



PAGE

SUBJECT

RCMP2 18

CASE No.

C O P Y

Nov. 15, 1971 - 9:55 P.M.

Q. Statement of Greg Allan Ebsary, age 17 yrs.
residing at 125 Rear Argyle St., Sydney - Warned:

Q. Do you know James McNeil

A. Yes

Q. Where does he live

A. Off Hardwood Hill near the cemetery

Q. Were you ever at his house

A. Yes, once

Q. What for

A. I had to go up and get him for my mother

Q. Where did you take him

A. To the Wandlorn Motel

Q. What took place there

A. My mother and him talked. She told him not to come
back any more. He does a bit of drinking

Q. He goes to your house quite often

A. He has not been there for a long while

Q. When did you pick him up at his house

A. About 2 months ago. I am not definite

Q. What was the conversation about in the car

A. She just said it would be better if Jim did not come
back any more

Q. Was there any conversation about a disturbance at the Park

A. No

Q. Did you tell Jimmie McNeil if he told the police what
happened he would have to go to Court

A. I can't remember saying that

Q. Was there any talk in the car what Roy done

A. I said there would be trouble (Court). I meant if he,
Jimmie would go back to our house anymore

Q. Did you see Jimmie when he came to your house the following
day after the Seale stabbing

A. Yes.

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SUBJECT

RCMP 2 18

CASE No.

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Q. Did he talk to your father

A. Yes

Q. Did he tell him Seale was dead

A. I don't know what they talked about

A. I don't know what they talked about

Q. Did you know your father and Jimmie were attacked that night
on Crescent St. - the same night as the Seale stabbing

A. I found out about a week after

Q. Who told you

A. My mother said they were attacked

Q. By whom

A. 2 fellow were going to beat them up for cigarettes or something

Q. Did you ask your father

A. No I never said anything about it.

Signed: Greg A. Ebsary

Witness: Cpl.G.A.Taylor

Nov.15th - 10:20 P.M.

By: Sergt.Det. J.F.MacIntyre.

RE-OBJET:

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RCMP 2
RCMP 22

Statement of: Mary P. EBSARY - 60 years
Gregory A. EBSARY - 28 years
 46 Mechanic St., Sydney, N.S.

Taken: 82-03-04

Statement # 14B

Today we have talked with Harry Wheaton of the R.C.M.P. and discussed Roy Ebsary. I was married (common law) to Roy for 29 years and Gregory would have known him all his life. At the time of the Seale murder we were living as a family, 126 Rear Argyle St. That night Roy was out with Jimmie MacNeil.

I can tell nothing of the murder nor can Greg. At the time Roy was working at the Isle Royal Hotel or Esplanade Grill. Roy had a habit of carrying knives at that time always. He carried them in his belt. He would take a knife and grind it down like a stiletto. He also made knives out of canes that would fit in the handle. He had knives of all shapes and descriptions and would have carried one the night of the murder, I feel however I did not actually see it.

After the murder and him taking the polygraph Roy became a recluse. He went to his bedroom and literally stayed there. He would not leave the house and did not associate with anyone other than the immediate family. He quit going to the tavern and stopped drinking and became a hermit. When Mitchell Sarson came to live at our house Roy completely changed. He started drinking again and running around with Sarson. Roy was not as violent during this period as he was eleven years ago. In 1971, he was extremely violent in his tantrums he would break up the house. Today we have turned over a number of knives Roy would have had at the time of the murder.

In regards to this murder we can not say if he did it or didn't do it but we certainly feel he is capable of it.

(Signed by:)

Greg Ebsary

Mary Ebsary

H.F. WHEATON, S/Sgt.

Statement of: Greg Allen EBSARY (B: 16 DEC 53)
46 Mechanic Street, Sydney, N.S.
19 April 1982

Tonight Harry WHEATON of the R.C.M.P. has shown me a statement which I gave to the Sydney City Police back in November 1971. I remember being down at the Police Station, and it looks reasonably accurate as far as it goes.

I was at the Sydney City Police that night for approximately three hours. I talked with John MacINTYRE a great deal more than what is in the statement. One thing being what happened that night in the Park. He accused me of this, and I denied it as I had not. I was truthful and honest and told him of my father's violence, carrying knives and manner of dress. I do remember that I was very frightened, and it seemed to me that he was trying to intimidate me.

I do remember Jimmie McNEIL being at the house the day after the murder. During the period of the murder, Roy always carried knives. We moved from Rear Argyle Street about two years after the murder. I collected up Roy's knives and moved them to 46 Mechanic Street. The knives sat for approximately nine years in a drawer and then was placed by me in a basket which I put in the cellar. I turned these knives over to Harry WHEATON. To further clarify moving the knives, Roy packed them and I moved them to our present home.

H.F. WHEATON

Greg EBSARY

S.C.C. No. 00580

IN THE SUPREME COURT OF NOVA SCOTIA,
APPEAL DIVISION

IN THE MATTER OF A REFERENCE PURSUANT TO SECTION 617 OF THE CRIMINAL CODE BY THE HONOURABLE JEAN CHRETIEN, MINISTER OF JUSTICE, TO THE APPEAL DIVISION OF THE SUPREME COURT OF NOVA SCOTIA UPON AN APPLICATION FOR THE MERCY OF THE CROWN ON BEHALF OF DONALD MARSHALL, JR.

AFFIDAVIT

I, Gregory Allan Ebsary, of 46 Mechanic Street, in the City of Sydney, County of Cape Breton and Province of Nova Scotia, make oath and say as follows:

1. That I am the son of Mary P. Ebsary and Roy Newman Ebsary, and on Friday, May 28, 1971 resided with my parents and sister, Donna Elaine Ebsary, at 126 Rear Argyle Street, in Sydney.

2. That I am aware of the fact that Donald Marshall, Jr. was convicted in November of 1971, of the murder of Alexander (Sandy) Seale, the said murder having taken place on Friday night, May 28, 1971.

