

COMMONWEALTH OF KENTUCKY
CALDWELL CIRCUIT COURT
Indictment No. 97-CR-00053

COMMONWEALTH
OF KENTUCKY, PLAINTIFF,

TRANSCRIPT OF EVIDENCE

VS. Volume 12
[Pages 1601-1623]

ROBERT KEITH WOODALL, DEFENDANT.

APPEARANCES

Attorneys for
the Commonwealth:

Hon. Ralph Vick
Hon. John Atkins

Attorneys for
the Defendant:

Hon. Jill Giordano
Hon. Mark Baker
Hon. Michael Williams

[July 20, 1998]

Pamela R. Faughn
OFFICIAL COURT REPORTER
56TH JUDICIAL CIRCUIT
109 CHRISTOPHER ROAD
FREDONIA, KENTUCKY 42411
(502) 545-3215

* * *

[1601] CLOSING STATEMENT BY MR. VICK:

MR. VICK: May it please the Court?

THE COURT: Mr. Vick.

MR. VICK: Defense counsel.

MS. GIORDANO: Mr. Vick.

MR. VICK: May it please the memory and family of Sarah Hansen. Ladies and gentlemen, six days ago you each raised your right arm in response to Judge Cunningham and you swore to return a true verdict based upon the evidence that would be presented in this case. You have now heard the evidence that's been presented, and you're going to be called upon to give us your verdict. You may remember when I stood before you last time I told [1602] you I felt that the only true punishment in this case was that of the death penalty, and if you'll notice that even though we spent a day and half talking about the various ranges of twenty years to death, immediately on defense counsel telling you what they would be asking, and I assume they still will be back before you asking for life in prison without parole, so that's where the two issues are. That's what I believe you will be considering. Your verdict – simple word, isn't it, your verdict, but your verdict, ladies and gentlemen, is more than just your verdict. You are the representatives of the citizens of Caldwell County. You are the representatives of the citizens of Muhlenberg County. You are the representatives of each citizen in this State. Criminal law is a lot like, I feel,

a contract or an agreement between our various citizens, because we have a large number of people when a criminal trial occurs chosen representatives, jurors are picked, are selected, to hear evidence and return a verdict, and all of us whom you represent rely upon you to do your job, to return in every case and in this case a true verdict. January 25, 1997, Sarah Hansen, 16 years of age, full of life, full of [1603] future, full of pure goodness. She simply went to the store to rent a video. She didn't know – no one knew that sexual predator was on the hunt, was on the prowl that night. Evil walked the streets of Greenville. I would like to just briefly go through the instructions – over one instruction with you at this time and we'll discuss, and if anyone is taking or has an opportunity to write a note, I would just simply would ask them to write down the following statement for me, because these instructions are numerous, but they're – once we get through them, they're not that complicated. The only punishment that can be imposed in this case without a finding of aggravating circumstances would be the punishment of a term of years or simple life, because as the Court will show you and you've seen, verdicts 3, 4, and 5 require the foreperson or juror to write in certain findings, and I certainly will just ask whoever is writing this language down if they would, I would appreciate it, to include the language that the defendant committed murder and kidnapping during commission of first degree rape. I'm not good at dictating, but that's the facts and that's what I wanted to ask that you write down so we get the [1604] language right if you so

find. Now, aggravating circumstances – and before we get to that, let's talk about the three crimes and elements that we have here. We have the crime of murder, and we have the crime of kidnapping, and we have a crime of first degree rape. We all know they're crimes. Everyone in this room knows they're crimes, and everyone in this room knows who committed these crimes, and sometimes my fear or concern is that in a trial we start using the words like kidnapping, rape, and murder, kidnapping, rape, and murder, and they kind of run together, but they're very separate crimes. They're very different type crimes, and I think the horror and terror of all of it is just putting them all in one. If you talk about a murder, ladies and gentlemen, you're talking a life is taken very simply. You add on to that that someone is kidnapped. That's a totally different concept and you talk about taking somewhere, the horror of that, the terror that. You talk, about being abducted. A stranger abduction is what we're talking about. And then in addition to those two separate ends, we end up also talking about a first degree rape, sexual intercourse involving a serious physical injury, [1605] and her serious physical injury is that of death. So sometimes these words run off our – roll off our tongues. Think about each separate independent act that comprised this night of horror and this night of terror for which we stand here before you today. Now, I think at this point what we need to discuss are the basic facts of this case, and I'm not going to get back and parade and present to you each and every item of evidence that you've seen. I don't think

