

**DIRECT EXAMINATION OF HOWARD K. STERN
IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT IN AND FOR
BORWARD COUNTY, FLORIDA**

CASE NO: 07-0824

FEBRUARY 20, 2007

QUESTIONING BY MS. BARTH OF HOWARD K. STERN

Q Did you know the decedent, Vicki Lynn Marshall or Anna Nicole Smith?

A Knew her very well, very well.

Q Can you tell me how you came to know Ms. Smith?

A Originally, I believe it was back in 1996 she was a client of mine, we became friends, we spent a lot of time together. Ultimately we became more than friends. This is years ago, we did not say anything at the time. She was pretty much my whole world. She was my best friend.

Q Could you describe the nature of your relationship?

A She was my best friend, my lover, the mother of my daughter, everything to me, literally everything, my whole word.

Q If you could give The Court more of an idea of the time that you spent with Ms. Smith?

A Well, a lot of time. I saw her daily and in the last four or five months, I was with her everyday almost, all the time.

Q But prior to that, since you knew her?

A It would depend, you know, on what I was working on at the time but I spent – pretty much say her everyday and we spent a great deal of time together, a great deal of time together.

QUESTIONING BY THE COURT OF HOWARD K. STERN

Q What state did you meet her in?

A I met her in California

Q When you said she was your client, what was she doing?

A I was her personal counsel in the Marshall litigation and I also –

Q In '96?

A I believe in '96

Q What is Marshall, another matter?

A Yes, it's a very high profile matter.

I was co-counsel in the District Court case in that trial and Federal District Court. I was also co-counsel currently in the Ninth Circuit case.

Q Are you still a member of the California Bar?

A Yes, I am.

QUESTIONING BY MS. BARTH OF HOWARD K. STERN

Q Did you know Anna Nicole Smith's son, Daniel?

A I knew Daniel very well. Daniel was like a brother to me. We spent a great deal of time together, both at Anna's house and sometimes we would go out to dinner and see movies. Daniel, he was a great boy, he was a wonderful, wonderful person.

Q Did Daniel have a father in his life?

A Daniel, no, not really, not really. He was estranged from his father since I believe he was an infant.

Q Can you explain to me the things you observed about Anna's relationship with her son, Daniel?

A Anna and Daniel were inseparable. Daniel was, without question, the most important person in Anna Nicole's life. From the time I first met her, everything she was doing was for Daniel. Literally everything.

QUESTIONING BY THE COURT OF HOWARD K. STERN

Q Back up a minute. When did the relationship between you as an attorney and then you were in a personal relationship? What year did that begin?

A Well, we started spending a lot of time together in '97.

Q In '97?

A '98

Q '98

A We became more than friends, after that it was probably 2000.

Q In 2000, you started having a more personal intimate relationship with her?

A Yes, it was not exclusive because of my relationship as her attorney and we did not disclose it to many people but she had other boyfriends in between. I wanted her to be happy.

Q When you say in between, from 2000 to her death?

A Yes.

QUESTIONING BY MS. BARTH OF HOWARD K. STERN

Q You have just stated to the Court that during your friendship with Anna, over the years, there were times you were together in a more intimate way and sometimes you were friends?

A That's correct. Well, we were intimate consistently throughout, but it would depend on what the spacing was in between.

Q I want to direct you back to talking a little more about Anna's relationship with Daniel and is there anything you can tell The Court to give them some indication of just how close she was. Would you describe this as a normal mother/child bond?

A It was a little different because Anna was so young when she had Daniel. In a lot of times they grew up together, they were friends as well as mother and son. When we would travel for different events, Daniel would always come with his mom, they were virtually inseparable.

QUESTIONING BY THE COURT OF HOWARD K. STERN

Q Where did he go to high school?
A Well, he was home schooled for the last couple of years.
Q In what state?
A California.
Q What part?
A Studio City
Q And then did there come a point where he died?
A Yes
Q What date was that approximately?
A September 10th. No, approximate, about.
Q 2006?
A Yes.
Q Do we know what the cause of death was?
A Well, we had an independent pathologist

(objection by Mr. O'Quinn is sustained)

QUESTIONING BY MS. BARTH OF HOWARD K. STERN

Q There came a time when Daniel died?
A Yes.
Q And that was only days after Anna had given birth to your daughter Dannielynn?
A Dannielynn was born on September 7th, it was actually the night that Daniel came to the Bahamas to visit his baby sister was the night he passed away.
Q And how would you describe Anna's state of mind after Daniel died?
A From the day that Daniel died, Anna honestly was never the same. I would say that physically she died last week, but in a lot of ways emotionally, she died when Daniel died and she initially would not accept that Daniel was gone and that's why for quite some time, it was the reason why she did not want to bury him earlier than ultimately she did, the time that we did. And it was the most difficult thing that I have seen anybody go through.

