavily wetted, blood-wetted, you know, instrument was dropped on the floor, that you will also have a wider spatter of blood than
15 just the mark left behind here? --- Not necessarily. All depends with what – from what height you've put it down. I mean, you could get that disruption by dropping it from a matter of a couple of centimetres.

Yes, Sir, but, you know, as I understand, weight and
20 gravity gets, you know – it depends, the force with which something hits the floor. --- Yes.

Is that correct? --- It does.

And if it's just a couple of centimetres, you're not going to expect a forceful impact, you would expect something that's
25 just basically almost like put down on the floor. Don't you

agree? --- When I consider, I mean, forceful, in that it's not merely just been placed down; there has been sufficient activity in the putting down of the implement to disrupt the edges of the stain.

5 If you consider it to be a hammer that had made this mark, can you perhaps indicate to the Court how these marks may have been made by a hammer? --- Well, that's one possible explanation, that it has been made by a hammer, but obviously I haven't been provided with a hammer to compare it
10 with.

Okay. If we talk about a utility hammer, you know, the normal one that we can buy at the shop ... (intervention) --- Would – I mean, there are many different types of hammer.

Okay. What kind of hammer do you have in mind? ---
15 From an initial look at that, it could be suggested that that feature there is the shape of the claw of a hammer.

The claw of the hammer ... (intervention)

COURT: If it were a claw hammer, that could be the claw. ---
Yes, M'Lord.

20 That V shape that you see there.

MS TEUNISSEN: No ... (intervention) --- Sorry. No, this hook (?) round ... (intervention)

The half-moon shape.

COURT: Oh, you mean that side, yes. --- Yes.

25 On its side? --- It could be, yes.

MS TEUNISSEN: And the V shape? --- That could be blood from the shaft of the hammer.

Why would that ... (intervention) --- But, in that case, we're talking about a different set of circumstances from what
5 we were with the shoe. In this case, what you could have had, is if you placed an implement that was bloodstained there, such as a hammer, that could, conceivably, be two separate contacts, but with two separate areas of the implement.

Can you be a bit more clearly about that? --- For
10 example, if you're to drop a hammer, holding the handle so the head went down first, the head would hit ... (intervention)

Good. The metal part ... (intervention) --- And ...

Of the hammer will go down onto the floor ...
(intervention) --- Yes.

15 Yes? --- And then it would move and fall over. You wouldn't expect it to stand up. So what you could have there, is, conceivably, the contact from the flat end of the hammer hitting the ground, and then that falling over and leaving an impression of the claw. I must admit that this, from that, is
20 conjecture, because I have nothing to compare it with. But in terms of looking at that, that would seem like a reasonable explanation for that mark.

Have you ever had the opportunity to experiment to see if you can duplicate this kind of pattern, if you drop a hammer
25 with a substance on it on the floor? --- I have done

experiments with wet blood, but I haven't done anything specific with – in this particular case, because my brief was to look specifically whether this mark has been made by the shoes in question.

5 Okay. And when your conclusion was that it's possibly a blunt object ...

 "Before (?) it is likely to have left an impression of the shape of the implement."

At – that is your last – on the last page, page 9.

10 "A bloodstained weapon or implement (indistinct) carried into the room and being placed or dropped on the floor, is likely to have left an impression of the shape of the implement."

15 What implement did you have in mind at the time when you wrote your report? --- I didn't have a particular implement in mind, but, having looked at it, it looked to be a hammer was a likely item to have caused such a mark.

 The V mark, could that have been made by the claw part
20 of the hammer, if ... --- I couldn't rule that out, no.

 You cannot rule that out. --- No. It could well have been made by the claw part of a hammer.

 How would you then marry the two marks, if that was the claw part of the hammer? --- (No audible reply.)

The round – the half-moon shape, and the V mark ...
(intervention) --- Yes.

How would you marry those two then? --- You wouldn't,
because the expectation – if that is being made by the claw, if
5 you consider a hammer being dropped, gravity itself would
then make it fall over, so the second contact is likely to be the
side face of the hammer, or the side face of the claw.

COURT: When you speak of 'likelihood, most likely, less
likely' – still on the basis that it's being extremely conjectural,
10 not so? --- This is in reference to the – how the mark has been
made, in terms of what may have made it, but from my
examinations that I've conducted, I'm satisfied that it's not
been made by that particular shoe.

MS TEUNISSEN: Just a moment, M'Lord (indistinct). Mr
15 Ryder, sorry that I go back to something I've – sorry.

COURT: I'm sorry.

MS TEUNISSEN: I'm sorry, M'Lord. I didn't notice that you
were in conversation with the assessor. As I said, sorry to go
back to something I've already canvassed with you. Your
20 visual examination of the shoe yesterday. --- Yes.

Is that the normal way of dealing with a shoe, and when
you get presented with a shoe? --- The examination that you
will conduct, will, in ideal circumstances, involve a comparison
of the shoe itself with the mark in question. Now if you're
25 going to do a comparison between a shoe and the class

characteristics of a particular mark, it would be ideal to do that by using a – making test impressions with the shoe. But if, from a visual examination, the pattern type is clearly different from that displayed within the mark, the stage of actually going
5 through making test impressions, is not necessary.

Is test impressions the only way that you can compare the shoe with the mark? --- It would – it might - the only way that a reasonable and reliable conclusion can be drawn from comparing a mark that you consider to be of a similar pattern
10 type, to a shoe, is to actually produce marks with that shoe itself.

Okay. Am I – is it not correct that you never can duplicate the mark exactly? You know, if you make a number of impressions, they will – none of them will be exactly the
15 same? Would you agree with that? --- Exactly the same as ...