that's necessary. I hope and trust that within the past six days, five days, that you retain and you remember, and there are certain things I may show you, but at this point all I'm asking you to do is just to kind of reflect back with the testimony, the evidence that you've heard. You'll remember we started out with the testimony of Kyle Lovell, Sarah's boyfriend. They were going to watch a movie and we know that, and we know that Kyle went out looking for her that night and couldn't find her. We know that. We also know that Kyle – that Sarah didn't know the defendant. This again was a stranger abduction. Then when did this story really start? Did it start then? Let's back up. What else have we heard? To our knowledge the story starts, this particular story [1606] starts that afternoon when the defendant's girlfriend is going to have a night out. Mr. Armour, you'll recall, overheard a part of a conversation by the defendant talking that his girlfriend was going to be out, and the defendant said, "Well, I'm not going to stay home by myself." I submit to you that the plan formatted [sic], began at that point in time. That's probably when he first put a box cutter in his pocket. Who carries box cutters? Further evidence of this plan continuing would have been at the Minit Mart itself at around a few minutes before 8:00 o'clock that night sitting in the booth with Sylvester Johnson. He's a little upset, a little irritated, a little mad because his girlfriend was out on the town without – a girlfriend's night out. He was mad. Remember what else Mr. Johnson told us about. When in walked an individual by the name of Angie Phelps, what did he

say that makes you think what's going on in his mind at that time? "I'd like to have a piece of that." That's what he said, and within ten minutes, within a time frame of just a very few minutes, Sarah comes walking in the door to get a tape, and she did. Now, you heard from the officer, Detective Drake told us this was the [1607] place, this was where the van was, this was where it was found and what it looked like the next morning. You notice it's hung up. You notice the ditch. You see the blood on the door. How did this happen? I think we can almost go back through the testimony and tell – track the defendant, what he did. How he obtained possession of Sarah, we don't know whether he hid in the back seat or he jumped in on her. We don't know. That would be sheer speculation. But we do know, ladies and gentlemen, from talking with Dr. Mark Levaughn, we do know that Sarah was beat and abused and bruised all over. She was struck, bruised, cut, hurt from her feet to the top of her head. We know that she was taken to Luzerne Lake, a desolate, deserted area, and then we know that her clothing was forcibly removed from her body, that her clothing here was found in the back seat of the car, the van seat. We know the clothing was underneath the jacket, the school jacket, and we know – Donna Harrison told us how it was taken out and repositioned with her shorts, her panties, and her bluejeans removed at one time. We also know that her tennis shoes weren't untied. You saw her bra, the bra of little Sarah Hansen that was removed [1608] with such force from her body that the metal wire was straightened. A 16 year old, young girl's bra ripped with such

violence and force that the eyelet is straightened. But the horror and terror didn't stop there, did it? That was just the beginning. What do we know what happened next from Larry Ayres? We know this nude little 16 year old girl, her throat was slashed three and a half inches, not once, not twice, with such force that her windpipe was completely severed. We also know that her neck where the cut was was forced up against the back of this seat. We also know that the void from being placed in this spot is the reason why there's no blood here and here. There's only one position that a human being could be placed in to make the contact there with her arms and the contact there with her neck, and you'll see the pictures of her knees, but it still didn't end, did it? That night was not over for Sarah. She then was able to get to the front seat with her throat cut twice, and she got in the driver's seat. She wasn't there for a minute, and what did she try to do and what did she do? She operated this vehicle. You heard Larry Ayres tell us how someone operated. There was blood all over the gear shift, the ignition [1609] switch, there's blood all over the steering wheel. She drove it to try to get away. And then you heard from Mr. Ayres about the blood that was underneath the driver's seat that was slung up against the fire wall, because she was frantically trying – she was being pulled and taken out from the driver's seat. She still was alive. She still was alive. I told you at the beginning that the evidence will show that little Sarah Hansen didn't die quickly and she didn't die easily, and I think we've shown you. I don't think there's any doubt when you