3. That my father, Roy Newman Ebsary, was in the habit of carrying a knife on his person during the time period that included May 28, 1971, and, indeed, the said Roy Newman Ebsary maintained a collection of knives, some of which were made by him.

4. That I and my mother, Mary P. Ebsary, were interviewed by R.C.M.P. S/Sgt. H.F. Wheaton on March 4, 1982, and gave to the said Wheaton a free and voluntary written statement, a copy of which is produced herewith and marked Exhibit 'A', concerning my knowledge of the matters referred to therein, and that to the best of my knowledge and belief the facts contained therein are true.

5. That on March 4, 1982, I and my mother, Mary P.

Ebsary, gave to the said S/Sgt. Wheaton ten (10) knives which had been in the possession and control of the said Roy Newman Ebsary during the time period which included May 28, 1971, and that produced herewith and marked Exhibit 'B' is a photograph of the said knives.

6. That I would be surprised if the said Roy Newman Ebsary were not carrying one of the knives depicted in Exhibit 'B' herein on the night of May 28, 1971, and note ~~that the knife marked with an 'X' on Exhibit 'B' herein, was a particular favorite of the said Roy Newman Ebsary.~~ CA G.E.

7. That I do not know now, nor have I ever known Donald Marshall, Jr., nor to the best of my knowledge has the said Donald Marshall, Jr. ever been in any residence in which I and my family have resided.

8. That the knives depicted by the photograph marked Exhibit 'B' were left untouched by the said Roy Newman Ebsary subsequent to November, 1971, and kept in a drawer in our home and when our family moved to 46 Mechanic Street, Sydney, the said knives were placed in a cardboard basket which I put on a beam in the cellar of our residence at 46 Mechanic Street, Sydney.

9. That the cardboard basket referred to in Paragraph 8 herein was given by me to S/Sgt. H.W. Wheaton.

10. That on November 15, 1971, I was interviewed by then Det. Sgt. John F. MacIntyre of the Sydney City Police, and gave to the said MacIntyre a written statement, a copy of which is produced herewith and marked Exhibit 'C' and that to the best of my knowledge and belief the facts contained therein are true.

11. That I was interviewed by R.C.M.P. S/Sgt. H.W. Wheaton again, on April 19, 1982, and gave to the said Wheaton a free and voluntary written statement, a copy of which is produced herewith and marked Exhibit 'D', concerning my knowledge of the matters referred to therein, and that to the best of my knowledge and belief the facts contained therein are true.

SWORN TO at Sydney)
in the County of Cape Breton,)
Province of Nova Scotia,)
this 15th day of July, A.D.)
1982, before me,)
)
A Barrister of the Supreme)
Court of Nova Scotia)

Greg A Ebsary
GREGORY ALLAN EBSARY

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GREGORY ALLAN EBSARY, being called and duly sworn, testified as follows:

BY MR. ARONSON: Direct Examination

Q. Would you state your full name to the Court?

A. My name is Gregory Allan Ebsary.

Q. And what do you do, Mr. Ebsary?

A. Currently I'm employed as a taxi driver in the City of Sydney.

Q. How long have you been doing that kind of work?

A. Just a couple of months.

Q. And how old are you?

A. I'm twenty-eight years old.

Q. And when were you born?

A. 1953.

Q. What's the last grade in school that you completed?

A. I completed grade twelve in Sydney Academy.

Q. And did you have any subsequent education after that?

A. No, sir, I did not.

Q. And are you married?

A. Yes, I am. I'm married and I have two children.

Q. Where do you presently live?

A. I reside at 46 Mechanic Street in Sydney.

Q. And how long have you resided at that particular address?

A. Nine years.

Q. And prior to that residence, prior to your present residence, where did you live?

A. We lived at 126 Rear Argyle Street, Sydney.

Q. When did you move from Rear Argyle Street? Can you recall the year you moved from Rear Argyle Street to Mechanic Street?

A. I'm pretty sure it was in the middle of 1973.

Q. Now with respect to your residence at Rear Argyle, can

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you say how far that is from Wentworth Park?

A. On Rear Argyle Street?

Q. Yes.

A. In terms of mileage or in terms of walking distance or?

Q. Walking distance.

A. Three minutes, maybe.

10) Q. Who was living with you on Rear Argyle Street?

A. On Rear Argyle Street, it would have been my sister, Don; my mother and my father and myself.

Q. And what is your father's name?

A. My father's name is Roy.

Q. Are you able to recall what he looked like in 1971?

A. Well he was -- height-wise, he was about five foot three. He was -- he had white hair. He wore his -- he had a little mustache, a little goatee beard.

Q. Did he -- can you say how old he is at present?

(20) A. He's seventy years old as of June 2nd past.

Q. Can you say whether or not he had any particular mode or manner of dressing in 1971?

A. He always dressed if he was going out some place, he always liked to dress up kind of fancy. He'd come home from work and change his clothes and when he did, he'd wear dark, dark pants, he'd wear a white nylon shirt, t-shirt underneath and he'd wear a white silk scarf around his neck and flipped over once like an ascot and then he'd wear a blazer, something like the one I'm wearing and then he'd wear a top coat, probably a blue Burberry or a blue reversible top coat and he'd just have that put over his shoulders. That's pretty well the way he always dressed.

30) Q. Is your father presently living with you?

A. No, my father hasn't been living with me since 1979.

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Q. Is there any particular reason why your father's not living with you?

A. Well he started -- he started drinking again in 1979 and we -- for a few other reasons besides, we saw fit to ask him to move out.

Q. What do you say as to whether your father had any particular hobbies or interests in 1971?

(10) A. My father's biggest hobby was to see how much alcohol he could consume and how many taverns he could visit. That was his biggest hobby.

THE COURT:

What are you asking? Ask him the direct question on this.

MR. ARONSON:

I'm sorry?

THE COURT:

You are leading up to something. Go ahead and ask him the direction question.

