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H. D. MALONE,

A witness introduced for and on behalf of the defendants,
being first duly sworn, upon his oath testified as follows:

DIRECT EXAMINATION

BY MR. BRELAND:

Q This is Mr. H. D. Malone?

A Yes, Sir.

Q Where do you live, Mr. Malone?

A Cleveland, Mississippi.

Q How long have you lived at Cleveland?

A Most of my life.

Q What is your business, profession or occupation?

A I am an embalmer and a farmer.

Q Oh - - you own a farm also, do you?

A Yes, Sir.

Q What is your education, Mr. Malone? State what
your education qualifications are that fits you for your
profession of an embalmer.

A I am a high school graduate, and I also had a year
of college. And I am a graduate of a mortuary school, the
John A. Guppton College of Nashville.

Q Is that an accredited college?

A Yes, Sir.

Q When did you graduate from that mortuary college?

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A In 1952.

Q What experience have you had as an embalmer or mortician since that time?

A I have been steadily employed in the field since that time.

Q Do you mean in that character and kind of work?

A Yes, Sir.

Q And about how many dead bodies have you handled? What is your conservative estimate on that?

A Several hundred.

Q And have you ever had experience with bodies that have been dead for some length of time before you received them?

A Yes, Sir, I have.

Q And for what periods of time have they been dead? Just tell the jury generally.

A Well, anywhere from three days to ten days, or fifteen days; also some unknown.

Q Are you a licensed mortician or embalmer under the laws of Mississippi?

A Yes, Sir.

Q And in any other state?

A Yes, Sir.

Q What other state?

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A Tennessee.

Q Have you ever been engaged in your profession in a funeral home over at Tutwiler?

A Yes, Sir.

Q And what is the name of the funeral home?

A Well, two. One of them is the Nelson Funeral Home, and another is the Avons (?) Funeral Home.

Q And as I understand, the Nelson Funeral Home is a negro funeral home?

A Yes, Sir.

Q And Avons is for white people?

A Yes, Sir.

Q And you have done work at both of those places?

A Yes, Sir.

Q You work as a mortician at both of those institutions?

A Yes, Sir.

Q How long have you been such?

A Nearly three years.

Q Have you ever had experience with bodies taken out of the water?

A Yes, Sir, several times.

Q Did you have occasion to embalm this body that was taken from the Miller Funeral Home at Greenwood and brought

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to the Nelson Funeral Home at Tutwiler on the 31st day of August, 1955?

A Yes, Sir.

Q Did you do the work on that body?

A Yes, Sir.

Q Did you make an examination of that body?

A Yes, Sir.

Q State to the court and to the jury what the condition of that body was. Just give its general description, and then if there is any scientific or medical description, will you please explain such terms to the jury in layman's language.

A The body was bloated, bloated and swollen so bad that it was beyond any possible recognition, I think.

Q Will you state that again?

A The body was bloated, and it was so bloated that the features were not recognizable. There was a prevalent skin slip all over the body.

Q Will you explain that to the jury?

A Well, anywhere you touched it, the skin rolled up and slipped off. It just turned loose.

A Go ahead.

A And the entire skin on his left hand was off. How it got off, I don't know. But it was off when it came in, I guess.

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And on the right hand, the fingernails were loose. It was just like the skin was loose, and it was just like they wasn't there at all. And the tongue was protruding from the mouth. His eyes were bulged up.

Q Will you explain that to the jury as best you can?

A Well, I mean bloated. And the hair came out easy. There were multiple lacerations about the head. The left eye was hanging from its socket. And the entire body was a bluish-green discoloration.

Q And what did that indicate to you?

A That indicated to me that the body had been dead possibly ten days or longer.

Q Do you mean possibly? Is that what you mean, possibly?

A Possibly; very likely that it had. It is very possible it had.

Q And that means that the probability that it had, is that right?

A Yes, Sir.

Q And the greatest probability that it had?

A Yes, Sir.

MR. SMITH: Your Honor, we object to counsel putting words in the witness's mouth.

THE COURT: The objection will be sustained. Counsel

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will please refrain from testifying.

Q All right, go ahead.