QUESTIONING BY THE COURT OF HOWARD K. STERN

Q How old was Daniel?
A Daniel was 20, he would have been 21.
Q Where was he living?
A He was actually coming out to the Bahamas to spend some time with his mother and sister, he was still in Studio City finishing up a summer school class.
Q College?
A Yes
Q What college?
A Valley Junior College
Q Who supported him in California?
A Well, Anna still supported him but he was staying at a friend's house.

Q He lived with a roommate?

A Not a roommate, no, it was actually somebody who was one of Anna's friends.

QUESTIONING BY MS. BARTH OF HOWARD K. STERN

Q It took Anna quite some time to bury Daniel; is that correct?

A It did, it did. It was quite a difficult process. You know, it was hard for her to talk about it and she went through a lot of thought in deciding what his plans would be and you know, throughout that time, the way she went about it, it was never, where is Daniel going to be. All of the discussions were always in the context of, where are we all going to be.

Q Anna was previously married; is that correct?

A She was married to J. Howard Marshall, who, he was truly the love of her life, he was the father figure and he was a very special man to her.

THE COURT: Is he still alive?

MR. STERN: No, no, that is what the litigation is over.

QUESTIONING BY MS. BARTH OF HOWARD K. STERN

Q Mr. Marshall passed away in what year?

A He passed away in '95.

Q Was Anna in possession of Mr. Marshall's remains

A It's a long story. Actually, I think there is another court order that prevents me from discussing that.

Q Certainly.

The concept, in Anna's mind, if you know was what, with regard to the burial plot?

(series of objections by O'Quinn – overruled)

QUESTIONING BY THE COURT OF HOWARD K. STERN

MR. STERN: We had a series of discussions about it.

Q When did that begin, when?

A Probably about a week and a half after Daniel died. Before that, Anna was inconsolable and we really could not talk about much. But it happened, you know, it – until the time that Daniel was laid to rest, those plans sort of dominated all of the conversations. I would say for the most part and initially Anna had always wanted to be buried near Marilyn Monroe out in Westwood and we looked into that and we also looked –

Q When did you do that, time and place, it's always time and place.

A I don't have the exact dates.

Q Was it after Danny died?

A Actually, I looked into that years ago for Anna and then again after Daniel died.

Q Did you find it unusual that she would talk about death like this?

A No, because Anna, Anna, in a lot of ways thought that she was going to die young and she thought she was going to be like Marilyn Monroe. So I forget, she thought she was going to die at 36 or 37 and we discussed it prior to that. And she also thought she was going to die during birth to Dannielynn. So Anna did talk about death. Anna talked about death from the time I met her.

QUESTIONING BY MS. BARTH OF HOWARD K. STERN

Q At some point, did Anna come to some decision regarding what she wanted to do with Daniel?

A She did. Can I explain how that process occurred?

(Continued objection from Mr. O'Quinn)

A We looked into plots at the cemetery in Westwood and there was an expense issue frankly. We also looked at other plots at Forest Lawn, I believe in Burbank and the way it worked is, I had my mother and then also a friend of Anna, the same person who Daniel was staying with, they went out there and took pictures of the plot and e-mailed them back.

Q Are you speaking of the plots in the Bahamas?

A No, no. Right now I am talking about Los Angeles. And then, I myself, she asked me to look at places in the Bahamas.

(Objection by Mr. O'Quinn)

Q You can continue, Mr. Stern.

A So Anna and I and a number of other people talked with Anna about the subject matter about where Daniel would be put to rest and where we all would be put to rest and it went back and forth for quite sometime and I actually, at the time was trying to convince her that maybe it would be better if Daniel were laid to rest in Los Angeles and Anna was very firm, very firm on the Bahamas was her home, it's where she wanted to raise Dannielynn and she wanted Daniel to be near her and she pretty firm on the decision.

QUESTIONING BY THE COURT OF HOWARD K. STERN

Q When did you two discover the Bahamas, what year?

A The first time I went out there was July of last year.

Q July of 2006?

A Yes.

Q What was your purpose for the visit?

A Well, Anna wanted to get out there to get away from the media.

Q You went together?

A I went after she did

Q Did you rest a residence there?

