

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

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

7 Plaintiff,

8 vs.

Case No. FST CR00-135792T

Date: June 3, 2002

9 MICHAEL C. SKAKEL,

10 Defendant.

11 -----x

12 PROCEEDINGS BEFORE THE HON. JOHN KAVANEWSKY

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

14 JONATHAN BENEDICT, ESQUIRE
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1 THE COURT: It's my understanding that the state
2 is not going to put on any other rebuttal witnesses
3 and the state is prepared to rest in front of the
4 Jury.

5 MR. BENEDICT: Correct.

6 THE COURT: All right; before we call the panel
7 in and move to closing arguments, just two matters.
8 One is a report from the clerk concerning a phone call
9 from a Juror last week. Madam clerk, the general
10 substance for the record?

11 THE CLERK: Yes, Your Honor, Juror Christie
12 Valentino called on last Thursday morning -- I
13 retrieved the message on Friday -- regarding the grill
14 request, that it was not a joint request from the
15 entire Jury and she wanted to let the Court know that.

16 THE COURT: Thank you, Madam Clerk. And the
17 other matter is a charge that I intend to give. I
18 neglected to tell the attorneys at the charge
19 conference and there was no request to charge by the
20 attorneys but I will give a charge on impeachment by
21 prior convictions. I think there were two witnesses
22 who testified that they suffered prior convictions and
23 those were Mr. Meredith and Mr. Wiggins and I intend
24 to give a charge there.

25 Does the state want to be heard as to that?

26 MR. BENEDICT: No, Your Honor.

27 THE COURT: The defense?

1 MR. SHERMAN: No, Your Honor.

2 THE COURT: Are both counsel ready to have the
3 panel called in?

4 MR. SHERMAN: Before the Jury comes in, Your
5 Honor, I do want to renew my motion for judgment of
6 acquittal. I am not going to argue it, but basically
7 based upon the same grounds that I made at the close
8 of the state's case, that I don't believe the evidence
9 that has been presented could permit a finding of
10 guilty beyond a reasonable doubt, it's as simple as
11 that.

12 Again, I am not going to go through all the
13 argument before the court. It is the same as it was
14 before.

15 THE COURT: Does the state want to be heard?

16 MR. BENEDICT: No, other than we just simply
17 object.

18 THE COURT: The motion for judgment of acquittal
19 is denied for the reasons previously stated.

20 All right; marshal, bring the panel in.

21 (Whereupon, the Jury entered the Courtroom.)

22 THE COURT: Good morning, ladies and gentlemen.
23 Nice to have you back.

24 THE JURORS: Good morning, sir.

25 THE COURT: Ladies and gentlemen, we are ready to
26 proceed. The state concerning its rebuttal?

27 MR. BENEDICT: The state rests.

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

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

12 MR. BENEDICT: Thank you, Your Honor.

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

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

27 I want to speak very briefly about the

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

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

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

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

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

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

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

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

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

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

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

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

1 have significance in this trial.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 exist.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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