Seminar 5: Hearsay Exceptions

“...They weren’t my words.”

Read pp 131-137 of Proof and the Preparation of Trials, Chapter 6 of Uniform Evidence, the remaining hearsay exceptions in the UEL (ss 62-74 and relevant definitions from the dictionary and ss 17-18) and ss 17, 24 & 32 of the Charter. You will see that the UEL exceptions are very liberal for evidence adduced by civil litigants and criminal defendants, but are tighter for evidence adduced by the prosecution. So, the terms of ss 65(2) and 66 must be carefully examined. Pay attention to the details of each exception (including Dictionary definitions.) Always read the whole statutory provision. Your broader goal is to become adept at finding and articulating ways to get potential hearsay admitted, using the law in both Chapters 5 and 6.

Prepare for seminar 5 as follows:

First, read the documents by Kathleen’s relatives: Lori, Candice, Veronica and Caitlin. Do these documents satisfy the requirements of s66?:

- What facts did each of them have ‘personal knowledge of’? (s62)
- Were the statements made when the facts were ‘fresh in [their] memory’? (s66(2A))
- Were the statements not made to indicate the evidence they would give (or do they only identifying persons, places and things?) (s66(3))
- If these requirements are satisfied, what can be done with the documents? (s66(4)). Can anything else happen? (s66(2))
- If these requirements aren’t satisfied, then how can the prosecution prove the facts outlined in the statements? Is it OK to: get the relatives to testify that they made the statements or that the statements are true or to read them out? What about playing a tape recording of the making of the statements or calling Art Holland to swear that the statements were made? If not, what is the only remaining option?

Now, think about relying on s65, which depends on the witness not being ‘available’. Consider whether any of the following people satisfy the definition of unavailable in clause 4 of the Dictionary:

- Kathleen
- Michael (note s17)
- Caitlin, Todd and Clayton (note s18 and definition of ‘child’ but cf Charter s. 17)
- Veronica, Candace, Lori and Todd’s girlfriend

Some of these witnesses are competent but not compellable. If those witnesses agree to give evidence for the prosecution, what use can the prosecution make of the out-of-court acts evidenced in the documents?
For those witnesses who are (or choose to be) 'unavailable', do any of their statements fit the tests in s65(2):

- Were they made under a duty? (s65(2)(a))
- Were they made shortly after the facts they assert (and unlikely fabrications)? (s65(2)(b))
- Is it highly probable that they are reliable? (s65(2)(c))
- Are they against the interest of the witness who said them (and likely reliable)? (s65(2)(d) & (7))

If one of these tests is satisfied, how can the prosecution prove that the acts occurred? (Note the terms of ss 62 & 65(2), which limit the exception to first-hand hearsay from a witness to the statements. For criminal defendants, s81 has a broader exception that covers documents written by the defendant, but imposes other conditions, which we'll address in seminar 10.)

What notices must the prosecution give under s67? Consider the Notice of Intention about Todd's and Kathleen's statements (see s67.) Do these statements fall within a hearsay exception? Do they have to?

If the first-hand hearsay exceptions don’t help, then consider the remaining exceptions in ss 69-75 of the UEL. Imagine that the Durham District Attorney asked you to find out the truth about whether a video was rented by the Petersons on the night of Kathleen’s death, who rented it, what video was rented and who starred in it. Think of all the ways that you could find out these things? How would you go about proving these facts to a court? What hearsay exceptions could you rely upon and in what circumstances? Repeat for the other facts asserted by Kathleen, Todd or Michael (e.g. the house for sale in Hope Valley, Todd’s job in Chicago, the arrangements about Kathleen’s will; Kathleen’s diving accident and medication; everyone’s movements on the 8th and 9th of December.)
Hearsay Exceptions

STATEMENT FROM LORI CAMPBELL (KATHLEEN’S SISTER)

Sandra, Arthur

om: ottomoor@rrola.com

mt: Wednesday, January 09, 2002 10:43 AM

s: Aholland@ci.durham.nc.us

subject: statement

Lori Hunt Campbell
383 Nagle Street
Durham, NC 27707
(919) 330-2551
DB 3/23/62

Kathleen Morris Hunt Atwater Peterson was my eldest sister. On December 9, 2001 around 2:00 p.m. my brother-in-law Mark Zamperini called my husband Bruce and Bruce and Bruce told me something really bad had happened; that Kathleen had fallen down the stairs and was dead.