see the blood and the pools of blood in the video showed you of this ditch, of the blood along the side, and then the trail of blood. Hundreds of feet she was taken, completely disrobed, her throat slashed, being beaten all over, and then she's taken, and then she's drug. She's dragged across the pier and she's dragged across the pier by a person wearing Rawlings tennis shoes, and she is placed into the icy waters of Luzerne Lake, and only then did she drown. And you know something else about her, Kyle told you she was full of life and an active girl, and I'm not going to show you the picture of the one that shows that she was in the water, but I ask you to look at [1610] it, so you'll see something in there. She drowned, but you'll see a leg and arm resting on a pier trying to stay afloat. She didn't die quick. She wanted life. She was full of life, and it was taken. Taken by a 22, almost 23 year old sexual predator, a man who had been to prison for two five year sentences and is released from the penitentiary and out within five years and has murdered – kidnapped, raped, and murdered Sarah Hansen, four and a half years from the date he goes to prison. You know, we also heard – and we wouldn't even get to tell, you wouldn't even get to hear about, except for the fact his aunt says, "Well, of course, he molested my two daughters, too." This man at the age of 23 has sexually molested four young girls, and he's kidnapped, raped, and murdered Sarah. When does it stop? Now, the evidence that you heard concerning Donna Harrison – she told us about the blood that was tested throughout to be Sarah's. She told you how they processed the evidence. You

heard from Terry Lohrey, the fingerprints, the one in blood on the handle of the door, and the fingerprints in dirt around the outside. We also heard from Lucy Davis on DNA. Lucy Davis told us and showed us how the [1611] blood on the box cutter – the blood on this box cutter is that of Sarah Hansen. She also told us that the blood on the tennis shoes – excuse me – the blood on the bluejeans of the defendant is that of Sarah Hansen, and the blood on the sweatshirt that the defendant was wearing that night was that of Sarah's, and the semen, the sperm found in the body of Sarah Hansen was that of the defendant's. Do you remember the mathematical probability she told us about the semen and the blood on the sweatshirt? One in – one in the United States of America, and he's sitting right there today. Now, let me point out something to you that I don't think – you've heard on and on how the defendant has pled guilty. Well, ladies and gentlemen, don't think that I asked him to plead guilty. Don't think that I care if he pled guilty or not. So why did he plead guilty? We've got somebody here through attorneys, through counsel, who has received a copy of each and every report that we had. It's called an open file. They got what we got. They got copies of all the evidence, all the reports, the DNA, the fingerprints. They got everything. Now, you heard the testimony – when did this happen? Was this on January the 27th of [1612] 1997? Of course not. The defendant stood in this Court on April 10th of 1998 and pled guilty so that defense counsel can say, –

MR. BAKER: Objection, your honor.

THE COURT: Overruled.

MR. VICK: – “Keith has pled guilty. He’s admitted he’s done wrong, so we’re not here for that”, and while we’re talking about other defense strategies, –

MR. BAKER: Judge, I’m going to object to him testifying to what defense counsel thinks or knows.

THE COURT: Overruled.

MR. VICK: Thank you, your honor. You’ve heard everyone talk – everyone talk about their observations of the defendant. How many of those have told you that he’s got a habit of sitting around looking down like this for a week at a time? Don’t be fooled. Don’t be fooled by that. That’s not the defendant, Robert Keith Woodall. The defendant, Robert Keith Woodall is the man that put this instrument in his pocket, his sweatshirt, went stalking at the Minit Mart, grabbed Sarah Hansen, took her out, raped her, cut her throat, drug her down the road, and put her in a lake. That’s Robert Keith Woodall by his own admissions. Now, [1613] the aggravating circumstances are two, and there’s another one I want you to consider as far as a factor in assessing punishment in this case. The aggravating circumstances said and the Court read to you “in fixing the punishment for the offense of murder you shall consider one or both of the following aggravating circumstances which you may believe from the evidence beyond a reasonable doubt to be true: One, that the defendant’s act of

killing Sarah Hansen was intentional and committed while he was engaged in the commission of rape in the first degree of Sarah Hansen as defined in Instruction Number Three”, and the definition of rape is fairly simple, and it’s right there. Now, can we find that aggravating circumstance is here? Well, absolutely. Not only has it been proven by the evidence in this case, we’ve got the admission, the sworn testimony of the defendant to this Court on April 10th of 1998, which was read to you. “Do you admit committing the intentional murder of Sarah Hansen while in the commission of first degree rape?” “Yes, I do.” You heard it. Aggravating factor number two: “Committed the offense of kidnapping as defined in Instruction Number 3, while engaged in commission of rape in [1614] the first degree.” Well, obviously. It’s all of what he’s admitted to and said. When you talk kidnapping and you’re – the definition of kidnapping, if I can find it. “The defendant committed the crime of kidnapping if on January 25, 1997, he unlawfully restrained Sarah Hansen with the intent to accomplish the commission of rape in the first degree as defined herein or to inflict bodily injury upon her or to terrorize her.” Ladies and gentlemen, if you don’t find that he unlawfully restrained Sarah Hansen, then you must find that Sarah Hansen voluntarily wanted to go with this man she didn’t know. That’s the only way you can find. One way or the other. And we know, he did it for the purpose of committing rape. I’m not so sure about the terrorize or to inflict bodily – they’re all there. It’s not an and, it’s or. He did those things. Those are the two statutory aggravaters [sic]