(20) MR. ARONSON:

I was going to ask him if he had any other hobbies or interests aside from drinking. That was going to be my next question, My Lord.

THE COURT:

Well ask him about the knives.

MR. ARONSON:

Well I think we are just about to get into that.

THE COURT:

Well how about doing it.

(30) BY MR. ARONSON:

Q. What can you say as to whether or not your father had any particular interest in knives?

A. My father had a special interest in sharp instruments, especially knives. He'd use them for screw drivers.

. He'd use them for -- if he had to cut kindlings, he'd

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use a knife to cut kindlings with; and around that time, he started making sword canes. He started taking any knife he could find and sharpening both sides of it down to a point. Like a butter knife which would usually be rounded and sharp -- only -- not even sharp, he'd take it and he'd put it on the wet stone like that and he'd make it down into like a stelletto kind of --

10) Q. And did he have any particular use that he put these knives to?

A. He used them for everything. He had -- like I said, he made sword canes with them. That is, he'd have a walking stick and he'd hollow it out and he'd make the knife into a kind of a handle for it and then the blade, of course, would go down inside the sword cane. Like I said, he used knives for everything. Anything he had to do. He used them for letter openers, paper weights, anything. It was a knife or like that.

20) Q. What can you say as to the source of these knives generally?

A. The source of the knives, they were kitchen knives. They were all kitchen knives that he had. Some of them he obtained them from the Isle Royale Hotel where he worked. They were discarded meat cutting knives and stuff and he'd bring them -- he'd bring those home and the rest of them were just regular kitchen knives that you'd buy at the local hardware store or whatever. He'd just take them out of the drawer and he'd sharpen them and put them back in the drawer like that.

30) Q. I'd like to show you something --

BY THE COURT:

Q. What was his occupation at that time?

A. He was a cook at the Isle Royale Hotel, sir.

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BY MR. ARONSON:

- Q. I was to lay before you a group of ten knives, I believe, marked exhibits R-4a to R-4j.
- A. Okay.
- Q. What can you say as to your knowledge of those particular items?
- 10) A. All these knives at one time or other belonged to us as a family. They belonged in our home. These ones here for instance with the copper handles on them, these were bone-handled steak knives before he decided to take the handles off them and put the copper on them.
- Q. Now what -- now this last description of your accounting take in which of these knives? Can you say?
- A. Which ones, the steak knives?
- Q. Yes.
- 20) A. All right, the steak knives were these ones that I'm saying here with the copper handles. Okay, that would take in to account four of these knives here, the serrated edged ones. These two here --
- Q. Now which?
- A. These two larger ones.
- Q. Those would be, if I could for the record, say exhibit R-4e and exhibit r-4f.
- 30) A. Okay, these are two knives that he -- I'm pretty sure he got these at the Isle Royale Hotel. They were discarded kitchen knives at the hotel and he took those home so that's where they came from and that's how we came into possession of them. These two here, this one for sure, now this one here was just a regular table knife, like a butter knife, something you'd use to butter your bread with.
- Q. And would I be correct in saying you're referring to

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exhibit R-4c?

(10) A. I believe you would. That's right and the same with this one here. That would just be a knife that you'd use to butter your bread with. Now he took those and these are the ones that I was saying before that he started sharpening both sides because there's an edge -- there's an edge on either side of that and it's sharpened down to a point and before this knife -- this knife had a round point -- not a round point but it had a round edge on it so that it wasn't sharp.

BY THE COURT:

Q. That's exhibit number what?

A. This is R-4i. And the same with this one here, it was -- it had a round end on it and he took it and he sharpened it on both sides and he sharpened it down to a point.

(20) Q. Now you're speaking of exhibit R-4c. Is that correct?

A. This is R-4c, yes. And this one here and this one here, they're just two bread knives that were -- that were in the drawer.

Q. And the last two you've referred to are exhibits R-4d?

A. This is d and that's b. Those are just two bread knives.

Q. Now how long can you say that you had been familiar with those particular knives?

(30) A. Well those knives were in the house on Argyle Street for sure because I know that because I moved these knives from Argyle Street up to Mechanic Street when we moved in 1973, so they were in the house prior -- quite a while prior to 1973. They were there for -- for as long as I can remember.

Q. How far back can you remember those knives?

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A. Well those two there, the two that he brought home from the hotel, I couldn't be specific on those but these were in the house. These are -- these are easily --

Q. Would you refer to the exhibit numbers?

10) A. Okay. This R-4d and R-4b, these are about maybe twenty years old and these, this would be the first set of knives that they had, steak knives, which would make these at least fifteen years old and this R-4j, h, g, and a, so those are about fifteen years old and these are butter knives. They might have had these before I was born but they've been in the house that long because they were there since I can remember and that's R-4i and R-4c.

Q. Can you say over the period of time that you've been familiar with these knives where they were located prior to your moving to Mechanic Street?

20) A. Okay. Most of the time -- there were six of these --

Q. Now which ones are you referring --

30) A. The ones that are indicated by R-4c and R-4i, there were at least six of these and over the period of years a few of them have become misplaced. I have -- I have maybe two of these at home as well right now. When we moved -- 1973 when we moved, before that, they were -- some of them were in the drawer and a couple of them he, Mr. Ebsary, had upstairs for letter openers and paper weights and the rest of them were in the kitchen drawer on Argyle Street. Now after 1973 when we packed up, everything was packed in boxes and I moved it to our new residence on Mechanic Street where they went into the kitchen drawer --

Q. Before you bring it up, when you say you packed up and moved, what are you referring to when you say you packed

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up and moved?

A. Well we packed up everything.

Q. Yeh.

(10) A. We moved all our furniture and then we took all the kitchen utensils and then we moved like room by room. We moved everything out of the kitchen first and then like everything out of the front room, like that, so a couple of these knives came out of different boxes when we got down to Mechanic Street. We found a couple of those knives come out of different boxes because he had, like I say he had some of them for letter openers and more of them were in the kitchen.

