

Trial Transcript Excerpt, 6/3/02  
State's Initial Closing Argument

1

1 SUPERIOR COURT  
2 JUDICIAL DISTRICT OF NORWALK STAMFORD  
3 AT STAMFORD  
4 STATE OF CONNECTICUT

5 -----x  
6 STATE OF CONNECTICUT,

7 Plaintiff,

8 vs.

Case No. FST CR00-135792T

Date: June 3, 2002

9 MICHAEL C. SKAKEL,

10 Defendant.

11 -----x  
12 PROCEEDINGS BEFORE THE HON. JOHN KAVANEWSKY

13 A P P E A R A N C E S

14 JONATHAN BENEDICT, ESQUIRE  
15 CHRISTOPHER MORANO, ESQUIRE  
16 SUSANN GILL, ESQUIRE

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1           THE COURT: All right; ladies and gentlemen, the  
2 State of Connecticut has rested its rebuttal case.  
3 Therefore, that concludes the evidence portion of this  
4 case. We are now ready to proceed with the matter of  
5 arguments by the attorneys to you.

6           Under our rules of practice, the state  
7 opens the argument, followed by defense counsel and  
8 the state is permitted to close the arguments. So,  
9 you will now give your attention to the attorneys  
10 beginning with Mr. Benedict for the State of  
11 Connecticut. Mr. Benedict.

12          MR. BENEDICT: Thank you, Your Honor.

13           I want to first thank you for your  
14 attention. Certainly this case has had a lot more  
15 distractions than any case I have tried in the last 26  
16 years and we don't do this on a daily basis. But it  
17 has been apparent to all of us that you have all  
18 remained attentive, interested, focused and, most  
19 important, I think patient throughout.

20           I don't just say this to loosen up my vocal  
21 cords. I think even the most publicized and exciting  
22 trial can at times get a little bit tedious. Indeed  
23 just a few weeks ago in New Haven in the trial of  
24 another notorious even older murder case one Juror was  
25 dismissed during testimony for having taken a nap.  
26 And it didn't happen here and we appreciate it.

27           I want to speak very briefly about the

1 law. His Honor, as you know, is going to instruct you  
2 fully on the law before you are sent in to  
3 deliberate. The charge is murder. The state has the  
4 burden of proof, as you all know. That burden is to  
5 prove to you, to convince you beyond a reasonable  
6 doubt. Not beyond a possible doubt, not to an  
7 absolute certainty, but beyond a reasonable doubt as  
8 to those matters that are set out in the information  
9 that His Honor will discuss with you in the course of  
10 his charge.

11 What's in the information. First of all,  
12 the when and the where. Between 9:30 p.m. and 5:30  
13 a.m., at Walsh Lane, Greenwich, Connecticut -- it's no  
14 more specific than that. While that might seem a  
15 little bit broad, the reason for that is, as in almost  
16 any murder case, one of the people who would naturally  
17 be the most informative of witnesses, Martha Moxley,  
18 has had her ability to relate facts forever shuttered  
19 by the very act that has us all here in this courtroom  
20 today.

21 We have to prove what. We have to prove  
22 that the defendant caused the death of Martha Moxley.  
23 Causation of death I think is a given here. There's  
24 no doubt about that.

25 We have to prove also that the defendant  
26 had the specific intent to cause her death, that  
27 beating Martha in the head so many times with a golf

1 club that we really can't even get an accurate count  
2 certainly evidences an incontrovertible intent to  
3 cause death. The act of stabbing her through the neck  
4 from one side through the other with a piece of broken  
5 shaft quite frankly is the most emphatic evidence of  
6 pure hatred, rage and intent to kill.

7 Rather than presenting the typical  
8 prosecutor's opening statement where I just run down a  
9 list of all the witnesses and sort of summarize what  
10 each and every witness said, I am going to speak on  
11 various subjects that occurred in the course of this  
12 trial. While I am sure Mr. Sherman is going to take a  
13 great deal of issue with what I am going to say here,  
14 I am going to present to you what I submit is the most  
15 reasonable construction of the evidence in this case.

16 Does that mean that the evidence answers  
17 every question that could arise -- certainly not.  
18 Does that mean that every fact has been proven beyond  
19 a reasonable doubt -- of course not. That's an  
20 impossible task in any case, particularly in a murder  
21 case. And it is not a burden that is placed on the  
22 state. The only matters that state has to prove  
23 beyond a reasonable doubt are those matters set out in  
24 the information that I just went through with you.

25 Martha Moxley, pretty, athletic, flirtatious  
26 15 year old kid, one who we learned from her diary was  
27 as any 15 year old girl, just beginning to come into

1 womanhood. And from Andrew Pugh and Jackie  
2 Wettenhall, as an attractive kid, she was also clearly  
3 drawing the attention of boys. Unfortunately, as we  
4 learned from the words of the defendant, Richard  
5 Hoffmann and from Martha's diary again, she was also  
6 drawn into the vortex of the competing hormones of two  
7 of the young boys who lived across Walsh Lane.

8 The Moxleys, Martha left home to go  
9 mischieving that night about 6:00 p.m, having just  
10 eaten a sandwich. She didn't have school the next day  
11 so wasn't supposed to be in until about 10:30 or so  
12 that night. Of course, she never got there.

13 The Moxley home was nicely landscaped, had  
14 extensive grounds and it bounded in trees that become  
15 significant in this trial. One tree by the side of  
16 the house rose to permit a view into Martha's bedroom  
17 up on the third floor, if you were a monkey, if you  
18 recall Martha's mother's testimony, or perhaps a  
19 strong and athletic and perhaps a disturbed individual  
20 as the evidence in this case shows Michael Skakel  
21 was.

22 There are two other cedar trees in the front  
23 of the house that rose up by John Moxley's bedroom.  
24 You could get a view into John's bedroom if you were,  
25 if you recall John's testimony, a sparrow. But those  
26 trees were so dense and thin limbed that they would be  
27 unclimbable by a human being. This little fact will

1 have significance in this trial.

2 And, of course, there is the third tree. It  
3 is certainly climbable but that's not the point. It  
4 is a place where a body could be hidden, where a body  
5 was hidden, the place where the evidence in this trial  
6 says Michael Skakel dragged the body of Martha Moxley.

7 Dorothy Moxley expected Martha home by about  
8 10:30 at night. And although she may have heard and  
9 you will hear this from Mr. Sherman I presume some  
10 noises outside about ten or so, it was mischief  
11 night. Dorothy didn't become concerned until after  
12 11:00 or so. Needless to say, Martha never did make  
13 it home.

14 Surrounding circumstances, after the Skakel  
15 group returned from dinner, Martha came by with a few  
16 friends. They and the defendant got into the  
17 defendant's father's car, if you recall the  
18 defendant's statement or story to Richard Hoffmann.  
19 This was the defendant's big moment. Unfortunately  
20 they were joined by brother Thomas, Michael's nemesis,  
21 who wound up with the girl that night, at least for a  
22 little while.

23 The trip to Terriens next took place.  
24 Exactly who went there is one of our controversies in  
25 this trial. But, as you will see, it is not one that  
26 the state necessarily has to resolve in order for you  
27 to convict.

1           The next thing that happened is that it was  
2           time for sister Julie to take Andrea Renna Shakespeare  
3           home. As these two were stepping out the front door,  
4           a figure darted by causing Julie to yell out Michael  
5           come back here which was occurring at the very same  
6           time that brother Thomas was parting from Martha by  
7           the side door in the driveway, Helen Ix having been so  
8           embarrassed, if you recall her testimony, by the  
9           interplay between the two, Thomas and Martha, that she  
10          just left for home.

11           And at very same point the departure to  
12          Terrien's house has already taken place. The Lincoln  
13          was already on route to north Greenwich.

14           Next we realize that Martha didn't get home  
15          as expected by 10 or 10:30 and we could pretty much  
16          conclude that by 1:00 in the morning that she was  
17          never coming home.

18           The crime scene was testified to primarily  
19          by former Chief Keegan, Dr. Carver and Dr. Lee.  
20          Martha was first assaulted somewhere by the driveway,  
21          right about there. She wasn't knocked unconscious  
22          there because we learned that she was somehow able to  
23          travel from here to here, to the major blood scene and  
24          there is no drag trail between those two points.

25           At that point, she was beaten by the major  
26          blood scene mercilessly. Clearly the first blow or at  
27          most the second blow rendered her permanently unable

1 to move. And, of course, as a continuation but not a  
2 final step of the hate and humiliation, she was  
3 stabbed through and through with a piece of broken  
4 golf club shaft.

5 At some point, Martha's jeans were pulled  
6 down. Her underpants were rolled down. Exactly when  
7 is one of those things even the foremost of forensic  
8 experts could not pinpoint for you. But, you can with  
9 the help of Michael Skakel, Andrew Pugh, Michael  
10 Meredith, Geranne Ridge and Martha Moxley. Common  
11 sense tells us that Martha was not compliant while she  
12 was conscious. Were she compliant, what would be the  
13 sense in beating her to death.

14 Looking at the evidence, the beating started  
15 again in the driveway. Her pants certainly weren't  
16 below her knees at that point because she couldn't  
17 have gotten five feet, let alone a near 50 feet, to  
18 get over toward that bloody major assault scene. And,  
19 of course, it only took one good swing over at the  
20 bloody major assault scene to render her permanently  
21 beyond help.

22 This, as you review the evidence, is where  
23 the absolutely weird masturbation story acquires  
24 significance. It's incorrect to say this is not a  
25 forensic case. It is a forensic case, not for the  
26 forensic evidence that was produced but rather for the  
27 forensic evidence that wasn't produced that doesn't



1       exist.

2               Henry Lee presented to you some weeks ago  
3       the history of DNA in solving crimes. By 1991 or  
4       1992, it was the real deal in criminal investigation.  
5       When this case, this investigation was revived in late  
6       1991, every criminal investigator on the planet was  
7       totally attuned to this miraculous new technology and  
8       of course that would include the PIs that the Skakel  
9       family had hired to assist them in the defense, Sutton  
10      Associates.

11             Of course, Sutton Associates and the Skakel  
12      family would have no way of knowing that the FBI and  
13      the Connecticut Crime Labs had simply drawn blanks  
14      back in 1975 which really isn't surprising. Dr. Gross  
15      in 1975 not having heard the word masturbation, that  
16      doesn't come up until 1992 or thereabouts, not having  
17      heard the word masturbation in connection with this  
18      crime scene, Dr. Gross used a UV light in the normal  
19      spot, around the victim's pubic area, but he didn't  
20      use it anywhere else. At any rate, the body having  
21      been dragged face down, face up, feet first, head  
22      first likely wouldn't have disclosed any evidence on  
23      Martha's part of same.

24             This is where this photo acquires great  
25      significance, though. That was taken from the crime  
26      scene. That's not a bruise. It's not any other kind  
27      of injury. Rather, it's a smear, as Dr. Lee

1 testified. Dr. Lee also testified that you just see  
2 the one on the left side, there is one also on the  
3 right side. You can just see it about four or five  
4 inches below on the right side. This is evidence that  
5 somewhere in the bloody assault scene, somewhere  
6 during the drag episode but certainly most likely  
7 underneath the tree, he administered the ultimate and  
8 sickest of humiliations, clearly not a person in his  
9 normal state as he related to Alice Dunn some years  
10 later at Elan.