A There was a hole above the right ear in the skull.

Q What was the color of the skin and flesh of the abdomen?

A A bluish-green.

Q And what did that indicate to you, if anything?

A Advanced putrefaction.

Q And you say the tongue was protruding from the mouth?

A Yes, Sir.

Q And about how far did it extend out of the mouth?

A As far as it would go.

Q And what did that indicate to you, if anything?

A Nothing more than the presence of gas; tissue gas.

Q Was that tissue gas you said?

A Yes, Sir.

Q Will you explain to the jury just what you mean by "tissue gas"?

A Tissue gas is generated by all the tissues of the body after the body has reached an advanced stage of decomposition.

Q And that gas you are talking about, is that gas coming off the stomach?

A It is gas from every tissue in the body.

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Q Now, will you explain to the jury about rigor mortis, and tell what that is, and when it takes effect and when it leaves the body?

A Rigor mortis is a stiffening of the body, the muscles and joints. And it is caused by a complex chemical reaction which generates lactic acid during its onset and throughout its duration.

And this lactic acid retards putrefaction. The reason it does has to do with the pH of the body. And pH is the mathematical way of expressing the alkalinity or acidity of the body.

The scale on that runs from zero to fourteen, seven being neutral. And during life, the normal body pH is 7.4, slightly alkaline. And if rigor mortis comes on in a body, this lactic acid runs your pH below seven, which is an acid condition. And putrefaction bacteria cannot live in there. And until the rigor mortis condition is gone, there can be no putrefaction.

Q About how long does rigor mortis last after time of death?

A Well, as a general rule, under normal conditions, it takes from four to six hours for it to reach its height. And its duration is from twelve to forty eight hours.

Q Does any putrefaction or decomposition of the body

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take place during that period?

A No, Sir.

Q When does putrefaction or decomposition begin?

A At the time the body reaches seven, or neutral.

That is the end of the rigor mortis, and that is when the body enzymes have overpowered this acid condition.

Q Does putrefaction or decomposition take place in a dead body of an able bodied person faster or quicker than it does in a body having a disease, like "T.B.", or something like that?

A Will you state the question again.

Q I said, does putrefaction take place in a dead body quicker or later in an able bodied person than in a body of a person that has been sick with tuberculosis or any disease of that kind?

A That would be true with anything but tuberculosis.

Q Will you explain that?

A Well, in a person with tuberculosis, the body tissues are dried and emaciated, and there is not much muscle tissue there for generation.

Q Does putrefaction ordinarily take place earlier in a man that is well and able bodied than it does in one that has been sick, or one who dies from an illness?

Where would putrefaction take place first? Ordin-

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arily would it be in the body of a well or able bodied person or one who has been sick?

A One that is highly active.

Q Now, you examined that body and saw all the wounds on it, did you?

A I don't know if I saw them all or not. I saw some on the body, and what I saw I thought that was all.

Q And you also saw those on the head?

A Yes, Sir.

Q And you saw the condition of the body, did you?

A Yes, Sir.

Q Now state to the court and jury whether or not putrefaction takes place quicker and becomes progressive faster in a body that has been in the air or in one that has been in water under the same atmospheric conditions?

A Being in the water would retard putrefaction.

Q And it would retard it to what extent?

A Well, that would have to do with the temperature and also the physical state of the body.

Q Now what you have testified to here is with reference to a body that has been in the air or in the water?

A I have been telling you about a body under normal conditions. That would be in the open air.

Q That is what you mean by "normal conditions"?

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A That's right.

Q Now say a body is taken from the water, where the top of the water in a river would be around seventy degrees in temperature, and where the river would be twenty five to thirty feet deep, and where such a body had a seventy-pound weight tied to that body, and where the water would get colder the deeper it gets - - what would be the difference in the rate of decomposition of a body that was in water such as I have described than a body out in the air?

A I understood you to say a seventy-foot weight - - do you mean a seventy-pound weight? Maybe I misunderstood you.

Q Yes, a seventy-pound weight.

A I would say it would be retarded considerably.

Q What?

A I would say it would be retarded considerably; putrefaction, that is.

Q Then would you say that it would take longer or a shorter period of time for decomposition?