Q. Now prior to your move to Mechanic Street, what can you say as to whether persons other than your father had access to or made use of those knives?

(20) A. Okay, most of these knives, anybody that came into the house could have had access to them. They were only in the kitchen drawer, the same as any kitchen drawer. You open the drawer and you want a knife to butter your bread or whatever, you just take the knives out of the drawer so if anybody could have had access to them.

Q. Now specifically with respect to exhibit, I believe, it's R-41, what can you say as to the use of that particular knife prior to your moving to Mechanic Street?

(30) A. I don't -- I really -- I really don't know what to say. It could have been -- it could have been one of the ones he used as a letter opener because these are the ones he had sharpened for himself, these two, like c and i. He had those sharpened for letter openers and whatever so more than likely I'd have to say that maybe those two were upstairs in his bedroom and he used them for letter openers or whatever.

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Q. With respect again to exhibit R-4i, what can you say as to whether or not there have been any changes in the condition of the knife over the period of time with which you've been familiar with?

A. Well besides having the handles replaced, the -- it's kind of a little more raggedy now than when I -- when I saw it the last time.

(10) Q. You referred to the handles being replaced, what can you tell us about that?

A. Okay, this one here with the handle on it, he took these and he put --

Q. Which one are you referring to?

A. All right, this one here is exhibit R-4i. He took this one and after he sharpened it, he put these -- well I don't even know what to call it; they're a plastic. I call it holes I guess but he put that on and you can't see it I guess but it's cut down there where he put it on and he put this tape around the handle of it. I guess he thought he was decorating it or something but he put this tape on it to keep the handle in tact so that it wouldn't fall off. But before like there was a handle on that, so like that's the only changes. He changed the handles and sharpened them.

(20) Q. Are you able to say when that particular change took place?

A. No, I'm sorry, I'm not.

(30) Q. Would you remember that knife in that condition over what period of time?

A. I'm sorry?

Q. Over what period of time do you remember that particular exhibit in the condition as you see it today?

A. As I see it today, it's like that -- it's like that at

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least ten years. At least ten years, longer perhaps.

Q. Do you recall the Seale murder in Sydney in 1971?

A. Certainly, yes, I do.

Q. Subsequent or after the time of the Seale murder, did you have any involvement with the Sydney City Police concerning that particular knife?

A. After the murder I was called in and asked -- I was questioned by John MacIntyre.

Q. Concerning what?

A. He wanted to know if I had overheard my parents talking about the murder and I did not and he wanted to know if I thought my father had done it and I couldn't tell him if I -- I didn't think he had but just questions in that line.

Q. I see. Can you recall when you became involved with the police?

A. I would have to say I'm pretty sure it would be around November, I think.

Q. And in what year?

A. 1971, I guess. 1971.

Q. Can you say whether anyone -- whether any other members of your family were involved in the police investigation?

THE COURT:

You can't get into that, can you?

BY MR. ARONSON:

Q. What can you say as to your father's potential for violent behaviour?

A. My father was an alcoholic and a bad one and in a state of -- if he'd get a few drinks in him, anything that came into his mind and do it, he'd do it. He was a very violent person. If he had an argument with me or one of the members of the family, he'd beat the furniture up with a hatchet or something like that or

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throw things around. I remember one particular incident and I think my sister repeated that yesterday where the bird was singing in the kitchen and he didn't like it and he just -- he tore the head off the bird and anything that crossed his path that he didn't like it, he would -- he would take the violent approach to having it stopped.

(10) MR. ARONSON:

I haven't got any further questions of this witness, My Lord.

BY MR. EDWARDS: Cross-Examination

Q. Mr. Ebsary, do you know whether or not your father was in the habit of carrying knives on his person?

A. My father carried knives constantly.

Q. How do you know that?

A. Because the man is my father. I see what he does every day. The man carries those sticks with them all the time, those walking sticks?

(20) Q. Yes.

A. They all have knives in them. He has knives in his pocket. He has knives in his belt -- in his belt like a dagger would be. Constantly.

Q. And did he have that habit around the time of the stabbing in 1971?

A. He carried -- he carried knives constantly at that time.

Q. Did you see him before he left the house on that particular day?

A. No, sir, I did not.

(30) Q. Did you see him at all on that day?

A. I did not.

Q. Where were you that day, Mr. Ebsary?

A. I was -- a friend of mine was building a home and I was with him. We were putting up some gyproc so I wasn't home all that day and I wasn't home when he

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came home either.

Q. You're referring to when he came home that night?

A. I am.

Q. Did you -- did you know James MacNeil?

A. I was familiar with James because he came around with my father a few times at the house and they were drinking. That's how I -- I knew him to see him kind of thing but I wasn't friendly with any of my father's drinking partners.

Q. Did you see him at the house at any -- around the time of the stabbing, a few days before or a few days after?

A. He was at the house a few times, yes, before the stabbing.

Q. How -- how long before the stabbing?

A. I really couldn't say. A couple of days perhaps.

Q. What about after the stabbing?

A. I remember he was there the day after the stabbing and I don't really recall after that.

Q. James MacNeil testified in this Court that he had told you what had happened in the park on the night in question. Is that correct?

A. I don't recall that.

Q. You don't recall?

A. I don't recall him telling me what happened in the park.

Q. Is it possible that he could have?

A. He could have but if he did, I certainly don't recall it.

Q. I see. Okay. My learned friend asked you several questions about the knives and you gave evidence about the changing of the handles and the knives by your father?

A. That's right.

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Q. Did you actually see him change the handles on the knives?

A. He'd be doing that in the kitchen. That's -- this became a common occurrence with him that if the knife was in the drawer; one of these knives here was in the drawer and he decided he wanted to change the handle on it, he'd just do it. There was no other -- there was no work shop in our home so if he decided to do it, he'd just -- he'd just take it out and do it.