11 You didn't have to be a fly on the wall when  
12 the Sutton Associates came into the picture in 1992 to  
13 understand why the defendant soon was serving up his  
14 bazaar tale of masturbation in a tree to his friend,  
15 Andy Pugh, and later to Richard Hoffmann. He had  
16 masturbated, not in that cedar tree by John Moxley's  
17 room and not in that monkey tree that's on the side of  
18 the house, but rather in the vicinity of Martha  
19 Moxley's body. And not knowing what traces may have  
20 been recovered from her body and of course the crime  
21 scene investigation or from her clothing or exactly  
22 who he may have related this horrible tale to,  
23 particularly in his years at Elan, he needed some kind  
24 of an explanation.

25 And, of course, the golf club. The  
26 significance of the golf club, again, is not what is  
27 there, but what isn't there. Surely there can be,

1 given the evidence of this case, no serious question  
2 that the six iron and its other matching parts was a  
3 match to the four iron right here, that it was a club  
4 that had formerly belonged to the defendant's deceased  
5 mother.

6 The piece that is missing has significance  
7 only to somebody named Skakel because the label reads  
8 Mrs. R. W. Skakel, Greenwich, Connecticut, Greenwich  
9 CC, Greenwich, Connecticut. The murderer made sure to  
10 hide forever that part of the club that said where it  
11 came from.

12 Now, you want to think about this for a  
13 minute. Is there any reason why a stranger, even Ken  
14 Littleton, would have any reason to hide that label --  
15 no. Such a person would have all the reason in the  
16 world to simply leave that identifying label right  
17 next to the body.

18 Of course, there were seven Skakels at Otto  
19 Rock Drive that night so the golf club is not exactly  
20 a smoking gun, but it certainly is a very warm  
21 barrel. And I submit as you proceed through the  
22 evidence and reason out which of these Skakels was  
23 swinging that golf club that night at Martha Moxley,  
24 you will ultimately determine it was Michael Skakel.

25 So, who did it? Greenwich Police  
26 apparently at one time early on thought Tommy did it.  
27 The perfect place to start, the person last seen with

1 the victim is obviously a good place to start. But  
2 you also have to consider that fact along with the  
3 other evidence that both his sister Julie and Andrea  
4 Renna had him after parting from Martha at the side  
5 door being at the front door handing Renna the car  
6 keys. That's 9:40 or so because, as you know, the  
7 Lincoln had already left.

8 Some time after 10:00 o'clock, 10:15, 10:20,  
9 he entered his father's bedroom and watched part of  
10 the movie with Ken Littleton with neither a drop of  
11 blood on his clothing or hair out of array.

12 Ken Littleton would appear to be the defense  
13 culprit of choice here and apparently he was of the  
14 Eastin police chief back at the time when he was  
15 working in my office in Bridgeport. Certainly in 1992  
16 they took a valiant effort to try to dupe this  
17 psychologically fragile person to confess to the crime  
18 but it was an effort that clearly fell flat.

19 More importantly, Mr. Littleton has a better  
20 alibi even than Thomas Skakel. He too was by the  
21 front door. He was on the staircase at the time that  
22 the keys were passed. Then shortly after 10:00  
23 o'clock when Julie came in to ask where everybody was,  
24 he was in the kitchen and again without a drop of  
25 blood on his clothing, without a hair out of array.  
26 And, of course, he was watching the movie with Thomas  
27 Skakel about 15 minutes later, not to mention the fact

1       that this being his very first night there, having  
2       never laid eyes on Martha Moxley, he had neither the  
3       motive nor the opportunity to have committed this  
4       terrible crime.

5               To conclude that either Thomas Skakel or  
6       Kenneth Littleton murdered Martha, you would have to  
7       pretty much conclude they were in cahoots with one  
8       another. That simply doesn't make sense. The bottom  
9       line is, if either of those two people committed this  
10      grewsome bloody horrible crime and managed so  
11      effectively to cover their tracks, he has committed  
12      the perfect crime and I submit that's just not  
13      possible in this case.

14             Michael Skakel, he started talking about  
15      this murder within 24 hours of its occurrence and  
16      unlike Ken Littleton it hasn't been all denials. On  
17      October 31, to Andrea Renna, he said Martha is dead,  
18      Tommy and I were the last to see her.

19             About six months later in front of a barber,  
20      Matt Tuccarone, he said, barber just minding his own  
21      business, I am going to kill him; why not, I have  
22      killed before.

23             Maybe about six months after that, with a  
24      gardener chauffeur, Larry Zicarelli, the defendant  
25      said, I have done a terrible thing, you wouldn't speak  
26      to me again if you knew it. I have to kill myself or  
27      get out of the country.

1 In 1978, 1979 at Elan in a brief  
2 conversation with Dorothy Rogers, an old acquaintance  
3 from home town Greenwich, he told her his parents put  
4 him in there to protect him from the police, that he  
5 was in a blackout, that he may have done it.

6 Also at Elan he told Gregory Coleman, the  
7 evidence is now clear with Mr. Coleman, that in the  
8 days immediately preceding that horrendous general  
9 meeting, before any resident in Elan had an inkling of  
10 the defendant's having committed this murder, the  
11 spoiled brat smugly boasted, I can get away with  
12 anything and continued to describe to Coleman how he  
13 had beaten a girl's head in with a golf club and later  
14 masturbated on her and was being hidden from the  
15 police.

16 Now, Coleman's memory may have faded just  
17 like apparently every other witness's in this case  
18 has. And, further, Coleman's memory may have been  
19 somewhat dimmed by his life as a junky. But it is  
20 clear that this statement made by the defendant  
21 disturbed him enough and stuck with him that he felt  
22 he had to talk about it to people in later times.  
23 First of all, at Elan when he opened up to Jennifer  
24 Pease about what the defendant told him and then  
25 secondly when he first met his wife back in the mid  
26 eighties. By the way, when he told her about this  
27 horrible secret Michael Skakel had confided in him, in

1 the 1980s, this thing was completely off the scope of  
2 publicity.

3 John Higgins, if you don't call this murder  
4 a deep dark secret, then there is no such thing.  
5 Isn't it natural that with so terrible of guilt it has  
6 to come pouring out at some point. And given the  
7 non-stop Terrace Island concentration camp type  
8 atmosphere at Elan, what other opportunity could arise  
9 better than in the quiet wee hours of the night where  
10 the defendant said to Higgins, I had a blackout, I got  
11 a golf club from the garage, I recall running under  
12 the pine trees, I did it.

13 And then around 1982, the defendant confided  
14 in his father, as reluctant, the evidence by close  
15 family friend Mildred Ix, that he thought he had done  
16 it while he was drunk.

17 In 1985, he told Michael Meredith that he  
18 had climbed a tree and spied on Martha as he had on a  
19 number of prior occasions and masturbated, and  
20 conveniently pointed his finger at his brother Thomas  
21 coursing through the yard towards Martha's house.

22 In 1992, he told somewhat the same story to  
23 Andy Pugh, this time though saying it was the tree,  
24 referring to the tree under which both he and Pugh  
25 were fully aware that Martha's body had been hidden.  
26 And he asked Pugh to please return Sutton Associates,  
27 their persistent telephone calls. This of course to

1 get out the appropriate explanation should there be  
2 semen at the scene one day connected to the crime.

3 In 1997, apparently having fallen off the  
4 wagon at a party up in Boston, he, depending on which  
5 Geranne Ridge version you want to accept, the one from  
6 this courtroom is the last place I want to be in my  
7 whole life or the one where she said he was just  
8 joking about the murder or chatting with a friend  
9 relating all the facts that had been related to her by  
10 the defendant at this party.

11 And Richard Hoffmann, the news story, in  
12 trying to sell his life story as a teenage alcoholic  
13 substance abuser, life as a Kennedy relative, life as  
14 Marissa Verochi's savior, he described the night I  
15 snuck over to my neighbor's house to give her a kiss  
16 and walked right through the very crime scene. I  
17 masturbated after I climbed an unclimbable tree but I  
18 didn't kill anybody, although I did wake up in a panic  
19 wondering if anybody might have seen me out there that  
20 night.

21 Which calls to mind the interesting little  
22 circumstance that when he was awakened the next  
23 morning, it was by Dorothy Moxley and that while  
24 Greenwich High was closed that day, all the private  
25 and parochial schools were in session. Yet everyone  
26 else from that Otto Rock Drive home, the Skakel home,  
27 managed to meet his appointed rounds that morning,



1       except for Michael Skakel, he couldn't get out of the  
2       house.

3               Now, the defense has presented a case, the  
4       defense in this case clearly began on October 30, 1975  
5       with the disappearance of the golf club, the shaft and  
6       any other evidence that would have pinpointed the  
7       defendant to the crime.

8               Also here at trial you have been presented  
9       with John Solomon, the former chief investigator in my  
10      office who in 1992 thought he was going to break the  
11      case by tricking Ken Littleton into confessing. He  
12      didn't really add much information to that which was  
13      already brought to you by the state's case except to  
14      come in and insist that it certainly wasn't his idea  
15      to have Littleton's X-wife frame him. Frankly, I  
16      don't know why he is so sensitive about that. There  
17      is no question that that was what was done. There is  
18      no question that it was a complete flop. As to whose  
19      idea it was who said to do what, it really isn't very  
20      important to your decision here.

21              The defense presented witnesses to attack  
22      the reliability of the defendant's confessing at  
23      Elan. Primarily, witnesses at Elan who again offered  
24      very little in addition to Chuck Seigan in the state's  
25      case. We agree Elan was equivalent to the lower  
26      circles of hell.

27              In that horrible general meeting in front of

1 a hundred witnesses, however, the defendant never  
2 confessed, Chuck Seigan testified to that. However,  
3 none of the defense witnesses who came in here were  
4 able to refute in any way the private conversations  
5 the defendant had with Dorothy Rogers, with Gregory  
6 Coleman, with John Higgins, even with Alice Dunn.

7 To confront the testimony of Michael  
8 Meredith, Matthew Tuccarone, Larry Zicarelli, the  
9 defense presented more in the way of ridicule than  
10 evidence.

11 And, then the alibi, that is the cornerstone  
12 of the defense here. It is a somewhat unbalanced  
13 alibi because due to the defendant's ongoing tales in  
14 the 1990s, you can accept the alibi at face value and  
15 still convict the defendant but you of course will  
16 want to take a careful look at that alibi. You will  
17 want to look at how was it produced.

18 Somebody had the bright idea to get the  
19 players out of town in the immediacy of the  
20 investigation on October 31. Rushton, Jr. had already  
21 gone off to Washington D.C., so Tom, John, Michael and  
22 Jim Terrien were taken out to Windham by Ken  
23 Littleton. Not until after their return from Windham  
24 did the alibi begin to come up.

25 Indeed, you just heard of the events of  
26 November 15 a lot last week, how father Rushton took  
27 all of his kids, Terrien as well, as a group, to give

1       their stories to the police. By whom was it  
2       produced.

3               Well, Julie and Andrea Renna who weren't  
4       included in the Windham trip couldn't quite get on the  
5       right page in 1975 with the other people. But those  
6       who did, John, Tom, Michael Skakel, Jim and Georgeann  
7       Terrien are all brothers and cousins and clearly were  
8       and are a very close-knit group, each with a notable  
9       interest in the defendant's welfare. And that is  
10      something as His Honor will instruct you you may take  
11      into account in judging the witnesses credibility.

12             How was the alibi presented, not very well.  
13      This is a case where one Skakel or another has always  
14      been a suspect, if not a defendant. Where a neighbor  
15      was murdered, in addition. Yet the defense presented  
16      an incredibly sketchy yet contrived convenient  
17      inability rather than ability to recall which fails to  
18      reasonably impugn the evidence presented by the state  
19      and indeed in many regards reinforces the evidence  
20      presented by the state which evidence I submit  
21      demonstrates the defendant's guilt beyond a reasonable  
22      doubt.