My sister Candace Zamperini and I were going to leave that day but found out the house was sealed by the police. We left Monday December 11th and arrived in Durham around 3:45 p.m. We drove first to 1810 Cedar Street but were told by the police that it was still sealed. We then went to Maureen Berry's house where we met Todd Peterson alone. Todd said he would answer any questions we had and tell us what happened because Michael could not talk about it.

Todd said "Todd was at the house with a girl around 10:00 p.m. Saturday night. Kathleen and Michael were snuggling on the couch in the TV room watching Heartbreakers with Julia Roberts. They had already had one bottle of wine." Then Todd said the girl said "what a cute old man" when she saw Michael walking with his arms crossed over his chest with another bottle of wine. Todd acted this out. Todd left to go to a party and returned to the Cedar Street house to hook up with a girl and arrived there to see the emergency lights. Todd said that Kathleen and Michael had been out by the pool, and Kathleen went in first and Michael followed sometime later and found her at the foot of the stairs.

Todd specifically made the statement "If there were any two people he knew that would have an alcohol related accident they were Kathleen and Clayton." Then he said "His friend Ben couldn't remember seeing Kathleen sober in the past year, but of course he only came over late Friday nights when he saw her."

Todd said the police questioned himself and Michael until noon.

Candace and I left to go to Kerry Sutton's house where the rest of the family was. On the way there we stopped at the police command vehicle behind the house and were told that the police might be done around 6:00 p.m.

Michael, his brothers Jack and Bill, his sister Ann, Clayton, Todd (whom he followed), Margaret, Martha, Becky and eventually Kerry Sutton and her two sons, Maureen Berry and I think Glyn Seaberg and Caitlin were at Sutton's home. Michael and I sobbed in each other's arms.

We started to discuss the plans for Kathleen's viewing, funeral and reception.

When the police opened the house around 8:40 p.m. people left to go over.

I didn't see any blood on the sidewalk or front door when I got there. I walked down the hall to look at the stairs. I saw the blood and I said "This doesn't look right." Todd and Clayton said "What do you mean?" Todd said the huge smear on the wall was from his father holding Kathleen and rocking back and forth with his back against the wall. They also used flashlights to show the blood smear.

At the top of the stairs Michael said to me, Candace, Todd and Clayton "I
“Am up here to get a towel, I think.”

Andace went to get Kathleen’s jewelry together for Caitlin to put in a safety deposit box. We left there to go have some food at Maureen Berry’s. After that we went to the hotel and spent our time making funeral arrangements. We left December 13th after the funeral and reception and came home to Virginia.

My sister Kathleen told me that Michael had hurt her arm when they were in Paris together. I was admiring her beautiful yellow handbag and she told me Michael gave it to her. She and Michael had fallen asleep on the Paris Metro. Thieves took their stuff. Michael was so upset with himself for not protecting her that he grabbed her very hard and hurt her arm. He bought her this very expensive handbag to make amends.
To:        Detective Holland, Durham Police  
From:      Candace Hunt Zamperini (703)-968-2979  
Date:      January 10, 2002  
Subject:   Statement: Kathleen Hunt Atwater Peterson  

December 9, 2001  

My home telephone rang approximately 10:45AM and I answered. Michael Peterson (brother-in-law) asked if my husband was home and to speak with him. I told him that Mark was at the grocery store and Michael asked Mark to call him back. He gave two phone numbers. I twice made the comment that "it didn’t even sound like him". The conversation was brief and Michael sounded serious. 

I called my husband (Mark Zamperini) on his cell phone and said that Michael wanted to talk to him. Mark called Michael about 12:15PM and Michael very slowly and haltingly told my husband that Kathleen had died. Michael said that she had fallen. The conversation was poorly connected and confusing. Mark called our brother-in-law, Bruce Campell, and told him about Kathleen. Mark came home and privately broke the news to me. Around 1:30PM we called Michael again to try and learn the circumstances of Kathleen’s death. Michael answered and was very vague about where he was—something about a lawyer’s house/friend. He said that Kathleen had fallen down the back staircase and had died. He was very confusing about when it happened—we could not understand if the accident had happened last night or just this morning. He was upset, crying, confusing, and almost hysterical. We talked again one more time that day and stated plans to come to Durham. 