A Now, we are going to get into the subject matter of other litigation, but she purchased a –

Q Well, if I ask you a question, would you let me know if it is affecting other litigation.

MS. BARTH: I don't think it's affecting litigation. I think it's probably widely known that Anna made a claim to a home that she purchased in the Bahamas that was titled in her name and now subsequently somebody says that they own it and the deed says somebody else's name, it's very complicated, but she was the person of record on the deed, as far as I understand there is no note against the house, filed against the house. So they allege she was renting, she alleges she owns it.

THE COURT: When did she allegedly buy it?

(exchange between parties concerning objections raise by Mr. O'Quinn)

QUESTIONING BY MS. BARTH OF HOWARD K. STERN

Q At a certain point, a decision was made as to where Daniel would be buried?"

A That's correct

Q Who made that decision?

A Anna made that decision.

MS BARTH: Your Honor, may I approach?

THE COURT: Yes

Q Mr. Stern, I am going to ask you to take a look at some documents that we have marked as Petitioner's Exhibit B. Can you tell me what those documents are?

A It is the contracts and certificate of ownership for the two double plots, which were ultimately purchased at Lakeview Memorial Gardens and Mausoleum.

Q Who signed those documents, Mr. Stern?

A I signed the contracts.

Q Why did you sign the contract, why didn't Ms. Smith sign the contract?

A Well, just to sort of put in context what life was like after Daniel passed away. For the most part, Anna did not leave her room, there were times when we snuck out at night, but much like it is now, it was media surrounding the house, and whatever was after was pictures of Anna Nicole and this was particularly true prior to the time that Daniel was laid to rest. Now, if I can just add –

(objection by Mr. O'Quinn)

QUESTIONING BY THE COURT OF HOWARD K. STERN

Q Did she have an attorney represent her when she bought that house in the Bahamas?

A She sure did. It was Calder and Company, who was also – that law firm was the firm that had a deed entered in somebody else's name.

Q What did a house like that go for in the Bahamas?

A \$9000,000. There is again, that's subject matter of litigation.

QUESTIONING BY MS. BARTH OF HOWARD K. STERN

Q How was the plot paid for, Mr. Stern?

A It was paid for by Anna through a bank check. There's also Ansbacher Bank from her at Ansbacher Bank.

Q Are you aware – do you have any knowledge as to how the banking relationship went between Anna and Ansbacher Bank?

A Yes, I do.

Q Can you tell me?

(objection by Mr. O'Quinn. Followed by a discussion between attorneys and The Court. Documents are then submitted into evidence)

Q What if anything, did Anna say to you specifically on the subject of Daniel's burial?

A Well, like I said, it started with an inquiry where she was telling me to look at places in Los Angeles, to look at Marilyn's and to look at places near Marilyn Monroe and to look at places in the Bahamas. So we had numerous discussions and by the time she decided, she told me, I am here and I want my son here and this is where we are going to be, this is home.

At that point, she initially told me that she wanted to look, she wanted me to look into a mausoleum, so I went down to Lakeview and I looked at a mausoleum and they only had a mausoleum for two people and it would take six months to order a mausoleum for four. So then she wanted me to look into whether, how secure the ground plots were and whether bugs could get to the body because she, both she and Daniel were afraid of bugs. And once that concern – once I spoke with them and that concern was alleviated, then she decided that she wanted and again, this is with pictures I showed her. So she picked out the two double plots, side by side that Daniel is currently resting in and where she wants to be as well.

Q You said that she worried about Daniel being protected from the bugs. Was she still concerned about Daniel's welfare after he passed away?

A Absolutely.

Q What did she say to you that made you know that she was worrying about Daniel?

A Just every aspect of how the funeral was planned. She wanted all of his friends to write notes, anybody that knew him close to write notes to Daniel, which included a picture of herself and Daniel in the casket. There are so many things that she did or said that showed me how concerned she was for Daniel's welfare. She wanted him to be comfortable. So he wore an outfit that he had, it was not a suit because Daniel did not really wear suits. She put a rosary that was blessed by the Pope in his casket. She did not want to believe that Daniel was dead, even at the funeral.

Q Tell me what happened at the funeral.

A She had real problems in accepting that Daniel was gone. She wanted to see him in the casket, so at the beginning before the ceremony started, she had the people open the casket and she was just inconsolable and hugging Daniel and grabbing onto him and she wanted to go down with Daniel right then. She said if Daniel has to be buried, she wanted to be with him.

(Objection from Mr. O'Quinn)

Q I am sorry that you were interrupted. You said Anna wanted to go with him?