23             THE COURT: Thank you. Mr. Sherman.

24             MR. SHERMAN: Good morning. He didn't do it.  
25      He didn't do it. He doesn't know who did. He wasn't  
26      there when the crime was committed and he never  
27      confessed. That's the whole case. There is no great

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1 Littleton or by arresting Tom Skakel. Two weeks, two  
2 years, 27 years from now, you shouldn't have that same  
3 feeling of nausea that maybe you made the wrong  
4 decision in finding Michael Skakel guilty of this  
5 murder based on the evidence that was presented to  
6 you.

7 Thank you very much.

8 THE COURT: All right; ladies and gentlemen, as I  
9 told you before, the state is permitted to close the  
10 arguments. But, before that, I think we are going to  
11 take a recess.

12 I am going to excuse you to Courtroom B with  
13 the standard admonition not to discuss the case  
14 amongst yourselves. That time will soon come but it  
15 is not here yet. You are excused to Courtroom B.

16 (Whereupon, the Jury left the Courtroom.)

17 THE COURT: We'll take a short recess.

18 (Whereupon, a brief recess was taken.)

19 THE COURT: Mr. Benedict, are you ready?

20 MR. BENEDICT: Yes, Your Honor.

21 THE COURT: Bring the panel in, please.

22 (Whereupon, the Jury returned to the Courtroom.)

23 THE COURT: All right; thank you, ladies and  
24 gentlemen. As I said before, the state is permitted  
25 to close the arguments. Please give your attention to  
26 Mr. Benedict.

27 MR. BENEDICT: Thank you, Your Honor.

1           The state has presented about a dozen  
2 witnesses to whom the defendant made incriminating  
3 admissions or even confessions. But when we talk  
4 about words, don't get too wrapped up in the  
5 interpretation of words because it is not just in  
6 interpreting words that you are going to find the  
7 truth in this case. Where you are really going to  
8 find the truth in this case is in determining what the  
9 defendant and his greater family support group have  
10 done in this case sometimes with words, sometimes  
11 without. And, I will get back to words later on as I  
12 get closer to closing.

13           Let's talk about time. I spoke about this  
14 in my opening. The concept of exact time for a murder  
15 is obviously of great concern for the defense, as it  
16 should be. Because from 1975 until 1992 or  
17 thereabouts, Michael Skakel had a nice neat 9:30,  
18 10:00 o'clock type alibi. But, as you will see with  
19 Andy Pugh and ghost writer Richard Hoffmann, the  
20 defendant has dug himself a hole that throws his alibi  
21 somewhat to the wind.

22           Keep in mind that as regards time, the state  
23 has to prove beyond a reasonable doubt only that  
24 Martha Moxley was murdered between 9:30 p.m. and  
25 5:30 a.m. I am sure you have noted that the defense  
26 has presented a partial alibi only, the trip to James,  
27 the captain of mayhem, Terrien's 9:30 to 11 or so

1 o'clock at night.

2 If this case had come to trial when perhaps  
3 it should have some 20 years ago, if the Skakels  
4 hadn't managed to keep things under wraps for so long,  
5 that Jury's task would have been a simple one of just  
6 determining the credibility of this interesting alibi  
7 that has been passed during this trial. Given the  
8 fact that Martha departed Thomas Skakel shortly after  
9 9:30, and that an obnoxious dog was barking  
10 frantically, having the defendant out of the area from  
11 9:30 to 11:00 is a pretty obvious defense.

12 What complicates things in this case is the  
13 fact that well, trials are not written like novels.  
14 They are not produced like movies. I didn't sit down  
15 six months ago with my lap top and script out the  
16 evidence. Neither did Mr. Sherman. Mr. Sherman and I  
17 were both presented with the evidence that, as is  
18 essentially in every criminal case, was dumped in our  
19 laps by the witnesses.

20 And that was primarily done in this case by  
21 Michael Skakel, by his obvious concern that the 1975  
22 alibi wouldn't cover every eventuality, particularly  
23 that his semen might one day be identified in a crime  
24 lab, or even that one day someone might surface who  
25 had actually seen him over there.

26 So, it is Michael Skakel who has set the  
27 buffet menu here. As a result, starting in 1992 with

1        Andy Pugh, the defendant having already consulted with  
2        Sutton Associates, has spun a tale of tree climbing,  
3        spying and masturbating that occurred after his return  
4        from Terriens.

5                Indeed, we heard in the defense case from  
6        Angela McFillin that Joe Ricci near the end of that  
7        horrendous general meeting made the defendant account  
8        for what happened after he got back from his  
9        cousin's. Go figure, I didn't put those words in  
10       front of you. The defendant did.

11               So, don't fault the State of Connecticut for  
12       not presenting you with a nice neat tie framed  
13       package. Rather, thank the spin master himself,  
14       Michael Skakel.

15               Further, on the concept of Jury unanimity,  
16       you all understand your verdict must be unanimous.  
17       His Honor will give you that instruction, can't be ten  
18       two, can't be eight four.

19               As regards time, you must be unanimous that  
20       the crime occurred during the time set in the  
21       information, 9:30 to 5:30. And that's all. As long  
22       as you are satisfied beyond a reasonable doubt that  
23       the defendant murdered Martha Moxley within that time  
24       frame, you must convict.

25               For that matter, if half of you were to buy  
26       into Zock the dog and figured the crime happened early  
27       and not accept the alibi and the other half of you



1        were to accept the alibi and conclude the defendant as  
2        he sort of describes to Richard Hoffmann came by later  
3        on at night and did it, nevertheless if you all agree  
4        beyond a reasonable doubt that the defendant murdered  
5        Martha Moxley, you must convict.

6                For that matter, all 12 of you, sixteen full  
7        count, could each come up with his own personal time.  
8        As long as everybody's time came up between 9:30 and  
9        5:30 and you are convinced beyond a reasonable doubt  
10       that Michael Skakel murdered Martha Moxley, you must  
11       convict.

12               Forensic evidence, I don't want to take a  
13       lot of time with Dr. Jachimczyk here but let's talk  
14       about it. He has an opinion that the murder happened  
15       at 10:00 o'clock. We took him through the medical  
16       variables. Rigormortus he told us takes four to eight  
17       hours to set in and the body was in full rigor at  
18       noon. So, what you do is you subtract, four to eight  
19       from noon is 4:00 o'clock in the morning to 8:00 in  
20       the morning. She could have been alive as late as  
21       8:00 o'clock in the morning, which we know she  
22       wasn't.

23               Livermortus became fixed. It takes eight to  
24       12 hours to become fixed. So, once again, you  
25       subtract from noon when her body was found with fixed  
26       livermortus. She could have been alive somewhere  
27       between midnight and 4:00 o'clock in the morning on

1 the basis of that.

2 Stomach contents, here you don't subtract,  
3 you add. There was no food in her stomach. What  
4 there was was food in her small intestine. She had  
5 last eaten about 6:00 o'clock. Dr. Jachimczyk told us  
6 it takes about four hours for the stomach to empty to  
7 the small intestine. So that means she had to have  
8 been alive at least until about 10:00 o'clock.

9 The food that was in her system was in her  
10 small intestine and Dr. Jachimczyk agreed there is in  
11 medical science no definite time span you can figure  
12 for how long it takes for food to pass from the small  
13 intestine. We all know this from personal experience,  
14 it takes from hours to days. Thus the condition of  
15 Martha Moxley's digestive tract provides no medical  
16 information on how long beyond 9:30 she remained  
17 alive.

18 Dr. Jachimczyk did mention two other factors  
19 that helped him draw his 10:00 o'clock conclusion and  
20 they were factors that you heard from everyone else  
21 that testified in the immediate 1975 investigation.  
22 The fact that Martha was expected, according to  
23 Dr. Jachimczyk's report, I think, home by 10:30 p.m.  
24 and that one or two dogs became agitated on mischief  
25 night, of all nights. In other words, two non-medical  
26 facts, each of which is open to any number of  
27 alternative constructions.

1           What is probably safe to conclude is that by  
2       1:00 a.m. when John Moxley went out and searched for  
3       his sister she was dead. But, all of this falls  
4       within 9:30 to 5:30 and that's all that is alleged in  
5       the information.

6           Let's stay with the subject of time. Let's  
7       stay with the alibi. Why is it so suspect. How was  
8       it produced. What did the Skakel family do -- and I  
9       didn't really hear much from Mr. Sherman on this --  
10      what did the Skakel family do to put this together.

11          Someone seeing the police all over the place  
12      decided, had the sense to get the players out of the  
13      area. The oldest brother had already gone off to D.C.  
14      so the first thing the next morning Littleton was  
15      ordered to take the four players, Michael, John,  
16      Thomas and Jim Terrien, out of the way for awhile, for  
17      a short trip upstate.

18          Now, clearly, that wasn't decided for the  
19      sake of protection of these kids because we know Julie  
20      and the two younger stayed behind and Jim Terrien  
21      didn't live anywhere nearby. The importance of that  
22      sudden brief one night trip is that the alibi didn't  
23      begin to take shape until some time after the return  
24      from Windham.

25          And then you have the additional fact of two  
26      weeks after the murder, father Skakel, father Rushton  
27      Skakel, escorting the entire family together plus Jim

1 Terrien almost like leading the VonTrapp family over  
2 the alps to the police station to give their recorded  
3 but unsworn statements.

4 Consider who the alibi witnesses are, all  
5 siblings or first cousins, not one single independent  
6 alibi witness. As our alibi witnesses for Thomas  
7 Skakel and Ken Littleton, they are independent.

8 Consider what the family group did to  
9 advance the alibi here in the courtroom. In almost  
10 every alibi, there is always a grain of truth. The  
11 grain of truth here is that somebody gave Jimmy  
12 Terrien a ride home. Yet, even on this basic fact,  
13 the defendant's witnesses couldn't get on the same  
14 page. Brother John today or I should say last week  
15 says he simply can't recall and I will talk more about  
16 that in a few minutes. Even beyond John, though, no  
17 one, Terrien, Rush, Jr, Georgeann, Julie, claims to  
18 recall much else.

19 Under the circumstances of this case, that  
20 is simply incongruous. Ever since October 31, 1975,  
21 one of two particular Skakel brothers, Thomas or  
22 Michael, has been the prime suspect in this case. The  
23 entire family has been under a cloud. It has been one  
24 of the most notorious murders in this country's  
25 history in the last 27 years, not to mention the fact  
26 that it was these people's innocent next door  
27 neighbor, a playmate of some of them, who was

1 murdered.

2 Brother John missed the nail head completely  
3 when he testified because of all the hype he somehow  
4 really can't remember everything or can't get the  
5 facts together anymore. That is absurd.

6 Ladies and gentlemen, for all people there  
7 are things in life that you are compelled to remember,  
8 that you have a need to keep forever straight in your  
9 mind no matter how far in the past they are, things  
10 that become indelible. When your cousin or brother is  
11 a suspect in a horrendous crime and you happened to  
12 have been involved with that person on the night of  
13 that crime, common sense tells us that you will retain  
14 the events of that night as though they were on  
15 videotape. Unless, of course, you were drunk or  
16 stoned or high or a combination of the three and then  
17 you really can't recall, which could be the case here.

18 A perfect example is Ken Littleton. Here  
19 is a person who has been a suspect over the years and  
20 here with a minor exception or two, he retains a  
21 pretty dog gone good recall of that night, certainly  
22 better than any of the Skakel or Terrien families do.  
23 By the same token, do you think for a moment if there  
24 were one iota of evidence that Ken Littleton had  
25 committed this crime that a single Skakel or Terrien  
26 would have let that information slip from his memory.