December 10, 2001  

My sister, Lori Campell, and I drove to Durham, North Carolina and arrived around 4:30PM. I met Officer Bulloch and made arrangements to return around 9:00PM to be interviewed. We went to Maureen Berry’s home (across the street from 1810 Cedar) and met with Todd Peterson. Todd sat down with us in the living room and stated he would answer any questions we had before we went to see Michael. The following is a summary of what Todd told/stated to Lori and me around 5:15PM. Todd said that he stopped by the house (1810 Cedar) at 10:00PM on Saturday, December 8. This time he said very precisely several times. Todd had a girlfriend with him. Todd and the date visited with Kathleen and Michael in the family/TV room. Kathleen and Michael were watching the movie “Heartbreakers” with Julia Roberts. (Observation: Todd made a point about what movie they were watching several times and that Julia Roberts was in this movie—Julia Roberts is not in this movie). Todd continued with statements about them drinking a lot of wine. One or two empty bottles of wine were already on the floor. Michael went out of the room and came back with a bottle of wine under each arm. Todd even got up and acted out the shuffling by of Michael with the bottles of wine.
under each arm. Todd said his date stated “what a cute old man” as Michael shuffled by with the wine. Kathleen and Michael were snuggling on the couch together and were very happy. They were very happy because Michael had learned that day that his book, “Charlie Two Shoes” had been sold to Universal Pictures for movie rights. They were celebrating this success. Todd stated that they both had been drinking a lot by the time he had stopped by the house at 10:00PM. Todd and the date left and went to a Holiday Party in the neighborhood.

This next part is what Todd told Lori and me that Michael told him (Todd) happened the rest of the evening. After the movie Kathleen and Michael continued to drink and went out by the pool to talk and smoke cigarettes. Around 2AM – 2:15AM Kathleen said that she had a conference call the next day for Nortel and she needed to get some sleep to get ready for the call and she needed to start packing because she was leaving on Monday for Toronto. (I do not know which door she entered the house). Michael then sat by the pool for about 20 – 45 minutes with the dogs (Wilbur and Portia). Michael came into the house (I again do not know which door) and found Kathleen lying at the bottom of the stairs. He called 911.

This part is now back to statements that came from Todd to Lori and me. Todd was coming back to the house in the early morning from this party with his date to “hook up”. When he got to the house he saw fire trucks and thought there was a fire. He tried to rush into the house and the Medical/EMT people were already at the house. He said Kathleen was already dead. Todd stated that Michael acted like a “madman” yelling in the kitchen, screaming, overwhelmingly distraught, blood all over him. Todd said at one point he handed his Dad (in front of 5 witnesses) a Coke can that had blood on it. I didn’t understand how Todd had blood on him. Todd said that he washed his hands several times that night to get blood off of himself. Todd also clearly made this statement to me twice: “There were two people he knew that would be involved in alcohol related accidents- and Kathleen was one of them.” He kept trying to make me understand how often Kathleen had been drunk in the past year. He also added that his close friend, Ben Maynor, had said to Todd that “Ben hadn’t seen Kathleen sober in the past 18 months—of course he only saw her on weekends”.

Todd also told me that Kathleen had been taking pain medicine for a diving accident that happened around September 9 or 10, 2001. He said Kathleen dove into their swimming pool shallow end while drunk and severely injured her neck. He made many statements to me over the next couple of days concerning Kathleen’s drinking and the possible mixing of drugs.

I interviewed with the police on December 10 around 8:30PM. I answered any questions honestly. The police did not have many questions for me—mainly about how people were related in the house and who owned the house.

Around 10PM we were allowed into the house. Michael, Todd, Clayton, Lori, Bill Peterson, and Kerry Sutton went in together. I did not see any blood in front of the house (dark and rainy) and I did not see any blood on the hallway floor. I did see all of
The blood in the back staircase. My sister Lori made the comment that the blood “didn’t look right.” This statement seemed to alarm Todd and he said “what doesn’t look right?.” No further comments were made and we went through the house to get a few things. I went upstairs and took a small suitcase with my sister’s jewelry and two wallets with her credit cards and passport.

