

Susan May – Trial Judges Summing up of the 3 finger marks in blood.
Pages 30b – 38a. Geoff Goodwin's comments on the right.

Page 30

Then we have got the fingerprint on the wall. I think D that Mr. Carus was right when he described this as the **central plank** of the prosecution case, was he not, because the prosecution say there was a bloody fingerprint on the wall near where the dead body which had bled lay and there E is no other sensible explanation for its being there. Could I just say - because it occurred to me that it is a useful illustration of what I said to you about the burden of proof and the standard of proof - the defendant has put F forward a piece of evidence, supported by Mrs. Briggs, on the basis of which you are invited to conclude that it is possible that that mark got there in some other way - to do with the moving of the door stop and the mishap that G happened with the screwdriver. Members of the jury, do not be misled into thinking that because the defence have floated that possible explanation that that means that you are to ask yourselves, H "Well have they satisfied us that that is the cause?" They

The start of what the Judge agrees to be the central plank of the case against Susan

Page 31

do not have you satisfy you of anything. It is not they that have to show how the hand print got there, it is the A Crown who have to make you sure that it got there in the course of the murder of Auntie. Do you follow the distinction?

Members of the jury, we have all had a go at B summarising the evidence in relation to these prints and I am going to do what Mr. Carus did - I say in advance, not disagreeing with his basic thesis, his basic analysis, but perhaps putting it with a slightly different emphasis from C that which he employed.

What does the evidence show? The evidence shows this, that there are **three sets of marks** on the wall, which I shall call them the left, the middle and the right hand one. D The left being the one nearest the corner nearest the bed. The first of those marks, members of the jury, the one on the left, is 13 inches from the corner of the wall and it was made by a right hand. It gave the appearance of having E been made in blood, by which I take the evidence to mean that if any of us would have seen it we would have said "**There's a bloody hand print on the wall**"; at a time when the blood must have been **wet**; by a hand placed flat, palm

The court is misled – There was a forth stain, MJD 28, just along the wall from MSN 14 of which it was said that it had been there prior to the murder.

The court is misled – See the photo of JH 1 with the ruler on it. Marks are faint

AZ – no blood running down

F down against the wall. **There would need to have been quite a lot of blood on the hand to produce the mark.** When tested by the application of a chemical by Mr. Hussein it reacted exactly as a scientist would expect blood to react - **and the same holds good for the other two marks,** members of the jury. That was Mr. Hussein's evidence; it reacted exactly as a scientist would expect blood to react and Mr. Hussein, the scientist, concluded that it was blood and **he said he could think of no other material which would react as it**

Refer to AZ and AJ's testimony ie. Sweat not blood

The 3rd mark MSN 14 had been removed by the time Hussain his using his chemicals

Page 32

did. He did, as Mr. Carus told you, say that he could not state categorically that it was certainly blood but he added A - which may seem a contradiction, or may give give you the context of that remark - **that he was certain it was blood as a result of his test.** He did not do any test to show whether it was human or animal blood.

Any biological material would have tested positive to TAB. AJ and Mike Barber and many others

The use of the word certain is not scientific and totally overstates the case.

B Members of the jury, that left hand print is the one which, if you accept Miss Symmons' unchallenged evidence, is the print of the defendant's right hand. So that is that.

Introduce the presence of the 'dark spor' o the forefinger of the right hand - AZ and MB

The middle mark was made by a left hand 18 inches or so C to the right of the first one. Mr. Hussein reached exactly the same conclusions about it as he did about the first, but the **blood had run too much** to permit identification of the print.

Again, no running blood. AZ

D Then the right hand mark was a further 26 inches to the right of the middle one. They were all, incidentally, about the same height - I forget but I think he said about four feet

E MR. MORRIS: Four foot six inches.

MR. JUSTICE HUTCHISON: Four foot six inches above the floor.

It was a smear and it is correct, as Mr. Carus says, that nobody has, **I think,** positively identified it as a hand F print; whether you think you can infer that it was or whether you take Mr. Carus's invitation and resist that inference is a matter for you. it was a smear **caused by quite a lot of the substance** in which it was made, which G again Mr. Hussein was confident was blood. There were no sufficiently clear prints for identification. A sample of this blood was tested by Dr. Basley who determined that it H was of **human origin** - it could not have been animal blood. Members of the jury, as I listened to all the talk

The judge is less than certain.

Caused by a very small amount of the substance

The other two stains when tested for human origin failed the test.

Page 33

about animal blood I did wonder where one could imagine that hand prints with an animal blood on them could have got on A this wall, but there it is. Perhaps that is an inappropriate comment to make, or in irrelevant one.