27 What the evidence says the Skakels and

1 Terriens have done under oath before you and some even  
2 previously before a Grand Jury is intentionally  
3 suppress their memories and claim a lack of recall.  
4 Why, because in their actual recall lies the truth.

5 And, in their inexplicable claim of  
6 inability to recall almost anything beyond a red  
7 Lincoln going up to Terrien's house is evidence that  
8 what they truly remember they simply don't want you to  
9 know.

10 Brother John, cousin Georgeann, they spoke  
11 to the police in 1975, as did everybody else. They  
12 were not under oath at that time. Certainly they were  
13 a lot more malleable then as 16 and 17 year olds than  
14 they are now as adults. Certainly they are today a  
15 lot more aware of the consequences of lying here. For  
16 some people, that can cause a dilemma. Yet both  
17 before the Grand Jury, not having to face the  
18 defendant or the rest of the family, wiggled out of  
19 their dilemma by claiming a lack of recall even when  
20 in the Grand Jury we attempted to refresh their  
21 recollections with their 1975 statements. Here, face  
22 to face with the defendant, with their cousins and  
23 siblings, the pressures are dramatically greater. So,  
24 still wiggling, they managed to try to enhance their  
25 recall and still avoid the consequences of perjury.

26 And then there is sister Julie. Julie  
27 having incriminating information to give was passed

1 over by the defense, apparently. So, the state took  
2 her on as its own witness. She had no difficulty  
3 hitting the balls, I think you might have noticed,  
4 that Mr. Sherman served up at her in what you could  
5 call quote unquote cross-examination as to the fact  
6 that as she waited for the car keys, the driveway was  
7 deserted which is what she testified to in the Grand  
8 Jury back in 1998. To the questions of the Grand  
9 Jury, were there any cars in the driveway, did you see  
10 any cars leave, she simply responded no. That was in  
11 1998.

12 Now, in 2002, it's, well, what I really  
13 really meant was I don't recall. What in 1975 when  
14 she said Michael come back here she was calling to her  
15 brother here in 2002 somehow became just last week she  
16 didn't think it was the defendant, even though she  
17 called to him to come back, it doesn't make sense.

18 And then, as the best example of trying to  
19 do whatever she can do for the defendant here, she  
20 points a belated, very belated finger at Ken  
21 Littleton. The person carrying the package who she  
22 saw run across the front yard as she got back home  
23 from dropping off Andrea Renna was a lot bigger than  
24 the defendant. We learned that in 2002. We never  
25 heard that before. Better than that even, seeing  
26 Littleton in the kitchen sometime shortly after  
27 10:00 o'clock, 27 years later, now she recalls that

1 Littleton had changed his clothes. We never heard  
2 that before last week either.

3 Julie Skakel is the best example of a family  
4 support group continuing to this day to do whatever it  
5 takes to keep the wraps on Michael Skakel.

6 Helen Ix is cited as an alibi witness. I  
7 disagree with some of Mr. Sherman's characterizations  
8 of her testimony. Her testimony actually was that she  
9 honestly couldn't recall if the defendant left in the  
10 car and she also testified that she was gone before  
11 the Lincoln ever backed out of the driveway. No  
12 independent witness can say what happened once that  
13 Lincoln backed out of the driveway. Having seen  
14 Thomas and Martha's embarrassing carrying on in the  
15 driveway, did the defendant remain in the car or get  
16 out. Sister Julie's 1975 statement, Michael come back  
17 here certainly suggests he didn't stay in the car.

18 In the context of alibi, also consider two  
19 surprising witnesses who give it the line. First  
20 Andrea Shakespeare Renna, she is unshakable in her  
21 conviction that the defendant remained behind. Why so  
22 sure -- in part because the defendant told her he and  
23 Thomas were the last to see Martha alive and certainly  
24 in part because her friend Julie in going out to her  
25 station wagon saw a figure go by to whom Julie yelled  
26 Michael come back here.

27 And, if you really want to consider all of



1 her testimony, you may want to recall that the reason  
2 she feels so strongly about the defendant having  
3 remained there were the tales that she was told, were  
4 the tails that she was told by the defendant over the  
5 years.

6 This occurred, this trip out to the car, at  
7 a point while Julie professes no recall, Shakespeare  
8 Renna is positive that the red Lincoln was gone. And  
9 more importantly it was at the same point for sister  
10 Julie and Helen IX that Thomas and Martha were in the  
11 driveway horsing around.

12 In tune with the alibi witnesses was  
13 younger brother David. Not really any useful  
14 information came from him but I guess he felt a need  
15 to do his bit for the family. So he testified that  
16 from a distance of 100 to 150 yards away on a cold  
17 night, we presume the windows were closed, over a hill  
18 and beyond the trees, Mr. Skakel, David Skakel, could  
19 tell which way Zock's snout was pointing as he was  
20 barking and, particularly, that was his testimony.  
21 The defense, therefore, has presented to you now not  
22 only Julie's x-ray vision seeing through a wall, also  
23 David's x-ray hearing.

24 Frankly, the barking dog evidence I think  
25 seems silly. Dogs bark. They bark more on mischief  
26 night but the defense has chosen to run with barking  
27 dogs.

1                   What is significant about Zock's barking.  
2           It further gives the alibi, the lie in this case, that  
3           if all the players in this case, per Mildred Ix at  
4           least in the Grand Jury, in the 1970s when the  
5           defendant was not up in the scope as a suspect, of all  
6           the players, who was the one that most tormented Zock,  
7           who was the one that Zock hated, who was the one that  
8           Zock wouldn't even let into the Ix house on the day of  
9           the funeral, Michael Skakel. Who was the one that  
10          would cause Zock to become most agitated in that  
11          neighborhood, Michael Skakel.

12                 THE COURT: Are we ready to break now?

13                 All right, ladies and gentlemen, we will  
14           continue with the argument after the lunch recess. I  
15           am going to excuse you for lunch now. You have  
16           Courtroom B available to you as you have had it  
17           before. Of course, you are free to leave. I am just  
18           going to ask that you reassemble in Courtroom B no  
19           later than 2:05, full hour, and we will resume then.

20                 Remember the admonition, not to discuss the  
21           case with anybody. Don't let anybody discuss it with  
22           you. Don't seek out any information, all right, and  
23           certainly don't discuss the case amongst yourselves.  
24           Stay away from any media contacts or reports  
25           concerning the matter. Have a good lunch. We will  
26           see you at 2:05 in Courtroom B.

27                 (Whereupon, the Jury left the Courtroom.)

1 THE COURT: All right; recess for one hour,  
2 please.

3 (Whereupon, a luncheon recess was taken.)

4 THE COURT: There is a motion filed by the state  
5 for a curative instruction. Is that something the  
6 parties want to take up now?

7 MS. GILL: We prefer to wait until after  
8 argument, Your Honor, so the argument flow isn't  
9 interrupted.

10 THE COURT: I understand that but in terms of  
11 concluding the argument and then giving the  
12 instruction while the Jury is still here, that's what  
13 I meant, if it is to be given.

14 Mr. Sherman, are you ready to be heard on it  
15 or do you need some time with it?

16 MR. SHERMAN: Whatever the state wants to do.

17 THE COURT: I am not going to instruct the Jury  
18 now. I am going to let Mr. Benedict finish and while  
19 the Jury panel is still here, give that instruction.

20 Do you want to be heard on it, Attorney  
21 Gill?

22 MS. GILL: Yes, Your Honor. The motion that the  
23 state filed for a curative instruction is in regard to  
24 Mr. Sherman's argument. He began and ended his  
25 argument with assertions that Michael Skakel did not  
26 do it and doesn't know who did it.

27 What the state is asking Your Honor to

1 charge is that although the defendant has a  
2 constitutional right not to testify and the Jury can  
3 draw no adverse inference from that, he cannot testify  
4 through his attorney, which is essentially what  
5 happened this morning.

6 Mr. Sherman testified for his client saying  
7 his client did not do it and does not know who did  
8 it. And that, of course, is unfair to the state.  
9 There is no opportunity to cross-examine those  
10 statements.

11 So, we are asking Your Honor to tell the  
12 Jury to disregard that portion of Mr. Sherman's  
13 argument.

14 THE COURT: Which would be specifically?

15 MS. GILL: Which would be specifically his  
16 assertions that Mr. Skakel didn't do it and doesn't  
17 know who did it.

18 THE COURT: Mr. Sherman, do you want to be  
19 heard?

20 MR. SHERMAN: Yes, Your Honor. I think it's a  
21 very fair comment on the evidence that has been  
22 presented. On several occasions the state has brought  
23 witnesses here who said that Michael Skakel said I  
24 don't know, I didn't do it, could have been my  
25 brother, I don't know who did it. I repeated it.

26 MS. GILL: Mr. Sherman certainly could have  
27 argued that the evidence shows my client didn't do it

1 but that's not what he did. He said Michael Skakel  
2 did not do it and furthermore does not know who did  
3 it.

4 Now, certainly, there is nothing in the  
5 evidence to say what Mr. Skakel knows or does not  
6 know. That's a bold statement of fact coming from  
7 Mr. Sherman. That's nothing that refers to the  
8 evidence in this case.

9 MR. SHERMAN: If he did it, he would have pled  
10 guilty. He has obviously pled not guilty which is  
11 saying he didn't do it. Saying that he doesn't know  
12 who did it is consistent with what the state has  
13 brought.

14 THE COURT: All right. I will give the Jury an  
15 instruction after Mr. Benedict is done.

16 MS. GILL: There are some additional objections  
17 that the state has to Mr. Sherman's argument. In  
18 addition to that, the state noted five different  
19 witnesses with regard to what Mr. Sherman argued which  
20 is essentially a second deno, where is this witness,  
21 where is that witness.

22 Specifically, he argued that with regard to  
23 a witness O'Day was her last name that was mentioned  
24 by Geranne Ridge and a witness named Shanna, he argued  
25 with regard to both of them, we haven't heard from  
26 them. Dr. Gross, he made a similar argument with  
27 regard to Dr. Gross. Sutton Associates, we haven't

1 heard from Sutton Associates, and Harry Kranick.

2 With regard to all five of these, the state  
3 contends that it was inappropriate argument. Under  
4 the most recent case, Malady (ph), by the Connecticut  
5 Supreme Court, there is no longer a second deno  
6 instruction by the Court. And although it is  
7 permissible for a party to argue that a certain  
8 witness has not been produced by the opposing party  
9 and therefore they have not substantiated whatever the  
10 party's position is, that still requires advance  
11 notice to the Court and the opposing party so that  
12 argument can be made as to whether or not these  
13 witnesses are available to the opposing party and  
14 whether there is any reason to infer that, had they  
15 been produced, their testimony would have been  
16 unfavorable.

17 With regard to some of these witnesses,  
18 certainly Sutton Associates, there is no indication in  
19 the evidence that they are available to the state.  
20 And, in fact, as Mr. Sherman knows, they are  
21 unavailable to the state because of the assertion of  
22 the attorney/client privilege that has barred their  
23 testimony on behalf of the state. So that was an  
24 egregious argument by Mr. Sherman where he knows that  
25 the State could not produce Sutton Associates.

26 With regard to the other witnesses, there is  
27 no indication in the evidence what their testimony

1 would have been or whether they were available to the  
2 state or to the defense, for that matter. So that's  
3 the other objection the state has.