Q. And you were actually present on some of those occasions where --

A. I saw him change the handles on these for instance.

Q. Now you're referring to what knives now?

A. I'm referring to exhibit R-4h and that series of knives. I saw him change the handles on those for instance.

Q. What about the knife, R-4i, the one with the rubber hose on it? Did you see him change that one?

A. No, I didn't see him change it but he changed it.

Q. You're assuming that he changed it.

A. No, sir, I'm not assuming. I know he changed it.

Q. Well you didn't see him. You didn't see him actually change it, did you?

A. No, sir, indeed I didn't.

Q. No. Were any of those knives particular favourites of his?

A. The smaller ones. Like I said this R-4c and even these ones here, R-4h and like that, he liked those because they'd fit right into his pocket.

Q. Now again you're making assumptions. He never -- he never told you that he liked those because they fit --

A. Well he never come out and said -- he never come out and

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said: "Well, Greg," he said, "I like this one because it'll fit into my pocket.", sir.

Q. Of course. Now you mentioned that most of those knives were kept in a drawer in the kitchen?

A. That's right.

Q. That's on Argyle Street?

A. That's right.

(10) Q. But you've mentioned a couple that he would have kept up in his room with him.

A. That's right.

Q. Which were they again, Mr. Ebsary, please?

A. I'd say that they were R-4c and R-4i and as well there's a couple of more of these in my Mechanic Street residence now.

Q. Yes.

A. The same ones with the plastic handles on them.

Q. Okay. Now at the time of the move from Argyle Street to Mechanic's Street, you say that you moved them.

Yes.

Q. You moved the knives?

A. Yes, I moved them, yeh.

Q. Yeh. Who --

A. I moved them all.

Q. -- actually packed the knives?

A. Well I'm sure you're familiar with moving. Anybody that's in the house would pack something. The -- Mr. Ebsary would be upstairs in his bedroom. He'd pack what was in his room. My mother packed her stuff and I packed mine and Donna packed hers but I moved it all.

(30) Q. Specifically with relation to the knives, Mr. Ebsary, did anyone person pack the knives or were they packed by various individuals?

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A. Anything that was in the kitchen, my mother would have packed it. Any knives that were upstairs --

Q. Did --

A. Yes.

Q. All right, did you see your mother pack any of those knives?

A. I saw her packing in the kitchen and my father did not pack in the kitchen.

Q. All right, do you recall when you moved the knives from Argyle Street to Mechanic Street? Were all those knives in one container or were they in --

A. No, sir, they were not.

Q. They were in various containers.

A. The ones that came out of the kitchen would be in a box marked "kitchen" stuff. Anything that was in the upper bedrooms would be marked "bedroom", like.

Q. Okay, so when you get the knives over to Mechanic Street, what happened to them then?

A. Okay, most of these knives with the exception of the ones with the green handles and maybe one of these, the green handled ones and R-4c, R-4i, and a couple of these, I don't know which ones, --

Q. All right, you're referring to what?

A. R-4j; R-4h. Pick your choice on those. Most of them went in the kitchen drawer because that was the utensils that they used to eat with.

Q. Where did the other knives go?

A. All right, the ones that were marked in his bedroom would have gone upstairs to his room. Anything that was in the box marked for him would have gone up there.

Q. All right, so at some point after the time you moved to Mechanic Street, did you or anyone in your presence collect all the knives?

- 208 - GREGORY ALLAN EBSARY, by Mr. Edwards

A. Yes. After the move to Mechanic Street and -- some time thereafter, after the old man moved out --

Q. This would have been in 1979?

A. This would have been in 1979. The ones with the green handles, that's R-4i and R-4c, anything -- any other knives that were up in his room, there were a few of them. I can't say which ones, but there was a few with the green handles and there was a few with the copper handles, like R-4j, were in that room. They were taken downstairs.

Q. By whom?

A. By me. I did all the moving.

Q. Yes.

A. And they were put into a drawer in the dining room where they used to put all the old kitchen utensils and before that, I had collected a bunch of these copper handled ones and a few of these rubber handled ones. And I had moved those along with the bread knives and those two knives there.

Q. Which are marked as?

A. They're marked R-4f and R-4e. I have moved them into the drawer in the dining room because they had got some new knives and stuff and we just took all the old stuff and we put it in there.

Q. All right, so all the knives then were put in a drawer in the dining room some time in '79?

A. Some time in '79. That would be around the time that the old man moved out and my wife and myself moved back in because we had kitchen utensils of our own and they were all newer so and none of them had those kind of handles on them. So we put all our stuff in the kitchen drawer and we moved all the old stuff into the dining room drawer.

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Q. Now how long did all the knives remain in the dining drawer?

A. I can't really say for sure. A year perhaps, maybe longer, maybe a little less.

Q. That's not where they were when you turned the knives over to Staff-Sergeant Wheaton.

A. No, sir.

(10)

THE COURT:

He hasn't said anything about that yet.

MR. EDWARDS:

No, My Lord.

BY THE WITNESS:

(20)

A. I took the knives from that drawer and we were cleaning out all the old stuff and we were putting a lot of it in the garbage. I had those knives and I had them ear-marked for going to the dump but only that they're sharp and I wouldn't put them in the garbage. I put them in a peach basket and I put them down up above my work bench in the basement. That's where they stayed until Mr. Wheaton came.

BY MR. EDWARDS:

Q. All right, now let's try to get the time frame. When would you have put the knives in the peach basket and put them in the cellar?

A. I'd have to say some time between maybe 1981 and when Mr. Wheaton came to the house.

Q. And when was that?

(30)

A. Oh, I'm not really sure. October of last year, I guess, or something like that. I'm not sure.

Q. Would it have been in April of this year?

A. It could have been. I'm not sure.

Q. But in any event until the time that Staff-Sergeant Wheaton took possession of the knives, they were in the

- 210 - GREGORY ALLAN EBSARY, by Mr. Edwards

peach basket --

A. In the peach basket up above my work bench in the rafters.

Q. And the peach basket and the knives were turned over to Staff-Sergeant Wheaton at the same time --

A. Yes, sir.

Q. -- or separately?

(10) A. I took the peach basket -- it was up above the bench and I took it down. He was asking about if there was any knives around --

Q. Well I don't want to get into what he was asking you.

A. Okay, I gave him the peach basket and the knives at the same time.

Q. Thank you, Mr. Ebsary.

MR. ARONSON:

I have no further questions of this witness, My Lord.