This was an uninformed and unhelpful comment because fingerprints in animal blood had been found on a paper bag in the kitchen - The craftsman baker paper bag.

So it is quite correct that there is no evidence about the other right hand mark being human blood but there is B Mr. Hussein's evidence that all three marks were blood and all reacted in the same way which he, as a scientist, regarded as **entirely consistent with blood**.

There **were no other marks found on the wall although it C was tested all over**. There was no evidence to show whether or not the three marks were made at the same time or at different times. Tests to identify the source of the blood were unsuccessful. Naturally, there was a desire to D identify the blood as coming from Auntie but nobody was able to do that.

Members of the jury, I am afraid that **I do not remember** (and it is not clear from my note) whether anyone tried to E test blood in that regard from all three sites or only the samples taken from the right-hand one. I think it was only the samples taken from the right-hand one, but it matters not because the **tests were inconclusive**.

F So you know that in the expert opinion of Dr. Hussein **all three** marks were made by wet blood. You know that in the expert opinion of Dr. Basley the right-hand mark was made by human blood, and you know that in the expert of Miss

G Symmons the left-hand mark was made by the defendant's right hand and fingers.

What else do you know about relevance of these marks

H and their significance? First of all you know that Mrs. Brady, the cleaner from Extra Hands, came in every week

Again MJD being disregarded

Not helpful that he is not clear about what tests have been carried out on which stains

Should the jury not have been warned about putting too much weight on inconclusive tests?

Page 34

on Wednesday and did so on Wednesday, 11th March. She noticed no marks on the wall although she entered this room A on that day. she thought that if there had been any such marks she would have seen them and had a go at getting them all off, which she had previously done with other marks or of tea stains. She regarded that as part of her job.

B Against that - I do not know how accurate an impression it gives - you have the point that Mr. Carus gave based on photographs 8 and 9 in exhibit 6 that these marks were perhaps not such as to hit you in the eye when you entered C the room. So you must ask yourselves, "Is it possible that Mrs Brady may have missed them; that they were there and she simply failed to see them and that is why she did not have a go at getting them off?"

D The second piece of evidence you have additionally to that about the marks themselves comes from Mr. Smith the ambulance man, who came in at a quarter-to ten, that is to say about 15 minutes after the defendant arrived on the E scene on the 12th, found blood on the face and on the pillow to be dry, he said. The evidence is that the apparent wet blood, which you see in exhibit 5 in photograph number 2,

It was not pointed out to the jury that she had not been shown the marks post the murder and she was testifying from her memory.

It is not pointed out to the jury that when shown a photo of the hand mark with the finger print she said she would **not** have tried to clean that off.

F taken later on in the mortuary was not there at this time and had been exposed or leaked as a result of the body being moved. Mr. Taylor, the other ambulance man, gave some similar evidence.

G Members of the jury, Mr. Carus criticises them on the basis that they are not asked to recollect about this for a long time afterwards, but you remember Mr. Taylor it was in particular, I think, who gave evidence about the disposal of H his gloves and about the fact that having handled the body there was no blood on his gloves.

Overlook by all so far is the fact that a flake of dry blood was found on the pillow of the adjacent bed. This must have been transferred there from the hand of the ambulance man and his gloves must have had a residue on them enough to make the thin smear near the light switch.

Page 35

More important, you may think, is the evidence of Mr. Michael Davey, the scientist, who told you that he had A done some experiments to see how quickly blood in this situation would dry. He said it would be difficult, if not impossible, to transfer blood from this sort of scene more than two to four hours after the blood has been deposited, B and he did an experiment (as I say) to verify that. He said that six hours was the most that one could possibly envisage. Members of the jury, we are concentrating on a period between 12 and 6 hours after the time when, in C Dr. Lawler's opinion, death occurred.

No explanation has ever been sought as to why Hussain, the finger print man, was relied on for blood tests rather than Davie, who was supposed to have carried out a very blood specific Kastle-Meyer presumptive test?

There is a third piece of evidence, which is that the defendant said in her statements to the police in interview and in evidence that she did not touch her aunt or the bed D when she went in on the 12th. While she has said on more than one occasion that she does not remember the precise details of what happened in what must have been a dark room - and, of course, if she is innocent an awful and shocking E scene which met her eyes. She was pretty adamant, was she not, that she had not touched anything of that sort.

Davie was discredited and his evidence withdrawn at the second appeal can we now belatedly introduce the Holman report that clearly demonstrates the many shortcomings of this man and therefore, it may be presumed the whole forensic team.

See MB and AZ's reports.