4 And, finally, and it was a matter that I  
5 believe Your Honor mentioned, Mr. Sherman asked the  
6 Jury to draw an adverse inference against the state  
7 for the state's objections to certain hearsay  
8 testimony coming in, the implication of his argument  
9 being that the state was trying to hide things from  
10 the Jury. That's certainly improper to draw any sort  
11 of adverse inference against a party for making a  
12 legal argument and legal objections.

13 So we ask Your Honor to cover all of those  
14 matters before the Jury.

15 THE COURT: All right; do you want to be heard as  
16 to the last two categories?

17 MR. SHERMAN: I thought it was fair comment on  
18 the evidence that was presented at trial.

19 THE COURT: I am going to continue the argument  
20 and I will decide what instructions to give, if any,  
21 later.

22 All right; bring the panel in.

23 (Whereupon, the Jury returned to the Courtroom.)

24 THE COURT: Thanks, folks. All right; we are  
25 ready to continue with the argument. Please give your  
26 attention to Mr. Benedict. Mr. Benedict.

27 MR. BENEDICT: Thank you, Your Honor.

1           The defense retained a criminal attorney in  
2           1976, as they should have. Tom Skakel was a suspect.  
3           They retained a PI firm after the revival of the case  
4           in the early nineties. And, again, the state doesn't  
5           fault that. However, that does not mean that you  
6           cannot consider the sudden presence of Sutton  
7           Associates particularly as it relates to the  
8           defendant's Andy Pugh masturbation story. This is  
9           simply more evidence of what the defendant was doing  
10          to avoid a successful state prosecution.

11          In that regard, we also heard much from  
12          Mr. Sherman as to how cooperative the Skakel family  
13          was or were they. He let the police take a four iron  
14          they had seen the day before. He let the police  
15          search the place up in Windham for something that was  
16          obviously wasn't there. And then he escorted or  
17          rehearsed a group of alibi witnesses down to the  
18          police station a few weeks later. Frankly, the state  
19          is not really impressed.

20          To refute Geranne Ridge, at least what she  
21          told her friend, Matthew Attanian, last week, the  
22          defense brought in Marissa Verochi. You have to  
23          consider her testimony closely. Consider of course  
24          her interest in the defendant, in protecting him, as  
25          he protected her in her time of need.

26          You also have to wonder about witnesses who  
27          really don't have anything to do with the crime itself



1       who come along. Marissa Verochi wasn't even born when  
2       this crime occurred, I believe, yet the first thing  
3       she does is hook up with a lawyer.

4               If you recall Ms. Verochi's testimony, was  
5       the defendant ever at the Ridge condo, did he ever  
6       talk about the murder, simple questions that beg  
7       simple answers. But, what was her answer, a very  
8       careful, very considered, very interested, very  
9       coached -- as best as I can recall. Beware of  
10      witnesses who can't give you a straight simple  
11      answer. Beware of witnesses who have to qualify their  
12      responses with as best as I can recall.

13             Forensics, true, there was little forensic  
14      evidence recovered in this case from the crime scene.  
15      The most remarkable substance that was recovered was a  
16      couple of hairs from the sheet the victim was shrouded  
17      in. They could have come from anywhere, State Police,  
18      Greenwich Police, Jack Solomon, Dr. Gross, Sheila  
19      McGuire, domestic help or from one of the families.

20             Anyway, two of these hairs happened to have  
21      some similarities to Ken Littleton's. I think Jack  
22      Solomon ran with that for quite a few years. But,  
23      that issue was resolved once and for all with 2002  
24      technology. We tried to get one of those similar  
25      hairs tested with DNA technology and it was used  
26      without drawing a profile. So not to leave any stone  
27      unturned, we did it one more time this year. We took

1 a shot and Ken Littleton was eliminated. That takes  
2 care of Ken Littleton's hairs.

3 A case can often best be solved  
4 forensically when the perpetrator takes trace evidence  
5 from a crime scene, from the victim, when he leaves a  
6 scene with the victim's blood on it. That surely  
7 happened here. It is unquestionable that when the  
8 defendant repeatedly struck Martha with the golf club,  
9 crouched over her to stab her, masturbated on her that  
10 he got plenty of her blood on himself. But that  
11 evidence, like the ingredients of chop sui, as Dr. Lee  
12 testified a few weeks ago, needs to be collected  
13 before it can be used. By the time Detective Lunney  
14 arrived at the Skakel home to collect that four iron,  
15 they had ~~36 hours~~ to dispose of the evidence. In  
16 fact they were already on their way to Windham.

17 ~~No~~ physical evidence, what are these. What  
18 are the fact that the missing section of this murder  
19 weapon pointed directly to his front doorstep. No  
20 physical evidence, how about the bloody smears on  
21 Martha's thighs. What better evidence could you ask  
22 for when you are trying to reason out just what he  
23 meant when he started talking about his masturbation  
24 stories.

25 Counsel kind of scoffed at this, I guess,  
26 but what other conceivable explanation can you give  
27 that evidence. Why else would a defendant ever

1 mention it.

2 So, here he goes, 1992, asking Andy Pugh,  
3 please call up Sutton Associates and talk to them  
4 about my case. Andy wasn't there that night. What  
5 would Andy have to say. Well, Andy had just recently  
6 been told by the defendant that he had masturbated in  
7 the tree. The only person on earth who knew the  
8 defendant had masturbated anywhere was the defendant,  
9 so why ever mention it to Andy Pugh -- only one  
10 conceivable reason, to help explain himself should his  
11 DNA ever be discovered.

12 Third party suspects, talk about the catch  
13 all. Let's say, the monster from the Belle Haven  
14 lagoon, some person from I-95 or maybe just Ken  
15 Littleton. Just coincidentally this stranger bumps  
16 into Martha as she is walking home. His Honor is  
17 going to instruct you that the state only has to prove  
18 its case beyond a reasonable doubt, not beyond a  
19 possible doubt, not beyond a guess or a surmise or a  
20 doubt raised just for the sake of raising it.

21 What point could there possibly be for a  
22 perfect stranger to carry this murder weapon away.  
23 That's the stupidest thing a perfect stranger could  
24 do. Nobody but a person with the last name Skakel  
25 would have any motive to destroy this part of the golf  
26 club. I submit to you as you sift through the  
27 evidence of this case and run through the list of

1       likely not suspects but Skakels, you will ultimately  
2       conclude there is only one who the evidence possibly  
3       suggests could be swinging that six iron that night by  
4       Martha Moxley and that's the defendant.

5               Tom Skakel is a possible suspect.  
6       Periodically, over the years, the defendant has  
7       pointed his finger at his brother Thomas, another  
8       example of what the defendant has tried to do with his  
9       words. At Elan, he said it was me or my brother. To  
10      Mike Meredith, the defendant, sitting in the tree  
11      about to masturbate, pointed out that he saw his  
12      brother walking over towards Martha's house.

13             Yet, particularly if you are letting Zock  
14      the dog be your time arbiter here, Tom just doesn't  
15      fit. After parting with the victim in the driveway,  
16      he was answering the front door for Andrea Renna, an  
17      independent witness. Shortly after that, he was  
18      watching the French Connection with Ken Littleton, who  
19      for Tom Skakel, is an independent witness. And later  
20      on when oldest brother Rushton came home, he is not an  
21      independent witness but he does corroborate the other  
22      witnesses, Tom was fast asleep. It certainly doesn't  
23      sound much like the panic filled 15 year old who  
24      walked right by the crime scene the night before and  
25      was too hung over to make school the next day.

26             Ken Littleton, counsel seems to have the  
27      impression that Ken Littleton confessed to

1 Dr. Morall. I think we had three days of testimony on  
2 that and I think everybody here got the picture pretty  
3 clearly there.

4 You know the evidence of Littleton's  
5 interview by Morall was simply a product of his having  
6 been hoodwinked in Boston. For counsel to suggest to  
7 you here that what Littleton said to Morall is a  
8 confession is really treating you no differently than  
9 the police treated Littleton up in Boston in 1992.  
10 The defense gave Littleton their best shot. The  
11 evidence says they fell far short. Even the suspect  
12 hairs have been eliminated.

13 The only evidence that remains against Ken  
14 Littleton I think is that 11 years after the crime he  
15 was diagnosed as being manic depressive. Of course,  
16 until being diagnosed, he self medicated on that and  
17 become an alcoholic for a period of years.

18 Jack Solomon was also impressed that  
19 Littleton knew so much about the crime when he was  
20 talking to his Ex in a Boston hotel room in 1992 that  
21 common sense says, except perhaps if you are a Skakel  
22 or a Terrien, most any person would keep abreast of  
23 the case if they had been a suspect under a magnifying  
24 glass for all those years.

25 So, Solomon opined to you that Littleton  
26 could only have known about the victim being stabbed  
27 through the neck if he was in fact the murderer.

1        Apparently, Chief Solomon wasn't keeping as abreast of  
2        the news back in the early 1990s as he should have,  
3        because we showed you evidence just last week, in June  
4        of 1991, nine months before that meeting in the motel  
5        room in Boston, it was all out there, including the  
6        stabbing in the neck. We showed you a newspaper to  
7        that effect last week.

8                Motive, the defense suggests the state  
9        hasn't shown you any evidence of motive. Let's look  
10       at that. Let's look at Tom Skakel first. From  
11       Martha's diary, we know he was flirting with Martha.  
12       We know also, he was engaging in some embarrassing  
13       horse play in the driveway prior to parting. We also  
14       know he is pretty well alibied for the rest of the  
15       night by independent witnesses, Renna and Littleton.

16               Ken Littleton has never in his life laid  
17       eyes on a live Martha Moxley. And he is alibi'd as  
18       well by, as to him, independent witnesses, Andrea  
19       Renna and Julie Skakel.

20               Michael Skakel, keep in mind, we are not  
21       talking about an adult. We are talking about a  
22       teenager and we are talking about a clearly troubled  
23       teenager. So, what surely wouldn't motivate anybody  
24       in this room to contemplate murdering somebody needs  
25       to be viewed from the off kilter perspective of  
26       Michael Skakel as he was in 1975.

27               We learned in the course of this case that

1 Michael Skakel was infatuated with Martha Moxley. We  
2 learned that from Andy Pugh and Richard Hoffmann, not  
3 to mention the diary.

4 We learned also that Martha's diary brought  
5 out the jealousy between Tom and Michael over her. We  
6 also know from Michael Meredith that the defendant had  
7 been spying on Martha from that tree. The defendant's  
8 feelings apparently went uncomfortably beyond mere  
9 infatuation.

10 We also know that he asked, from  
11 Mr. Hoffmann, Martha to spend the rest of the evening  
12 with him and we know that she wound up with Tom. We  
13 know that she was engaging in embarrassing horse play  
14 in the driveway with Tom. We also know from Alice  
15 Dunn the defendant was not in his normal state that  
16 night.

17 It's rather clear from the crime scene the  
18 defendant's effort to get a kiss didn't work out. As  
19 to Michael Skakel, the evidence of motive is ten times  
20 greater than that of the evidence of motive for any  
21 other person. Counsel mentions he was just a skinny  
22 little kid in 1975. So what, put a shaft on this.  
23 Heft (ph) that when you deliberate.

24 One of the defense themes here is that you  
25 should reject each of the state's witnesses because  
26 their motivation in being here is simply I guess  
27 wanting to be a star, wanting to get into the act in

1 such a high profile public trial. Does that really  
2 ring true.