A It would take longer for it to decompose.

Q Well, having examined that body which you embalmed, and from your study and experience as a licensed mortician and embalmer, and having observed the number of bodies that you have, both those that have been in the air and also in

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the water, what would be your opinion as to the shortest length of time that this particular body had been dead that you embalmed?

A About ten days.

Q And what would be the probabilities of the length of time that it might have been dead? That is, as to the longest length of time it might have been dead?

A I would say ten days.

Q Do you mean the longest length of time it could have been dead?

A No - - not the longest; the shortest.

Q I am asking you about the longest period of time it could have been dead.

A That would be hard to say.

Q What is your best judgment on that?

A Somewhere between ten and twenty, or maybe ten and twenty five days, perhaps.

Q Did that body come to that funeral home from Greenwood, from the funeral home at Greenwood, in any kind of a box or casket?

A It came in a wooden, cloth-covered casket.

Q What was the length of that casket, if you know, that it came in?

A Six foot three.

Q How did that body fit in that casket? How completely 316

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did it fill the casket end to end?

A It filled it very near full.

Q Do you mean from end to end?

A Yes.

Q Did you measure the length of that body?

A No, I did not.

Q What would be your estimate of the length of that body?

A I would say the body was five feet, ten.

Q Five feet, ten inches?

A Yes.

Q Could you tell from the condition that body was in, could you give the jury and the court a definite opinion as to how old the person was?

A I wouldn't attempt to say at all.

Q And was that because of the condition of the body?

A That was because of the condition of the body.

Q Is it possible for a mortician or a plastic surgeon expert to repair a body in the condition of the body that you saw there when it was embalmed, is it possible for such an expert to make it look more like its natural self?

A Yes, Sir.

Q And is that not the usual practice in a mortuary?

A It is usually their practice to a certain extent.

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Q And is that more usually done in cities than it is in the country places?

A I would say where the volume of the funeral business is, that is where you would find the experts qualified to do that work.

Q And where do you usually find them, if you know? Would that be in country towns or in cities, if you know?

A Well, I still say where the volume of the business is. And that would be in the cities, of course.

MR. BRELAND: That is all. Take the witness.

CROSS EXAMINATION

BY MR. SMITH:

Q I want to see if I got your name right? Is your name Malone?

A Malone, M-A-L-O-N-E.

Q Mr. Malone, you said there were some wounds or injuries about the body, did you not?

A About the head.

Q Would you please describe those to the jury? Tell what they were, and what they looked like?

A There was a wound in the crown of the head and also at the base of the skull. And there was a hole over the right ear. The left eye was hanging from its socket.

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Q Did it look like it had been knocked out?

A I couldn't say.

Q Were there any other wounds about the head?

Was there one over his left ear?

A There was one in the vicinity of that ear.

Q You say there was one in the vicinity of his ear?

A Somewhere in the vicinity of his ear. I don't know just exactly.

Q Did you see that ring or mark around the body's neck?

A I didn't notice any ring. I don't recall seeing any ring.

Q Now, it is true, Mr. Malone, is it not, that the conditions which exist at the place and where a body might be, those conditions would affect very greatly the rate of decomposition? Is that not true?

A Yes, Sir, they do.

Q And isn't it also true that a body that is wounded and beaten, and so forth, that such a body will decompose faster than one that is not?

A Under normal conditions, yes, sir.

Q But of course, you have no knowledge of the conditions where this body had been, do you?

A No, Sir.

Q And what you are testifying to is what would happen 319

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under normal conditions, is it not?

A That's right.

Q And isn't it true that if a person is fat, or heavy, and has more fatty tissue than the average person, that such a body will decompose at a greater rate than one that is not so fat?

A Yes, Sir.

MR. BRELAND: We don't think that question is competent, Your Honor. It has not been shown that this body was fat.

THE COURT: The objection is overruled.

MR. SMITH: I think that is all.

(WITNESS EXCUSED.)

THE COURT: The Court will now recess until nine thirty in the morning.

(At this point in the proceedings, 5:05 p.m., the Court took a recess until 9:30 a.m., the following day, at which time the proceedings were resume.)