You cannot reproduce a mark that's already been – that you find, say, on a murder scene. Would you agree with that? --- The marks that you – that would be produced for comparison purposes, would be to replicate as best possible
20 what has been left at the scene. I mean, the impressions that you would normally produce as a starting point, would be an impression of the whole shoe, which, obviously, isn't a direct correlation to a partial mark that you will be considering at the scene. But you would then focus your attention on that

specific area of the shoe, once you'd identified which part of the shoe you think had made the mark.

But you can never duplicate a mark that you find at the scene, can you? --- I don't understand. In terms – but you can
5 make a mark which will look exactly the same.

That is if you've got the whole shoe, or half of the shoe, and a clear impression of the, you know, the marks underneath, or the print of the shoe. --- I'm not really sure what you're trying to get at with the ...

10 If you look at the shoe underneath ... --- Yes.

And you take a print ... --- Yes.

And you – but at the scene you also found a print that looked – you've got this little up and down marks and squiggles and things like that, and half-moon shapes. --- Yes.

15 Then you can see those two come from each other. Is that what you're saying? That is the only way of looking at the comparison. --- It's not the only – but that is the ideal way to do it, to produce ...

But not the only way. --- No. I mean, if you do a visual
20 comparison and they're different, then you wouldn't go down the route of producing marks with the shoes. But if you want to do a comparison and draw a reliable conclusion, the only way to do that is to try to replicate the way in which the mark has been made.

But if the mark that you found at the scene was not your average mark, if it's something different from what you normally will see. --- If you're presented with a pair of shoes and a mark, and you cannot replicate anything which
5 resembles the mark that you found at the scene, then I would draw the conclusion that that item has not made the mark, because you cannot reproduce what is there.

And that is the basis of your conclusion here. --- If I cannot produce a set of marks which would look like that, that
10 would serve to me to eliminate that shoe, yes.

COURT: Just ... (intervention)

MS TEUNISSEN: Now as far ...

COURT: Sorry. Yes?

MS TEUNISSEN: I'm sorry, M'Lord. As far as the class
15 characteristics – is what we're now talking about. Is that correct? That is the ... (intervention) --- Sorry? The ...

The class characteristics is the ones that we are now talking about. Is that correct? --- Yes.

And you say the moment when you don't see that
20 comparison, you – that's where you ... (intervention) --- You exclude it, yes.

So if there is some unique markings that you find, you would not even go there, you would exclude them. --- If there were – if there's no correspondence in terms of the class
25 characteristics, you cannot have a correspondence of the

unique features if – for there to be a correspondence in terms of unique features, there must be a correspondence in class characteristics.

But if your visual examination shows you no comparison
5 as far as the class characteristics, do you go further to see if there's something more there, or not? --- No, because it wouldn't be able to associate that shoe with that mark, because the class characteristics are different.

You've heard about the four white dots. --- I have, yes.

10 So you are not interested in them. --- From my – from examination of the photographs, and from considering the location of the sand, there are a number of reasons why I don't think that those can be unique characteristics.

COURT: If you look at the heel of the shoe. --- Yes, M'Lord.

15 In the area where the grains of sand are still embedded ... --- Yes.

In that groove, do you exclude it totally as being a possibility for purposes of leaving an imprint or a mark? --- I do, M'Lord, yes.

20 Considering that you have a curved edge here at the (indistinct) ... (intervention) --- I cannot – if I look at the ... (intervention)

Because you have a curvature here, which you said might, in fact, be related to the hook – to a claw of a clawed
25 hammer. --- It could be, yes.

But why must it necessarily exclude a curvature of a portion of the heel of a shoe like this? --- The curvature does not line up in terms – the curvature on the shoe is different from the curvature (indistinct) the marks.

5 Well, did you measure that? --- It's been looked at, yes.

No, no, did you do that yourself? Because ... (intervention) --- I've ...

I'm asking you whether you can, as an expert, exclude this as a possibility. Because we are in the field of conjecture, 10 to a large extent, if we say what it can be ... (intervention) --- I can – it is my opinion, M'Lord, that that shoe has not made that mark. The features are ... (intervention)

But would it not be necessary for you to come to that conclusion after doing a test on this particular shoe to see 15 whether, on that particular kind of surface, making use of a shoe like this, it would not leave a mark like that? --- In this particular instance I have had that opportunity to examine marks made by the left shoe, and the correspondence between the left and the right, in terms of being (indistinct), is 20 sufficiently good for me to be able to form that opinion, and based on the fact that I looked at the pattern and there are no class correspondence.

Have you seen the – was it the transparencies?

MS TEUNISSEN: The transparencies, M'Lord. I think maybe, 25 ja ... (intervention)

HOE: Transpirante?

MS TEUNISSEN: M'Lord, I think that's the next step, but maybe we should leave it ... (intervention)

COURT: Because it's essential that this witness must be
5 confronted with the kind of evidence which was placed before the Court by Mr Bartholomew, so that he can say why he disagrees. Because what he's done now, is apropos of certain photographs, he's made – drawn conclusions and made inferences.

10 MS TEUNISSEN: Indeed. M'Lord, I don't have that specific transparency that we've – you recall that the last question that I asked Mr Bartholomew – I don't think I've got that with me at the moment. Maybe if we can stand down till tomorrow morning, and that can be the first ...

15 COURT: Yes. Well, I think it's essential that that should be done. Because when I place the shoe on that mark, it accords exactly with the curvature of this shoe. The mark accords exactly with the curvature of the shoe on a visual observation.

MS TEUNISSEN: M'Lord, I think the ...

20 COURT: And that's why I think this should be put, in all fairness, to this witness, so that he can comment on that. Yes, the Court can – we'll adjourn until tomorrow morning at 09:30.

MS TEUNISSEN: Indeed, M'Lord.

COURT ADJOURNS: (at 12:46)

25