here. Only one is required, but they're both here, and they're both here based upon the evidence and his own testimony, and what other factors should you consider in assessing punishment? A very simple fact. He's done it before. Look what he's done. At the age of 18 and a half, he goes to prison. For what? Sexually [1615] abusing small children. One girl, two counts. Then we find not one girl two counts, three girls not telling how many counts before this. When does it end? What is a true verdict? Mitigating circumstances – let's talk about that a minute. The Court has told you, and it's in there, that the mitigating circumstances are two. Let me take the second one first. For you to consider the youth of the defendant at the time of the crime. At the time of this horrible, evil crime committed by the defendant, he was 22, almost 23 years of age in years, but how old was he in experience. How many 22, almost 23 year old men have been in prison two five year terms and have not even gone to prison for molesting two others? Where does it end? The only other mitigator for you to consider here is if at the time of the offense committed by the defendant he didn't have the capacity, the ability to appreciate the criminality of the requirements of law and was impaired as a result of mental illness or retardation. Well, what do we know about what he was thinking, what his thoughts were that night? We know what he said he was going to do looking back on it. "I'd like to have a piece of that." He puts the box cutter in his pocket. [1616] What was he like afterwards? What did he do? Well, he hid his clothes. He hid his bloody clothes. Not in his apartment, but he

hid them somewhere. We'll never know where. What else did he do? Washed shoes. Why is he washing his shoes on January 27th? You're talking about somebody after he commits this horrible foul act goes back to mom for alibi, and mom alibis for him. What does he do? He sat on the recliner and watched T.V. It's frightening, but it's evil. We heard from several witnesses. We heard from Kim Melton, the teacher, who had taught the second or third grade for ten or eleven years. She had hundreds of students. If you'll recall, I asked her, "Where do you place the defendant? In what range?". She said, "Right in the middle." That's exactly what she said. Her observations as a teacher – right in the middle. You heard the testimony of Jane Dodson, and what did she tell us? She referred him to a learning assistance. Why? Because, and it says in the only school records you'll see here, because of the fact he was shuffled back and forth between schools. You heard the testimony about that he was in – withdrawn in May and put in in May. Well, of course that's not great for an [1617] educational background, but that does not comport – does not equal to a mental incapacity or retardation situation. Dr. Kay Willey, the first one that we heard from that was a doctor, said he did not have any diminished capacity, no diminished capacity. Then we heard from various family members, and all of them told us that it was bad what he'd done, obviously, and they asked you not to return the death penalty but to give him life, to spend the rest of his life behind bars I believe they even said. In our country we allow family and friends to come before jurors and to plea or ask

for mercy. That's just the way it is. But you know, wouldn't it be something if Alan and Julie Hansen had some rights to plead for mercy or just to say, "Can I see her one more time before you kill her? Before you slash her throat, can I hug her? Before you drag her off for thirty minutes of pure horror and evil, let me say bye to her?" And we get to hear about Dakota. How many children will Sarah ever have? I want you to remember that, because every time someone says, "Keith this", it's just got to come to somebody's mind, "Well, what about Sarah? What about Sarah?" Sarah didn't make any of these facts. She's the victim. The man [1618] that made each and every fact is the man that's standing before you today for you to impose the fair punishment, the true verdict. You know, I would say this to – generally to the Woodall family. I understand what they've been through and going through, but don't – we hear first of all from his mom. His mother tells us how maybe things weren't great when he was a child, and you heard all that, but this is the same woman, a mom, who told the police and gave statements that her son couldn't have done it. "He didn't do it. He was with me. From 7:30 to 8:00 o'clock that night, he was with me the whole night." Well, it got proven wrong. It may take a few months for them to see all the evidence, but that got – so that changes. So the point I'm making here is, you don't always hear truth from people that may have a desire to get to accomplish a special purpose. In other words, will someone stretch a story to help out a son, to help out a nephew? Of course they will. Who could go out and refute