A She, both before and after the ceremony. Anna required that the casket be open, against what I thought would be best, against what her bodyguard –

THE COURT: Is this relevant?

MS. BARTH: I want to show the intent that she wanted him to be alive, she wanted to crawl inside the space that he was in.

THE COURT: Start to wrap this up. I mean, start to wrap it up in this area.

EXCHANGE BETWEEN THE COURT AND MS. BARTH

MS BARTH: Your Honor, I would just request we have another portion of testimony that I am concerned would go for some period of time.

THE COURT: With who?

MS BARTH: With Mr. Stern.

THE COURT: What issue?

MS BARTH: I would like him to both authenticate and I would like to inquire of him as to some tapes that were done of Anna Nicole discussing both her relationship with her mother and how the death of Daniel affected her, out of her own words and I don't think there are better words.

THE COURT: Tapes taken by who?

MS BARTH: Taken by various news agencies on interviews with Ms. Marshall and Mr. Stern was present during the filming of these. Again, I would argue against any hearsay objection, which I am sure is coming from behind my left shoulder that Your Honor certainly, as this is a bench trial is able to determine the weight and sufficiency.

(An exchange follows between The Court and the lawyers. At one point Ms. Barth says that she wants to call Patrick Simpson)

EXCHANGE BETWEEN THE COURT AND HOWARD K. STERN

THE COURT: When do you want to go to the Bahamas?

MR. STERN: I would like to go back tonight to be with my baby.

THE COURT: How about you spend time with me tomorrow?

MR. STERN: Again, we had an issue that we had a break-in at this house.

THE COURT: Somebody is taking care of the baby there?

MR. STERN: Of course, but I would feel more comfortable if I were there.

THE COURT: We'll think about that. When he is not our captain, but we'll think about that.

(Court is goes to a recess)

THE COURT: I know if I said to them that they would have to give DNA, I was concerned about whether they would submit themselves to this jurisdiction because there are other things in play here. There are other issues. And I am not going to ask them to submit to a DNA test during these proceedings, during this episode because, number one, I think there are too many issues that we have to address before I ask them to submit, and there are so many issues that they would have to submit to regarding DNA testing, that it would slow down my primary purposes right now, which is to give peace, tranquility and love and closure to Miss Smith's body. To give her that closure that we are trying in the expedited fashion without violating the due process. So that is where we stand. I know there was a little bit of confusion. I hoped this cleared the air.

(exchange continues between The Court and the lawyers)

QUESTIONING BY MS. BARTH OF HOWARD K. STERN

Q Mr. Stern, I believe when we left off, we had gotten up to the point of Daniel's funeral and you were talking about Anna's feelings at that point. Now, I would like to talk subsequent to that, after Daniel's funeral. Are there other issues, other things, that made you think that you – that Anna wanted to be with Daniel?

A Well, Anna never got over Daniel's death. She would take – there is a big, almost like a poster size picture of Daniel, that's in a frame, that at least on tens occasions, she cuddled with in bed, in our bed. She would literally cry herself to sleep and this was a very constant thing. Anna had dreams – Anna had dreams.

(Objection by Mr. O'Quinn)

MR. STERN: Can I continue with my answer?

THE COURT: No. She is going to ask you another question.

BY MS. BARTH:

Q Did there come a time when you and Anna had a commitment ceremony?

A Yes.

MR. O'QUINN: Objection, Your Honor. Commitment ceremony or not, unless he is an actual spouse, it's irrelevant.

THE COURT: Well, they want to get into spiritual.

MR. O'QUINN: Your Honor, with all due respect –

THE COURT: We want to protect the spirit of Anna Nicole Smith.

MR. TUNSTALL: I don't know how you can protect her spirit.

MS. BARTH: I am not sure it's funny.

MR. RALE: Can we tell the story?

THE COURT: Your objection is noted. It's overruled.

MS. BARTH: Can you tell us how this –

MR. O'QUINN: I object to him objecting.

MS. BARTH: Then I object. How is that?

THE COURT: Texas, you have been shot down for a minute

MS BARTH: Again, Mr. Stern, I apologize. Could you please tell me what – tell me what the commitment ceremony was all about?

MR. STERN: Before --

QUESTIONING BY THE COURT OF HOWARD K. STERN

Q Where was it? Where, where?

A We had it on a boat. It was in open sea.

Q What date would you say?

A It was September 23rd

Q Of what year?

A 2006

Q How many people were present?

A Fifteen to 20

Q Was there a minister or someone of that --

A Yes, there was. It was a Baptist minister.

Q Was he an individual associated with the Island of the Bahamas?