3 The state presented people here who were  
4 willing to come forward with unpleasant testimony  
5 about things that happened many years ago. Some of  
6 them have traveled as many as four times to testify,  
7 have lost pay and time at work, have endured cross-  
8 examination literally on a national stage, have  
9 testified in some cases against childhood friends and  
10 in other cases had it drag up the most horrendous  
11 memories of their teenage years.

12 On the other hand, I guess the defense's  
13 idea of a stand up kind of guy is like Sergeant Shultz  
14 from Hogan's Heroes, I don't know nothing, I don't  
15 like anybody from the family here, I don't recall  
16 anything.

17 Let's look a little more carefully at the  
18 witnesses. Rather than coming in here with a 15  
19 minutes of fame kind of approach, many of the state's  
20 witnesses came in here kicking and screaming.

21 Mildred Ix is a perfect example. In the  
22 years closely following the defendant's matriculation  
23 at Elan, it apparently dawned on his father that they  
24 had a problem residing under their roof. So father  
25 Skakel related to Mrs. Ix that the defendant had  
26 confided to him, al la Elan, that he thought he might  
27 have done it while he was drunk. What more reliable



1 source can there be than your own father.

2 But, here now as to Mrs. Ix in the 21st  
3 century, the testimony had to be dragged out of her in  
4 a display of quick stepping you might recall that  
5 would have been humorous if it weren't so obviously  
6 perjurious.

7 Gerrane Ridge, was so distraught at being  
8 involved in this investigation that she had to get a  
9 prescription from her physician to deal with the  
10 stress. She had to hide behind her father and then  
11 hire a lawyer.

12 She would have you believe that she was  
13 just making her story up to get a curious friend off  
14 her back. Yet, you want to listen to that tape.  
15 Listen to both sections of the tape. She called  
16 Mr. Attanian and she left him a clear message on his  
17 answering machine that in fact there really was no  
18 information to be had. When he called back, she then  
19 engaged in a twenty minute phone call to give him all  
20 the gory details until he ended the call. You need to  
21 carefully look at that, listen to that tape.

22 Counsel suggested that the state produced  
23 those tabloid magazines. You may not recall what the  
24 purpose of the tabloids was. Ms. Ridge's testimony,  
25 trying to squirm out of the truth here, was I just  
26 read that stuff in these newspapers that I brought  
27 here today and that's the only way that I have this

1 knowledge. We put them in evidence and asked her to  
2 read them because none of the facts that she testified  
3 to and told Mr. Attanian about were in those issues,  
4 the Star, the Globe or the National Inquirer.

5 Michael Meredith, he wants to gain fame from  
6 this? Maybe some day he will in his own rights as a  
7 filmmaker but he got dropped on us when a friend of  
8 his father, Frank Gifford, called a state  
9 investigator. I think it was pretty obvious that  
10 Meredith wanted to be anyplace but here. But because  
11 he had pertinent information to give, he was willing  
12 to be humiliated before the world, to have his privacy  
13 completely destroyed and just relate to you the simple  
14 truth of the defendant's having stalked by repeatedly  
15 spying on Martha Moxley. Really, let's not fail to  
16 see the forest from the trees here.

17 In addition to being a poly substance  
18 abuser, the evidence presents an image of Michael  
19 Skakel as a teenager, as more than just a troubled  
20 teenager. He was spying and stalking his neighbor.  
21 He was masturbating in the great outdoors. It is a  
22 small wonder that the family eventually recognized  
23 that they had a tiger by the tail and placed him in a  
24 behavior modification place like Elan.

25 Matthew Tuccarone, a simple barber, who had  
26 one of those barber moments that stuck with him for  
27 many years. A kid came in, was so upset saying I am

1 going to kill him. Who, who was he going to kill,  
2 father maybe, his nemesis brother Tom, something kids  
3 blurt out all the time and never really mean. But he  
4 also said, why not, I have done it before.

5 Mr. Sherman I guess thinks Mr. Tuccarone  
6 should have run with that right to the police, a kid  
7 making an unfocused childish statement like that.  
8 Even a simple barber could see that would be  
9 pointless. But, it was disturbing enough to  
10 Mr. Tuccarone to be something he just filed away. And  
11 when this case came up on the news-scape years later,  
12 it finally gave focus to Mr. Tuccarone. And even  
13 though lawyers told him he was wasting his time, he  
14 nevertheless made the telephone call that got it  
15 before you.

16 Counsel pointed out that Mr. Tuccarone  
17 couldn't identify the defendant from this particular  
18 photograph, only from this particular photograph. You  
19 take a look at those and I think you can clearly tell  
20 the difference.

21 Andy Pugh, is that a comfortable moment for  
22 him, testifying here. His childhood friend, a person  
23 that as a kid Pugh obviously admired, the best athlete  
24 in all of Belle Haven. And here Pugh is telling you  
25 about his old friend admitting that he masturbated in  
26 the tree meaning clearly clearly the very tree where  
27 the body had been found, an admission that so

1       disturbed Pugh that apparently it convinced Pugh of  
2       what the real truth was. As a result, he forever  
3       severed their rekindling friendship and refused to  
4       play into the defendant's effort to build up an  
5       explanation.

6               The defense has impugned the motives of  
7       these witnesses, the Elan witnesses who I am going to  
8       speak about in a moment or two, as being publicity  
9       hungry or fame hungry people looking for their 15  
10      minutes of fame but that hardly bears out under  
11      examination. The point the defense simply seems  
12      unable to see perhaps because they are too jaded or  
13      too interested in 15 minutes of fame is that there are  
14      still people out there who simply feel that wrong  
15      should be righted, who simply feel that coming forward  
16      is a normal thing to do and a right thing to do.

17             Elan, the defense would have you conclude  
18      that that brutal vicious regime at Elan forced the  
19      defendant to falsely admit killing Martha Moxley.  
20      Nothing could be further from the truth. I think we  
21      need to look at this a little more closely.

22             First, it is perfectly clear the defendant  
23      admitted nothing in that awful general meeting. It is  
24      one of the few things I think that Mr. Sherman and I  
25      agree on here. Indeed, you didn't have to wait for  
26      the defense witnesses to hear this. You could have  
27      heard it from Chuck Seigan in the state's case.

1           There is no question in that general meeting  
2           with over 100 witnesses present, despite the  
3           screaming, the sleep deprivation, the paddling if it  
4           happened, the boxing ring, no way, with over a hundred  
5           witnesses present, was the defendant going to let a  
6           confession even be beaten out of him.

7           But, it's a little more complicated than  
8           that. The defense wants you to buy the Alice Dunn  
9           2002 version, the defendant never really said he did  
10          it or Angela McFillin or Sarah Petersen. Nobody has  
11          suggested that the defendant ever got on the Elan PA  
12          system and announced his guilt and said hey, I killed  
13          Martha Moxley. And, for that matter, nobody ever  
14          suggested that he sat down with every other young  
15          female in the place and sobbed out his little secret.  
16          That's not exactly a well advised opener for a teenage  
17          boy to lay on a young girl, hey, I just want you to  
18          know a couple of weeks before I came here I beat my  
19          neighbor's head in with a golf club.

20          But what did the defendant say on those few  
21          occasions when he did let his guard down. First of  
22          all, Alice Dunn, like Mildred IX, we had to drag it  
23          out of her. In the confines of a Grand Jury room, she  
24          was more than happy to provide a telling admission.  
25          Here in this courtroom looking the defendant in the  
26          face it was a different story.

27          What was so telling in what Dunn related

1 from that cocktail conversation after the defendant  
2 had graduated from Elan, not the, I was drunk and  
3 might have done it. We heard that through all kinds  
4 of people, we all heard that before. Much more  
5 important than that was, I was not in my normal  
6 state. And, ladies and gentlemen, the evidence  
7 demonstrates that fact in spades.

8 Dorothy Rogers, isn't it natural that in a  
9 place like Elan, you actually bump into an old  
10 childhood acquaintance. A natural topic of  
11 conversation is what are you here for. And the  
12 defendant's response was, I was in a blackout, I am  
13 not sure what I did but my family has me up here to  
14 protect me from the police. Could anything be more  
15 obvious.

16 Now, counsel knows that Ms. Rogers is not  
17 one of Elan's success stories. She is not likely to  
18 be honored at the future homecomings of Elan. But,  
19 again, this is not a movie production. In a criminal  
20 case, we don't call up central casting and order up  
21 our witnesses. We take them as they come. And every  
22 single witness we presented here was first chosen by  
23 Michael Skakel. They are not my former friends and  
24 confidants. They are the people he chose to speak to,  
25 he chose to boast to, to confide in, sometimes to joke  
26 to, certainly to spin to.

27 Greg Coleman came forward not until about

1 1998, 20 years after the defendant had opened up to  
2 him. Clearly he has some facts kind of backwards, was  
3 it a driver, was it an iron, how long was the delay  
4 before he masturbated on the victim. Given how the  
5 fog of time has effected the recall of every witness  
6 in this trial, the state one, is it surprising that  
7 his recall was somewhat mixed. At least he had a  
8 recall.

9 In measuring credibility and recall, it is  
10 often a lot more suspicious when a person relates  
11 exact and finite details as only one person here did.  
12 If Coleman was simply making it up, he was simply just  
13 trying to get famous or something like that, by 1998,  
14 all he had to do was buy the book or tape the T.V.  
15 show and come in here and give us every fact  
16 perfectly.

17 Did Coleman have that conversation with  
18 defendant? Yes. Did Coleman hear something from the  
19 defendant that at least in its basis Coleman would  
20 never forget? Two factors establish the truth of  
21 that.

22 First, the defendant's tale so disturbed  
23 Coleman that from time to time he needed to confide in  
24 someone. So while still at Elan, he told Jennifer  
25 Pease who came forward, once she realized just a week  
26 ago that her testimony could be accepted in court and  
27 because it was the right thing to do. And, about

1 eight years after that, having met his future wife,  
2 Elizabeth, he told her of the disturbing admission of  
3 the person who confided in him at Elan.

4 And some years later when one of the  
5 tabloids ran the crime story on TV and mentioned that  
6 brother Tom was a suspect, Coleman in front of his  
7 wife, turned to his wife -- actually, didn't turn to  
8 his wife right away. He was yelling at the T.V.  
9 apparently, that was her testimony, no way, it's the  
10 other brother, he told me he did it at Elan.

11 The other circumstances is the setting in  
12 which the defendant spoke to Coleman. This was during  
13 the two to three day holding period in the dining room  
14 prior to the general meeting. The defendant had been  
15 at Elan it appears for about six months and no one yet  
16 had a clue of his involvement in the murder. He had  
17 just been dragged back from escaping and was about to  
18 be placed in this horrid general meeting. Is it  
19 surprising then that in that setting this spoiled brat  
20 would boast to the person supposed to be guarding him,  
21 no problem, I can deal with this, saying in teenage  
22 bravado, yeah, I can get away with murder, I am  
23 related to the Kennedys, I did beat my neighbor with a  
24 golf club to death, my family has got me here to keep  
25 me away from the police.

26 Ladies and gentlemen, that was not beaten  
27 out of the defendant. That was simply teenage



1        impulsiveness letting loose his tongue. It was also  
2        the defendant's way of telling Coleman just why he was  
3        there.

4                And John Higgins, yes, Mr. Higgins lied to  
5        Frank Garr. Hardly the only person involved in the  
6        case that did his best to keep out of it until Higgins  
7        recognized as so few have where his responsibility lay  
8        after he spoke to Mrs. Moxley.