The following day Todd drove me to the funeral home, cemetery, and places I needed to go to make arrangements for Kathleen’s viewing and funeral. Todd was very caring and involved in the details of the arrangements that I made. Todd expressed great concern that everything was done properly to honor Kathleen. Clayton spent almost no time with me. Clayton did show up at the funeral home to deliver a cross that I requested to be placed with my sister. Clayton’s only comment upon seeing Kathleen is that he “never had seen Kathleen so still—she was always busy in life.” That was really the only time I spent alone with Clayton around 4:30PM Wednesday before the viewing began at 5:00PM.

Michael was not at the viewing to receive guests. I was told that Michael was detained at the house because of another police search. Michael was at the funeral home to personally say his goodbyes to Kathleen from about 9:30PM – 11:00PM. I was told that Todd, Clayton, and Bill Peterson accompanied Michael. The funeral home would know the exact details of this visit.

Finally, I am very willing to answer any further questions that you may have. I am only interested in finding out the truth concerning my sister’s death. I am at this point convinced that my sister did not fall down the stairs. I know that she died from blows to the back of her head. I have reasonable doubt concerning Michael’s guilt. I only ever saw my sister’s relationship with her husband, Michael, as a truly loving respectful marriage. I feel more investigative work should be put into researching other people who had access to the house, checking statements about relationships, and finding out if there was anyone who was jealous of Kathleen and Michael’s relationship. I make these statements not knowing your evidence and only aware of the autopsy.
Seminar 5

STATEMENT OF CAITLIN ATWATER (KATHLEEN’S DAUGHTER)

When I arrived in Durham on December 11, 2002, I went over to Moe Berry’s house, where all of my family was having dinner. Upon my arrival, Mike and I went upstairs, so we could talk privately. I asked Mike to tell me as much about my mother’s last couple days as possible. What I remember is:

He told me that they went to the Christmas party for the Independent newspaper on Friday night. Then on Saturday, she went into work for a while, and then Christmas shopping in Cary. (She called me from the Gap at Cary Towne Center around 5pm.) I believe Mike said something about going to Costco, but I’m not sure when or if they both went. He said that she made dinner that night and he came home from the gym and they watched “America’s Sweethearts.” They drank a bottle of Champagne to celebrate his movie deal. Apparently he has heard back about it earlier in the week, but this was their first evening at home to celebrate. They also drank a bottle of wine, and then they went out to the pool to smoke and talk. Mike said that my mom had gotten a call earlier that night (or maybe she had gotten a message on the answering machine) saying that she had a conference call at 10 or 11am Sunday morning. So after a while of sitting outside, she went in to get ready for bed since she had to get up early. He believed she went in around 2am. He could not recall exactly how long he stayed outside with the dogs, but guessed it was between 20-40 minutes. When he came inside, he walked through the hallway (I’m not sure from which direction) and saw my mother at the bottom of the stairs. He said that she called 911 and that she was still breathing, but unconscious. He could not clearly remember if he had called 911 a second time. He said he just held her and cried. He also told me that the house was still blocked off because they were still searching it and that the police were afraid the death might be suspicious, but gave no indication of why. He only said that because he was the only person home, of course he was the primary suspect. He said that he couldn’t remember a time when he and my mother had ever fought, and asked me if I had. I said no, except of course for little things like his leaving diet coke cans on the kitchen counter or coming home from the gym too late.

I also asked him if she had a will, and he said no. He and my mother had gone a few years back to meet with the Eagans about setting one up, but ended up getting in a dispute with them and not actually making a will. I asked him if I would get any inheritance. Mike told me that in NC, if you don’t have a will everything goes to the estate and is then split equally among her heirs, him and myself. He said that he really didn’t even know if my mother had any life insurance policies. He said that he had a bunch out on himself, but couldn’t remember if she had anything.

On the first night that we went back to the house (Wednesday, after my mother’s viewing) Mike, Martha, Margaret and I were upstairs in my mother’s dressing room. Mike was discussing some of the facts about the police investigation.

Mike said that he thought he should warn us that things might get very ugly once some of the news about the investigation started to come out. He said that the police were probably going to try and make their story look as outlandish as possible. Because one of the things that the police had inventoried and removed from the house was a used condom and wrapper, he thought that they might try to portray his and my mother’s private life in an unpleasant light, perhaps saying things like they had a perverted sex life and were having orgies in the house. At the time that Mike mentioned the condom being
found, he said that he could not explain it because he and my mother never used
condoms, since my mom couldn’t get pregnant as it was. (She had to take a long series
of medications to become pregnant with me.) He said that they had in fact had sex earlier
that evening, before having dinner and watching the movie. As we were discussing the
unexplained condom, Todd came in and said that he could explain why it was there. He
said that over Thanksgiving, he had had some friends stay in the house. Todd’s friend,
Mike Pisetsky, had sex on my mother’s bed with someone who I think he said was a
nurse in Durham (I’m not sure, thought). Todd said that the condom was left from that
weekend.