Another point which I invite you to consider:

supposing you she had touched and has forgotten about it,

F sufficient to get the quantity of blood sufficiently necessary to make those deposits - and I have reminded you that it would have to be a hand with a great deal of blood

G on it - would she not or Mrs. Oakley have noticed the bloody hands as they walked and sat outside afterwards? Surely, if no sooner than when she came to wash her hands, she would have noticed the blood on them and would have remembered and H told us about it.

Members of the jury, bearing all that in mind and

Page 36

remembering that the defendant did not put the light on as she walked out and that she would be walking out from a dark A bedroom into a lighted doorway with the light flowing in from the kitchen (illuminated by daylight) do you feel that you can dismiss from your minds the possibility that the

defendant put that print there on the morning of the
B 12th March? Remember neither she nor Mrs. Oakley nor anyone
speaks of having seen any blood on her hands.

If you do conclude that you can dismiss from your minds
any possibility of her having contaminated her hands with
C blood on the 12th and leant against the wall and left that
print, what other evidence is there which might account for
its being there, other than the fact that she was the
killer?

D Members of the jury, you will want to consider whether
it is possible - not whether it is proved but whether it is
possible - whether it may be, that the defendant made these
marks in blood, and in particular the one identified as
E being made by her, on an earlier occasion and that neither
she nor Mrs. Brady, the cleaner, noticed them before.

There is some evidence of which the defence - as I have
F reminded you - invite you to say that you cannot exclude
this possibility, so let us just consider what it is.

It starts with Mrs. Briggs, who was a prosecution
witness, who is a friend of the defendant's, who told you
G that she used to visit Mrs. Marchbank and has seen the
defendant looking after her. She was there on an occasion
three or four Saturdays before 12th March when she had seen
the defendant remove the rubber door stop. You will

H remember the defence went to elaborate lengths to satisfy us
of what I am sure none of us doubt, that there was a rubber

Page 37

door stop in the carpet behind that door which had been
removed. She said that the reason, apparently, was that
A Mrs. Shelton, the mother, had stubbed her toe on some
previous occasion on that and the defendant was intent on
removing it.

Mrs. Briggs told us that when that was being done by
B the defendant she caught her left hand with the screw driver
and cut it. one or other of them, she said, got a tissue to
apply to the cut and this had happened in daylight round
about midday.

C In cross-examination she said that only the left hand
was cut and that the defendant got tissues from a box on the
fridge in the kitchen. The bleeding, she said, was not very
heavy, it was just a case of dabbing the cut with a tissue.

D She could think of no reason for the defendant, between
inflicting the cut and getting the tissue, to have touched
the bedroom wall, of course, remember we are talking about
a cut on the left and not on the right-hand.

E The defendant herself, when she gave evidence, recalled
the incident, she put it as two weeks before the death.

She said she did cut her hand with the screwdriver.

Mrs. Briggs was there, it was daylight, it was her left

F hand but she said it bled quite badly.

In cross-examination she said the tissues were not in the kitchen but on a table beside the bed and she said that G she could not remember what she had done but could not think that she would have put her hands on the wall unless she was reaching across to get the tissues. She said she saw no marks on the wall, she agreed that she had never, when H asked in interview to account for the marks, mentioned this possibility. This is because she had forgotten about it

Page 38

until she was reminded about it by Mrs. Briggs much later.

Members of the jury, that is really all the evidence

A that there is on this crucial part of the case. You may think, as I have said, that the hand print is a critical plank, an important plank, in the prosecution case.

Mr. Carus invites you to say that really it is quite

B impermissible to infer that these three marks were put there at the same time. He goes further and says you should not conclude that they are all blood, despite Mr. Hussein's evidence; only that near the light switch has been proved to

C be human blood. What do you think of that, members of the jury? Of course, you must look for strict and sensible proof but you should, I suggest, ask yourselves whether, as a matter of sensible inference, you can or cannot conclude

D that really it must follow that all three marks were put there at the same time and whether you can accept on the basis of Mr. Hussein's evidence that all those marks are blood and, as a matter of overwhelming probability, human E blood. Does that appeal to you or do you find more persuasive Mr. Carus's submission about the scepticism which you should show to concluding that the mark with the hand F print is even in blood, let alone that it was placed at the same time as the mark by the switch?

May it be that the defendant put it there either when she cut her hand removing the door stop or perhaps on some G other occasion which she has forgotten about, or did not notice. If you think that there is or may be some such explanation then, of course, the main plank of the Crown's case goes. If, however, you are sure that you can reject H that possibility, then you will want to ask yourselves whether it is the case, as the prosecution argue, that that

Page 39

print is a clear pointer to the fact that the defendant was the killer of Hilda Marchbank.

A Members of the jury, I will deal with one more topic and then we will break off for tonight because you have had, I know, a taxing day and I prefer to conclude when you are fresh tomorrow.