(20)

(WITNESS WITHDREW)

MR. ARONSON:

The next witness is A. J. Evers.

Before I ask this witness any questions, I'd like to indicate that I propose to tender Mr. Evers as an expert in the science of hair and fibre comparison and with the ability to provide an opinion on that particular subject.

(30)

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GREGORY EBSARY called, duly sworn, testified:

DIRECT EXAMINATION

MR. EDWARDS: Your name is Gregory Ebsary, Sir?

A. That's true, yes.

5. Q. And your present address, Mr. Ebsary?

A. 46 Mechanic Street in Sydney.

Q. And you're employed?

A. I'm with Briand's Cab Company.

Q. I'm going to stand over here, Mr. Ebsary and I'd like you to direct your answers to the jury. So your present occupation you say is . .

10. A. Cab driver.

Q. Cab driver. How old are you, Mr. Ebsary?

A. 31.

Q. And you are the son of the accused, Roy Newman Ebsary?

A. I am.

15. Q. And for the record would you point him out please?

A. Over there with the brown sport jacket.

Q. The witness points to the accused, My Lord.

20. THE COURT: Yes. The record will show that he points to the accused.

MR. EDWARDS: Now where - first of all how many comprised your family?

A. There was my sister, myself and my mother and. .

Q. Your sister is Donna?

25. A. Donna, yes. And my mother Mary and Roy.

That's all that resided at Argyle Street.

Q. What was the exact address on Argyle Street?

A. 126 Rear Argyle.

Q. And that's in Sydney, County of Cape Breton, Province of Nova Scotia.

30. A. Yes.

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0.

G. EBSARY, Direct Examination

Q. Now is that where you resided in 1971?

A. It is, yes.

Q. And how long approximately had you resided there at that time?

5.

A. That's 10 years anyway.

Q. 10 years?

A. I'd say, yeah.

Q. And after Rear Argyle Street where did the family move?

A. We moved to 46 Mechanic Street.

10.

Q. 46 Mechanic Street. And that is also in Sydney.

A. In Sydney, yes.

Q. Approximately when did the family move to Argyle Street?

A. I believe it was in the summer of 1974.

15.

Q. And the family was still all together at that point.

A. Still all together, yes.

Q. And at some point subsequent to that was there a separation between your mother and father?

20.

A. There was, but that was in the winter of 1979 or the early part of 1980.

Q. So up until then the family lived as a unit.

A. Well, I got married so I moved out.

Q. When did you move out?

A. 1975 I got married.

25.

Q. And what about your sister Donna?

A. Well, she ws home for a few years and then she moved to Boston but I'm not really sure of the date when she moved.

Q. Okay. So in 1971 how old would you have been, Mr. Ebsary?

30.

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G. EBSARY, Direct Examination

A. I would be 17.

Q. 17. And were you employed at that time?

A. No, I wasn't. I was a student.

Q. And what grade would you have been in?

5.

A. I would be in grade 11, I believe, Sydney Academy.

Q. Could you describe for the jury how your dad generally dressed?

A. Are you referring to when he went out or just around the house, or . . .

10.

Q. Well, when he was going out.

A. Well, when he was going out he would have a pair of suit pants or what I would call a good pair of pants, a white shirt, he would have a silk or nylon white scarf which he would put inside his shirt and fold it over like an ascot and then he'd have a suit jacket or sport coat, and then when he was ready to leave he'd put on his top coat or whatever he called it, a top coat and he'd just drape that over his shoulders like a cape sort of.

15.

Q. And what colour was that coat?

20.

A. Well, there was a blue, I guess. There was a blue one he had and then there was a couple of ones that were reversible, they were blue on one side and white on the other.

Q. And what shade of blue would the coat be?

25.

A. Well, one was navy blue, like I say the other one was white and blue.

Q. Do you know if he had any particular favour, if he wore one coat more than the other?

A. Well, he wore a blue one more than the reversible type.

30.

Q. That's the navy one.

A. Yes.

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0. G. EBSARY, Direct Examination

Q. Could you describe your father's state of health around 1971, and generally his physical ability?

5. A. He was in quite good shape. He walked everywhere he went when he was working and he was still working up to that time, he worked at the Isle Royale Hotel or down at the Esplanade Grill, I'm not really sure, but he walked everywhere he went. He was in good shape.

10. Q. Now the previous witness testified that you turned certain exhibits over to Staff Sergeant Wheaton.

A. Yes, I did.

Q. I'm going to show you a folder which is marked Exhibit #1 containing about 10 knives. Would you examine those knives? You had the opportunity to examine those knives prior to coming to court.

15. A. Yes. Yeah, these are the knives that I turned over to Harry Wheaton.

Q. Um-hmm. And you didn't make a note of the date on which you turned them over to him.

A. No.

Q. Do you remember what year?

20. A. I really don't, no.

Q. So could you explain to the jury where those knives came from? How they . . .?

25. A. Well, they were in use at 126 Rear Argyle where we resided and then when we moved, well before that, I guess, some of them were in the upstairs location around Roy's bedroom and the rest of them were downstairs in the kitchen and then when we were moving everybody kind of packed up their own junk and we shipped them up to Mechanic Street. I moved them up in a little trailer, a truck and then we just moved them into the house and

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0. G. EBSARY, Direct Examination

again Roy had a room upstairs and they - some of them went up there, he was using them for letter openers or whatever and the rest of them went into a drawer in the kitchen and subsequently they went into a drawer in the dining room and then down into the basement.