After my mother’s funeral, I went back up to Cornell for a few days, leaving on Monday.
I was planning on staying with my boyfriend in New Jersey from Thursday until the
Sunday before Christmas. On Wednesday night, Mike called me and said that I was
going to have to come home by Friday morning, because they were having a Grand Jury
hearing Thursday morning and he was pretty sure he would be arrested later that
afternoon. He wanted me to come home to testify at the hearing so that he could get out
on bail. I came home on Friday, attended the hearing (but did not testify, because there
was no opportunity). That night, while I was in my room, Mike’s brother, Bill came in to
talk to me about the things that might be going on in the next couple months. We mainly
talked about me becoming the administratrix of my mother’s estate, and things like the
possibility of selling the house. Then Bill said that there was one more thing that he
needed to tell me.

He said that with all the publicity the case was going to get, somethings might come out
that Mike did not want to. He said that in life, everyone has secrets and usually they
remain unknown, but that people might be finding out about something that Mike wanted
to keep private, so he thought it was best to tell me first. Bill said very straight forward,
that Mike was bisexual. He said that this was something that Mike had known for most
of his life. Bill, himself, had known about it since he was 14 and Mike was 18. Bill told
me that both Todd and Clayton have known, and that my mother knew and was okay
with it. Martha and Margaret were told the night before, and Bill said that he thought that
the three of us should talk and try to become comfortable with this.

The way that Bill presented this to me, he made me think that Mike being bisexual was
something that he had experimented with in the past and I assumed was presently nothing
more than a perverted thought from time to time. I accepted it because I assumed that my
mother had, but I will say that my mother divorced my father for cheating on her with
other women so I cannot imagine that she would possibly be okay with her current
husband having sex with other men.
May 30, 2003

Mr. James E. Hardin, Jr.
201 East Main Street
Durham, North Carolina 27701

Dear Mr. Hardin:

Since Michael Peterson’s trial is imminent, I want to provide you with whatever information about my late daughter, Kathleen, that I remember which might help you with the prosecution.

I am not sure that anything I contribute will be of any value, but perhaps?

Kathleen was a very special woman and I wish you could have known her. She was a loving daughter who was reluctant to tell me anything that was troubling her which she was afraid might worry me. However, I did learn some things in the course of our conversations. We always called each other frequently, but for quite a while, for more than half a year, she called me daily on her cell phone. She made these calls while she was returning from work, from wherever she was shopping, and from home where she was preparing and holding dinner after maybe having worked ten hours at NorteI, waiting for Michael to return from the T.M.C.A. every night.

She was stressed about the sad state NorteI had fallen into and how long and hard she was working and having to terminate so many employees who had been there for a long time. She was a compassionate woman and this did not make her happy and she thought about quitting, but Michael told her she had to stay at NorteI.

During the last summer of her life she told me about their going to a charity fund-raising affair hosted by the residents of Hope Valley where tables had been set up outside various homes for donor participants to dine. While there she saw a house with a "For Sale" sign on it which attracted her and she considered selling the Cedar Street property and moving to be a good idea. Cedar Street was becoming too big, too expensive (she was paying the mortgage) and too empty with the girls going to college. They had extensive, costly termite damage (around $10,000), huge colonies of bats in the attic which had to be professionally removed, needed new plumbing and the maintenance costs were very high, so selling and relocating was sensible and feasible. Michael did not agree, so it never happened.

I know there were a lot of problems in Michael's family - his parents, his brother and his sons. Kathleen had gotten Michael's son, Todd, a job with NorteI in Chicago, right out of college with a substantial salary of around $55,000. After three months he quit saying he hated the job and disdained Kathleen's and his father's advice and told them he respected his friends' thinking over theirs. He told them this at the dining room table during a fancy dinner Kathleen had invited him to.

MP-10235
To my knowledge, Kathleen was always supportive in all situations and the only thing she ever said to me was "Mother, you don't know how much garbage there is in my life", but she didn't elaborate.