A He was a Baptist minister in the Bahamas, yes.

MS. BARTH: Can you tell me why you had a commitment ceremony at that time?

MR. STERN: Yes, Anna and I talked about it and she felt -- she told me that she could not bear to be alone when Daniel is gone.

(Exchange between The Court and Mr. O'Quinn)

MS. BARTH: Can you tell me why it is that you had a commitment ceremony with Anna?

MR. STERN: Anna told me that she could not stand -- she could not do it -- she could not put her son in the ground.

QUESTIONING BY THE COURT OF HOWARD K. STERN

Q Her put --

A Put Daniel to rest, unless we were together. She felt she didn't have a family, she could not do it alone and Daniel was really who she thought was her only family.

Q Did this minister -- did you exchange wedding vows --

A Yes.

Q When you got married on the boat?

A Absolutely.

Q With the clerk --

A No, we did not do it legally, under the laws of the Bahamas, because one of my former attorneys -- well, actually --

MR. O'QUINN: One of my former attorneys?

THE COURT: We are going far afield. Texas, I am doing a good job for you. I am asking some of the questions you are going to ask on cross.

MR. STERN: He was concerned about the marital privilege.

MS. BARTH: Why don't you tell us what you were concerned about? Why don't you?

MR. STERN: Well, the marital privilege because of Daniel's death, and I was wrongly advised that it applied to things prior to marriage, not just subsequent to marriage.

QUESTIONING BY THE COURT OF HOWARD K. STERN

Q You missed me. I am missing this. Run this by me again.

And I had a light lunch, so I am still strong.

A Anna wanted our marriage to be a legal marriage. I had some concerns, because I was concerned with how people would perceive it. I was concerned that people were making a run for her money. But what finally convinced us not to make it legal was upon advice of counsel that the marital privilege would be looked upon –

MR. O'QUINN: Objection

THE COURT: My friend, you got to sit down for a while. Save some shoe leather now.

A Because her son had passed away and we did not want to give any perception that we were trying to hide any wrongdoing.

Q Wrongdoing? Because there were questions about the issue of his death?

A Well, there were questions by an initial coroner at the time.

Q You are assuming that I know stuff. I have not read anything about this area. That's the other side of my family that reads about it.

A Well, a coroner came and said the death was under suspicious circumstances and then retracted that and said whenever a 20 year old passes away, it's got to be because of something suspicious.

Q I see. In other words, you did not want to get formally married with all the proper paperwork because –

A We did not want it to be perceived that we were trying to hide anything and this lawyer advised me that it would mean either she would not have to testify against me or I would have to testify against her.

Q But that might not have been applicable, because it was after the fact?

A It wasn't, but some attorney had –

Q So, I am right, the husband and wife privilege does not take place, because it was afterward, so she still would have testified.

So you went to a bad lawyer?

A Exactly

Q You are not having him working for you anymore?

A Absolutely not.

QUESTIONING BY MS. BARTH OF HOWARD K. STERN

Q Did Anna refer to you as her husband to other people?

A Yes, she did

Q And did you refer to her as your wife?

A Yes.

THE COURT: You were then introduced as husband and wife at events and stuff like that?

A Well, yes. Then it became so public that it wasn't legally binding in the Bahamas, that we had actually planned on getting married again.

THE COURT: In the Bahamas?

A Legally.

THE COURT: In the Bahamas?

A Correct

Q When were you going to do that?

A The first marriage was at sea and I haven't researched what that means.

Q When were you supposed to marry Anna?

A We were supposed to do it this week

THE COURT: You were planning this week to get married?

A Yes.

THE COURT: In the Bahamas?

A (Shake his head yes)

(Ms. Barth enters document into evidence. The will. Objection by Mr. O'Quinn and exchange with The Court)

QUESTIONING BY MS. BARTH OF HOWARD K. STERN

Q You are not a beneficiary under that Will?

A That's correct.

Q When was that Will drafted?

THE COURT: You say he is not a beneficiary of the Will?

MS. BARTH: Correct

MR. STERN: July 30th, 2001

MS. BARTH: On July 30th?

MR. O'QUINN: Is that based on what the Will says: Is his answer based on what the Will says? He is looking at the Will.

MR. STERN: Yes, my answer is based on what the Will says.

MR. O'QUINN: Sir?

MR. STERN: Yes, my answer is based on what the Will says.

MR. O'QUINN: Thank you.

MS. BARTH CONTINUES:

Q In 2001, that Will provided a guardian for Anna's son, Daniel; is that correct?