5.

Q. So where were they when you retrieved them for Staff Sergeant Wheaton?

A. When I retrieved them for Staff Sergeant Wheaton they were in a basket in the basement up above my work bench.

10.

Q. What kind of a . . .

A. An apple or a peach basket.

Q. And how did they get down there?

A. I put them there. I took them out of the - they were in a drawer, they were all in a drawer in the dining room and I took them out of that drawer and I put them in the basket and I put them downstairs up above my bench.

15.

Q. Now I'm going to show you a couple of the knives. First of all I'm going to show you knife #1 which is also marked R4G.

A. Okay.

20.

Q. Now explain to the jury how, if you can, say that that is your father's knife or it came from your home.

A. Well, this is not the kind of a knife that you'd buy in a store, I guess, not with this kind of a handle on it anyway. This was a bone handle or a plastic handle steak knife and the handle either became broken - there was a set of these - and some of them either became broken or he took the handles off and . . .

25.

Q. By 'he' you're referring to your father.

30.

A. Yes, Roy, yes. He took the handles off and he

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G. EBSARY, Direct Examination

put this copper pipe on it and used that for the handle, so that's how I know that this is one of our knives, or one of his knives, I guess.

Q. What's on the end of it there?

5.

A. Oh, this is a bullet shell, a little dressing, I guess, but he put that there as well.

Q. I see. All right. What about knife #7 which is also R4C?

10.

A. Okay. This is also one of his creations, the knife is sharpened on both sides. This is what I would call - it used to be what I would call a butter knife. It should be flat here on the top instead of sharp and it's - there's usually no edge on these at all but he has it sharpened to a fine edge on both sides and he has the piece of rubber hose of some sort on the handle and that's his work as well, I guess.

15.

Q. Do you know of any reason why the blade would've ben ground sharp on both sides?

A. I don't know why he did it. I know that he did it but I have no reason - I have no idea why he did it.

20.

Q. I see. Knife #8, what can you tell us about that?

A. Again this is one of his knives and it's the same story.. The blade is ground on both sides and the knife comes to a sharp point and it's again what I would call a butter knife. It has the green hose on the handle and tape to support the hose where it's split, I guess and a little bit of cellophane, I guess or whatever you call it, tinfoil around the handle here. That's one of his knives. Or one of the knives that came out of the house, I guess.

25.

30.

Q. Mr. Ebsary, you've examined the other seven

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G. EBSARY, Direct Examination

knives.

A. Yes.

Q. And are you satisfied that each of those came from . . .

5.

A. Oh yes, yes. They all came from our house, yes.

Q. Now I want to direct your attention to the night of the incident, we'll call it, in Wentworth Park. That would be May 28th, 1971. Do you have any idea where you were that day?

10.

A. Yes. I was working with a friend who was building a house on Harold Street and I was there until quite late in the early morning of May 29th, I guess, before I arrived home.

Q. So did you see your father at all on May 28th, 1971?

15.

A. No, I didn't.

Q. Did you see him on the 29th?

A. I saw him on the 29th for a couple of minutes and then I went back to building the house with a buddy of mine.

20.

Q. Did you have any conversation with him?

A. No, Sir, I didn't.

Q. On that day. Now around that time, 1971 could you describe your father's use of alcohol if in fact he did use alcohol?

25.

A. He used quite a lot of alcohol at that time. He spent the better part of his non-working time in - drinking alcohol. He was a bad drinker. He frequented the State Tavern which was on George Street, again during most of his off time.

THE COURT: Which tavern?

30.

A. The State on George Street.

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0. G. EBSARY, Direct ExaminationTHE COURT: Thank you.

A. All of his off time he was drunk, all of his off time.

5. Q. And whom did he include among his friends at that time? Do you recall?

A. Well, the only - well, Henry Peters was a friend of his and Jimmy MacNeil, that's the only two that I know by name that I could say right off the top of my head.

10. Q. Jimmy MacNeil, how well did you know him at that time?

A. I didn't know Jimmy all that well, he was at the house a couple of times before that incident so I didn't know him all that well. I knew him to see him or say hello to him or something.

15. Q. And can you comment^{upon}/the degree to which Mr. MacNeil used alcoholic beverages?

A. No, I can't say. I can't really say if I've ever seen him drunk or anything.

Q. No further questions. Thank you, Mr. Ebsary.

THE COURT: Cross-examine?CROSS-EXAMINATION20. MR. WINTERMANS: Did you actually see your father modify or change or fix any of those knives?

A. I saw him change the handles on some of those steak knives with the copper handles. I did not see him change or add the rubber hose to the butter knives.

25. Q. And you moved out of the house you say in 1975 when you were married?

A. I'm saying around 1975. Around there.

Q. Some three or four years after this incident.

A. Yes.

30. Q. And before that though you lived in the home

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0. G. EBSARY, Cross-Examination

with your father and mother and your sister?

A. Yes, that's correct. Yes.

Q. At that time in May of 1971 your father was a cook at the Isle Royale Hotel, is that correct?

5. A. It's - I'm saying yes but there's two jobs he had around that time. He worked for the Isle Royale Hotel and then after he - around that time he worked for the Esplanade Grill so I'm not really sure.

Q. He was a cook, though.

A. He was a cook, yes.

10. Q. Did you move, did you and your family move from the residence at Argyle Street where you lived in 1971 to a new residence on Mechanic Street?

A. Yes, that's correct.

Q. When was that? Approximately.

A. I'd say the summer of 1974.

15. Q. '74, was it?

A. Um-hmm.

Q. I see. And do you recall how those exhibits, the knives, got from the first house to the new house?

20. A. Well, I moved the - once everything was packed I moved it in a half-ton truck and a little trailer from Argyle Street to Mechanic Street. Now some of the stuff, whatever was in the kitchen I would imagine my mother packed. Anything that was upstairs in their bedroom, Roy and my mother probably packed it and whatever my stuff was, I moved it so the knives, 25. wherever the knives were my mother packed them or Roy packed them, just depending on where they were, upstairs or in the kitchen.