I do know, also, that she was not in favor of Michael's running for mayor, possibly because she did not want to be a mayor's wife if he were elected, but when I discussed this with her, she only said "I can't tell him what to do, he does his own thing."

God Bless You and may justice prevail.

Sincerely yours,

Veronica Hunt

3832 Sabel Springs Blvd.
No. Pt. Myers, FL 33917

239-731-9569

CERTIFIED MAIL
June 10, 2003
15415 Kentwell Circle
Centreville, Virginia 20120

Mr. James E. Hardin, Jr.
District Attorney
201 East Main Street
Durham County Judicial Building
Durham, North Carolina 27701

Dear Mr. Hardin:

I am writing to answer some questions from you concerning my sister’s home life, work habits, and our relationship. My sister is Kathleen Hunt Atwater Peterson.

Kathleen was my older sister and we shared a typical sisterly relationship. We were always close concerning anything that upset us or involved celebrations. She gave me a place to live when I was re-settling my life in my twenties, helped me plan my wedding, and hosted my baby shower. I talked and listened endlessly when her first marriage was ending, hosted her baby shower, hosted her wedding shower and coordinated her wedding to Michael Peterson, and sadly did all of the arrangements for her funeral and burial.

The last eighteen months of Kathleen’s life were very stressful. She was sad to have all of the girls moving to college. Kathleen was deeply distressed at the financial condition of her employer, Nortel. She was always a caring, hard-working employee to any company she served. She celebrated the strength of Nortel when its stock was booming in 1999. She even advised members of her family to purchase her company’s stock, and many of us followed her advice. In the year 2001 Kathleen and I spoke many times and each conversation was very similar. Nortel was “optimizing” (laying off) hundreds of employees, down-sizing or eradicating whole divisions, the stock price of Nortel was falling drastically, and she was working endless hours in a chaotic atmosphere. I specifically suggested in several telephone conversations that she should quit Nortel and look for other employment. Kathleen’s consistent response was that she could not find employment with a company in her area that would match her salary at Nortel and her stock options. Her income was needed to pay the mortgage. She believed that Nortel would turn around their devastating circumstances. She often expressed concern that she felt it was a matter of time until she was “optimized.” She said she would “stick it out until the bitter end.”

We also shared a mutual interest in home decorating and sewing. Kathleen had wanted me to come to her home to help her make plans to renovate the old master
bathroom and bedroom. We started to talk about how she wanted to change it. Months later she shared with me that her finances were in terrible condition. Nortel stock had continued to decline and she had very substantial losses. She said they had major termite damage (over $10,000) to the house in the living room area. She wasn’t sure if she could pay for this.

I was often aware that the expenses of running this old southern mansion were challenging to Kathleen and Michael since they could only afford to minimally heat or air condition their home. The house was sweltering hot in the summer and bone chilling cold in the winter. Even to the point when Kathleen hosted a family reunion at her home about seven years ago all of the family sat in this fabulous dining room with a room temperature of about 85 humid degrees. Michael made it clear to not even think about touching the air conditioning.

I sat in Michael’s study on December 11, 2001 writing the plans for Kathleen’s funeral services. I asked Michael to turn up the heat or start a fire in his study. I was freezing (even with my coat on) and could barely write. His response was, “I can either pay for four graves or heat the house. I can’t afford to do both.” (Note: Four graves had to be purchased at Maplewood Cemetery in order for a head stone to be erected.)

Kathleen also shared with me that she and Michael had been invited to a charity fund raising affair at a lovely home in the Hope Valley neighborhood. While at this home she noticed a beautiful smaller home for sale nearby. She told me that she had her fill of problems with the old house from bad plumbing, old bathrooms, swimming pool repairs, constant work with power washing to combat mold, a bat colony in the attic, termites, leaks in the roof, and constant bills for repairs. She wanted to consider moving despite her love for the impressive mansion. She told me that Michael would not even look at the home in Hope Valley. He wanted to stay in the house that he bought. She accepted this and continued to personally try and do any repairs herself.