A Yes.

Q. Who was named as guardian in 2001 for Daniel Smith?

A I was named as the guardian for Daniel.

Q She did not leave you any money?

A Absolutely not.

Q But she left it to Daniel?

A That's correct

Q What do you know about Anna's relationship with her mother, or lack thereof?

A Well, when I first met Anna she talked about Ms. Arthur.

(Objection by Mr. O'Quinn. Mr. Stern continues)

A ...And I don't want to go into some of the details of what Anna told me unless I am required to do so, because I don't think that is fair to Ms. Arthur.

Q His Honor requested that you do not now do that, but are you aware of any conversations that Anna had regarding where to be buried recently with her mother, that specific conversation?

A No, And I would be very surprised if this was the case. Because I know the one time after Daniel passed –

(Objection by Mr. O'Quinn. Mr. Stern continues)

A I myself spoke with Virgie after Daniel passed – another person that were mutual friends and I spoke with Virgie about trying to get pictures of Daniel that Anna wanted, that were in Virgie's possession.

Q What kind of pictures?

A I know one was an oil painting. Another was pictures of Daniel's childhood, because Virgie kept those and did not let Anna have them. So we were in communication. Also, a cousin, Melanie, I think her last name is Hudson. She called me and said ---

(The Court moves to strike that)

QUESTIONING BY THE COURT OF HOWARD K. STERN

Q In 1996, when you met her, did she have any contact from the moment you met her, to her death, with her mother?

A There was an occasional phone contact.

Q Who made the phone calls?

A The last time, it was Anna left a message that Daniel was dead, Daniel was dead. And then Anna was very hurt that her mother went to the media with that recording and said that Anna was clearly on drugs.

Q Was there any physical contact between 1996 and the time of her death between the mother and daughter?

A Not that I am aware of.

Q Do you know when the relationship between the mother and daughter became strained, what year that happened?

A I think it was during her childhood. I know that Anna left home at a very early age. That is what Anna told me. I know there were attempts to reconnect when Anna was married to her second husband, J. Howard Marshall, but those did not last long.

MS. BARTH: Anna was very upset for her mom for something that happened after Daniel was buried. Can you tell me what you observed as to why she was very angry with Ms. Arthur?

(Objection by Mr. O'Quinn. Mr. Stern continues)

A Well, there were a couple of things. One of them is that it really bothered Anna when Virgie went to the media and said that either Anna or I had murdered Daniel.

Q What is that? Run that by me again.

A There is – Ms. Arthur went to the media and said that I had murdered Daniel.

Q You said that earlier.

A Either I or Anna murdered Daniel. And it just angered Anna. At that point she said, this woman will never see my daughter, because Anna had tried –

Q The daughter being Dannielynn?

A Dannielynn. And it was the absolute final straw.

Q Now, when she was talking to you, wasn't she in a very depressed state also when she was talking to you about that? Wasn't she in very depressed state?

MS. BARTH: Maybe it would be best not to have accumulative evidence –

Q I would like an answer.

A Anna was irate.

Q Was she in a depressed state?

A Sure, she was depressed, since her son died. But she was very irate.

Q Was she suicidal at that point?

A I would like to think that Anna was never suicidal.

Q But she had just given birth to a child, she just lost Danny. Wouldn't she be in a depressed state when she made that comment about her mother?

A It was a while after. She was distraught, but she was more angry.

Q How do you describe distraught? How do you describe that?

She is talking about death and wanting to pick out cemetery places.

A No, no. This was after, well, I can't say the exact date that Virgie Arthur went to the media, but it was pure anger at that point.

Q What state of mind was she in when she made these comments and that's an issue, a big issue?

QUESTIONING BY KIRSTA BARTH OF HOWARD K. STERN

Q Can you tell the Judge the one specific thing that happened after Daniel's funeral, a month after Daniel died? Sometime after a month, there was a specific incident that Anna was very upset about?

A Ana was upset that Virgie brought the media, brought Splash News to Daniel's grave site to take a photo op virtually on Daniel's birthday.

Q When is the last time that you know that Ms. Arthur saw Daniel?

A It was, I was told, it was during his childhood. He was probably five or six.

(Objection by Mr. O'Quinn)

MS. BARTH: Your Honor, at this time, I would like to show to the court the tapes of Ms. Smith on this issue and I will ask you to utilize Mr. Stern to both authenticate and ask Mr. –

THE COURT: He was there?

MS. BARTH: -- when the tape was done.

THE COURT: Who made the tape?

MS. BARTH: The first one was Entertainment Tonight.