anything that happened in the confines of a home? Family? Common sense is what you need to consider and utilize and I know you will, but the one person I don't really make an – Lori Woods told us Keith abused her two [1619] daughters, and that they forgave him. You know, sometimes if people weren't so forgiving, maybe I wouldn't be here right now. Maybe we wouldn't have to hear the horror and maybe, just maybe Sarah Hansen would be among the living. We forgive him? There's one word that we don't ever hear much about anymore, and I think it applies here, and that word is called accountability. Do you excuse or let off or mitigate somebody whose parents had to get married, and then they got divorced? Well, you know, that covers a whole lot of people, but can that be it, because we keep – also we've heard about his brother and sister, two law abiding productive citizens who were raised in the same home. So perhaps the blame shouldn't be shifted somewhere else. I say to you the blame should be placed exactly where it is right now on the defendant for him to accept responsibility and accountability for the horror he's done. The evidence concerning mitigation, mental capacity, and the ability to appreciate the criminality of his act, we heard from several more. We heard from Dr. Johnson. What did Dr. Johnson tell us? Dr. Johnson, the man that had an opportunity to evaluate him for two weeks, who heard the – had [1620] the other reports, told us there was no evidence of any mental retardation, there was no evidence of any major mental illness, and that the defendant was fully capable of appreciating and understanding the criminality of his

act. That's what he said. That's exactly what he said. Now, they're going to come up and try to argue a little bit in addition to why all his looking down, they're going to come back and they're going to say to you, "Well, he had a mental illness. There was some problems." Who can't get fly specked and looked at and say well maybe this person had this problem and – that's not what we're about here. All of us are different people, and this is not an exact science in this field, but your goal, your duty is to make sure that an individual understands and knows what he's doing when he does it and he knows he's not supposed to be doing it. That's it. That's exactly it. Dr. Johnson further gave us the opportunity of some – Dr. Burke, the prison doctor, who found him average when he was in prison last time, and the interesting thing about Dr. Johnson that he told us was remember the element, the condition of impulsiveness, poor judgment. That's the characteristics of people in prison. I [1621] mean should that come as a surprise. That's what he said, and that's the way it is. I mean does that surprise anybody that that's what we're talking about here? I further submit to you that Dr. Spears' statement that the use of slivers of soap to alleviate constipation constitutes sexual abuse, I obviously have great substantial disagreement with. If you can pick out of an isolated event of one – of a parent trying to relieve a situation in a small child, and to turn that into some type of offense, don't let them do it. It's accountability, ladies and gentlemen. It's accountability. You know, this now – we get back – when Lori Woods said to me or said to us, "I asked

him why did you do it?" "I didn't think I was hurting anybody" is what he said. You remember he said that, and I got to thinking there's a book I had in my closet. I just said, "What was the name of that book and what was it it said?" There's something that fit, and there was – John Walsh is the host of America's Most Wanted. I don't know if any of you – he had a son named Adam that was abducted and murdered, and back at that time what he – what he said, he was talking to a pathologist much like Dr. Levaughn, "How can you as [1622] a doctor go look at a body of someone that's been raped and murdered and mutilated? How do you do that?" And what he said just seemed to strike me as being so appropriate and applicable here. If I can find the quote, he said, "I believe that there's such a thing as true goodness in this world and also that there's true evil. People who don't believe the devil walks this earth have not seen the things I've seen. I've known through experience that there are people out there who believe that they have the right to do whatever they like to whomever they chose. If they want to have sex with a woman or a dog, or to rip, beat, and torture anyone at all, they do. These people are not insane. They're as sane as you and me, but they don't live by the rules of any moral code, at least not one within human society. They are so incredibly selfish that they live only by their own rules, and these people are horribly, horribly evil." Ladies and gentlemen, that's got the ring of truth to me in what I've seen and what we've heard, and I'm going to ask you, and we still keep looking for what is the true verdict. I tell you the true verdict.

The true verdict is that of death, and I say it without hesitation. It's not [1623] an easy thing that we do sometimes, but it is a necessary thing that we do, and if you have any doubt as to Verdict Form Number Five being the death verdict, then I ask you to do me a favor. I want you if you would after you've looked at all this evidence, I want you to look at Commonwealth's Exhibit Number 1. Before or after you vote on what the punishment is in this case, pass it around. Look into those eyes. Say, "Have I done justice? Have I returned the true verdict?" You'll know when you look at this, and that's when you will know you've done the right thing, not the easy thing, but the right thing. On behalf of the Commonwealth of Kentucky, I ask you, I demand, I request that you return a true verdict in this case, the only verdict, and I thank you.

* * *