9                Yes too, as Mr. Higgins recalled some 24  
10       years later, the defendant said he got the golf from  
11       the garage rather than the shed. No party, listen to  
12       that Hoffman tape. Yes, Higgins' recall is a bit  
13       sketchie. Certainly he wasn't the most popular  
14       resident who was at Elan at that time. Perhaps, he  
15       was one of those people who would report anybody for  
16       almost anything. Maybe if he caught you necking with  
17       a girl, he would report you. But, isn't there a  
18       little bit of difference between necking with a girl  
19       and beating her to death.

20               And, in the ensuing years, Higgins, of  
21       course, still didn't go to the police but he did  
22       confide in Chuck Seigan. Rewards, this came up in the  
23       subject of Mr. Hoffmann. There is no evidence within  
24       this trial anywhere that anyone was looking for a  
25       reward. Believe me, ladies and gentlemen, if there  
26       were, they would have told you.

27               Counsel points out that the defendant kind

1 of conjugated his admission of guilt to Higgins, sort  
2 of I don't know, maybe, yes, I did, somewhat tracking  
3 the progress of some of the testimony about the  
4 general meeting. But, that's not what is so telling  
5 from Higgins. What is so telling from Higgins is that  
6 little bit of detail, I remember getting a golf club  
7 and running under pine trees.

8 But, once again, consider the setting of the  
9 defendant's statement to Higgins. This night on the  
10 steps clearly took place after the general meeting.  
11 The secret was out. Was Higgins confronting the  
12 defendant, was he prying from him -- no, he was just  
13 sitting there. The defendant was supposed to be  
14 asleep. But obviously the defendant wanted to talk,  
15 obviously he needed to. Is it surprising that he  
16 chose to confide in someone, a likeable person or not  
17 a likeable person who had been placed in some sort of  
18 supervisory authority over him. What's incongruous  
19 about that. That's how people act.

20 As disturbed as Dorothy Rogers, Michael  
21 Meredith, Andy Pugh and John Higgins were with the  
22 defendant's secret, it is rather clear that the  
23 defendant has been as well and that on certain  
24 occasions for a variety of reasons he has been  
25 compelled to talk about it.

26 Now, the defense approach to each of the  
27 witnesses, I think the state presented about a dozen

1 in all to whom the defendant has made incriminating  
2 admissions, is to ask you to look at each and consider  
3 each only upon his or her own merits and simply reject  
4 them on the basis of that. Of course, that is not how  
5 intelligent people make intelligent decisions. While  
6 you certainly want to look at every single piece of  
7 evidence on its own merits, you also need to consider  
8 whether it all fits. In other words, you need to  
9 consider every piece of information and not just  
10 severally but also look at it as a whole.

11 And the amazing thing about those dozen  
12 admissions of the defendant, it is not like they were  
13 produced as a group. It is not like they were marched  
14 down to the Greenwich Police Station by Dad to all  
15 give an alibi. These people have absolutely nothing  
16 to do with one another. Even the four people that  
17 came out of Elan, Rogers, Coleman, Higgins and Dunn,  
18 have nothing to do with one another. It's as though  
19 each came from a separate planet.

20 One thing that I submit helps tie all this  
21 together, particularly on the subject of Elan, and  
22 really see the truth, is the defendant's very presence  
23 at that place. The defense scoffs at the idea despite  
24 I think such clear evidence of a cover up. Why was  
25 the defendant at Elan. This is really not a matter of  
26 seeing the forest from the trees. It is genuinely  
27 transparent.

1           Clearly, the defendant had a major problem.  
2           Already he was an alcoholic, a substance abuser.  
3           Already he was beyond the control of his family. He  
4           was becoming suicidal. I doubt his family was even  
5           aware of the sexual turmoil he was going through.  
6           Elan was a last resort but why exactly so drastic a  
7           resort.

8           You heard from Rogers and Coleman he was  
9           being hidden from the police is probably part of it.  
10          It is likely also, if it was a private juvenile  
11          justice system, basically a family's response is what  
12          can we do to make sure this doesn't happen again. And  
13          where does that ring the truest, at that horrible  
14          general meeting with the monster himself, Joe Ricci.

15          One thing, every client of Elan who was  
16          there during that particular era recalls vividly, is  
17          Joe Ricci referring to a file and telling the  
18          defendant that he wasn't getting out of that ring  
19          until he explained why he killed her and then being  
20          forced to wear a sign, confront me on the murder of my  
21          neighbor.

22          Where did Ricci get that information.  
23          Clearly he didn't get it from the police. Why did  
24          Ricci have that information. Why did Ricci confront  
25          the defendant with that information. The answer, the  
26          only one that makes sense, lies in why the defendant  
27          was there in the first place, lies in why his family

1       felt a need to put him in that awful place. Why,  
2       because that's what they decided that they had to do  
3       with the killer living under their roof.

4               Lawrence Zicarelli, if there were any  
5       questions that the defendant's life was in turmoil  
6       following Martha's murder, this would settle it. On a  
7       day when the defendant was at odds with his father,  
8       Zicarelli was directed to take the defendant to  
9       Manhattan for an unscheduled visit to see the  
10      defendant's doctor. The defendant, extremely upset,  
11      blurted on the way in, I have done something so  
12      terrible if you knew what it was, you wouldn't even  
13      speak to me again. I have got to kill myself or get  
14      out of the country.

15             Mr. Sherman suggests that the defense sort  
16      of met that evidence with banker, Edwin Jones. But  
17      what Mr. Jones told us is that Zicarelli about 12  
18      years ago informed him that the defendant had as much  
19      as confessed. I have done something so terrible, I  
20      have got to kill myself or get out of the country.  
21      That, given the context of this case, is about as much  
22      a confession as one can make.

23             Last week, after lunch, on Mr. Sherman's  
24      third go around, sister Julie, hitting another fowl  
25      ball, suggested that the defendant's confession to  
26      Zicarelli had been prompted by his sleeping with his  
27      mother's dress. Frankly, I don't doubt that that

1 happened at some point but is that something that  
2 would cause Zicarelli never to speak to the defendant  
3 again.

4 More significantly, what could such a silly  
5 incident have to do with the need to get out of the  
6 country. People feel the need to get out of the  
7 country when they want to avoid the police. I very  
8 much doubt that the Greenwich Police would have too  
9 much interest in the defendant's relationship with his  
10 mother's dress neither is it a reason to jump off of a  
11 bridge.

12 Which brings us to Richard Hoffmann, the  
13 bazaar proposed book chapter concerning the  
14 defendant's last night with Martha Moxley. At face  
15 value, it's an immature recounting by an immature  
16 person, basically a combination of the Andy Pugh,  
17 Michael Meredith testimony. I think it's telling that  
18 the defense spent so little time in responding to this  
19 because this is the most telling evidence in this  
20 trial.

21 I am not clear what the defense approach to  
22 Mr. Hoffmann is but I think you need to consider the  
23 defendant's motivation in spinning this tail, in  
24 broadcasting to the world that he masturbated in a  
25 tree coincidentally located right by the body of his  
26 murdered neighbor. That's not something you generally  
27 calculate would help you sell a book. Indeed, what is

1 important to understand is that the only person who  
2 would know of this event, were it true, is the  
3 defendant. So, the question begs to be answered, why  
4 ever bring this out. If you think you are safe behind  
5 your alibi, why ever publicly walk yourself through  
6 the crime scene.

7 This is a story that you are going to want  
8 to read more than one time. It's a very thick and  
9 sort of a cumbersome kind of a transcript because of  
10 the formats that we just set it up on the wall. But  
11 it is something that you are really going to want to  
12 pay attention to because it really brings you to the  
13 truth in this case.

14 The defendant for the last 27 years has been  
15 trying to put some spin magic on his meanderings on  
16 the night of October 30, 1975. It started with a  
17 simple alibi making accommodations with cousins and  
18 brothers. It evolved at Elan in front of a multitude  
19 of witnesses to claim that I was drunk, I can't  
20 remember what I did. Years later it evolved to the  
21 possibility of explaining some semen. He brought us  
22 the Meredith Pugh masturbation tales.

23 Now, he does so with Richard Hoffmann but in  
24 such an exacting detail. This is a case where because  
25 of its age nobody remembers anything. No witness,  
26 state or defense, was able to look back with much  
27 precision at all. Yet the defendant to Richard

1 Hoffmann sounds like a news reel. No one was able to  
2 drag back up just what everybody was drinking down at  
3 the Belle Haven Club but the defendant remembers his  
4 planters punches and rums and tonics.

5 No one recalls exactly today what happened  
6 after the return from dinner. Helen IX couldn't even  
7 recall sitting in the car with the defendant and  
8 Martha but the defendant clearly did. As does he seem  
9 to recall with clarity what he did the rest of that  
10 night step by step. It brings back to mind the phrase  
11 too good to be true.

12 In fact, spinning a tale covering all the  
13 bases, he took Richard Hoffmann right to the crime  
14 scene indeed to the point with rather than spinning a  
15 nice tight explanation, he has spun a web in which he  
16 has ultimately entrapped himself.

17 He starts out with the absolutely weird  
18 assertion that for him, mischief night took precedence  
19 over every other holiday of the year, Christmas, New  
20 Years, 4th of July and so on. Keep in mind, this  
21 isn't a 15 year old speaking to Richard Hoffmann.  
22 It's a 37 year old.

23 Then the defendant takes us through the  
24 planters punch dinner at the club, a brief visit with  
25 Martha in the car, joined by Tom. Then when he asked  
26 Martha to stay out with him in the evening, she winds  
27 up with Brother Tom.



1           He continues to narrate the evening as if it  
2       took place in 2001 rather than over 20 years ago  
3       despite the fact that he was both drunk and high. It  
4       may explain why he thinks of Terriens as Nirvana, the  
5       home of the captain of mayhem. And perhaps it  
6       explains the necessity of a driver switch between  
7       Rushton and John on the way home from Terriens. And  
8       he even recalls that Jimmy wasn't going to be staying  
9       home later that night which would explain why  
10      Terrien's mother couldn't locate him hours later when  
11      Martha Moxley -- Dorothy Moxley was calling.

12           I assume you caught on to one thing by now,  
13      that I ~~just~~ don't know, I was in a blackout tale that  
14      he spun out for all the well-wishers the defense  
15      brought in here from the Elan class of '79 has been  
16      fully thrown back in their faces. In the course of  
17      his story to Mr. Hoffmann, he even gratuitously  
18      managed to throw a little suspicion away to the  
19      gardener and the tutor. He then notes at page 74 the  
20      fact that gives the lie to the entire alibi.

21           (Whereupon, the tape was played and slide shown  
22      as follows:)

23           I got home and most of the lights were out.  
24      I was walking around the house, nobody was on the  
25      porch, went upstairs, my sister's room, her door was  
26      closed, and I remember that and Andrea had gone home.

27           MR. BENEDICT:   On supposedly getting home from

1 Terriens, he goes to his sister's room and remembers  
2 that Andrea had gone home. If you recall the credible  
3 testimony in this trial, the Monte Python tour, it  
4 already departed when Julie and Andrea had stepped out  
5 of the house to take Andrea home. Somebody who had  
6 actually left already would have had no idea of  
7 Julie's trip to take Andrea home. On the other hand,  
8 the Michael come back here, as he ran past Julie as  
9 she exited the house, would have been fully aware of  
10 this fact.

11 You know, I have come to accept in this  
12 regard over the years that we in law enforcement are  
13 really not quite as sharp as we would like people to  
14 think. Quite frankly, we don't always catch people  
15 because we are so dog gone smart. Quite frankly, we  
16 catch them because they think they are or at least  
17 they try to be.

18 Next to Mr. Hoffmann, the defendant refutes  
19 his 1975 claim that he went to bed by 11:15 and never  
20 left the house thereafter. Now drunk and high, he  
21 wants to get a kiss.