In Spring 2001 Kathleen decided that she was unhappy with the appearance of the back staircase. The back staircase was re-painted a bright, light, cheerful peach color. She also changed the light fixture to a large, crystal, very bright light at the top of the staircase and personally re-upholstered the seats on the chair lift. I will also note that the lights in this house were never turned off. I often commented to Kathleen how the habit of never turning off lights would have made our father very mad. Our father was forever yelling at us to turn off lights to save electricity. Kathleen responded that was probably why she left the lights on. This light fixture made the back staircase very well lit. She also hung a framed poster of a cat at the bottom of the staircase. She was very proud of this home improvement. This is the same staircase where she died.
These are my most consistent and strong memories of our conversations during the last year of my sister’s life. The last time she called me was around 4:30PM, December 7, 2001. I had two guests in my home and was unable to talk to her. I said I would call her on Sunday. I never had this conversation. Kathleen was dead. I know this is a dramatic ending to my statement. Yet, the last time you talk with someone has a haunting and lingering effect. I don’t know exactly the reason for her call. I wish I could have talked with her one last time.

Sincerely,

[Candace Hunt Zamperini's signature]

Candace Hunt Zamperini
STATE OF NORTH CAROLINA
COUNTY OF DURHAM

STATE OF NORTH CAROLINA
V
MICHAEL IVER PETERSON

NOTICE OF INTENTION
(UNDER SEAL)

You are hereby provided the following names and addresses of persons who may testify to conversations that may be considered hearsay pursuant to Rule 803 of the North Carolina Rules of Evidence. This notice is intended to comply with Rule 803(24) and further notifies you of the State’s intention to call these witnesses regarding these statements pursuant to that rule.

Statements made by Todd Peterson as indicated in the attached documents were made to the following declarants:

Caitlin Atwater
15415 Kentwell Circle
Centerville, VA 22020

Lori Campell
8683 Nagle Street
Manassas, VA 20110

Candace Zamperini
15415 Kentwell Circle
Centerville, VA 22020

Further, that Todd Peterson stated that his father was cold and needed sweatpants and shoes. He said to get his fucking hands off him. He wanted to know why they had to stay in the room. He asked if they needed a lawyer. These statements were made to declarants:

J. A. McVay
Durham Police Department
505 West Chapel Hill Street
Durham, NC 27701

Further, that Todd Peterson told Michael Peterson not to worry. He told him to get a lawyer. This statement was made to declarant:

A. D. McCalloo
Durham Police Department
505 West Chapel Hill Street
Durham, NC 27701

Further, that Todd Peterson asked what to expect, what procedures would be followed and how long this would take. He asked if they were going to leave his mother’s fucking body lying out there. He said he had been at the house earlier before he went to a party. He said that Michael Peterson and Kathleen Peterson were the only ones in the house and that they were shit-faced. These statements were made to declarant:
Further, that Todd Peterson asked if the police were going to clean the area. He asked if there were any brain matter left at the scene. He said that he was inquiring because he was the one that would have to clean it up. These statements were made to declarant:

E. O. Paschall
Durham Police Department
505 West Chapel Hill Street
Durham, NC 27701

This the 22nd day of April, 2003.

Froda B. Black
Assistant District Attorney

CERTIFICATE OF SERVICE

Served this the 22nd day of April, 2003, on David Rudolf, Attorney for the Defendant, by delivering a copy of Notice of Intention to said attorney via United States mail.

This the 22nd day of April, 2003.

Froda B. Black
Assistant District Attorney
STATE OF NORTH CAROLINA
COUNTY OF DURHAM

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO. 01 CRS 24821

STATE OF NORTH CAROLINA

V

NOTICE OF INTENTION

MICHAEL IVER PETERSON

You are hereby provided the following names and addresses of persons who may testify to conversations that may be considered hearsay pursuant to Rule 803 of the North Carolina Rules of Evidence. This notice is intended to comply with Rule 803(24) and further notifies you of the State’s intention to call these witnesses regarding these statements pursuant to that rule.

Statements made by Kathleen Peterson as indicated in the attached documents were made to the following declarant:

Veronica Hunt
3832 Sabal Springs Blvd.
Ft. Myers, FL 33917

Kathleen Peterson has made similar statements to declarant:

Candace Zamperini
15415 Kentwell Circle
Centerville, VA 22020

This the 9th day of June, 2003.

Freda B. Black
Assistant District Attorney

CERTIFICATE OF SERVICE

Served this the 9th day of June, 2003, on David Rudolf, Attorney for the Defendant, by delivering a copy of Notice of Intention to said attorney via United States mail.

This the 9th day of June, 2003.

Freda B. Black
Assistant District Attorney

MP-10234