THE COURT: How long is it?

MS. BARTH: Not long

(Objection by lawyers. Dialogue between lawyers and The Court)

TAKEN FROM THE TAPE PLAYED IN THE COURTROOM

THE REPORTER: Let's move on, Nicole. Let me ask you about your mother, who has made some statements in the press. What can you tell me about the statements and accusations that she has made?

MS. SMITH: First of all, she is not my mother. She is my birth mother. Second of all, she doesn't know me, she doesn't know my son. I left home when I was fifteen years old and, I mean, she has not seen my son since he was probably five years old. And she doesn't know him, she doesn't know him or me. I have gone through -- and making these ridiculous statements and me killing my son or Howard killing my son, who does she think she is? She is out there making money for herself.

THE REPORTER: When was the last time you spoke with her?

MS. SMITH: The last time I spoke with her or the last time she beat me? The last time I got a beating from my mother, I think I was 21 years old. And before that, it was a big gap. I left home when I was fifteen and she came to me to live in one of my houses because her husband, I don't know what he did to her. She married -- she has been married like 20 times.

THE REPORTER: So you have no relationship with her at all?

MS. SMITH: No relationship whatsoever. I left home when I was 15 year old. I don't know her. She didn't know me.

THE REPORTER: Did you contact her at all when Daniel passed?

MR. STERN: What happened was, one of Anna's cousin, who she has not talked to in a long time --

MS. SMITH: I don't know any of my family. The only time my family tried to get ahold of me is when they wanted money or something, or they want a story about them or something. They somehow -- the media wants to contact me to get me to give them a story.

My cousin was -- I don't know, calling Howard.

MR. STERN: She left a message on my voice mail and said, essentially, that Anna's mom was going to go to the media

MR. O'QUINN: Him talking is highly improper.

MR. STERN: Anna called her the day -- Anna called. This was within days of Daniel's death and Anna was hysterical.

MS. SMITH: I was sedated. The doctor had me sedated. It was tough. It was bad. My son died. So I called my mother and all I could say is Daniel is dead. Daniel is dead.

THE REPORTER: What did she say to you.

MS. SMITH: I said, Daniel is dead and I hung up the phone.

MR. STERN: And that was a couple days after that, her mom ended up in the media.

MS. SMITH: I seen her on CNN telling everybody that I killed my son or Howard killed my son. And she kept trying to say that Howard used drugs. I had to give them to him, because he didn't do drugs, and he didn't do that. But how does she know? She didn't know my son. She didn't know my son.

THE REPORTER: Why would she say these things?

MS. SMITH: She didn't know – she never wanted to know me, because she was so jealous of me. And she definitely did not know my son. And to say she was a police officer and she was going to come and get me and she was going to get pay back. Pay back.

What has she done to me? You want to hear my child life: You want to hear all the things she did to me, what she let my father do to me, or brother or my sister. All the beatings and whippings and rape. That is my mother. That's my mom.

THE REPORTER: What do you want to say to her?

MS. SMITH: I want to say to her, how dare you, bitch. How dare you. That is what I want to say. Come after me. Come on. Because you know what, I used to cry after you. I used to cry even after my baby girl. I cried for you and you ask Howard. I cried for my mom.

When I saw her on CNN and I saw how evil she was and evil she looked, all that is gone now and so bring it on, mom. Mommy dearest. Bring it on. That's all I want to say.

THE REPORTER: I am sorry. Will you ever talk to her again?

MS. SMITH: I will never speak to her again, never. If I do, it will be in a --

THE REPORTER: She will never know Dannielynn.

MS. SMITH: Are you kidding me, she will never touch my child. She may have touched me, but she will never touch my child.

THE REPORTER: Did Daniel know these stories?

MS. SMITH: Daniel knew some of the stories. Not all of them, but he knew. Why do you think he had nothing to do with her: He was a big boy. He know about my mom and me, how I was crying.

THE REPORTER: You – this is obvious, but you want to be a much better mother?

MS. SMITH: I am a better mother, I am a good mother. And I will be a better mother now.

THE REPORTER: When your mom sees this and she will, will she be surprised that you said that?

MS. SMITH: No, she will not be surprised. She will laugh. She will probably laugh.

THE REPORTER: You never spoke about this before?