22 (Whereupon, the tape was played and slide was  
23 shown to the jury as follows:)

24 I said, fuck this, Martha likes me, I will go get  
25 a kiss from Martha. I will be bold tonight, you know  
26 booze gave me, made me, gave me, courage again.

27 MR. BENEDICT: As he told Alice Dunn over drinks,

1 while still at Elan, he remained so many years later,  
2 he was not in his normal state. Feeling horny, he  
3 goes stalking. Unable to achieve an erection, he  
4 decides to get a kiss from Martha and then he ventures  
5 over to the Moxley home. You hear me get the tale of  
6 the last of the three trees.

7 He tells Hoffmann that he climbs the  
8 unclimbable tree in front of the house by John's room,  
9 although he previously told Mike Meredith that he had  
10 been spying into Martha's room from a tree that we  
11 know is on the side of the house. And of course he  
12 told Andy Pugh that he masturbated in the tree where  
13 the body was hidden.

14 And, then the defendant does the most  
15 amazing thing, starting around page 96 of that  
16 transcript. He takes us on his staggering walk down  
17 memory lane. He first avoids the driveway oval where  
18 the club head was found and more likely he first  
19 caught up with Martha, given Dr. Lee's testimony about  
20 blood in the driveway where the whole terrible thing  
21 started. Then he has himself under a street light  
22 throwing rocks and yelling into that circle with the  
23 exact same motion that had to have been used to beat  
24 Martha to death.

25 Why this explanation -- it's kind of  
26 obvious. As he explained to Mr. Hoffmann, what if  
27 somebody saw me last night and then --

1           (Whereupon, the tape was played and slide shown  
2 as follows:)

3           Then I woke up, went to sleep and I woke up to  
4 Mrs. Moxley saying Michael, have you seen Martha. I  
5 am like what, and I was like still high from the night  
6 before, a little drunk and I was like what, I was like  
7 oh, my God, did they see me last night. And I am  
8 like, I don't know, I am like and I remember just  
9 having the feeling of panic like oh, shit, you know,  
10 like my worry of what I went to bed with, I don't  
11 know, you know what I mean, I had a feeling of panic.

12          MR. BENEDICT: He awakened at the site of Dorothy  
13 Moxley with the feeling of panic, a worry of what I  
14 went to bed with. Is that the freudian slip of all  
15 ages. What could he be worried about going to bed  
16 with other than a piece of golf club, a memento from  
17 his victim and awakening to Dorothy Moxley feeling  
18 panicked that someone saw him last night. How could  
19 the site of Dorothy Moxley possibly produce a feeling  
20 of panic in an innocent person, in a person who had  
21 gone to sleep knowing nothing of Martha Moxley's  
22 murder.

23           The evidence tells you only a person who  
24 experienced that poor girl lying under the tree, not  
25 in his dreams but first hand, would have a cause to  
26 panic on awakening that morning.

27           Could you ask the defendant to draw you a

1 more incriminating picture than this effort to cover  
2 all the bases. He manages to have the domestic help,  
3 Ken Littleton and Frank Latino, unaccounted for and  
4 therefore available as suspects. He manages to once  
5 again reiterate the alibi of old. He contrives an  
6 explanation for the possibility of semen. And in  
7 case, just in case, somebody some day surfaces who  
8 actually saw him out there, he plugs in an explanation  
9 for what he was up to out there.

10 Given the evidence in this case, that is as  
11 transparent, contrived, inept a tale as can be had.  
12 However, given the evidence in this case, one thing  
13 that is apparent is that the defendant does have a  
14 better recollection of that night than anybody who  
15 testified before you but then he has great reason to  
16 recall.

17 The problem is what he recalls isn't what  
18 was played up there on that screen. What he recalls  
19 is what he said to Andrea Renna, Matt Tuccarone, Larry  
20 Zicarelli, Dorothy Rogers, Greg Coleman, John Higgins,  
21 Alice Dunn, even his own father. And what he said to  
22 them as established by the clear evidence of this case  
23 is that he murdered Martha Moxley beyond every  
24 reasonable doubt.

25 THE COURT: Thank you. Ladies and gentlemen,  
26 that concludes the argument portion of the case.  
27 Before we go further, I am going to take a recess and

FST CR00-135-792-T

: SUPERIOR COURT

STATE OF CONNECTICUT

: STATE OF CONNECTICUT

V.

: JUDICIAL DISTRICT OF  
: STAMFORD/NORWALK

MICHAEL SKAKEL

: AT STAMFORD

: JUNE 12, 2002

**DEFENDANT'S MOTION FOR NEW TRIAL**

Pursuant to Practice Book § 42-53, the defendant in the above-entitled action respectfully moves this Court to grant a new trial in the interests of justice.

In support of this motion, the defendant asserts that because of the following errors, he is constitutionally entitled to a new trial; or, in the alternative, he is entitled to a new trial because those errors, considered individually and cumulatively, were materially injurious to him:

1. The defendant's constitutional and statutory rights were violated by the prosecution's belated disclosure of exculpatory information and material, including: (a) the mid-trial disclosure of the 1976 application for an arrest warrant for Thomas Skakel; and (b) the post-jury selection disclosure of 1992 videotaped police interviews of Kenneth Littleton. *See e.g., Brady v. Maryland*, 373 U.S. 83 (1963).

2. The Court erred in denying the defendant's motions for judgment of acquittal at the end of the prosecution's case (on May 22, 2002) and at the close of all the evidence (on June 3, 2002).

3. The Court erred in admitting the prior testimony of a deceased witness, Gregory Coleman. That testimony constituted inadmissible hearsay, and deprived the defendant of his federal and state constitutional rights of confrontation.

4. The Court erred in admitting irrelevant and highly prejudicial hearsay evidence from the diary of Martha Moxley.

5. The Court erred in admitting triple hearsay testimony through State's witness Mildred Ix.

6. The Court erred in admitting certain police and autopsy photographs of Martha Moxley which were cumulative and used therefore to shock the jury's conscience.

7. The Court erred in admitting irrelevant and prejudicial testimony from Matthew Tucciarone and Lawrence Zicarelli, concerning alleged statements made by the defendant, which statements, during their respective proffers to the Court, were never sufficiently connected to the crime charged.

8. The Court erred in admitting the tape-recorded conversation between the defendant and Richard Hoffman, which contained inadmissible hearsay as well as irrelevant and prejudicial evidence of the defendant's prior misconduct.

9. The Court erred in excluding, on several occasions, evidence relating to Kim Freehill's residency at The Elan School, which was within the scope of the State's case, as such testimony directly concerned the circumstances under which the defendant made certain statements to fellow residents at Elan.

10. The defendant's constitutional rights were violated by the prosecutor's closing and rebuttal arguments, during which the prosecutor:

(a) improperly expressed his personal opinion as to the defendant's guilt ("It is unquestionable that when the defendant repeatedly struck Martha with the golf club, crouched over her to stab her, masturbated on her that he got plenty of her blood on himself.");

(b) made comment on the defendant's failure to testify ("However, given the evidence in this case, one thing that is apparent is that the defendant does have a better recollection of that night than anybody who testified before you but then he has great reason

to recall.”); and repeatedly and improperly characterized the defendant as a “spin master” who was “spinning a tale,” despite the fact that the defendant never testified;

(c) appealed to the emotions, passions, and prejudices of the jury, and injected extraneous considerations into the case, by directly or indirectly attempting to put the defendant’s *family* on trial (e.g., “Where you are really going to find the truth in this case is in determining what the defendant and his greater family support group have done in this case sometimes with words, sometimes without.”; “if the Skakels hadn’t managed to keep things under wraps for so long . . .”; “what did the Skakel family do to put this together”; “Julie Skakel is the best example of a family support group continuing to this day to do whatever it takes to keep the wraps on Michael Skakel.”; “clear evidence of a cover up”; “By the time Detective Lunney arrived at the Skakel home, they had 36 hours to dispose of the evidence. In fact, they were already on their way to Windham.”; the Skakels have “intentionally suppress[ed] their memories and claim a lack of recall. Why, because in their actual recall lies the truth.”); and

(d) improperly referred to the defendant as the “killer” (“The answer . . . lies in why his family felt a need to put him in that awful place. Why, because that’s what they decided that they had to do with *the killer* living under their roof.”).

11. The Court erred when it *sua sponte* interrupted the defense closing argument and advised the jury to disregard defense counsel’s inappropriate argument to the effect that “[t]hey would rather have the lousy contaminated diminished memories of 2002 and maybe 1998 than a recorded, a recording of what happened back in 1975.”

12. The Court erred in instructing the jury, pursuant to the state’s motion for curative instructions, to disregard defense counsel’s statements that the defendant “didn’t do it” and “doesn’t know who did.”

13. The Court erred in unfairly marshalling the evidence during its charge to the jury, by highlighting the state’s case and diminishing the defense case.



14. The Court erred in its instructions to the jury on consciousness of guilt, which instructions included the proposition that “the defendant’s statements as to his activities and whereabouts on the night in question, if you find them to be false or materially inconsistent, might be offered because such statements tend to show a consciousness of guilt.”

15. The Court erred in its instructions and re-instructions to the jury on the concept of reasonable doubt. Those instructions were erroneous in that:

(a) they defined a reasonable doubt as “one for which you can in your own mind conscientiously give a reason”;

(b) they defined a reasonable doubt as “a real doubt, an honest doubt”;

(c) they defined reasonable doubt in terms of “hesitation to act”;

(d) they defined reasonable doubt in negative terms, e.g., that a reasonable doubt could not be based on “conjecture” and had to be “something more than . . . surmise,” thereby improperly restricting the jury’s consideration of potentially eligible doubts; and

(e) they suggested that the jury might be required to be able to “reconcile all of the facts proved with any reasonable theory consistent with the innocence of the accused” in order to acquit the defendant.

16. The Court erred in denying the defendant’s motion to excuse Juror H. William Smith on the grounds of flagrant juror misconduct.

17. The Defendant’s constitutional rights were violated based on the post-trial comments of one or more jurors, which suggest that the jury had difficulty following all of the Court’s instructions.<sup>1</sup>

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<sup>1</sup> In a June 8, 2002 *Hartford Courant* article, Juror Cathy Lazansky described the jury’s deliberation process: “We worked very, very hard to find *something that would acquit Michael Skakel* . . . We just couldn’t.” *Id.* at A6 (emphasis supplied). In addition, in a June 11, 2002 television interview, which can be provided to the Court upon request, Juror Lazansky further described her deliberation method: “I can’t find anything to acquit this guy.”

18. The Court erred in denying Defendant's Statute of Limitations defense during the trial's preliminary hearings.

WHEREFORE, Defendant requests that the foregoing Motion for New Trial be granted.

RESPECTFULLY SUBMITTED,

THE DEFENDANT,  
MICHAEL SKAKEL

By



Michael Sherman, Esq.

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Juris No. 57104

I certify that copies have been  
given to all counsel pursuant to the  
Connecticut Rules of Practice.



Michael Sherman, Esq.

ORDER

The foregoing motion, Defendant's Motion for New Trial, having been heard, it is hereby ORDERED:

GRANTED / DENIED

So, ORDERED,

BY \_\_\_\_\_, J.

**CERTIFICATION**

I hereby certify that on October 27, 2008, a copy of the foregoing was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by email to all parties by operation of the Court's electronic filing system or by mail on anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

Michael O'Hare, Esq.  
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/s/ \_\_\_\_\_  
HOPE C. SEELEY