Q. I see. And were some of these knives to the best of your knowledge from the kitchen?

30. A. Some of them were in the kitchen drawer.

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0. G. EBSARY, Cross-Examination

I've seen them in the kitchen drawer. And some of them were upstairs.

Q. So that would be up until the time of the move in 1974?

5. A. That's correct.

Q. And some of them were in a dining room, did you say?

A. Well, that was after that.

Q. After that. I see. So there was no dining room at Rear . . .

10. A. No, we had just a kitchen. That's where we ate and cooked. Everything was done in the kitchen.

Q. I see. Were you - would you describe yourselves as a wealthy family? At that time?

A. Certainly not. Certainly not.

Q. Were you a poor family at that time?

15. A. We were - I'd say we were - I don't know. I don't know if we were poor or not. WE never had a hell of a lot but we did all right.

Q. Um-hmm. Did your mother work at that time?

A. Yes, she did. She worked for Wandlyn Inns.

20. Q. I see. Doing what?

A. She was a cook.

Q. Now after the - or when the move took place to the new house in 1974 you indicated that articles were packed according to room, is that correct?

A. Yes, that's correct.

25. Q. So all the kitchen things were put in a kitchen box.

A. Yes.

Q. Kitchen boxes, and then when they were unpacked were they unpacked according to room?

30. A. Yeah, they were put the same way they came

260.

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G. EBSARY, Cross-Examination

out of the other house they went into the new house.

Q. So the knives would've been put into kitchen drawers.

5.

A. Yeah, they would've been put into a kitchen drawer. In the new house that we moved in there was no cupboards or counter tops. There was only just one drawer in the kitchen for - it was in an old sink that was there, so any knives that were in the kitchen would've been put into that drawer first.

10.

Q. I see. And in the new house there was a dining room?

A. There was a dining room, yes.

Q. And were some utensils kept in the dining room?

15.

A. Yes, anything that we used day to day like the eating utensils would've been kept in the kitchen. There was no room for the larger knives or ladles or anything like that so they were all kept in a drawer in the dining room and . . .

Q. Do you recall, can you say which of these 10 knives would've been kept where? At that apoint in time after the move?

20.

A. The only ones I can say with any surety at all were the two of the bigger knives that are there. They were kept in the - they would've been in the dining room. The rest of them, well, I don't know. I have no idea. I can't say which ones were which. There were some downstairs and there were some upstairs. I don't know which ones.

25.

Q. Okay. And I understand your parents separated. When would that have been, 1979 and 1980?

A. That was around Christmas, around Christmas time of 1979. Into the early part of 1980.

30.

Q. Um-hmm. And before that separation I understand

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0. G. EBSARY, Cross-Examination

that your father pretty much had his own room.

A. Yes, he did. Yes.

Q. And what happened with the things that were in his room?

5. A. The stuff that was in his room I helped him pack up and I moved him down to a place, the Cliefden House first and the - anything that was left over after he moved out, there was a few of those knives that were left. He had - I think to explain it better I'd have to tell you he had a desk in his room and he
10. had some of those knives in a desk in his room on the upstairs level and when we packed up of course, I was moving him out in a car that I had at the time so there wasn't enough room in the car to take everything, so there was a few of those knives left over and the knives, I just took them and I fired them in the drawer downstairs
15. in the dining room and the rest of his stuff we moved out in the car down to the - to his new location.

Q. I see. And these knives that we see before us, the 10 knives, they then at a certain point went from the kitchen and dining room down into the basement?

20. A. No. Eventually they all - all of those knives which you see there eventually all of those knives at one point were all in the dining room in a drawer, I don't know if you'd call it an obsolete drawer or not. They just became- they just weren't in use any more.

Q. When would that have been?

25. A. I can't really say. We bought some new cutlery that looked a little cleaner and was a little cleaner in fact and we just moved that stuff away and we put it into the drawer in the dining room and then I took it from there and put into the basement. I can't say how long
30. they were down in the basement.

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0. G. EBSARY, Cross-Examination

Q. Okay. I refer you to - you recall that you gave evidence in Halifax in 1982?

A. Yes.

Q. I refer to page 209, question . . .

5. THE COURT: Which transcript is this?

MR. WINTERMANS: This is from the - Halifax.

MR. EDWARDS: This is the Donald Marshall reference.

MR. WINTEREMANS: Yes, the Donald Marshall matter.

10. Q. All right, now, let's try to get the time frame. When would you have put the knives in the peach basket and put them in the cellar?

A. I'd have to say sometime between 1981 and when Mr. Wheaton came to the house.

Q. Do you recall that?

15. A. Well, what I'd have to say there is, I'd have to check. What happened there is we had the house insulated. I know that doesn't mean anything to you but in terms of the date it means something to me, because when we had the house insulated I went in and looked.

20. We were moving some stuff out of the dining room and when I pulled out one of the drawers there was some mildew on the inside of one of those drawers. Now I'd have to look and see when the house was insulated, then I could give you an exact date.

25. Q. I'm looking for an exact date, but do you recall having given that answer? Would that be an approximate date?

A. Sure. That's it.

30. Q. Can you say how your father's height, now compared to back in 1971? It's approximately the same, I would assume?

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0. G. EBSARY, Cross-Examination

A. Approximately, yes. He may even be a little shorter now. I'm not sure.

Q. I suggest to you approximately 5'2?

A. Approximately, yes.

5.

Q. And his weight in 1971?

A. Oh, I'd say he was a little heavier in 1971 than he is now. He was a little stockier in 1971.

Q. Would you be able to put a weight on it?

A. I have no idea.

Q. Thank you. That's all the questions I have.

10.

THE COURT: Any re-examination?

MR. EDWARDS: No re-examination, My Lord.

WITNESS WITHDREW

15.

20.

25.

30.