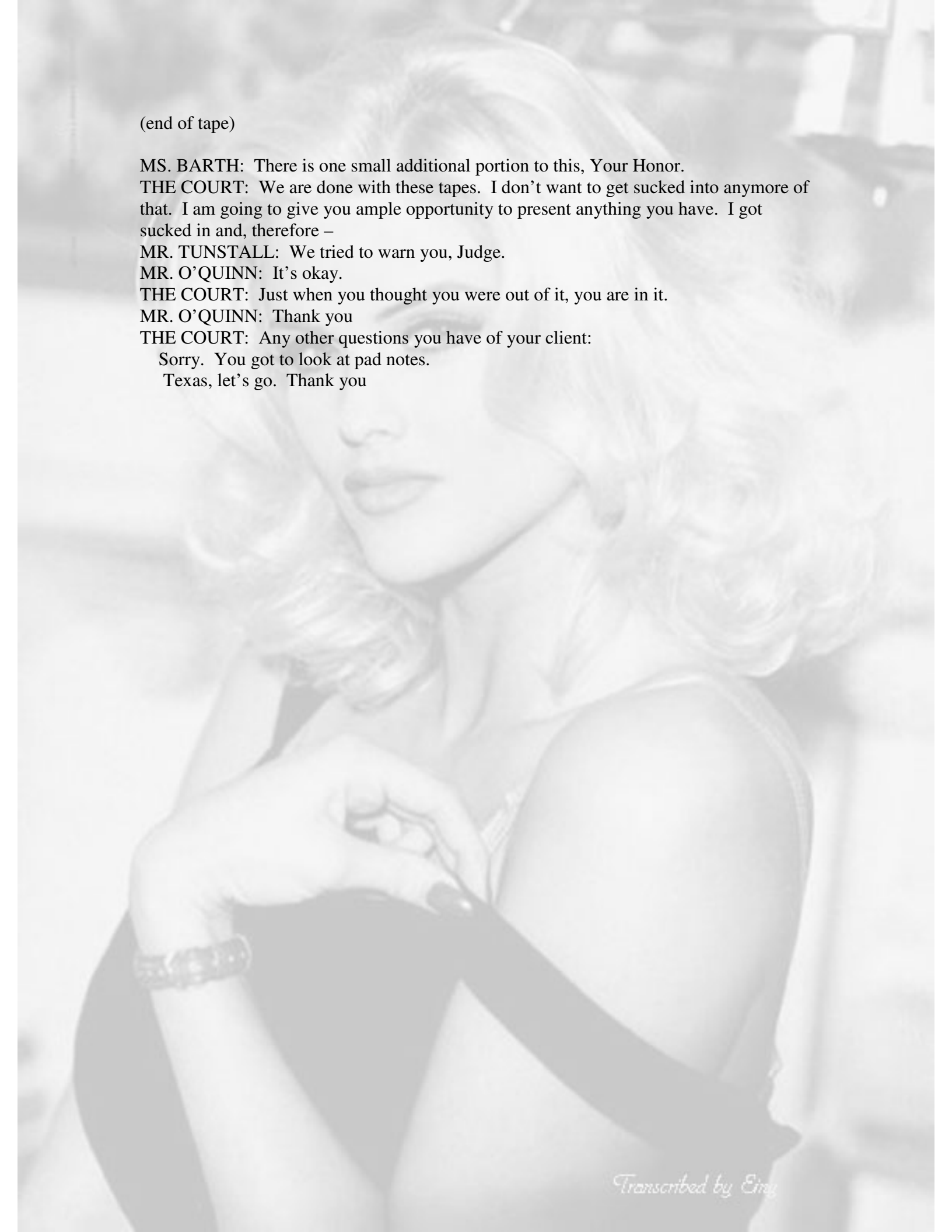
MS. SMITH: I never spoke about my parents. She opened up a can of worms and I am going to put a whoop ass on it.

THE REPORTER: Do you think she will be surprised to learn this about you?

MS. SMITH: Yes. I tried to give respect, because that is what God says. But if she is going to say I murdered my son, she opened up the can.

THE REPORTER: There is a lot of rage and anger?

MS. SMITH: Well, yes, about my parents, my mom, yes. She strapped me to my bed. I could tell you stories. I think that's enough. I think that's enough.



(end of tape)

MS. BARTH: There is one small additional portion to this, Your Honor.

THE COURT: We are done with these tapes. I don't want to get sucked into anymore of that. I am going to give you ample opportunity to present anything you have. I got sucked in and, therefore –

MR. TUNSTALL: We tried to warn you, Judge.

MR. O'QUINN: It's okay.

THE COURT: Just when you thought you were out of it, you are in it.

MR. O'QUINN: Thank you

THE COURT: Any other questions you have of your client:

Sorry. You got to look at pad notes.

Texas, let's go. Thank you